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CRIMINAL PROCEDURE CODE OF UKRAINE

(The Official Bulletin of the Verkhovna Rada of Ukraine (BVR), 2013, No. 9–10, No. 11–12, No. 13, Article 88)

{As amended by Laws
No. 5076-VI of 5 July 2012*, BVR, 2013, No. 27, Article 282*
No. 222-VII of 18 April 2013*, BVR, 2014, No. 11, Article 131*
No. 314-VII of 23 May 2013*, BVR, 2014, No. 12, Article 183*
No. 406-VII of 4 July 2013*, BVR, 2014, No. 20-21, Article 712*
No. 721-VII of 16 January 2014*, BVR, 2014, No. 22, Article 801 – has ceased to be effective under Law–* No. 732-VII of 28 January 2014
No. 725-VII of 16 January 2014*, BVR, 2014, No. 22, Article 805 – has cease to be effective under Law* No. 732-VII of 28 January 2014
No. 746-VII of 21 February 2014*, BVR, 2014, No. 12, Article188*
No. 767-VII of 23 February 2014*, BVR, 2014, No. 17, Article 593*
No. 1207-VII of 15 April 2014*, BVR, 2014, No. 26, Article 892*
No. 1235-VII of 6 May 2014*, BVR, 2014, No. 26, Article 902*
No. 1261-VII of 13 May 2014*, BVR, 2014, No. 28, Article 937*
No. 1631-VII of 12 August 2014*, BVR, 2014, No. 39, Article 2008*
No. 1689-VII of 7 October 2014*, BVR, 2014, No. 46, Article 2046*
No. 1697-VII of 14 October 2014*, BVR, 2015, No. 2-3, Article 12*
No. 1698-VII of 14 October 2014*, BVR, 2014, No. 47, Article 2051*
No. 1700-VII of 14 October 2014*, BVR, 2014, No. 49, Article 2056*
No. 1702-VII of 14 October 2014*, BVR, 2014, No. 50-51, Article 2057*
No. 63-VIII of 25 December 2014*, BVR, 2015, No. 6, Article 38*
No. 119-VIII of 15 January 2015*, BVR, 2015, No. 10, Article 61*
No. 191-VIII of 12 February 2015*, BVR, 2015, No. 21, Article 133*
No. 192-VIII of 12 February 2015*, BVR, 2015, No. 18, No. 19-20, Article 132*
No. 193-VIII of 12 February 2015*, BVR, 2015, No. 21, Article 134*
No. 198-VIII of 12 February 2015*, BVR, 2015, No. 17, Article 118*
No. 218-VIII of 2 March 2015*, BVR, 2015, No. 17, Article 122*
No. 233-VIII of 4 March 2015*, BVR, 2015, No. 21, Article 135*
No. 394-VIII of 13 May 2015*, BVR, 2015, No. 28, Article 251*
No. 576-VIII of 2 July 2015*, BVR, 2015, No. 36, Article 360*
No. 613-VIII of 15 July 2015*, BVR, 2015, No. 35, Article 352*
No. 628-VIII of 16 July 2015*, BVR, 2015, No. 39, Article 374*
No. 629-VIII of 16 July 2015*, BVR, 2015, No. 43, Article 386*
No. 769-VIII of 10 November 2015*, BVR, 2016, No. 1, Article1*

No. 771-VIII of 10 November 2015, *BVR, 2015, No. 49–50, Article465*
No. 772-VIII of 10 November 2015, *BVR, 2016, No. 1, Article 2*
No. 835-VIII of 26 November 2015, *BVR, 2016, No. 2, Article 17*
No. 889-VIII of 10 December 2015, *BVR, 2016, No. 4, Article 43*
No. 901-VIII of 23 December 2015, *BVR, 2016, No. 4, Article 44*
No. 916-VIII of 24 December 2015, *BVR, 2016, No. 6, Article 56*
No. 1019-VIII of 18 February 2016, *BVR, 2016, No. 11, Article 127*
No. 1021-VIII of 18 February 2016, *BVR, 2016, No. 11, Article 129*
No. 1355-VIII of 12 May 2016, *BVR, 2016, No. 22, Article 453*
No. 1403-VIII of 2 June 2016, *BVR, 2016, No. 29, Article 535*
No. 1404-VIII of 2 June 2016, *BVR, 2016, No. 30, Article 542*
No. 1491-VIII of 7 September 2016, *BVR, 2016, No. 43, Article 735*
No. 1492-VIII of 7 September 2016, *BVR, 2016, No. 43, Article 736 – provisions on the application of probation programmes shall come into force on 1 January 2018*
No. 1774-VIII of 6 December 2016, *BVR, 2017, No. 2, Article 25*
No. 1791-VIII of 20 December 2016, *BVR, 2017, No. 4, Article 42*
No. 1798-VIII of 21 December 2016, *BVR, 2017, No. 7-8, Article 50*
No. 1950-VIII of 16 March 2017, *BVR, 2017, No. 17, Article 204*
No. 2136-VIII of 13 July 2017, *BVR, 2017, No. 35, Article 376*
No. 2147-VIII of 3 October 2017, *BVR, 2017, No. 48, Article 436*
No. 2205-VIII of 14 November 2017, *BVR, 2017, No. 51–52, Article 448*
No. 2213-VIII of 16 November 2017, *BVR, 2017, No. 49-50, Article 444 – rules on the use of audio recording equipment during the court proceedings shall come into force on 1 January 2019}*

{On certain provisions recognised as unconstitutional, refer to the Decision of the Constitutional Court
No. 1-r/2019 of 23 November 2017*}*

{As amended by Laws
No. 2227-VIII of 6 December 2017, *BVR, 2018, No. 5, Article 34*
No. 2234-VIII of 7 December 2017, *BVR, 2018, No. 6-7, Article 40*
No. 2367-VIII of 22 March 2018, *BVR, 2018, No. 16, Article 139}*

{On certain provisions recognised as unconstitutional, refer to the Decision of the Constitutional Court
No. 8-r/2018 of 24 April 2018*}*

{As amended by Laws
No. 2447-VIII of 7 June 2018, *BVR, 2018, No. 24, Article 212*
No. 2449-VIII of 7 June 2018, *BVR, 2018, No. 26, Article 219*
No. 2507-VIII of 12 July 2018, *BVR, 2018, No. 34, Article 261*
No. 2509-VIII of 12 July 2018, *BVR, 2018, No. 35, Article 267*
No. 2531-VIII of 6 September 2018, *BVR, 2018, No. 42, Article 327*
No. 2548-VIII of 18 September 2018, *BVR, 2018, No. 45, Article 364*
No. 2577-VIII of 2 October 2018, *BVR, 2018, No. 46, Article 370*

No. 2581-VIII of 2 October 2018, *BVR, 2018, No. 46, Article 371*
No. 2599-VIII of 18 October 2018, *BVR, 2018, No. 46, Article 374*
No. 2617-VIII of 22 November 2018, *BVR, 2019, No. 17, Article 71}*

{On certain provisions recognised as unconstitutional, refer to the Decision of the Constitutional Court
No. 4-r/2019 of 13 June 2019*}*

{On certain provisions recognised as unconstitutional, refer to the Decision of the Constitutional Court
No. 7-r/2019 of 25 June 2019*}*

{As amended by Laws
No. 100-IX of 18 September 2019, *BVR, 2019, No. 40, Article 218*
No. 101-IX of 18 September 2019, *BVR, 2019, No. 40, Article 219*
No. 113-IX of 19 September 2019, *BVR, 2019, No. 42, Article 238*
No. 140-IX of 2 October 2019, *BVR, 2019, No. 47, Article 311*
No. 187-IX of 4 October 2019, *BVR, 2019, No. 50, Article 352*
No. 198-IX of 17 October 2019, *BVR, 2019, No. 50, Article 356*
No. 263-IX of 31 October 2019, *BVR, 2020, No. 2, Article 5*
No. 361-IX of 6 December 2019, *BVR, 2020, No. 25, Article 171*
No. 388-IX of 18 December 2019, *BVR, 2020, No. 17, Article 102*
No. 409-IX of 19 December 2019, *BVR, 2020, No. 27, Article 175*
No. 440-IX of 14 January 2020, *BVR, 2020, No. 28, Article 188}*

{On certain provisions recognised as constitutional, refer to Decision of the Constitutional Court
No. 5-r/2020 of 17 March 2020*}*

{As amended by Laws
No. 540-IX of 30 March 2020, *BVR, 2020, No. 18, Article 123*
No. 558-IX of 13 April 2020, *BVR, 2020, No. 19, Article 129*
No. 559-IX of 13 April 2020, *BVR, 2020, No. 19, Article 130*
No. 590-IX of 13 May 2020, *BVR, 2020, No. 40, Article 314*
No. 619-IX of 19 May 2020, *BVR, 2020, No. 42, Article 343*
No. 671-IX of 04 June 2020 *BVR, 2020, No. 42, Article 343}*

{On certain provisions recognised as unconstitutional, refer to the Decision of the Constitutional Court
No. 4-r(II)/2020 of 17 June 2020*}*

{As amended by Laws
No. 720-IX of 17 June 2020, *BVR, 2020, No. 47, Article 408*
No. 817-IX of 21 July 2020, *BVR, 2020, No. 50, Article 457*
No. 1027-IX of 2 December 2020, *BVR, 2021, No. 7, Article 53*
No. 1074-IX of 4 December 2020

No. 1094-IX of 16 December 2020, *BVR, 2021, No. 6, Article 49*
No. 1256-IX of 18 February 2021*}*

{In the text of the Code, the words "Prosecutor General of Ukraine" have been replaced in all cases with the words "Prosecutor General" in the appropriate case under Law No. 1798-VIII of 21 December 2016}

{In the text of the Code, the words "Court of Appeals of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol court of appeals", "Court of Appeals of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol courts of appeals", in all cases have been replaced by the words "respective court of appeals" in the appropriate case in accordance with the Law No. 2509-VIII of 12 June 2018}

{In the text of the Code, the words "Court of Appeals of the Autonomous Republic of Crimea, oblast, Kyiv and Sevastopol courts of appeals" in all cases have been replaced by the words "respective court of appeals" in the appropriate case in accordance with the Law of Verkhovna Rada No. 2447-VIII of 7 June 2018}

{In the text of the Code, the words "Prosecutor General's Office of Ukraine" in all cases and numbers have been replaced by the words "Prosecutor General's Office" in the appropriate case and number under Law No. 113-IX of 19 September 2019}

{In the text of the Code, the words "regional prosecutor's office" in all cases and numbers have been replaced by the words "oblast prosecutor's office" in the appropriate case and number under Law No. 113-IX of 19 September 2019}

{In the text of the Code, the words "local prosecutor's office" in all cases and numbers have been replaced by the words "district prosecutor's office" in the appropriate case and number under Law No. 113-IX of 19 September 2019}

Section I
GENERAL PROVISIONS

Chapter 1. Criminal procedure legislation of Ukraine and its scope

Article1. Criminal procedure legislation of Ukraine

1. The rules of criminal proceedings in the territory of Ukraine shall be defined exclusively by the criminal procedure legislation of Ukraine.

2. The criminal procedure legislation of Ukraine consists of respective provisions of the Constitution of Ukraine, international treaties, ratified by the Verkhovna Rada of Ukraine, this Code and other laws of Ukraine.

3. Amendments to the criminal procedure legislation of Ukraine shall be made exclusively by laws amending this Code and/or the legislation on criminal liability, and/or the legislation of Ukraine on administrative offences.

{Article 1 has been supplemented with part 3 under Law No. 619-IX of 19 May 2020}

Article2. Objectives of criminal proceedings

1. The objectives of criminal proceedings shall be the protection of individuals, society and the state from criminal offences, the protection of rights, freedoms and legitimate interests of the parties to the criminal proceedings, as well as the provision of prompt, comprehensive and impartial investigation and trial in order that everyone who has committed a criminal offence were prosecuted in proportion to his/her guilt, no one innocent were accused or convicted, and no one were subjected to ungrounded procedural coercion and that an appropriate legal procedure was applied to each party to criminal proceedings.

Article3. Definition of the Code's principal terms

1. Under this Code, the terms, in the absence of special indications, shall be deemed as follows:

1) close relatives and family members shall mean husband, wife, father, mother, stepfather, stepmother, son, daughter, stepson, stepdaughter, (whole) brother, sister, grandfather, grandmother, great-grandfather, great-grandmother, grandson, granddaughter, great grandson, great granddaughter, adopter or adopted, tutor or custodian, a person subjected to guardianship or caretaking or as well as individuals who cohabitate, are connected by common life and have mutual rights and duties, including individuals who cohabitate but are not married;

2) presiding judge shall mean a judge who considers the case alone, and in a collegial hearing, a case shall be considered by a judge-rapporteur appointed by the Unified Judicial Information and Telecommunication System during the assignment of the case;

{Clause 2, part 1 of Article 3 as revised by Law No. 2147-VIII of 3 October 2017}

3) public prosecution shall mean a procedural activity of a public prosecutor that consists in proving prosecution before court with the purpose of ensuring criminal liability of a person who has committed a criminal offence;

4) inquiry shall mean a form of pre-trial investigation where criminal misdemeanours are investigated;

4[1] an inquiring officer shall mean an official of the inquiry unit of the National Police, security body, a body controlling observance of tax legislation, a body of the State Bureau of Investigations, in cases established by this Code, an authorised person of another unit of these bodies, which are authorised within the power provided for by this Code to conduct pre-trial investigation of criminal offences;

{Part 1 of Article 3 has been supplemented with clause 4[1] under Law No. 2617-VIII of 22 November 2018}

5) pre-trial investigation shall mean a stage in criminal proceedings which begins from the moment the information on a criminal offence is entered in the Unified Register of Pre-trial Investigations and ends with closure of the criminal proceedings or with an indictment, a motion on enforcement of compulsory medical or reformatory measures, a motion on discharge of the person from criminal liability submitted to the court;

6) pre-trial investigation shall mean a form of pre-trial investigation in which crimes are investigated;

7) the Law of Ukraine on criminal liability shall mean legislative acts of Ukraine that establish criminal liability;

{Clause 7, part 1 of Article 3 as amended by Law No. 2617-VIII of 22 November 2018}

7[1] chief officer of the inquiry body shall mean chief officer of the inquiry unit of the National Police, security body, a body controlling the observance of tax legislation, a body of the State Bureau of Investigations, and in case of absence of an inquiry unit, it shall mean chief officer of a body of pre-trial investigation;

{Part 1 of Article 3 has been supplemented with clause 7[1] under Law No. 2617-VIII of 22 November 2018}

8) chief officer of the pre-trial investigation body shall mean chief officer of the Main Investigation Department, investigation department, division, branch of the National Police, security body controlling observance of tax legislation, First Deputy or Deputy Director of the State Bureau of Investigations, chief officer of the Main Investigation Department, investigation department, department of the State Bureau of Investigations, Main Detective Unit, Detective Unit, Detective Department, Internal Control Unit of the National Anti-Corruption Bureau of Ukraine and his deputies acting within their powers;

{Clause 8, part 1 of Article 3 as amended by Laws No. 1698-VII of 14 October 2014, No. 198-VIII of 12 February 2015, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 4 October 2019, No. 2617-VIII of 22 November 2018; as revised by Law No. 720-IX of 17 June 2020}

9) chief prosecutor of a prosecutor's office shall mean the Prosecutor General, chief prosecutor of an oblast prosecutor's office, chief prosecutor of a district prosecutor's office and their first deputies and deputies acting within the scope of their powers;

{Clause 9 part 1 of Article 3 as revised by Law No. 1697-VII of 14 October 2014}

10) criminal proceedings shall mean pre-trial investigation and court proceedings, procedural actions connected with commission of an act specified in the Ukrainian law on criminal liability;

11) minor shall mean a child prior to attaining the age of fourteen;

12) underage person shall mean a minor and also a child aged between fourteen and eighteen;

13) accusation shall mean a report on commission by a certain person of an act specified in the Ukrainian law on criminal liability filed in accordance with the procedure established by this Code;

14) criminal prosecution shall mean a stage in the criminal proceedings, which commences when a person is informed of an allegedly committed criminal offence;

15) public prosecutor shall mean a person holding the position provided for by the Article 15 of the Law of Ukraine “On the Prosecutor's Office”, and acting within the scope of his/her powers;

{Clause 15, part 1 of Article 3 as revised by Law No. 1697-VII of 14 October 2014; as amended by Law No. 187-IX of 04 October 2019}

16) Minimum wage shall mean a sum of money equal to the monthly minimum wage as provided for by law as of 1 January of the calendar year during which a procedural decision is taken or a procedural action is conducted.

16[1]) another person whose rights or legitimate interests are restricted during the pre-trial investigation shall mean a person in respect of whom (including in relation to his/her property) the procedural actions specified by this Code are conducted;

{Part 1 of Article 3 has been supplemented with clause 16[1] under Law No. 2213-VIII of 16 November 2017}

16[2]) whistleblower shall mean an individual who, in the presence of the belief that the information is reliable, has filed a report or notification of a corruption criminal offence to the pre-trial investigation body;

{Part 1 of Article 3 has been supplemented with clause 16[2] under Law No. 198-IX of 17 October 2019}

17) investigator shall mean an official of the National Police, security body, body controlling compliance with tax legislation, the State Bureau of Investigations, the Main Detective Unit, the Detective Unit, the Detective Department, the Internal Control Unit of the National Anti-Corruption Bureau of Ukraine, authorised within its competence provided for by this Code to conduct pre-trial investigation of criminal offences;

{Clause 17, part 1 of Article 3 as amended by Laws No. 1698-VII of 14 October 2014, No. 198-VIII of 12 February 2015, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 04 October 2019}

18) investigating judge shall mean a judge of the court of the first instance, whose powers include the exercise of judicial supervision over the observance of rights, freedoms and interests of persons in criminal proceedings in the manner prescribed by this Code, and in a case specified in Article 247 of this Code, it shall mean a chairperson or another judge of a respective appellate court of appeals. Investigating judge (investigation judges) in a court of the first instance shall be elected by an assembly of judges from the complement of judges of the court concerned;

19) the parties to the criminal proceedings shall mean as follows: for the prosecution, they shall mean an investigator, chief officer of pre-trial investigation agency, a public prosecutor, as well as the victim, his/her representative and legal agent in cases specified by this Code; for the defence, they shall mean a suspect, the accused (defendant), a convict, the acquitted, as well as the person in whose respect it is provided to apply compulsory medical or reformatory measures or the issue of applying such was considered, their defence counsels and legal representatives;

{Clause 19, part 1 of Article 3 as amended by Law No. 2617-VIII of 22 November 2018}

20) appellate court shall mean a respective court of appeals, to the territorial jurisdiction of which a court of the first instance, which passed the appealed court decision, belongs, and also the Appellate Chamber of the High Anti-Corruption Court, in respect of court decisions of the High Anti-Corruption Court, passed by a court of the first instance, adopted prior to the work of the High Anti-Corruption Court in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court adopted by a court of the first instance, as well as in relation to court decisions of other courts of the first instance, adopted before the High Anti-

Corruption Court in criminal proceedings concerning crimes referred by this Code to the jurisdiction of the High Anti-Corruption Court;

{Clause 20, part 1 of Article 3 as revised by Law No. 2447-VIII of 7 June 2018 as amended by Law No. 2509-VIII of 12 July 2018}

21) court of cassation shall mean the Supreme Court of Ukraine;

{Clause 21, part 1 of Article 3 as revised by Law No. 2147-VIII of 3 October 2017}

22) court of the first instance shall mean a local general court that is entitled to pass a sentence or rule on the closure of criminal proceedings, and also the High Anti-Corruption Court in criminal proceedings concerning criminal offences within its jurisdiction stipulated by this Code, and the court of appeals in a case provided for this Code;

{Clause 22, part 1 of Article 3 as revised by Law No. 2447-VIII of 07 June 2018 as amended by Law No. 2509-VIII of 12 July 2018; as amended by Law No. 720-IX of 17 June 2020}

23) judge shall mean a chairperson, deputy chairman, judge of the Supreme Court, High Anti-Corruption Court, the court of appeals, local general courts, which in accordance with the Constitution of Ukraine are authorised to administer justice on a professional basis, and also a juror;

{Clause 23, part 1 of Article 3 as amended by Law No. 2147-VIII of 3 October 2017; as revised by Law No. 2447-VIII of 7 June 2018 as amended by Law No. 2509-VIII of 12 July 2018}

24) court proceedings shall mean criminal proceedings in a court of the first instance, which consist in the preparatory court proceedings, trial, adoption and proclamation of a court decision, proceedings for review of court decisions under appellate and cassation procedure, as well as in newly discovered or exceptional circumstances;

{Clause 24, part 1 of Article 3 as amended by Law No. 2147-VIII of 3 October 2017}

25) participants to the criminal proceedings shall mean the parties to the criminal proceedings, a victim, his/her representative and legal agent, civil plaintiff, his/her representative and legal representative, civil defendant and his/her representative, representative of the legal entity subject to the proceedings, third party whose property is being resolved on arrest, another person whose rights or legitimate interests are restricted during the pre-trial investigation, a person in respect of whom the issue of extradition to a foreign state is being considered, an applicant, including a whistleblower, an affiant and his/her attorney, a witness, a bailor, interpreter/translator, expert, specialist, probation agency officer, court clerk, court administrator;

{Clause 25, part 1 of Article 3 as amended by Law No. 314-VII of 23 May 2013; as revised by Law No. 1019-VIII of 18 February 2016; as amended by Laws No. 1492-VIII of 7 September 2016, No. 2213-VIII of 16 November 2017, No. 198-IX of 17 October 2019}

26) participants to the court proceedings shall mean the parties to the criminal proceedings, a victim, his/her representative and legal agent, civil plaintiff, his/her representative and legal agent, civil defendant and his/her representative, representative of the legal entity subject to the proceedings, a probation officer, a third party, in respect of whose property the issue of arrest is resolved, as well as other persons, at the request or complaint of which court proceedings are conducted in the cases provided for by this Code.

{Clause 26, part 1 of Article 3 as amended by Law No. 314-VII of 23 May 2013; as revised by Law No. 1019-VIII of 18 February 2016; as amended by Law No. 1492-VIII of 7 September 2016}

2. Other terms used in this Code shall be defined by special rules of this Code and other laws of Ukraine.

Article4. Operation of the Code in space

1. Criminal proceedings in the territory of Ukraine shall be conducted based on grounds and under the procedure established by this Code, irrespective of the place where a criminal offence was committed.

2. Criminal procedure legislation of Ukraine shall be also applicable in the course of proceedings initiated in respect of any criminal offences committed in the territory of a diplomatic mission or consular post of Ukraine abroad, at an aircraft, sea or river vessel, which is outside the boundaries of Ukraine under the flag or distinguishing emblem of Ukraine, where the port of registry of such aircraft or vessel is located in Ukraine.

3. Wherever an international treaty, ratified by the Verkhovna Rada of Ukraine, extends Ukrainian jurisdiction to servicemen of the Military Forces of Ukraine who are deployed in the territory of another state, proceedings in respect of criminal offences committed in the territory of another state in respect of such serviceman shall be conducted as prescribed by this Code.

4. In conducting of individual procedural actions in the territory of Ukraine at the request (commission) of the competent authorities of foreign states within the scope of international cooperation provisions of this Code shall apply. If requested by a competent authority of a foreign state, in the course of such procedural actions the procedural law of this foreign state may apply where this is provided for by the international treaty, ratified by the Verkhovna Rada of Ukraine, and where there is not such international treaty of Ukraine, this request shall be consistent with the current Ukrainian legislation.

Article 5. Operation of the Code in time

1. Procedural action shall be conducted, and procedural decision shall be adopted in accordance with the provisions of this Code, which are applicable at the time of committing such an action or adopting such decision.

2. The admissibility of evidence shall be determined by the provisions of this Code that were in force at the time of their receipt.

Article 6. Operation of the Code in respect of individuals

1. Under the rules of this Code, criminal proceedings shall be conducted in respect of any individual, except as otherwise provided by part 2 of this Article.

A special procedure for criminal proceedings involving specially designated categories of persons shall be established by Chapter 37 hereof.

2. Criminal proceedings in respect of the individual who enjoys diplomatic immunity may be conducted in accordance with this Code only upon consent of such individual or of the competent

authority of the state (international organisation) this individual represents, in accordance with the procedure established by Ukrainian laws and international treaties of Ukraine.

Chapter 2. Fundamentals of criminal proceedings

Article 7. Fundamentals of criminal proceedings

1. The matter and manner of criminal proceedings shall conform to the fundamentals of criminal proceedings such as but not limited to:

1) rule of law;

2) legitimacy;

3) equality before law and court;

4) respect for human dignity;

5) ensuring the right to liberty and security of person;

6) inviolability of home or any other possession of a person;

7) confidentiality of communication;

8) non-interference in private life;

9) security of the right to property;

10) presumption of innocence and conclusive proof of guilt;

11) freedom from self-incrimination and the right to not testify against one's close relatives and family members;

12) prohibition of double jeopardy;

13) ensuring the right to defence;

14) access to justice and the binding nature of court rulings;

15) adversarial nature of parties, freedom to present their evidence to the court and prove the preponderance of this evidence before the court;

16) directness of examination of testimonies, objects and documents;

17) ensuring the right to challenge procedural decisions, acts or omissions;

18) publicity of criminal proceedings;

19) optionality of criminal proceedings;

20) publicity and openness of judicial proceedings and their full recording using technical means;

21) reasonable time for criminal proceedings;

22) language of the criminal proceedings.

2. The matter and manner of criminal proceedings in the absence of a suspect or accused (in absentia) shall comply with the fundamentals of criminal proceedings specified in part 1 of this Article, having regard to the features established by law.

The prosecution shall use all possibilities provided for by law to observe the rights of a suspect or accused (in particular, the rights to protection, access to justice, secrecy, non-interference in private life) in criminal proceedings in the absence of the suspect or accused (in absentia).

{Article 7 has been supplemented with part 2 under Law No. 1689-VII of 7 October 2014}

Article 8. The rule of law

1. Criminal proceedings shall be conducted in accordance with the principle of the rule of law, under which a human being, his/her rights and freedoms are the highest values which define content and priority areas of state activities.

2. The principle of the rule of law in criminal proceedings shall be applied with due account of the practices of the European Court of Human Rights.

Article 9. Legitimacy

1. During criminal proceedings, a court, investigating judge, public prosecutor, chief officer of pre-trial investigation agency, investigator, other officials of government authorities shall fully comply with the requirements of the Constitution of Ukraine, this Code, and international treaties, ratified by the Verkhovna Rada of Ukraine, and requirements of other laws.

2. Public prosecutor, chief officer of pre-trial investigation agency, investigator shall be required to examine the circumstances of criminal proceedings comprehensively, fully and impartially; find circumstances both of incriminating and exculpatory nature in respect of the suspect, the accused, as well as the circumstances mitigating and aggravating their punishment; provide due legal evaluation thereof and ensure the adoption of lawful and impartial procedural decisions.

3. Laws and other regulatory acts of Ukraine, in so far as they relate to criminal proceedings, shall be in line with this Code. Any law contradicting this Code shall not be applied in the conduct of criminal proceedings.

4. Wherever provisions of this Code contradict an international treaty, ratified by the Verkhovna Rada of Ukraine, provisions of the corresponding international treaty of Ukraine shall apply.

5. The criminal procedural legislation of Ukraine shall be applied with due regard to the case law of the European Court for Human Rights.

6. Whenever provisions of this Code do not regulate the matters of criminal proceedings or regulate such ambiguously, the fundamentals of criminal proceedings as specified in part 1 of Article 7 hereof shall apply.

Article 10. Equality before the law and the court

1. No one may be given privilege or restricted in procedural rights as set forth in this Code on the grounds of race, colour, political, religious, or any other beliefs, sex, ethnic or social origin,

property status, place of residence, nationality, education, occupation, as well as linguistic or any other grounds whatsoever.

2. In the course of criminal proceedings, in cases and under procedure established by this Code, certain categories of individuals (minors, foreign nationals, mentally and physically disabled people, etc.) shall enjoy additional guarantees.

Article 11. Respect for human dignity

1. In the course of criminal proceedings, respect for human dignity, rights, and freedoms of every individual shall be ensured.

In the course of criminal proceedings, it shall be prohibited to subject an individual to torture or to inhuman or degrading treatment or punishment, or to threaten or use such treatment, or to keep an individual in humiliating conditions, or to force to actions which humiliate dignity.

3. Everyone shall have the right to protect, by all means which are not prohibited by law, their dignity, rights, freedoms, and interests which have been violated in the course of criminal proceedings.

Article 12. Ensuring the right to liberty and security of person

1. In the course of criminal proceedings, no one shall be kept in custody, be detained or otherwise restrained in their right to freedom of movement upon criminal suspicion or charge other than on grounds and according to the procedure established this Code.

2. Everyone who has been taken into custody or apprehended upon suspicion or charge of having committed a criminal offence or otherwise deprived of liberty shall as soon as practicable be brought before an investigating judge to decide on the lawfulness and reasonableness of their detention, other deprivation of liberty and continued custody. The detained person shall be promptly released from custody, if within seventy two hours from the moment of his/her detention he/she is not served a reasoned court decision on keeping in custody.

3. A person’s detention, taking into custody or other restraint in his/her right to freedom of movement, as well as his/her location, shall be immediately brought to notice, as provided herein, of his/her close relatives, family members or other persons as chosen by this person.

4. Everyone kept in custody or otherwise deprived of liberty in excess of the time prescribed by this Code shall be promptly released.

5. Where performed without grounds or in contravention of the procedure set forth in this Code, a person’s detention, taking into custody or other restraint of his/her right to freedom of movement during the criminal proceedings shall entail a liability as provided by law.

Article 13. Inviolability of home or any other possession of a person

1. Entering a home or any other possession of an individual, conducting inspection or search therein shall not be allowed other than upon a reasoned court decision, except as otherwise provided in this Code.

Article 14. Confidentiality of communication

1. In the course of criminal proceedings, Everyone shall be guaranteed confidentiality of correspondence, telephone conversations, cable, and other correspondence and other forms of communication.

2. Interference in the confidentiality of communication shall be possible only upon court's ruling in cases prescribed in this Code, in view of preventing the commission of a grave or special grave crime, finding out its circumstances, and identifying the individual who committed the crime, where achieving this objective is impossible otherwise.

3. Information, which has been obtained as a result of interference in the confidentiality of communication, shall not be used otherwise than for the purpose of criminal proceedings.

Article 15. Non-interference in private life

1. In the course of criminal proceedings, everyone shall be guaranteed non-interference in private (personal and family) life.

2. No one shall be allowed to collect, store, use and impart information on private life of an individual without their consent, except as prescribed by this Code.

3. Information on private life of an individual obtained in accordance with the procedure established by this Code shall not be used otherwise than for the purpose of achieving the objectives of criminal proceedings.

4. Everyone who has been granted access to information on private life shall be required to prevent disclosure of such information.

Article 16. Inviolability of the right to property

1. In the course of criminal proceedings, deprivation or restriction of the right to property shall be made only upon a motivated court decision adopted as prescribed in this Code.

2. Temporary arrest of property without court decision shall be tolerated on grounds and under the procedure established hereof.

Article 17. Presumption of innocence and conclusive proof of guilt

1. A person shall be deemed innocent of the commission of a criminal offence and shall not be imposed a criminal punishment unless his/her guilt is proved in accordance with the procedure prescribed in this Code and is established in the court judgment of conviction which has taken legal effect.

2. No one shall be required to prove his/her innocence of having committed a criminal offence and shall be acquitted unless the prosecution proves his/her guilt beyond any reasonable doubt.

3. Suspicion and charges shall not be based on evidence obtained illegally.

4. Any doubt as to the proof of guilt of a person shall be interpreted in this person's favour.

5. A person whose criminal guilt has not been found in a valid judgement of conviction shall be treated as an innocent one.

Article 18. Freedom from self-incrimination and the right to not testify against close relatives and family members

1. No one shall be compelled to admit his/her guilt of a criminal offence or to give explanations, testimonies, which may serve a ground for suspecting or charging with a commission of a criminal offence.

2. Everyone shall have the right to keep silence about suspicion, a charge against him/her or waive answering questions at any time, and also to be promptly informed of such right.

3. No one shall be compelled to give any explanations or testimonies, which may serve a ground for suspecting his/her close relatives or family members, or charging them with commission of a criminal offence.

Article 19. Prohibition of double jeopardy

1. No one may be charged with, or punished twice for a criminal offence, for which he/she was acquitted or convicted by a valid judgment.

2. Criminal proceedings shall be subject to immediate termination when it becomes known of a valid judgment delivered on the same charge.

Article 20. The right to defence

1. A suspect, the accused, the acquitted or a convict shall have the right to defence consisting in the opportunity to give oral or written explanations in respect of the suspicion or accusation, collect and produce evidence, attend the criminal proceedings personally, as well as benefit from legal aid of a defence counsel, as well as exercise other procedural rights provided for by this Code.

2. The investigator, public prosecutor, investigating judge, and court shall explain to a suspect or accused his/her rights and ensure the right to qualified legal aid by his/her chosen or appointed defence counsel.

3. Legal aid to the suspect or accused shall be provided free of charge (publicly funded) in cases specified by this Code and/or the law which regulates provision of publicly funded legal aid.

4. Participation in the criminal proceedings of the defence counsel of the suspect or accused, representative of the victim, representative of a third party whose property is being seized does not restrict the procedural rights of the suspect, accused, victim, third party whose property is being seized.

{Part 4 of Article 20 as revised by Law No. 1019-VIII of 18 February 2016}

Article 21. Access to justice and the binding nature of court judgments

1. Everyone shall be guaranteed the right to a fair trial and resolution of the case within reasonable time limits by independent and impartial court established under law.

2. Court's judgment or ruling that took legal effect as prescribed by this Code shall be binding and subject to unconditional execution in the entire territory of Ukraine.

3. Everyone shall have the right to participate in any judicial hearings of the case related to their rights and duties in accordance with the procedure established by this Code.

4. Unless otherwise prescribed by this Code, conducting criminal proceedings shall not be an obstacle to a person's access to any other legal remedies to protect his/her rights where in the

course of the criminal proceedings person's rights enshrined in the Constitution of Ukraine and international treaties of Ukraine are being infringed.

Article 22. Adversarial nature of parties, freedom to present their evidence to the court and prove the preponderance of this evidence

1. Criminal proceedings shall be conducted on the basis of adversarial approach envisaging independent assertion by the accusation and defence party of their legal positions, rights, freedoms and legitimate interests by means set forth in this Code.

2. The parties to the criminal proceedings shall have equal rights with regard to collecting and producing items, documents, other evidence, motions, complaints, as well as to enjoy other procedural rights provided for by this Code.

3. In the course of criminal proceedings, functions of public prosecution, defence, and judicial proceedings shall not be imposed on the one and the same agency or official.

4. Public prosecutor shall notify a person of a suspicion of committing a criminal offence, submit an indictment, and prosecute on behalf of the state in court. In cases specified in this Code, notification of a person of a suspicion of committing a criminal offence may be made by an investigator upon the approval of the public prosecutor, and the accusation may be supported by the victim or by his/her representative.

5. The suspect or accused, their defence counsel or legal agent shall be in charge of defence.

6. The court while being neutral and impartial shall ensure the necessary conditions for the exercising by the parties of their procedural rights and the performance of their procedural duties.

Article 23. Direct examination of testimonies, objects and documents

1. The court shall examine evidence directly. The court shall take testimonies of the participants to the criminal proceedings orally.

2. Except as otherwise provided for by this Code, information contained in testimonies, objects and documents that have not been directly examined by court shall not be admitted as evidence. The court may admit as evidence testimonies which are not given directly in court only where it is provided for by this Code.

3. The prosecution shall ensure the presence of affiants for the prosecution during court proceedings so that the defence can enjoy their right to examine them before independent and impartial court.

Article 24. The right to challenge procedural decisions, acts or omissions

1. Everyone shall be guaranteed the right to challenge decisions, acts, or omission of a court, investigating judge, public prosecutor and investigator as prescribed by this Code.

2. Everyone shall be guaranteed the right to have court’s decision, which affects their rights, freedoms, or interests reviewed by a higher court as prescribed by this Code, irrespective of whether such person did or did not take part in the court hearing.

Article 25. Publicity

1. Within the scope of their respective competencies, public prosecutor and investigator shall initiate pre-trial investigation in every instance when elements of a criminal offence have been directly revealed (except in cases where criminal proceedings may be instituted upon a victim's request) or based on the report (notification) on a criminal offence and take all statutory measures to establish the occurrence of crime and perpetrator thereof.

Article 26. Optionality

1. The parties to the criminal proceedings shall be free to exercise their rights within the scope and in the manner provided for by this Code.

2. Refusal of public prosecutor from public prosecution shall be the ground for closing criminal proceedings except as prescribed by this Code.

3. In the course of criminal proceedings, investigating judge and court shall address only those issues that the parties have submitted for their consideration and that fall within their competence under this Code.

4. Criminal proceedings such as private prosecution shall be initiated only upon the request of the victim. Dropping charges by the victim or his/her representative in cases specified in this Code shall be the unconditional ground for closing criminal proceedings.

Article 27. Publicity and openness of court proceedings and full recording by technical means of court hearings and procedural actions

{Title of Article 27 as revised by Law No. 2213-VIII of 16 November 2017}

1. Participants to the criminal proceedings, as well as non-participants as to whom the court has decided on their rights, freedoms, interests, or duties, shall not be restricted in the right to obtain both written and oral information in court with regard to the outcome of judicial proceedings, and also as for their their right to familiarise themselves with procedural decisions and to obtain copies thereof. No one shall be restricted in his/her right to obtain information in court on the date, time, and place of his/her court hearing and on the decisions taken therein, except as otherwise provided for by law.

2. In courts of all instances, criminal proceedings shall be conducted openly. Investigating judge or court may decide to restrict the access of persons who are not participants to court proceedings to the court hearing during the lockdown introduced by the Cabinet of Ministers of Ukraine in accordance with the Law of Ukraine "On Protection of the Population from Infectious Diseases", if participation in the court session poses a threat to the life or health of a person. Investigating judge and court may decide to conduct criminal proceedings in a closed court session throughout the proceedings or a separate part thereof only in the cases as follows:

1) where the accused is a minor;

2) court hearing on the criminal offence against sexual freedom or security of person;

{Clause 2, part 2 of Article 27 as amended by Law No. 720-IX of 17 June 2020}

3) with a view of preventing disclosure of information on private and family life of a person or circumstances which degrade human dignity;

4) where conducting proceedings in the open court session may result in disclosure of a secret protected by law;

5) where there is a need to ensure the safety of persons involved in criminal proceedings.

{Part 2 of Article 27 as revised by Law No. 540-IX of 30 March 2020}

3. Personal notes, letters, the content of personal telephone conversations, cable and other communications may be read in open court session unless investigating judge and court takes a decision to examine such in camera based on provisions of clause 3, part 2 of this Article.

4. The court shall conduct criminal proceedings in camera with full observance of rules set forth hereof. Only parties and other participants to the criminal proceedings can attend closed court sessions.

5. During the court session and in cases provided for by this Code, during the pre-trial investigation a full recording of the court session and procedural actions shall be provided by audio- and video recording technical means. Only technical record made by the court in the manner prescribed by this Code shall be the official record of the court hearing.

{Part 5 of Article 27 as revised by Law No. 2213-VIII of 16 November 2017 – rules on the use of audio recording equipment during the trial shall enter into force on 1 January 2019}

6. Each person present at court session shall have the right to keep verbatim records, make written notes, and use portable audio recording devices. Photographing, filming, video recording in a courtroom, as well as radio and TV broadcasting of trial, and also audio recording by stationary equipment shall be allowed only upon permission of the court and consent of the parties to the criminal proceedings on the possibility of such action without prejudice to the court examination.

7. Court decision made in open court session shall be pronounced publicly. Whenever trial was conducted in camera, the court decision shall be pronounced publicly omitting the information which was examined in camera if it continues to be subject to protection from disclosure at the time of pronouncement.

Article 28. Reasonable time

1. In the course of criminal proceedings, each procedural action or procedural decision shall be performed or adopted within reasonable time. Reasonable time shall be deemed time that is objectively necessary for the performance of procedural actions and the adoption of procedural decisions. Reasonable time may not exceed the time limits prescribed by this Code for individual procedural actions or for adoption of individual procedural decisions.

2. Conducting pre-trial investigation within a reasonable time shall be ensured by public prosecutor and investigating judge (in terms of the time limits for examining matters assigned to their competence), while judicial proceedings within a reasonable time shall be ensured by court.

3. The following shall be the criteria for determining the reasonable time for criminal proceedings:

1) complicated nature of criminal proceedings, which shall be determined with due account of the number of suspects, accused and criminal offences subject to this proceeding, the scope and specific aspects of the procedural actions required for pre-trial investigation to be completed, etc.;

2) attitude of participants to the criminal proceedings;

3) the way the investigator, public prosecutor, and court exercise their powers.

4. Criminal proceedings in respect of a person kept in custody, and also in respect of a minor shall be conducted without any delay and considered in court as a matter of priority.

{Part 4 of Article 28 as amended by Law No. 1256-IX of 18 February 2021}

5. Everyone shall have the right for a charge to be subject of a court hearing within the shortest possible time or criminal proceedings concerned closed.

6. A suspect, accused, victim, other persons whose rights or interests are restricted during the pre-trial investigation, shall have the right to apply to the prosecutor, investigating judge or court with a motion setting forth the circumstances that call for necessity of criminal proceedings (or certain procedural actions) in a shorter time than is provided for by this Code.

{Part 6 of Article 28 as amended by Law No. 2213-VIII of 16 November 2017}

Article 29. Language of criminal proceedings

1. Criminal proceedings shall be conducted in state language. Accusation, investigating judge and court shall draw up procedural documents in state language.

2. A person shall be notified of being suspected of having committed a criminal offence in state language or any other language he/she knows sufficiently enough to understand the essence of the suspicion of having committed a criminal offence.

3. Investigator, court, public prosecutor shall provide participants to the criminal proceedings who do not know or do not know well enough the state language the right to testify, file motions and complaints, as well as to speak before court in their native language or any other language they have a good command of and be assisted by an interpreter/translator whenever required as prescribed by this Code.

4. Court judgments by which the court concludes hearing of a case on its merits shall be provided to the parties to the criminal proceedings or the person in whose respect the issue of imposing compulsory reformatory or medical measures has been decided, as well as the representative of a legal entity in whose respect the proceedings are conducted as translated into their native language or any other language they have a good command of. Translation of any other procedural documents of criminal proceedings, copies of which are to be provided under this Code, shall be performed exclusively upon request of the said persons. Translation of court judgments and other procedural documents of court proceedings shall be certified by the signature of the translator.

{Part 4 of Article 29 as amended by Law No. 314-VII of 23 May 2013}

Chapter 3. Court, parties, and other participants to the criminal proceedings

§ 1. Court and jurisdiction

Article 30. Administration of justice by court

1. Only court shall administer justice in criminal proceedings in accordance with rules prescribed by this Code.

2. Refusal to administer justice shall not be permitted.

Article 31. Composition of the court

1. In the court of the first instance, criminal proceedings shall be conducted by a judge alone, except as provided for by parts 2, 3 and 12 of this Article.

2. Criminal proceedings in a court of the first instance in respect of crimes for the commission of which punishment of imprisonment for a term of over ten years is envisaged shall be conducted by a panel of three judges only upon a motion of the accused.

Criminal proceedings against several accused shall be conducted by a panel of three judges against all accused, provided at least one of them has filed a motion for such consideration.

{Part 2 of Article 31 as revised by Law No. 817-IX of 21 July 2020}

3. Criminal proceedings in a court of the first instance in respect of crimes for the commission of which punishment of life imprisonment is envisaged shall be conducted by a panel of three judges, and upon the motion of the accused, by jury consisting of two judges and three jurors. Criminal proceedings in respect of several accused shall be conducted in respect of all accused provided at least one of them requested such consideration.

4. Criminal proceedings under appeal procedure shall be conducted by a panel comprising at least three judges, except as provided for by part 12 of this Article, and the number of judges shall be odd.

5. Criminal proceedings under cassation procedure shall be conducted by a panel of judges of the Criminal Court of Cassation of the Supreme Court consisting of three or more odd number of judges.

{Part 5 of Article 31 as amended by Law No. 2447-VIII of 7 June 2018}

6. In cases provided for by this Code, criminal proceedings under cassation procedure shall be conducted by the Judicial Chamber of the Criminal Court of Cassation (Chamber), the Joint Chamber of the Criminal Court of Cassation (Joint Chamber) or the Grand Chamber of the Supreme Court (Grand Chamber).

4. The Joint Chamber shall consist of two judges elected by the assembly of judges of the Commercial Court of Cassation from each of the judicial chambers of the Commercial Court of Cassation and the chairperson of the Commercial Court of Cassation.

6. A session of the Chamber in the court of cassation shall be deemed quorate provided that more than half of its members are present.

7. A session of the Joint Chamber or the Grand Chamber shall be deemed quorate if at least two-thirds of its members are present.

10. Irrespective of the composition of judges who conducted the criminal proceedings, the review of a court judgment in a court of the first or appellate instance under exceptional

circumstances shall be conducted by a panel of three or more odd-numbered judges; in the Supreme Court, it shall be reviewed in the composition of the Grand Chamber.

11. For consideration of specific criminal proceedings, a judge or a panel of judges shall be determined in accordance with the procedure provided for by part 3 of Article 35 hereof.

12. Criminal proceedings in the High Anti-Corruption Court shall be conducted:

1) in a court of the first instance they shall be conducted by a panel of three judges having a judicial background of at least five years, except in cases when no such judge in this court is entitled to participate in the consideration of the case on the grounds provided for by law;

2) under appellate procedure they shall be conducted by a panel of three judges having a judicial background of at least five years, except in cases when no such judge in this court is entitled to participate in the consideration of the case on the grounds provided for by law;

Criminal proceedings in the High Anti-Corruption Court during the pre-trial investigation shall be conducted by the investigating judge alone, and in the case of appeal against its rulings under appellate procedure, it shall be considered by a panel of at least three judges.

{Part 12 of Article 31 as revised by Law No. 2447-VIII of 7 June 2018}

13. Wherever in a court of the first or appellate instance, which according to the rules of jurisdiction shall conduct criminal proceedings (except for the High Anti-Corruption Court), it is impossible to form the composition of a court provided for by this Article, criminal proceedings shall be conducted by the closest territorial court composition of the court, in which it is possible to form such a court.

{Part 13 of Article 31 as amended by Law No. 2447-VIII of 7 June 2018}

14. Criminal proceedings concerning the consideration of an indictment against a minor, motions for release from criminal liability, application of coercive measures of a medical or reformatory nature, their continuation, change or discontinuation, and also criminal proceedings under appellate or cassation procedure as for review of court decisions adopted in respect of these issues shall be conducted by a judge authorised in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges" for the conduct of criminal proceedings against minors.

Where such criminal proceeding is to be held by a panel of judges, only a judge authorised in accordance with the Law of Ukraine "On the Judiciary and the Status of Judges" to conduct criminal proceedings against minors shall preside at the court hearing.

{Article 31 as amended by Laws No. 1698-VII of 14 October 2014, No. 192-VIII of 12 February 2015, No. 198-VIII of 12 February 2015, No. 889-VIII of 10 December 2015; as revised by Law No. 2147-VIII of 3 October 2017}

Article 32. Territorial jurisdiction

1. Criminal proceedings shall be conducted by the court within whose territorial jurisdiction the criminal offence has been committed. Wherever several criminal offences have been committed, criminal proceeding shall be conducted by the court within whose territorial jurisdiction the more grave offence has been committed, and wherever the offences were of equal gravity, it shall be conducted by the court within whose territorial jurisdiction the most recent

criminal offence has been committed. Where the place of commission of a criminal offence is not possible to establish, the criminal proceeding shall be conducted by the court within whose territorial jurisdiction pre-trial investigation has been completed. This paragraph shall not apply to criminal proceedings which fall within the substantive jurisdiction of the High Anti-Corruption Court in accordance with the rules of Article 33[1] hereof.

{Paragraph 1, part 1 of Article 32 as amended by Law No. 2447-VIII of 7 June 2018}

Criminal proceedings with regard to criminal offences committed in the territory of Ukraine and referred to the substantive jurisdiction of the High Anti-Corruption Court shall be conducted by the High Anti-Corruption Court.

{Part 1 of Article 32 has been supplemented with paragraph 2 under Law No. 2447-VIII of 7 June 2018; as amended by Law No. 720-IX of 17 June 2020}

2. Criminal proceedings on criminal charges against a judge shall not be conducted by the court where the accused is holding or held the office of a judge. Where under part 1 of this Article criminal proceeding against a judge shall be conducted by the court where the accused is holding or held the office of a judge, such criminal proceeding shall be conducted by the court of another political unit (Autonomous Republic of Crimea, oblast, the city of Kyiv or Sevastopol) which is territorially the closest to the court where the accused is holding or held the office of a judge.

3. If a criminal offence, the pre-trial investigation of which was conducted by the territorial branch of the National Anti-Corruption Bureau of Ukraine (except for criminal offences that are subject to the jurisdiction of the High Anti-Corruption Court), has been committed within the territorial jurisdiction of the local anti-corruption office of Ukraine, the criminal proceeding shall be conducted by a court territorially closest to the court at the location of the respective territorial office of the National Anti-Corruption Bureau of Ukraine, another political unit (Autonomous Republic of Crimea, oblast, city of Kyiv or Sevastopol).

{Article 32 has been supplemented with part 3 under Law No. 1698-VII of 14 October 2014; as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

Article 33. Instance jurisdiction

1. Criminal proceedings in the first instance shall be conducted by local general courts, and also by the High Anti-Corruption Court.

{Part 1 of Article 33 as revised by Law No. 2447-VIII of 7 June 2018}

2. Criminal proceedings in the appellate instance shall be conducted by the respective courts of appeals, and also by the Appellate Chamber of the High Anti-Corruption Court.

{Part 2 of Article 33 as revised by Law No. 2447-VIII of 7 June 2018}

3. Criminal proceedings in the cassation instance shall be conducted by the Supreme Court.

{Part 3 of Article 44 as amended by LawNo. 2147-VIII of 3 October 2017}

4. Criminal proceedings on newly discovered circumstances shall be conducted by the court which rendered the reviewed decision.

{Part 4 of Article 33 as revised by Laws No. 192-VIII of 12 February 2015, No. 2147-VIII of 3 October 2017}

5. Criminal proceeding in exceptional circumstances shall be conducted on the grounds specified in clauses 1 and3, part 3, Article 459 hereof by the court that made the decision under review, and on the grounds specified by clause 2, part 2, Article 459 hereof, it shall be conducted by the Grand Chamber of the Supreme Court.

{Part 5 of Article 33 as revised by Law No. 2147-VIII of 3 October 2017}

Article 33[1]. Subject-matter jurisdiction of the High Anti-Corruption Court

1. High Anti-Corruption Court shall be responsible for criminal proceedings concerning corruption offences provided for by the note of Article 45 of the Criminal Code of Ukraine, Articles 206[2], 209, 211, 366[2], 366[3]of the Criminal Code of Ukraine, in the presence of at least one of the conditions provided for by clauses 1–3, part 5 of Article 216 of the Criminal Procedure Code of Ukraine.

{Part 1 of Article 33[1] as amended by Law No. 1074-IX of 04 December 2020}

2. Investigating judges of the High Anti-Corruption Court shall exercise judicial control over the observance of the rights, freedoms and interests of persons in criminal proceedings in respect of criminal offences within the jurisdiction of the High Anti-Corruption Court in accordance with part 1 of this Article.

3. Other courts defined by this Code shall not consider criminal proceedings in respect of criminal offences that fall within the jurisdiction of the High Anti-Corruption Court (except as provided by paragraph 7, part 1 of Article 34 hereof).

{The Code has been supplemented with Article 33[1] under Law No. 2447-VIII of 7 June 2018; as amended by Law No. 720-IX of 17 June 2020}

Article 34. Referral of criminal proceedings from one court to another

1. Criminal proceeding shall be referred to another court where:

1) it was determined prior to the start of the court hearing that the criminal proceeding had been submitted to the court in violation of the rules on jurisdiction;

{Clause 1, part 1 of Article 34 as amended by Law No. 2447-VIII of 7 June 2018}

2) after sustaining of motions of recusal (self-recusal) or in other cases, it is impossible to form a new composition of the court for judicial proceedings

{Clause 2, part 1 of Article 34 as amended by Law No. 2147-VIII of 3 October 2017}

3) the accused or the victim is holding or held an office in the court under whose jurisdiction the conduct of the criminal proceeding falls;

4) the court has been liquidated or the work of the court conducting the judicial proceedings has been terminated on the grounds specified by law.

{Clause 4, part 1 of Article 34 as amended by Law No. 2147-VIII of 3 October 2017}

In exceptional cases, prior to the commencement of court proceedings a criminal proceeding (except for criminal proceedings submitted to the High Anti-Corruption Court) in order to ensure the efficiency and effectiveness of a criminal proceeding may be transferred to another court at the place of residence of the accused, majority of victims or witnesses, as well as where it is impossible to administer justice by the respective court (including man-made emergencies or natural disasters, epidemics, epizootics, martial law, state of emergency, anti-terrorist operation).

{Paragraph 6, part 1 of Article 34 as revised by Law No. 1689-VII of 7 October 2014; as amended by Law No. 2447-VIII of 7 June 2018}

Wherever the accused or victim is holding or held a position of a judge or an officer of the High Anti-Corruption Court and where a criminal proceeding falls within the jurisdiction of this court, such criminal proceeding in the first instance shall be conducted by a court appeals whose jurisdiction extends to Kyiv, and in that case the court judgments are to be appealed to the court of appeals, which shall be determined by the panel of judges of the Criminal Court of Cassation of the Supreme Court.

{Part 1 of Article 34 has been supplemented with paragraph 7 under Law No. 2447-VIII of 7 June 2018}

2. The issue of referral of a criminal proceeding from one court to another within jurisdiction of one and the same court of appeals instance shall be considered by at the request of the local court or upon a motion of the parties or the victim not later than five days from the date of such request or motion, on which a motivated ruling is issued.

3. The issue of referral of a criminal proceeding from one court to another within jurisdictions of different courts of appeals, and also of referral of a proceeding from one court of appeals to another shall be considered by a panel of judges of the Criminal Court of Cassation of the Supreme Court at the request of the court of appeals or upon a motion of the parties or the victim no later than five days from the date of such request or motion, on which a motivating ruling is issued.

{Paragraph 1, part 3 of Article 34 as amended by Law No. 2447-VIII of 7 June 2018}

The issue of referring criminal proceedings from the High Anti-Corruption Court to another court shall be decided by a panel of five judges of the Appellate Chamber of the High Anti-Corruption Court upon the request of the court designated for a criminal proceeding or upon a motion of the parties no later than five days from the date of submission of such a request or motion, on which a motivated ruling is issued.

{Part 3 of Article 34 has been supplemented with paragraph 2 under Law No. 2447-VIII of 7 June 2018}

{Part 3 of Article 34 as amended by LawNo. 2147-VIII of 3 October 2017}

4. The participants to the judicial proceedings shall be notified of the time and place of consideration of such request (motion) for transfer of a criminal proceeding from one court to another, however their failure to appear shall not be prejudicial to the consideration of the matter.

5. Disputes between courts with regard to jurisdiction matters shall not be permitted.

6. The court, which has taken charge of a criminal proceeding from another court, shall commence judicial proceedings from the stage of preliminary case hearing, regardless of the stage at which the circumstances referred to in part 1 of the present Article arose in another court.

Article 35. Court's automated workflow system

{Amendments to Article 35 under Law No. 2147-VIII of 3 October 2017 shall be introduced from the date of operation of the Unified Judicial Information and Telecommunication System – refer to clause 2, § 2, Section 4}

1. An automated workflow system shall function in court to ensure:

1) unprejudiced and impartial distribution of the files of criminal proceedings between judges while observing the sequence of work and number of proceedings for each judge;

2) selection of jurors for judicial proceeding from among the persons entered in the array of jurors;

3) providing individuals and legal entities with the information about the status of consideration of the files of criminal proceedings in accordance with the procedure stipulated in this Code;

4) centralised storage of the texts of sentences, rulings and other procedural documents;

5) preparation of statistical data;

6) registration of incoming and outgoing mail and the stages of its movement;

7) issuance of sentences, court rulings and court orders based on the data contained in the system;

8) transfer of files to the electronic archive.

2. Files of criminal proceedings, complaints, applications, motions and other procedural documents stipulated in the law which are filed with the court and which may be subjects to judicial proceedings shall be subject to compulsory registration, in the order of their submission, in the court's automated workflow system. The following shall be entered into the court's automated workflow system: the date of receipt of files, complaints, motions, applications or other procedural documents, the name of a person in respect of whom the documents are submitted, and their essence, the name of a person (authority) which submitted documents, the name of a court's officer who registered them, information on the flow of court documents, data on the judge who conducted the proceedings, and other data provided for by the Provision on the Court's Automated Workflow System approved by the Council of Judges of Ukraine in coordination with the State Judicial Administration of Ukraine.

3. Appointment of a judge (substitute judge, investigating judge) or a panel of judges for a specific court hearing shall be supported by the court's automated workflow system in the course of registration of respective files, complaint, motion, application or any other procedural document, based on the principles of credibility which take into account the number of proceedings administered by judges, prohibition to participate in verification of sentences and rulings for the judge who took part in delivering the sentence or ruling the issue of verification of which is raised, judges being on vacation, on sick leave or away on assignment/mission trip, and expiration of their

term of office. Upon assignment of a judge (substitute judge, investigating judge) or a panel of judges for a specific court hearing, it is prohibited to introduce changes in the registration data regarding these proceedings, as well as to remove such data from the court's automated workflow system save for the cases stipulated by law.

4. Access to the court's automated workflow system shall be provided to the judges and personnel of the respective court in accordance with their functional duties.

5. Unauthorised interference in the operation of the court's automated workflow system shall entail liability stipulated by law.

6. The procedure for operation of the court's automated workflow system, including issuance of sentences, court rulings and court orders, transfer of cases to the electronic archive, storage of the texts of sentences, rulings and other procedural documents, providing individuals and legal entities with the respective information, and preparation of statistical data shall be specified by the Provision on the Court's Automated Workflow System.

§ 2. Prosecution

Article 36. Public prosecutor

1. Public prosecutor in the course of performing his duties in compliance with the requirements of this Code shall be independent in his procedural activities, and any interference therein on the part of persons who have no legitimate authority, shall be prohibited. Government authorities, local governments, enterprises, institutions and organisations, officials and individuals shall execute legitimate demands and procedural decisions of a public prosecutor.

2. Public prosecutor, while supervising the compliance with law during pre-trial investigation in the form of providing procedural guidance in a pre-trial investigation, shall have the right to:

1) start pre-trial investigation provided grounds specified in this Code are present;

2) have full access to the records, documents, and other data related to pre-trial investigation;

3) assign pre-trial investigation agency to conduct pre-trial investigation;

4) assign investigator, pre-trial investigation agency to conduct within a time limit set by a public prosecutor investigatory (search) actions, covert investigatory (search) actions or other procedural actions, or give instructions in respect of conducting such actions, or participate in them, and, where necessary, conduct investigatory (search) and procedural actions in accordance under procedure established by this Code;

5) assign the conduct of investigatory (search) actions, covert investigatory (search) actions to the respective criminal intelligence units;

{Clause 6, part 2 of Article 36 has been deleted under Law No. 1697-VII of 14 October 2014}

7) overturn illegitimate and ungrounded rulings of investigators;

8) initiate with the chief officer of the pre-trial investigative agency the issue of suspending the investigator from pre-trial investigation and the appointment of another investigator where grounds specified in this Code are present for his disqualification or where pre-trial investigation was inefficient;

9) take procedural decisions in cases stipulated by this Code, including with regard to termination of a criminal proceeding and to extending the terms for the pre-trial investigation where grounds as prescribed in this Code are present;

10) support or refuse to support the motions of investigator addressed to investigating judge on the conduct of investigatory (search) actions, covert investigatory (search) actions, other procedural actions in cases specified by this Code or individually submit such motions to the investigating judge;

11) notify a person of suspicion;

12) enter civil action for the government and those individuals who are unable to defend their rights pursuant to this Code and law due to their physical or economic circumstances, being minors or of elderly age, incompetence or limited legal capacity;

13) approve or refuse to approve the indictment, motions on the application of measures of medical or reformatory nature, make amendments to an indictment drawn up by the investigator or the above motions, draw up indictments or motions concerned independently;

14) refer to the court an indictment, request to enforce compulsory medical or reformatory measures, or request to discharge a person from criminal liability;

15) prosecute on behalf of the state in court, resign from supporting public prosecution, alter the prosecution or lay additional prosecution under procedure established by this Code;

16) coordinate requests for international legal aid or referral of criminal proceedings made by pre-trial investigation agency, or independently file such motion under procedure established by this Code;

17) commission a pre-trial investigation agency to respond to a request (commission) for international legal aid or criminal referral made by a competent authority of a foreign state, verify the completeness or legitimacy of procedural actions and also the completeness, comprehensiveness and impartiality of investigation under the referred criminal proceeding;

18) verify the documents concerning surrendering a person (extradition) provided by a pre-trial investigation agency prior to referring them to a higher level prosecutor, and return these documents to an appropriate authority with written comments, if these documents are unjustified or fail to meet the requirements of international treaties, ratified by the Verkhovna Rada of Ukraine or laws of Ukraine;

19) commission pre-trial investigation agency with search and apprehension of those individuals who committed a criminal offence outside Ukraine, and conduct specific procedural actions to surrender (extradite) a person at the request made by a competent authority of a foreign state;

20) appeal court decisions under procedure established by this Code;

21) exercise other powers envisaged by this Code.

3. Participation of a public prosecutor in court shall be mandatory, except as provided otherwise by this Code.

4. The right to file an appellate or cassation complaint, a motion on review of a court judgment upon discovery of new circumstances, irrespective of their participation in judicial proceedings shall be also vested in officials of the higher level of public prosecution: the Prosecutor General, his first deputy and deputies, head of an oblast prosecutor's office, his first deputy and deputies.

{Paragraph 1, Part 4 of Article 36 as revised by Law No. 1697-VII of 14 October 2014; as amended by Law No. 2147-VIII of 3 October 2017}

Prosecutor General, head of an oblast prosecutor's office, their first deputies and deputies shall have the right to supplement, amend or withdraw an appellate or cassation complaint, application for review of a court judgment on newly discovered or exceptional circumstances files by them, heads, first deputies or deputy heads or public prosecutors of lower level.

{Paragraph 2, Part 4 of Article 36 as amended by Laws No. 1697-VII of 14 October 2014, No. 2147-VIII of 3 October 2017}

Officials of a higher-level prosecutor's office may participate in court proceedings for review of court judgments under appellate or cassation procedure in respect of newly discovered or exceptional circumstances.

{Paragraph 3, Part 4 of Article 36 as amended by Law No. 1697-VII of 14 October 2014, No. 2147-VIII of 3 October 2017}

5. Prosecutor General, head of an oblast prosecutor's office, their first deputies and deputies shall have the right to assign the pre-trial investigation of any criminal offence to another pre-trial investigation agency, including a higher-level investigative unit within one authority, in case of ineffective pre-trial investigation. It is prohibited to assign the conduct of pre-trial investigation of a criminal offence referred to the jurisdiction of the National Anti-Corruption Bureau of Ukraine to another agency of pre-trial investigation.

It is prohibited to assign the pre-trial investigation of a criminal offence committed by a Member of Parliament of Ukraine to pre-trial investigation agencies other than the National Anti-Corruption Bureau of Ukraine and the central office of the State Bureau of Investigations in accordance with their jurisdiction under this Code.

{Part 5 of Article 36 has been supplemented with paragraph 2 under Law No. 388-IX of 18 December 2019}

{Part 5 of Article 36 as amended by Laws No. 1697-VII of 14 October 2014, No. 1698-VII of 14 October 2014}

6. Prosecutor General, head of an oblast prosecutor's office, head of a district prosecutor's office, their first deputies and deputies in supervising the observance of laws during the pre-trial investigation shall have the right to revoke illegal and unfounded decisions of investigators and lower-level public prosecutors within the pre-trial investigation provided for by Article 219 hereof. Public prosecutor supervising over the observance of laws during the respective pre-trial investigation shall be notified of such revocation. Revocation of illegal and unfounded decisions of detectives of the National Anti-Corruption Bureau of Ukraine and prosecutors of the Specialised Anti-Corruption Prosecutor's Office may be effected by the Prosecutor General or his acting or head of the Specialised Anti-Corruption Prosecutor's Office.

–{Part 6 of Article 36 as amended by Law No. 721-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 1697-VII of 14 October 2014, No. 1698-VII of 14 October 2014, No. 187-IX of 04 October 2019}

Article 37. Appointment and replacement of public prosecutor

1. Public prosecutor to exercise the powers of a prosecutor in a specific criminal proceeding shall be appointed by the chief officer of a corresponding prosecutor's office upon the commencement of pre-trial investigation. Where necessary, the chief officer of prosecutor's office may appoint a team of prosecutors to exercise the powers of prosecutors in a specific criminal proceeding and also a chief public prosecutor of such team to govern other prosecutors.

2. Public prosecutor shall exercise powers of a prosecutor in a specific criminal proceeding from its commencement to the very completion. Another public prosecutor may perform the duties of a prosecutor in this same criminal proceeding exclusively in the cases stipulated by part 4 and 5 of Article 36, part 3 of Article 313, part 2 of Article 341 hereof and part 3 of this Article.

3. Where a public prosecutor who performs duties of a prosecutor in certain criminal proceedings is unable to perform them due to a motion on his challenge, serious disease, dismissal from prosecutor's office or another valid reason rendering his participation in the criminal proceeding impossible, the powers of prosecutor shall be vested in another prosecutor by the chief officer of a respective prosecutor's office. In exceptional cases, the chief officer of a respective prosecutor's office may vest these powers in another prosecutor from this same prosecutor's office due to ineffective supervision over the compliance of pre-trial investigation with law by this public prosecutor.

Article 38. Pre-trial investigation agency

1. Pre-trial investigation agencies shall be the agencies conducting pre-trial investigation and inquiry.

2. Pre-trial investigation shall be conducted by:

1) investigative units of:

a) National Police agencies;

b) security agencies;

c) agencies supervising compliance with the tax legislation;

d) bodies of the State Bureau of Investigations;

2) detective unit, internal control unit of the National Anti-Corruption Bureau of Ukraine.

3. Inquiries shall be conducted by inquiry units or authorised persons of other units:

a) National Police agencies;

b) security agencies;

c) agencies supervising compliance with the tax legislation;

d) bodies of the State Bureau of Investigations;

e) National Anti-Corruption Bureau of Ukraine.

4. Pre-trial investigation shall be conducted by investigators independently or by an investigative team.

4. Pre-trial investigation agency shall take all legal measures to ensure the effective pre-trial investigation.

{Article 38 as amended by Laws No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 04 October 2019; as revised by Law No. 2617-VIII of 22 November 2018}

Article 39. Chief officer of the pre-trial investigation agency

1. Chief officer of the pre-trial investigation agency shall organise pre-trial investigation.

2. Chief officer of the pre-trial investigation agency shall have the right to:

1) appoint investigator (investigators) to conduct pre-trial investigation, and where pre-trial investigation is conducted by an investigative team, to appoint a senior investigator of the investigative team who shall govern other investigators;

2) suspend an investigator from the conduct of pre-trial investigation by a substantiated resolution, on the initiative of a public prosecutor, or at his discretion followed by notification of a public prosecutor, and appoint another investigator where there are grounds specified by this Code for challenging the investigator concerned or in the event of ineffective pre-trial investigation;

3) review records of pre-trial proceedings, instruct the investigator in written form without prejudice to decisions and instructions made by the public prosecutor;

4) take measures to eliminate violations of legislation requirements on the part of investigators;

5) to approve the conduct of investigative (search) actions and to extend the time limit for their conduct, in cases specified by this Code;

6) conduct investigatory (search) actions exercising investigator's powers;

7) exercise other powers stipulated by this Code.

3. Chief officer of the pre-trial investigation agency shall follow assignments and instructions of the public prosecutor provided in written form. Failure of the chief officer of the pre-trial investigation agency to fulfil the legitimate instructions and assignments of the public prosecutor provided under the procedure prescribed by this Code shall entail liability established by law.

Article 39[1]. Chief officer of inquiry agency

1. Chief officer of the inquiry agency shall organise the inquiry.

Chief officer of the inquiry agency shall have the right to:

1) appoint an inquiry officer who will conduct the inquiry;

2) dismiss an inquiry officer from conducting an inquiry on the initiative of the public prosecutor or on his own initiative and appoint another officer where there are grounds provided for by this Code for his dismissal (recusal) or ineffective inquiry;

3) read the records of the inquiry, give the inquirer written instructions that do not contradict the decisions and instructions of the public prosecutor;

4) take measures to eliminate violations of legislation requirements on the part of the inquiry officer;

7) exercise other powers stipulated by this Code.

{The Code has been supplemented with Article 39¹ under Law No. 2617-VIII of 22 November 2018}

Article 40. Investigator of the pre-trial investigation agency

1. Investigator shall be liable for legality and timeliness of the conduct of procedural actions.

2. Investigator shall have the right to:

1) start pre-trial investigation provided grounds specified in this Code are present;

2) conduct investigatory (search) actions and covert investigatory (search) actions specified in this Code;

3) assign the conduct of investigatory (search) actions and covert investigatory (search) actions to the respective operation units;

{Clause 4, part 2 of Article 40 has been deleted under Law No. 1697-VII of 14 October 2014}

5) upon the approval of public prosecutor, submit proposals to investigating judge in respect of application of measures to ensure conducting of a criminal proceeding, investigatory (search) actions and covert investigatory (search) actions;

6) notify a person of a suspicion in coordination with the public prosecutor;

7) draw up indictment based on the outcome of investigation, motions in respect of application of compulsory medical or reformatory measures, and submit them to public prosecutor for approval;

8) make procedural decisions in cases specified by this Code including in respect of termination of a criminal proceeding where grounds specified in Article 280 hereof are present;

9) exercise other powers specified in this Code.

3. Should a public prosecutor refuse to approve investigator's motion filed with investigating judge on application of measures to ensure criminal proceedings, on the conduct of investigative (search) actions or covert investigative (search) actions, investigator shall have the right to address the chief officer of the pre-trial investigation agency who, upon examining the motion concerned, where necessary, shall initiate consideration of issues raised therein with a public prosecutor who shall within three days approve the motion or refuse to approve it.

4. Investigator shall follow the instructions and orders provided by the public prosecutor filed in written form. Failure of the investigator to comply with the lawful instructions and orders of the public prosecutor issued in the manner prescribed by this Code, shall entail liability under the law.

5. Investigator in the course of performing his duties in compliance with the requirements of this Code, shall be independent in his procedural activities, and any interference therein on the part of persons who have no legitimate authority shall be prohibited. Government authorities, local governments, enterprises, institutions and organisations, officials and individuals shall execute legitimate demands and procedural decisions of the investigator.

Article 40[1]. Inquiring officer

1. Inquiring officer shall exercise powers of an investigator during the inquiry. Inquiring officer shall be liable for the legality and timeliness of the inquiry.

Inquiring officer shall have the right to:

1) start inquiry provided grounds specified in this Code are present;

2) inspect the crime scene, search the detainee, interrogate persons, seize weapons and means of committing an offence, things and documents that are the direct subject of a criminal offence or which are found in detention, and also conduct investigatory (search) actions and covert investigatory (search) actions in cases provided for by this Code;

3) assign the conduct of investigatory (search) actions and covert investigatory (search) actions to the respective operation units stipulated by this Code;

5) upon the approval of public prosecutor, submit motions to investigating judge in respect of application of measures to ensure conduct of a criminal proceeding, investigatory (search) actions and covert investigatory (search) actions;

5) Upon coordination with a public prosecutor, notify a person on the suspicion of committing a criminal offence;

7) draw up indictment based on the outcome of investigation, motions in respect of application of compulsory medical or reformatory measures, and submit them to public prosecutor for approval;

8) make procedural decisions in cases specified by this Code including in respect of termination of a criminal proceeding where grounds specified in Article 284 hereof are present;

8) exercise other powers provided for herein.

4. Inquiring officer shall follow the instructions and orders provided by the public prosecutor in written form.

5. Inquiring officer in the course of performing his duties in compliance with the requirements of this Code, shall be independent in his procedural activities, and any interference therein on the part of persons who have no legitimate authority shall be prohibited. Government authorities, local governments, enterprises, institutions and organisations, officials and individuals shall execute legitimate demands and procedural decisions of the inquiring officer.

{The Code has been supplemented with Article 40[1] under Law No. 2617-VIII of 22 November 2018}

Article 41. Operational units

1. Operational units of the National Police, security agencies, the National Anti-Corruption Bureau of Ukraine, the State Bureau of Investigations, authorities supervising compliance with tax and customs legislation, bodies of the State Border Guard Service of Ukraine, bodies, penitentiaries and pre-trial detention centres of the State Penitentiary Services of Ukraine shall conduct investigatory (search) actions and covert investigatory (search) actions in criminal proceedings upon the written assignment of the investigator, public prosecutor, and the detective unit, operational and technical unit and the internal control unit of the National Anti-Corruption Bureau of Ukraine shall conduct investigatory (search) actions and covert investigatory (search) actions upon written assignment of a detective or prosecutor of the Specialised Anti-Corruption Prosecutor's Office.

{Part 1 of Article 41 as amended by Laws No. 406-VII of 04 July 2013, No. 1698-VII of 14 October 2014, No. 198-VIII of 12 February 2015, No. 901-VIII of 23 December 2015, No. 1492-VIII of 7 September 2016, No. 187-IX of 4 October 2019, No. 671-IX of 04 June 2020}

2. In the course of executing assignments of an investigator or a public prosecutor, an officer of the criminal intelligence unit shall exercise the investigator’s powers. Officers of criminal intelligence units (except for the detective unit, the internal control unit of the National Anti-Corruption Bureau of Ukraine) shall not conduct procedural actions in criminal proceedings on their own initiative or to apply to the investigating judge or public prosecutor with a motion.

{Part 2 of Article 41 as amended by Laws No. 198-VIII of 12 February 2015, No. 2617-VIII of 22 November 2018}

3. Assignments of an investigator, a public prosecutor in respect of conducting investigative (search) actions and covert investigative (search) actions shall be binding on the criminal intelligence unit.

{Part 3 of Article 41 as amended by Law No. 2617-VIII of 22 November 2018}

§ 3. Defence

Article 42. Suspect or accused

1. A suspect shall mean a person who has been notified of suspicion as prescribed by Articles 276–279 hereof, or a person who has been apprehended on suspicion of having committed a criminal offence or a person in whose regard a notice of suspicion was compiled but it has not been delivered because of failure to establish the whereabouts of the person, provided all means have been used as specified by this Code to deliver a notice of suspicion.

{Part 1 of Article 42 as amended by Law No. 1689-VII of 7 October 2014}

2. The accused (defendant) shall mean a person an indictment in whose respect has been referred to the court as prescribed by Article 291 hereof.

3. The suspect or accused shall have the right to:

1) know of which criminal offence he/she has been suspected or accused;

2) be informed, expressly and promptly, of his/her rights as laid down in this Code and have such rights explained;

3) on his/her first demand, have a defence counsel and consultation with him prior to the first and each subsequent interview under conditions ensuring confidentiality of communication, and also upon the first interview to have such consultations with no limits as to their number or duration; the right to the presence of defence counsel during interviews and other procedural actions, refuse from services of counsel at any time in the course of criminal proceedings; have services of a publicly funded counsel in the cases stipulated by this Code and/or the law regulating provision of free legal aid, including when no resources are available to pay for such counsel;

4) keep silence about suspicion, a charge against him/her or waive answering questions at any time;

5) give explanations, testimony with regard to the suspicion and a charge against him/her or waive giving them at any time;

6) demand that validity of the detention be verified;

7) when apprehended or when a preventive measure such as taking into custody has been applied, to have his/her family members, close relatives or other persons promptly notified of his/her apprehension and whereabouts, in accordance with provisions of Article 213 hereof;

8) collect and produce evidence to investigator, public prosecutor, investigating judge;

9) participate in procedural actions;

10) in the course of procedural actions, ask questions, submit his/her comments and objections in respect of the manner in which procedural action is conducted, which shall be put on the record;

11) in compliance with the requirements of this Code, use technical means in the course of procedural action he/she participates in. Investigator, public prosecutor, investigating judge, court shall have the right to prohibit using technical means in the course of a specific procedural action or at a specific stage of criminal proceedings in order to prevent disclosure of privileged information protected by law or related to the intimate life of the person concerned, with a motivated decision (ruling) taken (adopted) thereon;

12) submit motions to conduct procedural actions, ensure protection for himself/herself, family members, close relatives, property and house, etc;

13) file a recusation:

14) review records of pre-trial proceedings in accordance with the procedure established by Article 221 of this Code and request disclosure of records under Article 290 hereof;

15) obtain copies of procedural documents and written notices;

16) challenge decisions, acts, and omission by investigator, public prosecutor, investigating judge under procedure established by this Code;

17) demand that damage caused by illegal decisions, acts or omission of the agency conducting operational search actions and pre-trial investigation, public prosecutor’s office or

court, be indemnified, in accordance with the procedure established by Law, and also have his/her reputation restored if the suspicion or accusations have not been confirmed;

18) use his/her native language, obtain copies of procedural documents in the same language or any other language of which he/she has a good command of and, where necessary, benefit from translation services at the state expense;

4. The accused shall also be entitled to:

1) during judicial proceedings, participate in the examination of witnesses for the prosecution or request them to be examined, and also request that witnesses for the defence be summoned and examined under the same terms as witnesses for the prosecution;

2) collect and produce evidence to the court;

3) express in court session his/her point of view with regard to motions of other participants to court proceedings;

4) speak in pleadings;

5) review journal of the court session and technical recording of the process which shall be made available to him/her by authorised court officers, and submit comments thereon;

6) In accordance with the procedure laid down in this Code, challenge court's decisions and initiate review thereof, and be aware of appeal and cassation complaints lodged against court's decisions, submissions on review thereof, and submit objections thereto.

7) receive clarifications on the procedure for preparation and use of the pre-trial report, refuse to participate in the preparation of the pre-trial report;

{Part 4 of Article 42 has been supplemented with clause 7 under Law No. 1492-VIII of 7 September 2016}

8) take part in the preparation of the pre-trial report, provide a representative of the probation body with the information required for the preparation of such a report, read the text of the pre-trial report, submit his/her comments and clarifications.

{Part 4 of Article 42 has been supplemented with clause 8 under Law No. 1492-VIII of 7 September 2016}

5. The suspect, accused shall also enjoy other procedural rights specified in this Code.

6. The suspect or accused who is a foreign national kept in custody shall have the right to meet a representative of the diplomatic or consular mission of his/her state, and the administration of the detention facility shall provide such opportunity.

7. The suspect or accused shall:

1) appear before investigator, prosecutor, investigating judge and the court upon summons and, where it is impossible to appear upon summons at the time fixed, to inform the court thereon in advance;

2) perform duties imposed by the decision to take measures to render a criminal proceeding possible;

3) obey to legal demands and orders of investigator, public prosecutor, investigating judge, and court;

4) provide reliable information to an officer of the probation body required for the preparation of the pre-trial report.

{Part 7 of Article 42 has been supplemented with clause 4 under Law No. 1492-VIII of 7 September 2016}

8. The suspect or accused shall be issued a hand-out listing his/her procedural rights and duties at the same time they are brought to his/her notice by the notifying officer.

Article 43. Acquitted, convicted

1. In criminal proceedings, the acquitted shall be the defendant in whose respect the judgment of acquittal has taken legal effect.

1. In criminal proceedings, a convicted shall be the accused in whose respect the judgment of conviction has taken legal effect.

2. The acquitted, convicted shall enjoy the rights of an accused set forth in Article 42 hereof to the extent to which his/her defence at the appropriate stage of court proceedings may require.

Article 44. Legal representative of a suspect or accused

1. Where a suspect or accused is a minor or a person recognised in accordance with the procedure established by law as legally incapable or partially legally capable, his/her legal representative shall be committed to participate in a procedural action together with the individual concerned.

2. Parents (adoptive parents) may be committed as legal representatives, and in their absence, custodians or caregivers of the person, other adult close relatives or family members, and also the representatives of guardianship authorities, institutions and organisations under whose custody and guardianship a minor, legally incapable or partially legally capable individual is.

3. Public prosecutor shall issue a ruling, and investigating judge or court shall adopt a resolution on committing a legal representative, the copy of which shall be handed to the legal agent.

4. Where actions or interests of a legal representative contradict the interests of the represented individual, by decision of investigator, public prosecutor, investigating judge or court such legal representative shall be replaced with another one chosen from among persons specified in part 2 of this Article.

5. Legal representative shall enjoy procedural rights of the person he represents, with the exception of such procedural rights that are exercised directly by the suspect or accused and cannot be assigned to a representative.

Article 45. Defence counsel

1. Defence counsel shall mean a lawyer who provides defence of the suspect, accused, convicted or acquitted, and also of the person who is to be subjected to compulsory medical or

reformatory measures or against whom the issue of applying such measures was considered, and also of the person considered to be surrendered (extradited) to a foreign state.

2. A lawyer, whose information is not available in the Unified Register of Lawyers of Ukraine, or the Unified Register of Lawyers of Ukraine contains information concerning the termination or suspension of the right of the lawyer to practice, shall not engage in defence counselling.

Article 46. General rules for defence counsel's participation in criminal proceedings

1. A defence counsel shall not take over defence of another person or provide such person with legal aid where this contradicts the interests of the person, he/she provides or provided before with legal aid.

2. Failure of the defence counsel to appear and take part in a procedural action, provided the defence counsel was notified in advance thereon, and the suspect or accused does not challenge the conduct of the procedural action in the presence of the defence counsel, shall not be a ground for finding such action illegal, unless defence counsel's participation is mandatory.

Where the suspect or accused challenges the conduct of the procedural action in the presence of the defence counsel, the conduct of the procedural action shall be postponed, or the defence counsel shall be engaged in the conduct thereof in accordance with the procedure established by Article 53 hereof.

3. In court proceedings, there shall be not more than five defence counsels appearing for the same defendant.

4. A defence counsel shall enjoy all procedural rights of the suspect or accused whom he/she defends, except for such procedural rights that are exercised directly by the suspect or accused and cannot be assigned to the defence counsel, from the moment of submitting the documents specified in Article 50 hereof to investigator, prosecutor, investigating judge, and court.

5. Defence counsel shall have the right to participate in interviews and other proceedings conducted with the participation of the suspect or accused, to meet the suspect confidentially prior to the first interview, without authorisation of the investigator, public prosecutor, court, and, after the first interview, to have such consultations without any limitation with regard to their number and duration. Such consultation may take place under visual control of an authorised official but in the environment which precludes wiretapping or listening-in.

6. Documents related to the defence counsel's performing his/her duties may not be inspected, seized, or disclosed by the investigator, public prosecutor, investigating judge or court without defence counsel's consent.

7. Government authorities, local governments and their officials shall comply with the legitimate demands of defence counsel.

Article 47. Duties of a defence counsel

1. Defence counsel shall apply legal remedies prescribed by this Code and other laws of Ukraine, in order to ensure that the rights, freedoms and legitimate interests of the suspect or accused are respected, and establish circumstances that dispel the suspicion or charges, mitigate criminal punishment, or exclude criminal liability of the suspect or accused.

2. Defence counsel shall appear to participate in procedural actions conducted with the involvement of the suspect or accused. If a defence counsel cannot appear at the appointed time, he/she shall notify in advance the investigator, public prosecutor and the court and inform about the reasons, and where he/she is appointed by a body (institution) authorised to provide free legal aid, he/she shall notify this body (institution), too.

3. Without consent of the suspect or accused, the defence counsel shall not disclose information which became available to him/her in connection with participation in criminal proceedings and which constitutes privileged information or any other secret protected by law.

4. After having been admitted to the case, defence counsel may refuse performing his/ her duties only in the following cases:

1) if there are circumstances that, under this Code, exclude his/her participation in the criminal proceeding;

2) disagreement with the suspect or accused concerning the defence method he/she has chosen, except for cases when participation of the defence counsel is mandatory;

3) if the suspect or accused intentionally fails to comply with the terms of the agreement concluded with the defence counsel, with such failure consisting, in particular, in systematic disregard of lawful advices of the defence counsel, provisions of this Code, etc.;

4) if he/she justifies his/her refusal by the absence of appropriate skills in rendering legal aid in a specific proceeding, which is particularly complicated.

Article 48. Committing a defence counsel

1. The suspect or accused, their legal representatives, and other persons upon request or consent of the suspect or accused may commit a defence counsel to participate in criminal proceedings at any time. Investigator, public prosecutor or court shall provide the apprehended person or the person who is kept in custody assistance in establishing liaison with a defence counsel or with persons able to commit a defence counsel, and to make possible using communication means to commit a defence counsel. Investigator, public prosecutor and the court shall refrain from recommending any specific defence counsel.

2. Defence counsel shall be engaged by the investigator, public prosecutor, investigating judge or court to conduct specific defence in the cases and in accordance with the procedure established by Articles 49 and 53 hereof.

Article 49. Committing a defence counsel by investigator, public prosecutor, investigating judge or court for defence by appointment

1. Investigator, public prosecutor, investigator judge or court shall provide participation of a defence counsel in criminal proceedings in the following cases:

1) where under Article 52 hereof the participation of a defence counsel is mandatory, and the suspect or accused has not committed a defence counsel;

2) when the suspect or accused filed a plea on committing a defence counsel but for reasons of absence of funds or for reasons beyond control is unable to commit one on his/her own;

3) when investigator, public prosecutor, investigating judge or court decide that circumstances of the criminal proceedings concerned require the participation of a defence counsel, and the suspect, accused has not committed one.

Defence counsel can be engaged by investigator, prosecutor, investigating judge or court in other cases pursuant to the law regulating free legal aid.

2. In cases specified in part 1 of this Article, investigator or public prosecutor shall issue a decree, and the investigating judge and the court shall adopt a ruling, assigning an appropriate body (institution) authorised by the law to provide free legal aid to appoint a defence attorney to act as defence counsel by appointment, and to ensure his/her appearance at a time and place stated in the decree (ruling), for participation in criminal proceedings.

3. A decree (ruling) on assignment to appoint a defence attorney shall be immediately sent to a body (institution) authorised by the law to provide free legal aid and shall be subject to immediate execution. Failure to comply, improper or delayed compliance with the decree (ruling) instructing to appoint a defence counsel shall entail a legal liability as established by law.

Article 50. Confirmation of defence counsel's authority

1. Defence counsel's authority to participate in criminal proceedings shall be confirmed by:

1) the certificate of the right to engage in legal practice;

2) an order, agreement with defence counsel or a power of attorney issued by a body (institution) authorised by the law to provide free legal aid.

2. Any additional requirements except to the counsel to present his/her ID, or conditions for confirming a defence counsel's credentials or his/her commitment to participate in criminal proceedings shall not be allowed.

Article 51. Agreement with defence counsel

1. An agreement with the defence counsel shall be concluded by the person stipulated in part 1 of Article 45 hereof, and also other persons acting for his/her benefit, at his/her motion or subsequent consent.

Article 52. Mandatory participation of a defence counsel

1. Participation of a defence counsel shall be mandatory in criminal proceedings in respect of special grave crimes. In such cases, participation of a defence counsel shall be ensured from the time when a person achieves the status of a suspect.

2. In the following cases, participation of a defence counsel shall be ensured:

1) in respect of a person who has not attained eighteen years of age and who is suspected or charged of the commission of a criminal offence – upon establishing that the person concerned is a minor or where there are any doubts as to his/her majority;

2) in respect of a person subject to compulsory reformatory measures – upon establishing that the person concerned is a minor or where there are any doubts as to his/her majority;

3) in respect of persons who due to mental or physical disabilities (dumbness, deafness, blindness, etc.) are unable to fully enjoy their rights – upon establishing the presence of such disabilities;

4) in respect of persons who have no knowledge of the language in which criminal proceedings are conducted – upon establishing this fact;

5) in respect of a person subject to compulsory medical measures or where application of such was considered – upon establishing that the person concerned is insane or other information giving ground to doubts about the person's criminal capacity;

6) in connection with the discharge of a deceased person – where the right to the discharge of the deceased person has arisen;

{Clause 7, part 2 of Article 52 has been deleted under Law No. 767-VII of 23 February 2014}

8) in respect of persons who are under special pre-trial investigation or special judicial proceedings – from the moment of making the corresponding procedural decision;

{Part 2 of Article 52 has been supplemented with clause 8 under Law No. 1689-VII of 7 October 2014}

9) where an agreement on the admission of guilt between a public prosecutor and a suspect or accused is concluded – from the moment of initiating the conclusion of such an agreement.

{Part 2 of Article 52 has been supplemented with clause 9 under Law No. 198-VIII of 12 February 2015}

Article 53. Commiting defence counsel in a particular procedural action

1. Investigator, public prosecutor, investigating judge or court shall engage a defence counsel in an individual procedural action in accordance with the procedure set forth in Article 49 hereof exclusively in urgent cases, where the procedural action is required immediately, and the defence counsel who was informed in advance cannot appear to participate in such procedural action or send a replacement, or where the suspect or accused person is willing to have a defence counsel engaged, but either there was not enough time to engage defence counsel or the appearance of a counsel chosen is not possible.

2. The suspect and accused shall also have the right to engage a defence counsel to participate in particular procedural action. Where there is no need to conduct any urgent procedural actions with the participation of a defence counsel and where the arrival of the defence counsel chosen by the suspect or accused is not possible within twenty-four hours, the investigator, public prosecutor, investigating judge and court may request that such suspect or accused have another defence counsel committed.

3. During the conduct of a particular procedural action, defence counsel shall have the same rights and duties as the defence counsel who has been conducting the defence throughout criminal proceedings.

4. Both before a procedural action and thereafter, the defence counsel shall have the right to meet the suspect or accused in order to prepare for the conduct of the procedural action or to discuss its outcome.

5. Conducting the defence during a particular procedural action shall not impose on the defence counsel the obligation to continue the defence throughout the entire criminal proceedings or at any stage thereof.

Article 54. Waiver or replacement of a defence counsel

1. A suspect or accused shall have the right to waive or replace the defence counsel.

2. Waiver or replacement of defence counsel shall take place exclusively in the presence of defence counsel after an opportunity for confidential communication has been provided. Such waiver or replacement shall be fixed in the record of procedural action.

3. Waiver of defence counsel shall not be accepted where participation of the defence counsel is mandatory. Where a suspect or accused refuses to be represented by a specific defence counsel and does not employ any other counsel, a defence counsel shall be committed in accordance with the procedure set forth in Article 49 hereof for appointment of a defence counsel.

§ 4. Victim and his representative

Article 55. Victim

1. A victim in criminal proceedings may be an individual who has sustained moral, physical or material damage as a result of a criminal offence, as well as a legal entity that has sustained a material damage.

2. The rights and duties of a victim shall accrue at the time of filing a report that a criminal offence has been committed against him/her or an application for bringing him/her into proceedings as a victim.

A victim shall be delivered a handout advising on his/her procedural rights and duties by the person who accepted the report that a criminal offence has been committed.

3. A victim shall also be a person, who has not filed the report but who suffered damage as a result of criminal offence and who consequently, after criminal proceedings have been instituted, lodged the application for being involved in criminal proceedings as a victim.

4. A person, who sustained moral damage as a representative of a legal entity or certain part of the society, may not be a victim.

5. Where there is an obvious and sufficient cause to believe that the report, notification of a crime or an application for being involved in criminal proceedings as a victim is lodged by a person who has not sustained the damage specified in part 1 of this Article, investigator or public prosecutor shall adopt a motivated ruling refusing to recognise the person to be a victim, which may be appealed to the investigating judge.

6. Where a criminal offence caused death of a person, or if this person's condition prevents the person from filing an appropriate report, provisions of parts 1–3 of this Article shall apply to close relatives or family members of such deceased person. One person from among close relatives or family members who has filed an application to be engaged in proceedings as a victim shall be recognised to be a victim, and upon a respective motion several persons may be recognised to be victims.

Where a person, whose condition prevented him/her from filing an appropriate application, recovers to be able to exercise the procedural rights, he/she may file an application requesting to be engaged in the proceedings as a victim.

7. If a person did not file a report that a criminal offence has been committed against him/her or an application for bringing into proceedings as a victim, the investigator, public prosecutor and court may recognise such person a victim subject to his/her written consent. In the absence of such consent, a person may where necessary be brought into proceedings as a witness.

Provisions of this part shall not apply to proceedings that may be commenced only on grounds of a victim's report (criminal proceedings in the form of private accusation).

Article 56. Rights of the victim

1. Throughout the entire criminal proceedings, a victim shall have the right to:

1) be notified of his/her rights and obligations under this Law;

2) know the substance of suspicion and charges, be informed on imposition, change or revocation of measures taken in respect of the suspect or accused to make criminal proceedings possible and pre-trial investigation terminated;

3) produce evidence to investigator, public prosecutor, investigating judge or court;

4) file recusations and motions;

5) in the presence of legitimate grounds, to ensuring of security in respect of himself/herself, his close relatives or family members, property and home;

6) give explanations, testimonies or refuse to do so;

7) challenge decisions, acts, and omission of investigator, public prosecutor, investigating judge under procedure established by this Code;

8) have an authorised representative and at any time during criminal proceedings waive his/her services;

9) give explanations, testimonies in native language or any other language in which he/she is fluent, benefit from free publicly funded translator's/interpreter's services if he/she has no knowledge of the state language or the language in which the criminal proceeding is conducted;

10) compensation of the damage caused by criminal offence, as prescribed by law;

11) view case records related to the criminal offence committed in their respect, according to the procedure established by this Code, including their disclosure under Article 290 hereof, as well as view records of criminal proceedings directly related to the criminal offence committed in their respect, in case the proceeding has been closed;

12) in compliance with the requirements of this Code, use technical means during the conduct of procedural actions he/she takes part in. Investigator, public prosecutor, investigating judge and court shall have the right to prohibit using technical means in the course of a specific procedural action or at a specific stage of criminal proceedings in order to prevent disclosure of privileged information protected by law or related to the intimate life of the person concerned, with a motivated decision (ruling) taken (adopted) thereon;

13) obtain copies of procedural documents and receive written notifications in cases specified by this Code;

14) enjoy other rights provided for by this Code.

2. During pre-trial proceedings, the victim shall have the right to:

1) have his/her report that a criminal offence has been committed against him/her and to be recognised as victim accepted and registered promptly;

2) obtain from the authorised body where he has lodged the report, a document confirming the filing and registering of the application;

2) submit evidence in support of his/her report;

4) take part in investigatory (search) and other procedural actions in the course of which ask questions, submit his/her comments and objections with regard to the conduct of procedural action, with such comments and objections being put on the record of the procedural action concerned, as well as view the records of the investigatory (search) and other procedural actions conducted with his/her participation;

5) after the completion of pre-trial investigation, obtain copies of records which directly relate to the criminal offence which has been committed against him/her.

3. During judicial proceedings by court of any instance, the victim shall have the right to:

1) be timely informed on the time and place of court hearing;

2) participate in court proceedings;

3) participate in direct examination of evidence;

4) prosecute in court if the public prosecutor waives prosecuting on behalf of the state;

5) express his/her opinion when the issue of imposing a punishment on the accused is being disposed, and also express his/her opinion when the issue of applying compulsory medical or reformatory measures is being disposed;

6) view the decision made by the court, journal of court session and technical recording of criminal proceedings in court;

7) challenge court's decision as prescribed by this Code.

4. At all stages of criminal proceedings, the victim shall have the right to reconcile with the suspect or accused and enter into a conciliation agreement. Conciliation shall constitute the ground for closing criminal proceedings in cases specified by law of Ukraine on criminal responsibility and this Code.

Article 57. Victim's duties

1. The victim shall:

1) appear upon summons of investigator, public prosecutor, investigating judge or court and, if it proves to be impossible to appear in time, to inform thereon in advance, as well as on reasons for such impossibility;

2) not obstruct establishing circumstances of the commission of a criminal offence;

3) not disclose information that became available in connection with his/her participation in criminal proceedings and that constitutes privileged information, without authorisation of the investigator, public prosecutor or court.

Article 58. Representative of victim

1. The victim in criminal proceedings may be represented by a representative: a person who is entitled to be a defence counsel in criminal proceedings

2. Legal entity which is the victim may be represented by its director, other person authorised by law or founding documents, an employee of the legal entity by power of attorney, and also a person who is entitled to be defence counsel in criminal proceedings.

3. Authority of the victim's representative to participate in criminal proceedings shall be certified:

1) by documents specified in Article 50 hereof, where the victim's representative is a person who is entitled to act as defence counsel in criminal proceeding;

2) by a copy of the legal entity's founding documents, where the victim's representative is a director of the legal entity or other person authorised by law or founding documents;

3) by a power of attorney, where the victim's representative is an employee of the legal entity which is the victim.

5. Representative shall enjoy procedural rights of the legal entity he/she represents, with the exception of such procedural rights that are exercised directly by the victim and cannot be assigned to a representative.

Article 59. Legal representative of victim

1. Where the victim is an individual who has not attained the age of majority or who is recognised in accordance with the procedure established by law as legally incapable or partially legally capable, his/her legal representative shall be committed to participate in a procedural action together with the individual concerned.

2. The issue of participation of the victim's legal representative in criminal proceedings shall be regulated under provisions of Article 44 hereof.

§ 5. Other participants to the criminal proceedings

Article 60. Applicant

1. An applicant shall mean an individual or legal entity that has filed a report or notification on the criminal offence with a government agency authorised to commence pre-trial investigation, and is not the victim.

2. An applicant shall have the right to:

2) obtain from the authority where he/she has lodged the report a document confirming its filing and registration;

1^1) receive an extract from the Unified Register of Pre-Trial Investigations;

{Part 2 of Article 60 has been supplemented with clause 1[1] under Law No. 2213-VIII of 16 November 2017}

2) produce things and documents in support of his/her report;

3) obtain notification on completion of pre-trial investigation.

3. An applicant who is a whistleblower, in addition to the rights provided for by this Article shall have the right in the manner prescribed by the Law of Ukraine "On Prevention of Corruption" to receive information on the status of the pre-trial investigation initiated upon his/her report or notification.

The information shall be provided by the investigator or public prosecutor no later than five days from the date of submission of the report.

{Article 60 has been supplemented with part 3 under Law No. 198-IX of 17 October 2019}

Article 61. Civil plaintiff

1. A civil plaintiff shall mean an individual to whom a criminal offence or any other socially dangerous act has caused property and/or moral damage, and also a legal entity to which a criminal offence or any other socially dangerous act has caused property damage and which has entered a civil action under procedure established by this Code.

2. The rights and duties of a civil plaintiff shall accrue at the time when a statement of claim is filed with the pre-trial investigation agency or court.

3. A civil plaintiff shall have the rights and duties of a victim, as provided for by this Code, to the extent that they relate to a civil action, and also the right to sustain or abandon the civil action before the court retires to consider the judgement. Civil plaintiff shall be served notice of the procedural rulings issued in the criminal proceedings in relation to the civil action and receive copies thereof, where and as provided for by this Code, with a view to informing the victim and forwarding him/her the copies of such rulings.

Article 62. Civil defendant

1. Civil defendant in criminal proceedings shall be an individual or legal entity civilly liable ex lege for the damage caused through the criminal acts (omission) committed by the suspect or accused, or through a socially dangerous act committed by a mentally defective person against whom a claim is made in accordance with the procedure established by this Code.

{Part 1 of Article 62 as amended by Law No. 720-IX of 17 June 2020}

2. The rights and duties of a civil defendant shall accrue at the time when a statement of claim is filed with the pre-trial investigation body or court.

3. A civil defendant shall have the rights and duties of a suspect or accused, as provided for by this Code, to the extent that they relate to a civil action, and also the right to admit the claim in part or in full or resist it. Civil defendant shall be served notice of the procedural rulings issued in the criminal proceedings in relation to the civil action and receive copies thereof, where and as provided for by this Code, with a view to informing the victim and forwarding him/her the copies of such rulings.

Article 63. Representative of civil plaintiff and civil defendant

1. A representative of a civil plaintiff or civil defendant in criminal proceedings shall be:

a person who is entitled to act as a defence counsel in criminal proceedings;

where the civil plaintiff or civil defendant is a legal entity, director or another person authorised by law or the constituent documents or an employee of the legal entity acting by power of attorney.

2. The authority of a civil plaintiff's or civil defendant's representative to participate in the criminal proceedings shall be certified by

1) by documents specified in Article 50 hereof, where the representative of a civil plaintiff and civil defendant is a person who is entitled to act as defence counsel in the criminal proceeding;

2) by a copy of the legal entity's constituent documents, where the representative of a civil plaintiff and civil defendant is a director of the legal entity or other person authorised by law or constituent documents;

3) a power of attorney, where the representative of a civil plaintiff or a civil defendant is an employee of the legal entity which acts as the civil plaintiff or civil defendant.

3. A representative shall enjoy the procedural rights of a civil plaintiff and civil defendant whose interests he/she represents.

Article 64. Legal representative of a civil plaintiff

1. Where the civil plaintiff is a minor or a person is recognised legally incapable or partially incapable under law, his/her procedural rights shall be enjoyed by a legal representative.

2. Participation of a civil plaintiff's legal representative in criminal proceedings shall be governed by Article 44 hereof.

Article 64[1]. Representative of a legal entity in whose respect proceedings are conducted

1. Representative of the legal entity in whose respect the proceedings are conducted shall be:

a person who is entitled to act as a defence counsel in criminal proceedings;

director or other person authorised by law or constituent documents;

an employee of a legal entity.

2. Authority of the representative of a legal entity in whose respect proceedings are conducted to participate in the proceedings shall be certified by:

1) by documents specified in Article 50 hereof, where the representative is a person who is entitled to act as a defence counsel in criminal proceeding;

2) by a copy of the legal entity's constituent documents, where the victim's representative is a director of the legal entity or other person authorised by law or constituent documents;

3) a power of attorney where the representative is an employee of the legal entity.

3. In the course of criminal proceedings, a representative of the legal entity shall be entitled:

1) to know in relation to which criminal violation proceedings are conducted against the legal entity and to provide clarifications in that regard;

2) to take advantage of legal aid;

3) to collect and produce evidence to the investigating officer, prosecutor, investigating judge and court;

4) to be engaged in procedural actions;

5) in the course of procedural actions to ask questions, make comments and objections as to the procedure for recorded actions, and also to view the reports of the investigatory (search) and other procedural actions performed with his/her engagement;

12) in compliance with the requirements of this Code, use technical means during the conduct of procedural actions he/she takes part in. Investigator, public prosecutor, investigating judge and court shall have the right to prohibit using technical means in the course of a particular procedural action or at a particular stage of criminal proceedings in order to prevent disclosure of privileged information protected by law or related to the intimate life of the person concerned, with a motivated decision (ruling) taken (adopted) thereon;

12) submit motions to conduct procedural actions, ensure protection for himself/herself, family members, close relatives, property and house, etc;

8) file recusations:

9) obtain copies of procedural documents and written notices;

16) challenge decisions, acts, and omission of the investigator, public prosecutor and investigating judge under procedure established by this Code;

11) use his/her native language, obtain copies of procedural documents in the same language or any other language of which he/she has a good command of and, where necessary, benefit from free translator's/interpreter's services;

4. In the course of pre-trial investigation, a representative of the legal entity shall have the right to:

4) take part in investigatory (search) and other procedural actions, in the course of which ask questions, submit his/her comments and objections with regard to the conduct of a procedural action, with such comments and objections being put on the record of the procedural action concerned, as well as view the records of the investigatory (search) and other procedural actions conducted with his/her participation;

14) review records of pre-trial proceedings in accordance with the procedure established by Article 221 of this Code and request disclosure of records under Article 290 hereof;

4. In the course of pre-trial investigation, a representative of the legal entity shall have the right to:

1) be timely informed on the time and place of court hearing;

2) participate in court proceedings;

4) speak in pleadings;

5) review journal of the court session and technical recording of the process which shall be made available to him/her by authorised court officers, and submit comments thereon;

6) In accordance with the procedure laid down in this Code, challenge court's decisions and initiate review thereof, and be aware of appeal and cassation complaints lodged against court's decisions, submissions on review thereof, and file objections thereto.

6. Representative of the legal entity in respect of which the proceedings are conducted shall also have other procedural rights provided for by this Code.

7. Representative of the legal entity shall:

1) appear upon summons of investigator, public prosecutor, investigating judge or court and, if it proves to be impossible to appear in time, to inform thereon in advance, as well as on reasons for such impossibility;

2) not obstruct establishing circumstances of the commission of a criminal offence;

3) not disclose information that became available in connection with his/her participation in criminal proceedings and that constitutes privileged information, without authorisation of the investigator, public prosecutor or court.

{The Code has been supplemented with Article 64[1] under Law No. 314-VII of 23 May 2013}

Article 64[2]. Third party whose property is being seized

1. Any individual or legal entity may be a third party whose property is being seized.

2. In a third party, whose property is being seized, the issue of seizure shall accrue from the moment a public prosecutor applies to the court with a motion for seizure of property.

3. A third party, whose property is being seized, shall have the rights and duties provided for by this Code for the suspect or accused, to the extent relating to the seizure of property. A third party, whose property is being seized, shall be notified of the procedural decisions taken in criminal proceedings concerning the seizure of property and shall receive copies thereof in the cases and in accordance with the procedure established by this Code.

4. A representative of a third party, whose property is being seized shall be:

a person who is entitled to act as a defence counsel in criminal proceedings;

director or another person authorised by law or the constituent documents or an employee of the legal entity acting by power of attorney – where the owner of the property being seized is a legal entity.

5. The authority of a representative of a third party, whose property is being seized, to participate in criminal proceedings shall be confirmed:

1) by documents provided for by Article 50 hereof – where representative of a third party, whose property is being seized, is a person who is entitled to act as a defence counsel in criminal proceedings;

2) by a copy of the constituent documents of the legal entity – where the representative of the third party, whose property is being seized, is director of the legal entity or another person authorised by law or constituent documents;

3) by a power of attorney – where the representative of a third party, whose property is being seized, is an employee of a legal entity that is the owner of the property being under the procedure of asset forfeiture.

6. A representative of a third party, whose property is being seized, shall enjoy the procedural rights of a third party, whose property is being seized, on behalf of which he/she acts.

7. A third party, whose property is being seized, and its representative shall:

1) appear upon summons of a public prosecutor or court and, if it proves to be impossible to appear in time, to inform thereon in advance, as well as on reasons for such impossibility;

2) not obstruct establishing circumstances of the commission of a criminal offence;

3) not disclose information that became available in connection with his/her participation in the criminal proceeding and that constitutes privileged information, without authorisation of the public prosecutor or court.

{The Code has been supplemented with Article 64² under Law No. 1019-VIII of 18 February 2016}

Article 65. Witness

1. Witness shall be an individual who knows or may know circumstances to be proved in the course of criminal proceedings and is summoned to give evidence.

1. The following persons may not be interrogated as witnesses:

1) a defence counsel, a representative of a victim, civil plaintiff, civil defendant, a legal entity in whose respect proceedings are taken, a legal representative of a victim, civil plaintiff in criminal proceedings – with regard to circumstances which they became aware of as a result of their fulfilling functions of a representative or defence counsel;

{Clause 1, part 2 of Article 65 as amended by Law No. 314-VII of 23 May 2013}

2) defence attorneys – about information which constitutes attorney-client privilege;

3) notaries – about information which constitutes notarial secret;

4) medical workers and other persons who in connection with the performance of professional or official duties became aware of disease, medical checkup, examination and results thereof, intimate and family sides of a person's life – about information which constitutes physician-patient privilege;

5) clergymen – about what a believer confessed to them;

6) journalists – about confidential information of professional nature provided on condition of non-disclosure of its author or source;

7) judges and and jurors – about discussion in the deliberations room of issues which arose during adoption of court decision, except for criminal proceedings in the case related to the adoption by a judge (judges) of a knowingly wrong judgment or ruling;

{Clause 7, part 2 of Article 65 as amended by Law No. 2147-VIII of 3 October 2017}

8) individuals who participated in concluding and fulfilling a conciliation agreement in criminal proceedings – about circumstances which they became aware of as a result of participation in concluding and fulfilling a conciliation agreement;

9) persons to whom security measures have been applied – about their bona fide personal data;

10) persons who are aware of bona fide information about individuals in respect of whom security measures have been applied – about such information;

11) experts – about explanation of their opinions.

{Part 2 of Article 65 has been supplemented with clause 11 under Law No. 2447-VIII of 7 June 2018}

3. In respect of privileged information, individuals referred to in clauses 1–5, part 2 of this Article, may be released from the duty to keep professional secrets by the person who entrusted them such information within the scope defined by such person. Such release shall be done in writing and signed by the person who entrusted such information.

4. Persons who enjoy diplomatic immunity shall not be interrogated as witnesses without their own consent, as well as members of diplomatic missions who shall not be interrogated without consent of the diplomatic representative.

Prior to the interrogation of persons referred to in this part, investigator, public prosecutor, investigating judge and court shall be required to advise them of the right to waive testifying.

Article 66. Rights and duties of a witness

1. A witness shall have the right to:

1) know why and in which criminal proceeding he/she is interrogated;

2) take advantage of legal aid to be provided by the lawyer, whose powers shall be supported by provisions of Article 50 hereof, when giving evidence;

3) waive giving testimonies in respect of himself/herself, close relatives and family members, which may serve a ground for suspecting his/her close relatives or family members of, or charging them with, commission of a criminal offence, as well as any testimonies relating to the information which is not subject to disclosure under provisions of Article 65 hereof;

4) testify in his/her native language or any other language in which he/she is fluent and to benefit from assistance of an interpreter/translator;

5) use notes and documents when giving evidence in cases where evidence relates to any calculations and other details which are difficult to keep in memory;

6) get recovery of expenses in relation to his/her being summoned to give evidence;

7) read the records of interrogation and file a request that it is adjusted, amended, with comments incorporated, as well as make such amendments and incorporate comments with his/her own hand;

8) apply for security in cases provided by law;

9) challenge the interpreter/translator.

2. A witness shall:

1) appear when summoned before the investigator, prosecutor, investigating judge or court;

2) give truthful evidence during pre-trial investigation and judicial proceedings;

3) not disclose any details directly related to the essence of the criminal proceeding and procedural actions that are or were conducted during such proceedings which became available to him/her in connection with fulfilling of duties, without authorisation of the investigator, public prosecutor or court.

3. A person who is involved in the conduct of procedural actions during pre-trial investigation as a witness to the search or who became an eyewitness of such actions shall be required, at the request of the investigator or public prosecutor, not to disclose information related to the procedural action conducted.

Article 67. Liability of witness

1. A witness shall be held liable for knowingly false testimony provided to investigator, public prosecutor, investigating judge or court and for refusing to testify before investigator, public prosecutor, investigating judge or court, except for cases provided for by this Code.

2. Where the witness persistently fails to appear before an investigator, public prosecutor, investigating judge or court, the witness shall be held liable under law.

Article 68. Interpreter/translator

1. Where it is necessary to interpret/translate explanations, testimonies or documents in the course of the criminal proceeding, the parties to the criminal proceeding, investigating judge or court shall commit appropriate interpreter/translator (sign language interpreter).

2. An interpreter/translator shall have the right to:

1) ask questions with a view to provide an accurate interpretation/translation;

2) read records of procedural actions in which he/she participated and submit comments thereto;

3) to receive payment for the performed interpretation/translation and reimbursement of expenses related to his/her involvement in the criminal proceeding;

4) apply for security in cases provided for by law;

3. Interpreter/translator shall:

1) appear when summoned before the investigator, prosecutor, investigating judge or court;

2) recuse himself/herself where circumstances provided for by this Code are present;

3) provide full and accurate interpretation/translation and attest the accuracy of the translation with his/her signature;

3) not disclose any details directly related to the essence of the criminal proceeding and procedural actions that are or were conducted during such proceedings which became available to the interpreter/translator in connection with fulfilling of duties, without authorisation of the investigator, public prosecutor or court.

4. Before conducting procedural action, the party, which committed the interpreter/translator, or investigating judge or court shall verify the ID and competence of the interpreter/translator, find out about his/her relations with the suspect, accused, victim, witness and advise of his/her rights and duties.

5. For knowingly incorrect translation or for refusing to perform his/her duties without valid reasons, the interpreter/translator shall be held liable under law.

Article 69. Expert

1. An expert in criminal proceedings shall be an individual who has scientific, technical or any other special expertise, is entitled to conduct expert examination under the Law of Ukraine "On Forensic Examination", and who is assigned to examine objects, events and processes that contain information on circumstances under which a criminal offence was committed, and to provide an opinion on issues arising in the course of the criminal proceeding and relating to the scope of his/her expertise.

2. Persons who are dependant, officially or otherwise, on the parties to the criminal proceeding, or on the victim, shall not act as experts.

6. The expert shall have the right to:

1) read records of the criminal proceeding, which relate to the subject of expert examination;

2) request the provision of additional materials and samples and the conduct of other actions which relate to the conduct of expert examination;

3) be present during the conduct of procedural actions related to the objects of examination;

4) include in the expert report information which was revealed in the course of expert examination and which are important to criminal proceedings, and in respect of which he/she was questioned;

5) ask questions to persons who participate in the criminal proceeding which relate to the objects of examination;

6) receive remuneration for the job done and be compensated expenses incurred in connection with expert examination and summons to give explanations and testimonies, where the conduct of the expert examination is not the official duty of the person committed as an expert;

4) apply for security in cases provided for by law;

6) enjoy other rights provided for by the Law of Ukraine "On Forensic Examination".

4. An expert shall not collect materials which are necessary for expert examination on his/her own initiative. The expert may waive providing an opinion, whenever materials submitted to him/her are insufficient to fulfil his/her duties. Waiver shall be reasoned.

5. An expert shall:

1) conduct full-fledged examination in person and prepare well-grounded and impartial written opinion in respect of questions asked, and where necessary, provide explanations thereon;

2) appear before the court and answer questions during interrogation;

{Clause 2, part 5 of Article 69 as amended by Law No. 2447-VIII of 7 June 2018}

3) ensure preservation of the object subject to expert examination. Whenever expert examination requires full or partial destruction of the object of expert examination or any change of its properties, the expert shall obtain an appropriate authorisation of the person who has committed the expert;

4) without authorisation of the party which employed him/her, or the court, not disclose information which became available in connection with fulfilling his/her duties, or communicate the course and findings of expert examination to anybody but the person who has committed him/her or the court;

5) recuse himself/herself where circumstances provided for by this Code are present;

5. The expert shall immediately inform the person that has committed him/her, or the court that has commissioned him/her to provide an opinion, on impossibility to conduct expert examination because of the absence of required knowledge or without involvement of other experts.

6. Where there are any doubts about the content and scope of the assignment, the expert shall immediately request that the person who ordered an examination or the court that assigned with its performance shall clarify these or shall inform on the impossibility to conduct expert examination under questions asked without involvement of other experts.

Article 70. Liability of expert

1. For knowingly misleading opinion, for waiver to perform his/her duties in court without valid reasons, and for failure to perform other duties, the expert shall be held liable under law.

Article 71. Specialist

1. Specialist in criminal proceedings shall be a person who has special knowledge and skills necessary to use technical or other devices, and who is able to consult during pre-trial investigation and judicial proceedings on issues which require special knowledge and skills.

{Part 1 of Article 71 as revised by Law No. 720-IX of 17 June 2020}

2. Specialist may be committed by parties during pre-trial investigation and by court during judicial proceedings to directly provide technical assistance (photographing, drawing schemes, plans, drawings, taking samples for expert examination, etc.), and give opinion as prescribed by clause 7, part 4 of this Article.

{Part 2 of Article 71 as amended by Law No. 2617-VIII of 22 November 2018}

3. The parties to the criminal proceeding may apply during trial for committing a specialist or for using his/her explanations and assistance.

4. The specialist shall have the right to:

1) ask questions to the participants to the procedural action with the permission of the party to the criminal proceeding that has committed him/her or the court;

2) use technical means, devices, and special equipment;

3) draw attention of the party to the criminal proceeding that has committed him/her or court to particular circumstances or properties of objects and documents;

3[1]) state in the opinion the information that is relevant to the criminal proceeding and about which he/she was not asked questions;

{Part 4 of Article 71 has been supplemented with clause 3[1] under Law No. 720-IX of 17 June 2020}

4) view records of the procedural actions he/she participated in, and submit comments thereon;

5) receive remuneration for the job done and compensation for expenses incurred in connection with participation in the criminal proceeding;

6) apply for security in cases provided for by law;

7) give opinions on issues within the scope of his/her knowledge during the pre-trial investigation of criminal offences, including in the cases provided for by part 3 of Article 214 hereof.

{Part 4 of Article 71 has been supplemented with clause 7 under Law No. 2617-VIII of 22 November 2018}

5. A specialist shall:

1) appear when summoned before the investigator, inquiring officer, public prosecutor or court with the required technical equipment, devices and appliances;

{Clause 1, part 5 of Article 71 as amended by Law No. 2617-VIII of 22 November 2018}

2) follow the instructions of the party to the criminal proceeding that has committed him/her, or court, and give explanations on the questions asked;

3) not disclose any details directly related to the essence of the criminal proceeding and procedural actions that are or were conducted during such proceedings which became available to the specialist in connection with fulfilling of duties;

5) recuse himself/herself where circumstances provided for by this Code are present.

Article 72. Liability of specialist

1. Where a specialist fails to appear before court without valid reasons or fails to notify the reasons for his/her failure to appear, all costs related to the adjournment of court session shall be imposed by court on the specialist concerned.

2. For a knowingly misleading opinion, the specialist shall be held liable under the law.

{Article 72 has been supplemented with part 2 under Law No. 720-IX of 17 June 2020}

Article 72[1]. Officer of probation agency

1. An officer of a probation agency shall be an official of such an agency who by a court ruling is assigned to draw up and submit a pre-trial report to the court.

2. For the purpose of compiling a pre-trial report, an officer of a probation agency shall have the right to:

1) obtain information about the accused from enterprises, institutions, organisations or their authorised bodies and individuals;

2) summon the accused to the probation agency to give oral or written explanations;

3) visit the accused at the place of residence or stay, work or study;

4) visit pre-trial detention facilities where the accused has been remanded in custody;

5) request the court to have records of the criminal proceeding in respect of circumstances provided for by clauses 4 and 5, part 1 of Article 91 hereof viewed, and in criminal proceedings in respect of an accused minor, in respect of circumstances provided for by Articles 485, 487 of this Code, under procedure prescribed by Article 317 hereof;

6) attend the court hearing;

7) apply for security in cases provided for by law;

3. An officer of a probation agency shall:

1) compile a pre-trial report and submit it to the court within the period specified by the court ruling;

2) respect the rights and freedoms of man and citizen;

3) notify the court without delay of the existence or occurrence of external circumstances that make it impossible to prepare or timely submit a pre-trial report;

4) provide explanations on the issues raised by the court regarding the pre-trial report during the judicial proceedings;

5) not disclose any information that became available to him/her in connection with the performance of duties;

6) not allow any disclosure of confidential information that has been entrusted to him/her or that has become known in connection with the performance of duties;

7) recuse himself/herself where circumstances provided for by this Code are present.

{The Code has been supplemented with Article 72[1] under Law No. 1492-VIII of 7 September 2016}

Article 73. Court clerk

1. A court clerk shall:

1) issue court summons and notifications;

2) check the presence of, and find out the reasons for failure to appear of individuals who have been summoned before the court and report thereon to the presiding judge;

3) monitor the full recording of court session with technical means;

4) maintain court session's journal;

5) register case papers of a criminal proceeding in court;

6) comply with other assignments of the presiding judge.

Article 74. Court administrator

1. Presiding judge may engage a court administrator to participate in the criminal proceeding.

1. A court administrator shall:

1) ensure appropriate conditions in the courtroom and invite participants to the criminal proceeding therein;

2) announce entrance and exit of the court in the courtroom;

3) controls that those present in the courtroom maintain order;

4) accept from the participants to the criminal proceeding and transmit documents and court materials during court session;

5) execute the order of the presiding judge in respect of administering oaths by a witness or an expert;

6) comply with other instructions of the presiding judge related to ensuring conditions necessary for the conduct of the criminal proceeding.

3. Requirements of a court administrator related to his duties prescribed by the Article shall be binding on all individuals present in the courtroom.

4. Whenever a court administrator is absent in court session, a court clerk shall comply with his functions.

§ 6. Recusals

Article 75. Grounds precluding participation of investigating judge, judge or juror in a criminal proceeding

1. An investigating judge, judge or juror shall not participate in a criminal proceeding:

1) where he/she is an applicant, victim, civil plaintiff, civil defendant, close relative or family member of investigator, prosecutor, suspect, accused, victim, civil plaintiff or civil defendant;

2) where he/she participated in this proceeding as witness, expert, specialist, probation agency officer, interpreter/translator, investigator, public prosecutor, defence counsel or representative;

{Clause 2, part 1 of Article 75 as amended by Law No. 1492-VIII of 7 September 2016}

3) where he/she personally, his/her close relatives or family members are concerned with the outcome of the proceeding;

4) upon the presence of other circumstances which cast doubt on the judge's impartiality;

5) where the procedure for the designation of the investigating judge or judge for hearing the case as established by part 3 of Article 35 hereof has been infringed.

2. Court's composition which conducts a judicial proceeding shall not include individuals who are related to each other.

Article 76. Article 76. Inadmissibility of the re-entry of a judge into participation in the criminal proceeding

1. A judge who participated in the criminal proceedings during the pre-trial investigation shall not have the right to participate in the same proceedings in the court of first, appellate and cassation instances, except where he appeals the decision of the court of first instance on choosing a measure of restraint such as detention, on the change of another measure of restraint to a measure of restraint such as detention or on the extension of the term of detention which was decided during the court proceedings in the court of first instance prior the adoption of the court decision on the merits.

{Part 1 of Article 76 as amended by Laws No. 2147-VIII of 3 October 2017, No. 1027-IX of 2 December 2020}

2. A judge who participated in the criminal proceeding in the court of first instance shall not participate in this proceeding in appellate and cassation courts, as well as in a new proceeding after the revocation of a sentence or ruling of a court of first instance.

{Part 2 of Article 76 as amended by LawNo. 2147-VIII of 3 October 2017}

2. A judge who participated in the criminal proceeding in the court of first instance shall not participate in this proceeding in appellate and cassation courts, as well as in a new proceeding after the revocation of a sentence or ruling of a court of appeals.

{Part 3 of Article 76 as amended by Law No. 2147-VIII of 3 October 2017}

2. A judge who participated in the criminal proceeding in the court of first instance shall not participate in this proceeding in appellate and cassation courts, as well as in a new proceeding after the revocation of a sentence or ruling of a court of cassation.

{Part 4 of Article 76 as amended by Law No. 2147-VIII of 3 October 2017}

{Part 5 of Article 76 has been deleted under Law No. 192-VIII of 12 February 2015}

Article 77. Article 77. Grounds for challenging public prosecutor, investigator or inquiring officer

{Title of Article 77 as amended by Law No. 2617-VIII of 22 November 2018}

1. A public prosecutor, investigator or inquiring officer shall not participate in a criminal proceeding:

{Paragraph 1, part 1 of Article 77 as amended by Law No. 2617-VIII of 22 November 2018}

1) where he is an applicant, victim, civil plaintiff, civil defendant, close relative or family member of a party, applicant, suspect, civil plaintiff or civil defendant;

2) where he participated in these proceedings as an investigating judge, judge, defence counsel or representative, witness, expert, specialist, probation agency officer, and interpreter/translator;

{Clause 2, part 1 of Article 77 as amended by Law No. 1492-VIII of 7 September 2016}

3) where he personally, his close relatives or family members are concerned with the outcome of the criminal proceeding, or where there are other circumstances giving grounds for doubts about his impartiality.

2. Previous participation of the public prosecutor in the same proceeding in the court of first instance, court of appeals and cassation courts shall not constitute grounds for challenging him.

{Part 2 of Article 77 as amended by LawNo. 2147-VIII of 3 October 2017}

Article 78. Grounds for challenging defence counsel or representative

1. A person who participated in the same proceeding as an investigating judge, judge, juror, public prosecutor, investigator, victim, civil plaintiff, civil defendant, expert, specialist, probation agency officer and interpreter/translator shall not act as a defence counsel or representative.

{Part 1 of Article 78 as amended by Law No. 1492-VIII of 7 September 2016}

2. Also, a person shall not have the right to participate in the same proceedings as a representative or defence counsel in the cases as follows:

1) where in the same proceeding or earlier, provided legal aid to a person whose interests are contrary to the interests of a person who has requested legal aid;

2) termination or suspension of the right of a lawyer to practice (termination or revocation of a licence to practice law or its withdrawal) as prescribed by law;

3) where he/she is a close relative or a family member of an investigator, public prosecutor, or anyone in the court composition.

Article 79. Grounds for challenging specialist, probation agency officer, interpreter/translator, expert or court clerk

{Title of Article 79 as amended by Law No. 1492-VIII of 7 September 2016}

1. A specialist, probation agency officer, interpreter/translator, expert or court clerk may not participate in criminal proceedings and shall be challenged upon grounds specified in part 1 of Article 77 hereof, with the reservation that their previous participation in the same criminal proceeding as a specialist, probation agency officer, interpreter/translator, expert or court clerk may not be grounds for challenging.

{Part 1 of Article 79 as amended by Law No. 1492-VIII of 7 September 2016}

2. In addition, a specialist and expert shall not participate in a criminal proceeding where he/she inspected, checked, etc. materials used in this proceeding.

Article 80. Challenge plea

1. Where grounds specified in Articles 75–79 hereof are present, an investigating judge, judge, juror, public prosecutor, investigator, inquiring officer, defence counsel, representative, expert, probation agency officer specialist, interpreter/translator or court clerk shall be required to recuse themselves.

{Part 1 of Article 80 as amended by Laws No. 1492-VIII of 7 September 2016, No. 2617-VIII of 22 November 2018}

2. Upon the same grounds, they may be challenged by individuals who participate in a criminal proceeding.

3. Challenge pleas may be filed both during pre-trial investigation and judicial proceedings.

4. Challenge pleas during pre-trial investigation shall be filed as soon as the grounds for such challenge are found. Challenge pleas during judicial proceedings shall be filed before the beginning of judicial proceedings. Filing of a challenge plea after the beginning of judicial proceedings shall be allowed only where the grounds for challenge became known after the beginning of proceedings.

5. A challenge shall be reasoned.

Article 81. Procedure for deciding on a challenge

1. Where an investigating judge or judge conducting court proceedings independently is challenged, a challenge plea shall be considered by another judge of the court who is assigned under procedure established by part 3 of Article 35 hereof. Where one or more or all judges of a panel conducting court proceedings are challenged, the challenge plea shall be considered by the same composition of the court.

2. All other challenges filed during pre-trial investigation shall be considered by the investigating judge or, where filed during court proceedings, by the court proceeding in the case.

3. While considering a challenge, the court shall hear a person who has been challenged if the latter wishes to provide explanations, as well as an opinion of individuals who participate in the criminal proceeding. The issue of challenging shall be decided upon a reasoned ruling of the investigating judge, judge (court) in the deliberations room. A challenge plea considered by a panel of judges shall be decided by simple majority.

4. Where a repeat challenge shows any elements of abuse of the right to challenge in view of delaying the criminal proceeding, the court which considers the case shall have the right to take no action on such challenge plea.

Article 82. Implications of challenging investigating judge or judge

1. Where a challenge plea (self-disqualification plea) of an investigating judge is granted, the criminal proceeding shall be transferred to another investigating judge.

2. Where the matter of challenging the judge, who hears the case alone, has been sustained, the case shall be considered in the same court by another judge.

3. Where the matter of challenging one of the judges or the entire composition of court has been sustained, where the case is considered by a panel of judges, the case shall be heard in the

same court by the panel of judges of the same number without the disqualified judges who shall be replaced by other judges, or by another composition of judges.

4. The investigating judge or judge (judges) to whom criminal proceedings or case are transferred shall be assigned under procedure established by part 3 of Article 35 hereof.

5. If after sustaining proposed challenges (self-disqualifications) it is impossible to create a new court's composition, there shall be taken a decision to refer the criminal proceeding to another court as prescribed by this Code.

Article 83. Implications of challenging investigator, inquiring officer, public prosecutor, defence counsel, representative, expert, specialist, probation agency officer or interpreter/translator

{Title of Article 83 as amended by Laws No. 1492-VIII of 7 September 2016, No. 2617-VIII of 22 November 2018}

1. Where the challenging of an investigator, inquiring officer and public prosecutor in the criminal proceeding has been sustained, another investigator as a chief officer of the pre-trial investigation agency and another inquiring officer as a chief officer of the inquiry agency or another prosecutor as a chief prosecutor of the prosecutor's office shall be appointed immediately.

{Part 1 of Article 83 as revised by Law No. 2617-VIII of 22 November 2018}

2. Where the recusal of an expert, specialist, the probation agency officer or an interpreter is granted, other participants shall be involved in the criminal proceedings within the period determined by the investigating judge or court.

{Part 2 of Article 100 as amended by Law No. 1492-VIII of 7 September 2016}

3. Where proposal for challenging defence counsel or representative has been sustained, the court shall advise a suspect, accused, victim, civil plaintiff and civil defendant of their right to commit another defence counsel or representative and give him for this during pre-trial proceedings at least twenty four hours and during court proceedings at least seventy two hours. If the suspect or accused in criminal proceedings, where involvement of a defence counsel is mandatory, does not commit another defence counsel within these time limits, the investigator, public prosecutor, investigating judge or court shall appoint a defence counsel on their own pursuant to Article 49 of this Code.

Chapter 4. Evidence and proving

§ 1. Definition of evidence, adequacy and admissibility when founding the information as evidence

Article 84. Evidence

1. Evidence in criminal proceedings is factual data obtained in the manner prescribed by this Code, on the basis of which the investigator, public prosecutor, investigating judge and court establish the presence or absence of facts and circumstances relevant to criminal proceedings and subject to proof.

2. Procedural sources of evidence shall be testimonies, physical evidence, documents and expert findings.

Article 85. Adequacy of evidence

1. Evidence shall be deemed adequate where it directly or indirectly confirms the presence or absence of circumstances to be proved in a criminal proceeding, and other circumstances which are important for the criminal proceedings, as well as credibility or non-credibility, possibility or impossibility of using other evidence.

Article 86. Admissibility of evidence

1. Evidence shall be found admissible if obtained under procedure prescribed by this Code

2. Inadmissible evidence shall not be used in adopting procedural decisions, it shall not be referred to by the court when adopting a court decision.

Article 87. Inadmissibility of evidence obtained through significant violation of human rights and fundamental freedoms

1. Evidence obtained through significant violation of human rights and fundamental freedoms guaranteed by the Constitution of Ukraine and international treaties, ratified by the Verkhovna Rada of Ukraine, shall be inadmissible, as well as any other evidence resulting from the information obtained through significant violation of human rights and fundamental freedoms.

2. The court shall recognise significant violations of human rights and fundamental freedoms, in particular, the following acts:

1) conducting procedural actions which require previous permission of the court without such permission or with disrespect of its essential conditions;

2) obtaining evidence subjecting a person to torture and inhuman or degrading treatment or threats to apply such treatment;

3) violating the right of a person to defence;

4) obtaining testimony or explanations from a person who has not been advised of his/her right to refuse to give evidence or answer questions, or where these were obtained in violation of this right;

5) violating the right to cross-examination;

{Clause 6, part 2 of Article 87 has been deleted under Law No. 1697-VII of 14 October 2014}

3. The evidence shall be deemed inadmissible where obtained:

1) from the testimony of a witness who was further recognised as a suspect or accused in this criminal proceeding;

2) after the commencement of a criminal proceeding by exercising by pre-trial investigation agency or the prosecutor's office of their powers, not provided for by this Code, to ensure the pre-trial investigation of criminal offences;

3) during the execution of the ruling on permission to search a dwelling or other property of a person in connection with the inadmissibility of a lawyer to this investigative (search) action.

The lawyer shall prove the fact of non-participation in the search in court during the court proceedings;

{Part 3 of Article 87 has been supplemented with clause 3 under Law No. 2213-VIII of 16 November 2017}

4) during the execution of the ruling on permission to search the dwelling or other property of a person, if such ruling is made by the investigating judge without conducting full technical recording of the session.

{Part 3 of Article 87 has been supplemented with clause 4 under Law No. 2213-VIII of 16 November 2017}

{Article 87 has been supplemented with new part under Law No. 1697-VII of 14 October 2014}

4. The evidence provided for by this Article shall be declared inadmissible by a court during any court proceedings, except for the consideration of liability for the said substantial violation of human rights and freedoms, as a result of which such information was obtained.

Article 88. Inadmissibility of evidence and information related to the suspect or accused

1. Evidence relating to previous convictions of the suspect or accused or his/her committing other offences which are not being the subject-matter of the criminal proceeding concerned, as well as information relating to the nature or particular traits of the suspect or accused shall be inadmissible in support of the guilt of the accused in the commission of criminal offence.

2. Evidence and information as referred to in part 1 of this Article may be found admissible where:

1) the parties agree that this evidence is found admissible;

2) such evidence is presented to prove that the suspect or accused acted with a certain intention and motive or had the possibility, due training and expertise which are required to commit the criminal offence concerned or could not be mistaken in respect of circumstances under which he/she has committed the criminal offence concerned;

3) it is submitted by the suspect or accused;

4) the suspect of accused used such evidence to discredit the witness.

3. Evidence of a certain habit or standard business practices of a suspect or accused shall be admissible to prove that a certain criminal offence was consistent with that habit of the suspect or accused.

Article 88[1]. Inadmissibility of evidence obtained in the cases of unfounded assets and their recovery in state revenue

1. Evidence obtained from the defendant in the claim proceedings in the cases of unfounded assets and their recovery in state revenue shall not be used to prove the guilt of the suspect or accused of committing criminal offences.

{The Code has been supplemented with Article 88[1] under Law No. 263-IX of 31 October 2019}

Article 89. Declaration of inadmissibility of evidence

1. The court shall decide on admissibility of evidence during their evaluation in the deliberations room for rendering a court decision.

2. Where evidence has been found manifestly inadmissible during court hearing, the court shall declare such evidence inadmissible which shall entail impossibility of its examination or termination of its examination if such was commenced.

3. The parties to the criminal proceeding, the victim and the representative of a legal entity in whose respect proceedings are taken may file a motion during court proceedings for evidence to be declared inadmissible or raise objection against declaring evidence inadmissible.

{Part 3 of Article 89 as amended by Law No. 314-VII of 23 May 2013}

Article 90. Importance of decisions made by other courts for evidence admissibility

1. Decision made by a national court or an international tribunal which has taken legal effect and which holds that a violation of human rights and fundamental freedoms set forth in the Constitution of Ukraine and international treaties, ratified by the Verkhovna Rada of Ukraine, has been committed shall have prejudicial significance for the court which decides on evidence admissibility.

§ 2. Proving

Article 91. Circumstances to be proved in criminal proceedings

1. The following shall be proved in criminal proceedings:

1) occurrence of criminal offence (when, where, how a criminal offence has been committed and under what circumstances);

2) degree of guilt of the accused in the commission of criminal offence, form of guilt, motive and purpose of the criminal offence;

3) type and amount of damage caused by criminal offence, as well as amount of procedural expenses;

4) circumstances which aggravate, mitigate the committed criminal offence, characterise the person of the accused, increase or commute punishment, preclude criminal liability or shall be grounds for terminating the criminal proceedings;

5) circumstances that shall be grounds for release from criminal liability or punishment.

6) the circumstances confirming that money, valuables and other property subject to asset forfeiture have been gained due to commission of a criminal offence and/or are proceeds from such property or that they were intended (used) to induce a person to commission of a criminal offence, financing and/or providing logistical support to a criminal offence or remuneration for its commission, or are a subject of a criminal offence related inter alia to their illicit trafficking or which are found, manufactured, adjusted or used as means or tools for committing criminal offence;

{Part 1 of Article 91 has been supplemented with clause 6 under Law No. 222-VII of 18 April 2013}

7) the circumstances that are grounds for application of criminal law measures to legal entities.

{Part 1 of Article 91 has been supplemented with clause 7 under Law No. 314-VII of 23 May 2013}

2. Proving consists in collecting, examining and evaluating evidence in order to establish circumstances that are important for criminal proceedings.

Article 92. Burden of proof

1. The burden of proving circumstances referred to in Article 91 of this Code, except for the cases set forth in part 2 of this Article, shall rest with an investigator, public prosecutor and, in cases specified by this Code, on the victim.

2. The burden of proving the adequacy and admissibility of evidence, data on the amount of procedural costs and circumstances that characterise the accused, shall rest with a party submitting them.

Article 93. Collection of evidence

1. Collection of evidence shall be conducted by the parties to the criminal proceedings, a victim and representative of a legal entity in whose respect proceedings are taken in accordance with the procedure laid down in this Code.

{Part 1 of Article 93 as amended by Law No. 314-VII of 23 May 2013}

2. The prosecution shall collect evidence by way of conducting investigatory (search) actions and covert investigatory (search) actions, by demanding and obtaining from government authorities, local governments, enterprises, institutions and organisations, officials and individuals, of objects, documents, information, expert findings, audit and inspection reports, by conducting other procedural actions specified by this Code.

3. The defence, victim, and representative of the legal entity in whose respect proceedings are taken shall conduct collection of evidence by way of demanding and obtaining from government authorities, local government, enterprises, institutions, organisations, officials and individuals of objects, copies of documents, information, expert reports, audit and inspection reports; by initiating the conduct of investigatory (search) activities, covert investigatory (search) activities and other procedural actions, and also by way of conducting other activities capable of ensuring the production of relevant and admissible evidence in court.

{Paragraph 1, Part 3 of Article 93 as amended by Law No. 314-VII of 23 May 2013}

Investigatory (search) activities shall be initiated by the defence, victim or representative of the legal entity in whose respect proceedings are taken by way of filing appropriate request with the investigator or public prosecutor which shall be considered as prescribed by Article 220 hereof. A decision of the investigator or public prosecutor to dismiss a request for the conduct of investigatory (search) activities, covert investigatory (search) activities may be appealed to the investigating judge.

{Paragraph 2, Part 3 of Article 93 as amended by Law No. 314-VII of 23 May 2013}

4. The evidence may be obtained in the territory of a foreign state within the framework of international co-operation in the course of criminal proceedings.

Article 94. Evaluation of evidence

1. Investigator, public prosecutor, investigating judge or court shall evaluate evidence based on his own moral certainty grounded in comprehensive, complete, and impartial examination of all circumstances in criminal proceedings being guided by law, evaluates any evidence from the point of view of adequacy, admissibility, and in respect of the aggregate of collected evidence, sufficiency and correlation, in order to take a proper procedural decision.

2. No evidence shall have any predetermined probative value.

§ 3. Testimonies

Article 95. Testimonies

1. Testimonies shall mean oral or written reports given in the course of interrogation by the suspect, accused, witness, victim, and expert on circumstances they know and which are of importance for the criminal proceeding concerned.

2. A suspect, accused and victim shall have the right to give testimony during pre-trial investigation and court hearing.

3. A witness shall give testimony to an investigator, prosecutor, investigating judge and court, and an expert shall testify to an investigating judge and a court in accordance with the procedure established by this Code.

{Part 3 of Article 95 as revised by Law No. 2447-VIII of 7 June 2018}

4. The court may base its findings only on testimonies taken directly during court session or those obtained as prescribed by Article 225 hereof. The court shall not base court decisions on testimonies given to investigator, public prosecutor, or refer to such.

5. An individual shall give evidence only in respect of circumstances which the individual concerned perceived personally except for cases envisaged by this Code.

6. A finding or opinion of the person giving evidence may be found by court an evidence only provided such finding or opinion are useful for a clear understanding of testimonies (a part thereof), and is based on special expertise within the meaning of Article 101 hereof.

7. Where a person giving evidence expresses a thought or opinion which are based on special expertise within the meaning of Article 101 hereof, and the court does not recognise this as an inadmissible evidence pursuant to part 2 of Article 89 hereof, other party shall be entitled to question this party following the rules applicable to questioning of an expert.

8. The parties to the criminal proceeding, victim and representative of the legal entity in whose respect proceedings are taken shall have the right to obtain from participants to a criminal proceeding and other persons, subject to their consent, explanations that are not proving evidence, except as stipulated by this Code.

{Part 8 of Article 95 as amended by Laws No. 314-VII of 23 May 2013, No. 2617-VIII of 22 November 2018}

Article 96. Ascertaining reliability of witness's testimonies

1. The parties to the criminal proceeding shall have the right to ask a witness questions in respect of his/her ability to perceive circumstances he/she testifies about, as well as with regard to other circumstances which can be important for assessing reliability of the witness's testimonies.

2. In order to prove unreliability of witness's testimonies, a party may produce testimonies, documents as confirmation of witness's reputation, in particular, with regard to his/her conviction for knowingly misleading testimonies, deceit, fraud or any other acts which confirm mala fides of the witness.

3. A witness shall answer questions aimed at ascertaining reliability of his/her testimonies.

4. A witness may be examined with regard to previous testimonies which contradict his/her testimonies.

Article 97. Hearsay testimonies

1. Hearsay testimony shall be a statement made orally, in writing or in any other form with regard to a certain fact, with such statement being based on explanations of another person.

2. The court shall have the right to recognise as admissible evidence hearsay testimony irrespective of the possibility to interview the person who provided the initial explanations, in exceptional cases where such are admissible evidence in accordance with other rules of evidence admissibility.

When taking such decision, the court shall have regard to the following:

1) importance of explanations, testimonies, should they be reliable, for ascertaining a circumstance, and their significance for the understanding of other information;

2) other evidence in respect of issues referred to in clause 1 of this part which have been produced or can be produced;

3) circumstances under which initial explanations are given which give rise to confidence in their reliability;

4) cogency of information with regard to the fact that initial explanations have been given;

5) difficulties for the party against which hearsay explanations, testimonies were given in disproving such explanations or testimonies;

6) co-relation between hearsay testimonies and interests of the person who has given these hearsay testimonies;

7) possibility to examine the person who has given initial explanations, or reasons for the impossibility of such examination.

3. The court shall have the right to find examination of a person to be impossible only provided such person:

1) does not appear in court session because of death or serious physical or mental disease;

2) waives testifying in court session or disobeying court's order to give testimonies;

3) does not appear before the court and his/her whereabouts has not been established through conducting required search measures;

4) stays abroad and waives testifying.

{Part 4 of Article 97 has been deleted under Law No. 187-IX of 04 October 2019}

5. The court may admit hearsay evidence where the suspect or accused has created or facilitated the creation of circumstances under which the person concerned may not be examined.

6. Hearsay testimonies shall not be admissible evidence of the fact or circumstance to prove which they were given unless they are supported by other evidence found admissible in accordance with rules other than those specified in provisions of part 2 of this Article.

7. In any case, hearsay testimony may not be recognised as admissible evidence where it is given by an investigator, public prosecutor, criminal intelligence unit officer or another person regarding explanations given by an investigator, public prosecutor or criminal intelligence unit officer during criminal proceedings.

§ 4. Physical evidence and documents

Article 98. Physical evidence

1. Physical evidence shall mean tangible objects that have been used as a tool for committing criminal offence, retain traces of such or contain other information, which may be used as evidence of the fact or circumstance to be established during criminal proceedings, including the items that were an object of criminally unlawful actions, money, valuables or other Articles obtained in a criminally unlawful manner or gained by the legal entity as a result of criminal offence.

{Part 1 of Article 98 as amended by Law No. 314-VII of 23 May 2013}

2. Documents shall mean physical evidence if they contain elements specified in part 1 of this Article.

Article 99. Documents

1. A document shall mean a material object, which was created specifically for preservation of information, such object containing information fixed by means of written signs, sound, image etc., that can be used as evidence of the fact or circumstance which is established during criminal proceedings.

2. Documents, where they contain information specified in part 1 of this Article, may be as follows:

1) materials of photography, sound recording, video recording and other data media (including electronic ones);

2) materials obtained during criminal proceedings through the taking of measures stipulated by current international treaties, ratified by the Verkhovna Rada of Ukraine;

3) records of procedural actions and annexes thereto drawn up in accordance with the procedure established by this Code, and also data media on which procedural actions have been fixed by technical means;

4) reports on audit findings and inspection reports.

Records containing factual data as to wrongful acts of individuals or groups of individuals shall be documents, and may be used as evidence, for the purpose of criminal proceedings provided they have been collected by criminal intelligence units in compliance with the requirements of the Law of Ukraine "On Criminal Intelligence Operation" and this Article.

3. A party to criminal proceeding, victim, and representative of the legal entity in whose respect proceedings are taken shall provide the court with the original copy of a document. An original document shall mean the document itself whereas the original copy of an electronic document shall mean its representation, which is attributed the same importance as the document itself.

{Part 3 of Article 99 as amended by Law No. 314-VII of 23 May 2013}

4. Duplicate document (document made in the same way as its original copy), as well as copies of information contained in information (automated) systems, telecommunications systems, information and telecommunications systems, their integral parts, made by the investigator, public prosecutor with the involvement of a specialist, shall be recognised by the court as the original document.

{Part 4 of Article 99 as revised by Law No. 2213-VIII of 16 November 2017}

5. In order to confirm contents of the document, the court may find also other information admissible where:

1) the original document concerned has been lost or destroyed, except where it has been lost or destroyed because of mala fide of the victim or the party which produces evidence;

2) the original document concerned cannot be obtained through accessible legal procedures;

3) the original document concerned is in possession of one of the parties to the criminal proceeding while the latter does not provide it upon request of the other party.

6. A party to criminal proceeding, victim, and representative of the legal entity in whose respect proceedings are taken shall have the right to provide excerpts, compilations, summaries of the documents that are impractical to be examined in whole in court, and upon demand of the court shall be required to produce the entire documents.

{Part 6 of Article 99 as amended by Law No. 314-VII of 23 May 2013}

7. A party shall provide the other party the possibility to view or copy original documents whose content was being proved as prescribed by this Article.

Article 100. Custody of physical evidence and documents and deciding on asset forfeiture

{Title of Article 100 as amended by Law No. 222-VII of 18 April 2013}

1. Physical evidence transferred to or seized by a party to criminal proceedings shall be returned to its owner as soon as possible, except as provided for by Articles 160–166, 170–174 hereof.

2. Physical evidence or a document produced voluntary or pursuant to a court decision shall be kept by the party to criminal proceeding to which it has been released. The party to criminal proceeding to which physical evidence or a document has been provided shall preserve it in the

condition acceptable for the use in the criminal proceeding. Physical evidence that has been obtained or seized by investigator or public prosecutor shall be examined, photographed and described in detail in the examination report. Prosecution shall preserve physical evidence according to the procedure established by the Cabinet of Ministers of Ukraine.

3. A document shall be kept throughout the criminal proceedings. Upon request of the owner of a document, investigator, public prosecutor or court may issue a copy of this document, and where necessary, provide the original document, attaching to the records of criminal proceedings certified copies thereof.

4. If the party to criminal proceedings loses or destroys any physical evidence released thereto, such party shall provide a similar object or compensate its cost to the owner. If the party to criminal proceedings loses or destroys a document released thereto, it shall compensate its owner expenses related to the loss or destruction of a document and production of a duplicate document .

5. Physical evidence and documents furnished to the court shall be kept at the court, except as otherwise provided by part 6 of this Article and except for too bulky physical evidence or otherwise requiring special storage conditions, which may be kept in a different storage location.

6. Physical evidence, unless it contains elements of a criminal offence such as items or large lots of goods, where its storing, in view of its bulkiness or for other reasons, is impossible without due effort or where the cost of its storing in special conditions is commensurate with their value, as well as physical evidence such as perishable goods or products shall be:

1) returned, or transferred for safekeeping, to its owner (lawful holder) where this does not prejudice the criminal proceedings;

{Clause 1, Part 6 of Article 100 as amended by Law No. 222-VII of 18 April 2013}

2) transferred for sale, subject to written consent of their owner or, in its absence, decision of the investigating judge or court, provided this does not prejudice the criminal proceedings;

3) destroyed, subject to written consent of its owner or, in its absence, decision of the investigating judge or court, provided such perishable goods or products have become unmarketable;

4) transferred for processing or destruction by decision of the investigating judge or court if they belong to items or goods withdrawn from circulation or if their long term storage is hazardous for the life or health of people or environment;

In the cases provided for by this part, physical evidence shall be recorded by photography or videotaping and described in detail. Where necessary, a sample of physical evidence may be preserved in the amount sufficient for expert examination or other purposes of criminal proceedings.

Physical evidence with value exceeding 200 subsistence minimum levels for employable persons, provided it is possible without prejudice to criminal proceedings, shall be transferred with the written consent of its owner, and, in its absence, by decision of the investigating judge, or court to the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes, to take measures to manage them in order to ensure their preservation or preservation of their economic value, and physical evidence referred to in

paragraph 1 of this part shall be transferred for sale with due account of specific aspects provided for by law by law.

{Part 6 of Article 100 has been supplemented with paragraph 7 under Law No. 772-VIII of 10 November 2015; as amended by Law No. 1791-VIII of 20 December 2016}

7. Where provided for by clauses 2, 4 and paragraph 7, part 6 of this Article, the investigator with consent of a public prosecutor, or a public prosecutor shall file corresponding motion with an investigating judge of the local court within whose jurisdiction the pre-trial investigation is conducted, and in criminal proceedings concerning criminal offences within the jurisdiction of the High Anti-Corruption Court, it shall be filed to the investigating judge of the High Anti-Corruption Court, or to the court during court proceedings, which shall be considered in accordance with Articles 171–173 hereof. As provided for by paragraph 7, part 6 of this Article, a public prosecutor no later than the next working day from the effective date of the ruling of the investigating judge, the court shall forward a copy of this ruling to the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes regarding the acceptance of assets, and shall take urgent steps to transfer these assets to the National Agency of Ukraine for Detection, Investigation and Management of Assets Obtained from Corruption and Other Crimes.

{Part 7 of Article 100 as revised by Law No. 772-VIII of 10 November 2015; as amended by Laws No. 1021-VIII of 18 February 2016, No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

8. Sale, processing or destruction of physical evidence where provided for by this Article shall follow the procedure established by the Cabinet of Ministers of Ukraine, and where such physical evidence has been transferred to the National Agency of Ukraine for Detection, Investigation and Management of Assets Obtained from Corruption and Other Crimes, it shall follow the procedure established by law and legislative acts adopted under it.

{Part 8 of Article 100 as amended by Law No. 772-VIII of 10 November 2015}

9. The court shall decide on asset forfeiture and how to manage physical evidence and documents which have been produced before resolving the case that puts an end to criminal proceedings. Such evidence and documents shall be preserved until the effective date of the judgment. Where criminal proceedings are terminated by an investigator or public prosecutor, the issue of asset forfeiture and disposal of the physical evidence and documents shall be resolved by a court ruling on consideration of the respective motion under Articles 171–174 hereof. While:

1) the money, valuables, and other property that has been selected, produced, adjusted or used as a means or tool of criminal offence and/or retained traces thereof shall be confiscated, except where the owner (lawful holder) did not know and could not know of their unlawful application. In such cases the money, valuables, and other property shall be returned to the owner (lawful holder);

2) the money, valuables and other property intended (used) to induce a person to commission of a criminal offence, to finance and/or provide funding or logistic support to, or a remuneration for criminal offence shall be confiscated;

3) any property that was an object of criminal offence related to illicit trafficking and/or withdrawn from traffick shall be transferred to appropriate institutions or destroyed;

4) any property devoid of any value and unusable shall be destroyed, and where need be, transferred to criminological collections of expert institutions or to the parties concerned at their request;

5) the money, valuables and other property that was an object of criminal offence or another socially dangerous act shall be confiscated, except for property returned to the owner (lawful holder), and where the owner is not identified, reverted to the state revenue in accordance with the procedure established by the Cabinet of Ministers of Ukraine;

6) the money, valuables and other property gained by an individual or legal entity as a result of a criminal offence and/or which are the proceeds thereof, as well as any property that has been converted in full or in part into these proceeds shall be confiscated;

{Clause 6, part 9 of Article 100 as revised by Law No. 314-VII of 23 May 2013}

6[1]) property (money or other property, as well as proceeds thereof) of a convicted person for committing a corruption offence, legalisation (laundering) of proceeds from crime, his/her related person shall be confiscated provided the court does not confirm the legitimacy of the acquisition of rights to such property.

The related persons of a convict shall mean legal entities that, with his/her assistance, received the said property for ownership or use.

Where the court recognises the absence of legal grounds for acquiring rights to a part of the property, this part of the convict's property shall be confiscated, and where it is impossible to allocate such a part, its value shall be confiscated. Where it is impossible to confiscate property, the legitimacy of the grounds for the acquisition of rights to which has not been confirmed, a convict shall pay the value of such property;

{Part 9 of Article 100 has been supplemented with new clause 6[1] under Law No. 198-VIII of 12 February 2015}

7) the documents that are physical evidence shall be kept in the records of criminal proceedings throughout the entire period of their storing time.

{Part 9 of Article 100 as revised by Law No. 222-VII of 18 April 2013}

10. When deciding on asset forfeiture, the first issue to be decided on shall be returning money, valuables and other property to the owner (lawful holder) and/or compensation of damage inflicted through the criminal offence. Asset forfeiture shall be applied only after the prosecution proves through legal proceedings that the owner (lawful holder) of the money, valuables and other property was aware of their unlawful origin and/or use. Where a guilty person has no other property that can be recovered, other than the property liable for asset forfeiture, the damage inflicted upon the victim and civil plaintiff shall be paid from the proceeds of the forfeit sold, with the remaining part becoming the state property.

{Article 100 has been supplemented with new part under Law No. 222-VII of 18 April 2013}

11. Where the owner (lawful holder) of the money, valuables and other property specified in clause 1, part 9 of this Article has been identified after asset forfeiture and had and could have no knowledge of their unlawful use, he/she shall have the right to request recovery of his/her property or the funds from the state budget as obtained from selling such property.

{Article 100 has been supplemented with new part under Law No. 222-VII of 18 April 2013}

12. Any dispute arising in respect of the ownership of objects subject to return shall be resolved under civil procedure. In such case, the object concerned shall be preserved until court decision has taken legal effect.

§ 5. Expert opinion

Article 101. Expert opinion

1. Expert opinion shall mean a detailed description of the examination conducted by an expert, as well as the findings of such an examination and grounded responses to the questions posed by the person who invited the expert, or the investigating judge or court requesting his/her opinion.

2. Each party to criminal proceedings shall have the right to produce to court an expert opinion which is based on expert's scientific, technical, or other special knowledge.

3. The opinion shall be based on the knowledge the expert concerned perceived personally or learned during examination of the materials produced for expert examination. An expert shall provide opinion on his/her own behalf and is personally liable for its reliability.

6. The questions posed to the expert and his/her opinion thereon shall not go beyond the expert's special knowledge.

5. Expert opinion may not be based on the evidence which the court found to be inadmissible.

6. Expert who provides opinion in respect of mental state of the suspect or accused shall not state in his/her findings whether the accused had the mental state, which constitutes an element of criminal offence or a ground which excludes liability for criminal offence.

7. Expert opinion shall be provided in writing, but either party shall have the right to request through the court to invite the expert for examination during court proceedings to give explanations or to supplement his/her findings.

8. Where several experts are invited to conduct examination, they may draw up one opinion or individual opinions.

9. Expert opinion shall be forwarded to the party upon whose request expert examination has been conducted.

10. Expert opinion shall not be binding for a person or body conducting proceedings, but any disagreement with expert findings shall be reasoned in the respective decision, ruling or judgment.

Article 102. Content of expert opinion

1. Expert opinion shall state:

1) when, where, who (name, profession, court expert certificate, record of service, scientific degree, academic degree, position of the expert) and based on which grounds the examination was conducted;

2) place and time of examination;

3) persons present during examination;

4) list of questions which were posed to the expert;

5) description of materials the expert received and materials which were used by expert;

6) detailed description of research made, including methods which were applied during examination, obtained findings and expert evaluation thereof;

7) well-grounded answers to each question posed.

2. Expert opinion shall necessarily state that he/she was warned about liability for knowingly misleading opinion and for refusal to fulfil his/her expert duties without valid reasons.

3. Where the examination reveals knowledge, which is important for criminal proceedings and in whose respect questions were not posed, the expert concerned shall have the right to state them in his findings. Opinion shall be signed by the expert.

Chapter 5. Recording criminal proceedings. Procedural decisions

Article 103. Forms of recording criminal proceedings

1. Procedural actions during criminal proceedings may be recorded:

1) on a record;

2) on a medium on which criminal proceedings are recorded with the use of technical means;

3) in a court session journal.

Article 104. Record

1. Where provided for this Code, the course and outcome of a procedural action shall be entered in a record.

2. In the course of pre-trial investigation, procedural action may be recorded with technical means, with a corresponding entry made in a record.

Where interrogation is recorded with technical means, the text of testimony may not be entered in the respective record given that none of the participants to this procedure insists upon this. That being the case, the entry shall be made in a record that the testimony was recorded on a medium that is attached to the record.

The recording made with audio and video recording equipment during the search made by an investigator or public prosecutor shall be an integral part of the record. Not recorded actions and circumstances of the search shall not be entered into a search report and used as evidence in criminal proceedings.

{Part 2 of Article 104 has been supplemented with paragraph 3 under Law No. 2213-VIII of 16 November 2017}

3. A record shall consist of:

1) introduction which contains information on:

place, time and name of the procedural action;

a person who conducts procedural action (last name, first name, patronymic, position held);

all those present during the conduct of procedural action (last name, first name, patronymic, age and place of residence);

information that participants to procedural action were advised in advance on the use of technical means for recording; characteristics of such technical means and media, which were used in the course of procedural action, conditions and procedure for the use thereof;

2) descriptive part which contains information on:

sequence of actions;

information obtained as a result of procedural action, important for the particular criminal proceeding, including discovered and/or provided objects and documents;

3) final part which contains information on:

objects and documents seized and the way they have been identified;

the way the participants familiarised themselves with a record;

comments on, and amendments to the written record on the part of participants to procedural action.

4. Before signing the record of procedural action, participants shall be given the possibility to view its text.

5. Comments and amendments shall be placed in the record before signatures. The record shall be signed by all participants to the conducted procedural action. Where a person because of his/her physical disability or any other reasons cannot personally sign the record, such person shall read the record in the presence of his/her defence counsel (legal representative) who shall attest with his/her signature the content of the record and the fact that disabled person cannot sign the record personally.

6. Where a person who participated in the conduct of procedural action refuses to sign the record, this shall be mentioned therein. Such a person shall have the right to give written explanations on the reasons for refusal, which are to be entered into the record. The fact of refusal to sign the record, and of the provision of written explanations with regard to reasons for the refusal shall be attested by signature of his/her defence counsel (legal representative), and where it is impossible, it shall be signed by attesting witnesses.

Article 105. Annexes to records

1. A person who conducted procedural action shall attach annexes to the record.

2. The following may be annexes to the record:

1) purpose-made copies, samples of objects, items and documents;

2) written explanations of specialists who participated in the conduct of procedural action concerned;

3) verbatim record, audio or video recording of the procedural action concerned;

4) photoboards, diagrams, moulds, computer data media, and other materials which explain contents of the record.

3. Annexes to the record shall be duly prepared, packed to provide their proper preservation, and attested by signatures of the investigator, public prosecutor, specialist, other individuals who participated in preparation and/or seizure of such annexes.

Article 106. Drawing up a record and annex thereto

1. At the stage of pre-trial investigation, a record shall be drawn up by an investigator or public prosecutor who conducts the respective procedural action, during the conduct of the procedural action or immediately thereafter.

2. Investigatory (search) action shall also include proper packaging of items and documents, as well as other actions of importance for verifying the outcome of procedural action.

Article 107. Use of technical means for recording criminal proceedings

1. Decision on recording procedural action with technical means during pre-trial proceedings shall be taken by a person who conducts the respective procedural action. Upon motion of the participants to procedural action, the use of technical means for recording shall be compulsory.

Complying with the ruling of the investigating judge or court on the search shall be recorded with the use of audio and video recording equipment.

{Part 1 of Article 107 has been supplemented with paragraph 2under Law No. 2213-VIII of 16 November 2017}

The right to unimpeded video recording of the search shall be granted to the defence.

{Part 1 of Article 107 has been supplemented with paragraph 3 under Law No. 2213-VIII of 16 November 2017}

{Part 1 of Article 107 as amended by Law No. 2213-VIII of 16 November 2017}

2. Participants to a procedural action shall be advised in advance that technical means to record the procedural action are used.

3. The records of the criminal proceeding shall contain original technical information media of the recorded procedural action, backup copies of which shall be kept separately.

4. Recording by technical means of criminal proceedings during the consideration of issues by the investigating judge, in addition to resolving the issue of conducting covert investigatory (search) actions, and in court during the court proceedings shall be mandatory. Where all the persons participating in court proceedings fail to arrive to a court session or where a court pursuant to provisions of this Code proceeds in the absence of such persons, the criminal proceedings in court shall not be recorded by technical means.

Investigating judge or court may restrict or prohibit the access of the parties to the criminal proceedings by the defence to the outcome of the technical record in order to ensure the inadmissibility of disclosure of pre-trial investigation where the investigator or public prosecutor provided the outcome of the covert investigatory (search) actions to substantiate the request for a search.

{Part 4 of Article 107 has been supplemented with paragraph 2 under Law No. 2213-VIII of 16 November 2017}

{Part 4 of Article 107 as amended by Law No. 2213-VIII of 16 November 2017}

5. Participants to court proceedings shall have the right to obtain a copy of recording of the court session made by technical means.

6. Failure to use technical means for the purpose of recording criminal proceedings where their use is mandatory shall render the proceeding and any findings made as result of it invalid unless the parties do not object to recognising such proceeding and its findings valid.

Article 108. Court session journal

1. During court session, a court session journal shall be maintained to contain the following:

1) name and composition of the court (investigating judge);

2) details of criminal proceedings and information on the participants to criminal proceedings;

3) date and time when court session started and ended;

4) time, number and name of the procedural action conducted during the court session, and also items, documents and records of investigatory (search) actions and annexes thereto forwarded to the court during the procedural action;

5) court rulings adopted by court (investigating judge) without retiring to the deliberations room;

6) other data as prescribed by this Code.

2. A court session journal shall be maintained and signed by a court clerk.

Article 109. Register of pre-trial proceedings records

1. Register of pre-trial proceedings records shall be compiled by investigator or public prosecutor and forwarded to the court together with the indictment.

2. Register of pre-trial proceedings records shall contain:

1) number and name of procedural action which was conducted during pre-trial investigation, as well as time when it was conducted;

2) requisites of procedural decisions taken during pre-trial investigation;

3) type of the measure to ensure criminal proceedings, date and period of its application.

Article 110. Procedural decisions

1. Procedural decisions shall mean all of decisions taken by pre-trial investigation agencies, public prosecutor, investigating judge and court.

2. Court decision shall be delivered in the form of judgment, ruling or sentence which shall meet the requirements of Articles 369, 371–374 hereof.

{Part 2 of Article 110 as amended by Law No. 192-VIII of 12 February 2015}

3. Investigator or prosecutor's decisions shall be adopted as rulings. Ruling shall be delivered where provided for by this Code and also whenever an investigator, inquiring officer or public prosecutor finds this necessary.

{Part 3 of Article 110 as amended by LawNo. 720-IX of 17 June 2020}

4. An indictment shall be a procedural decision whereby public prosecutor brings charges of the commission of criminal offence, and pre-trial proceedings shall be terminated. The indictment shall meet the requirements of Article 291 hereof.

5. Ruling of an investigator, inquiring officer or public prosecutor shall consist of:

1) introduction which contains information on:

place and time of adoption of the ruling;

last name, first name, patronymic, position held by the person who adopted the ruling;

2) statement of reasons which contains information on:

essence of circumstances which give ground for adopting the ruling;

motives for the ruling, their substantiation and reference to the respective provision of this Code;

3) operative part which contains information on:

essence of the procedural decision taken;

place and time (deadline) for its execution;

a person who shall execute the ruling;

a possibility and a procedure to challenge the ruling.

{Part 5 of Article 110 as amended by Law No. 720-IX of 17 June 2020}

6. The ruling of an investigator, inquiring officer or prosecutor shall be issued on an official letterhead, signed by the official who has taken the appropriate procedural decision.

{Part 6 of Article 110 as amended by Law No. 720-IX of 17 June 2020}

7. The ruling issued by an investigator, inquiring officer or public prosecutor within their competence in compliance with the law shall be binding upon individuals and legal entities whose rights, freedoms or interests it relates to.

{Part 7 of Article 110 as amended by Law No. 720-IX of 17 June 2020}

Chapter 6. Notification

Article 111. Definition of notification in criminal proceedings

1. In criminal proceedings, notification shall mean a procedural action through which an investigator, public prosecutor, investigating judge or court notifies a certain participant to criminal proceedings on the date, time and place of conducting the respective procedural action, or on procedural decision taken, or on conducted procedural action.

2. Notification of the participants to criminal proceedings in respect of conducting procedural actions shall be made wherever the participation of such persons is not mandatory.

3. Notification in criminal proceedings shall be made where provided for by this Code, in accordance with the procedure established by Chapter 11 hereof, except for provisions with regard to the content of the notice and consequences of the person's failure to appear.

Article 112. Contents of a notice

1. Notice shall contain:

1) last name and position of an investigator, public prosecutor, investigating judge, appellation of the court that makes the notification;

2) address of the authority which makes the notification, telephone number and other means of communication;

3) name (appellation) of the person being notified and his/her address;

4) appellation (number) of a criminal proceeding within which the notification is made;

5) current procedural status of the person being notified;

6) date, time and place of procedural action the person is notified of;

7) information on the procedural action (actions) to be conducted, or on the performed procedural action or the adopted procedural decision the person is notified of;

8) note that participation in procedural action is not mandatory and that it will be conducted without participation of the person being notified where he/she fails to appear;

9) signature of an investigator, public prosecutor, investigating judge or judge who makes the summons.

Chapter 7. Procedural period

Article 113. Definition of procedural period

1. Procedural period shall mean the time limits established by law or a public prosecutor, investigating judge or court pursuant to that law, within which participants to the criminal proceedings shall be required (have the right) to take procedural decisions or conduct procedural actions.

2. Any procedural action or the totality of actions in the course of criminal proceedings shall be conducted without any unjustified delay and in any case not later than the deadline established by the respective provisions of this Code.

Article 114. Establishment of procedural time limits by a public prosecutor, investigating judge or court.

1. To ensure that the parties to the criminal proceedings meet the requirements of reasonable time limits, an investigating judge or court may establish procedural deadlines within the limits stipulated by this Code, having regard to the circumstances of a respective criminal proceeding.

2. Any deadlines established by a public prosecutor, investigating judge or court shall not exceed the time limits stipulated by this Code and shall be sufficient to allow adequate time to complete respective procedural actions or take procedural decisions and not hinder exercising the right to defence.

3. Court cases in respect of disputes arising from the fact of occupation or offences related to the occupation shall fall under a separate category of cases that are considered under the respective procedural rules, with due account of the special aspects established by the Law of Ukraine "On the Rights and Freedoms of Citizens and Legal Regime in the Temporary Occupied Territory of Ukraine".

A case shall be recognised as being related to occupation by a reasoned decision of the judge.

Where a foreign element is involved in a case, rogatory letters, summonses and other court documents shall be served no later than fifteen days prior to the commencement of the procedural action.

Where in the cases related to the occupation, a party to the criminal proceedings or a civil defendant is a foreign entity of state property, including its bodies, institutions or organisations, or a foreign legal entity provided for by part 2 of Article 96 [4] of the Criminal Code of Ukraine, communication shall be conducted through the embassy or permanent representation.

{Article 114 has been supplemented with part 3 under Law No. 1207-VII of 15 April 2014}

Article 115. Calculation of procedural period

1. Period established by this Code shall be calculated in hours, days and months. The deadlines may be determined through indicating an event.

2. Where a period is calculated in hours, it shall end in the corresponding minute of the last hour.

3. Where a period is calculated in days, it shall end at midnight of the last day of the time limit.

4. Where a period is calculated in months, it shall end on the corresponding day of the last month. Where the deadline of a period is calculated in months falls on the month which does not have the corresponding date, the period shall end on the last day of this month.

5. Where a period is calculated in days and months, the day from which time limit starts running shall not be taken into account, apart from time limits for keeping in custody and for the conduct of in-patient psychiatric expert examination which includes non-working time, and are calculated from the date of actual apprehension, taking into custody, or placing in the respective healthcare facility.

6. Where the respective action shall be conducted in court or in a pre-trial investigation agency, the period ends at specified time of working day's end in such institutions.

7. Where a procedural period is calculated, free days and holidays shall be included, and when a period is calculated in hours, non-working hours shall be included, too. Where the end of a period that is calculated in days or months falls on the non-working day, the last day of the period shall be deemed the following working day, with the exception of calculating time limits for keeping in custody and for the stay in a healthcare facility during the conduct of in-patient psychiatric expert examination.

Article 116. Respecting procedural period

1. Procedural actions shall be conducted within the time limits prescribed by this Code. A period shall not be deemed missed, where a complaint or any other document was delivered to the post office or handed to a person authorised to accept it, before its expiry and, for individuals who are kept in custody or stay in treatment and prevention or psychiatric care facility, special educational institution, where a complaint or any other document was submitted to an official of the respective institution before its expiry.

{Part 1 of Article 116 as amended by Law No. 2205-VIII of 14 November 2017}

Article 117. Renewal of procedural period

1. A period missed for a valid reason shall be renewed upon a motion of an individual concerned upon a ruling of investigating judge or court.

2. A ruling of an investigating judge or court on the renewal or refusal to renew procedural period may be challenged as prescribed by this Code.

3. Filing a motion by an individual concerned for renewal of the missed period shall not terminate the execution of the decision challenged with the missed period.

Chapter 8. Procedural expenses

Article 118. Types of procedural expenses

1. Procedural expenses include:

1) expenses for legal aid;

2) expenses related to the travel to the place where pre-trial investigation or court proceeding is conducted;

3) expenses related to the involvement of victims, witnesses, specialists, interpreters/translators, and experts;

4) expenses related to storing and sending of items and documents.

Article 119. Reduction of procedural expenses or exemption from it, deferral and instalment payment of procedural expenses

1. A court, having regard to the property status of the individual (accused or victim), proprio motu or upon motion of the individual, shall have the right to reduce the amount of procedural expenses to be paid by its ruling or exempt from its payment in full or in part, or defer and spread payment of procedural expenses over a specified period of time.

2. Where the payment of procedural expenses has been deferred or spread over a period of time before court ruling was delivered, expenses shall be divided under the court decision.

3. Where the amount of procedural expenses to be paid was reduced or a person is exempted from payment in full or in part, respective expenses shall be compensated out of the State Budget of Ukraine underprocedure established by the Cabinet of Ministers of Ukraine.

Article 120. Expenses for legal aid

1. Expenses related to defence counsel's fees shall be borne by a suspect a accused, except as provided otherwise under part 3 of this Article.

2. Expenses related to the fees of the representatives of a victim, civil plaintiff, civil defendant and a legal entity in whose respect proceedings are taken, who provide legal aid under the contract shall be borne by such victim, civil plaintiff, civil defendant and legal entity in whose respect proceedings are taken, respectively.

{Part 2 of Article 120 as revised by Law No. 314-VII of 23 May 2013}

3. The aid provided by defence counsel engaged through an appointment where provided for by this Code and/or the law regulating provision of free legal aid shall be rendered at the expense of the State Budget of Ukraine and free of charge to a suspect and accused. The maximum amount of compensation of expenses for legal aid shall be established by law.

Article 121. Expenses related to travel to the place of pre-trial investigation or court proceedings

1. Expenses related to travel to the place of pre-trial investigation or court proceedings shall be expenses of a suspect or accused in whose respect the restrictive measure such as detention was not imposed, expenses of his/her defence counsel, representative of a victim related to the travel to another locality, leasing housing, payment of per diem (where it is travel to another locality), as well as compensation for the lost earnings or break in traditional occupation.

Compensation for lost earnings shall be calculated in proportion to the amount of average monthly earnings, and compensation for break in traditional occupation shall be compensated in proportion to the amount of the minimum wage.

2. Expenses related to the arrival to the place of pre-trial investigation or court proceedings of a suspect or accused shall be borne on his/her own.

3. Expenses of the defence counsel related to the arrival to the place of pre-trial investigation or court proceedings shall be borne by a suspect or accused.

4. Expenses related to representative's arrival to the place of pre-trial investigation or court proceedings shall be borne by a person being represented.

5. Based on court decision, the maximum amount for compensation of expenses related to the arrival to the place of pre-trial investigation or court proceedings shall be determined by the Cabinet of Minister of Ukraine.

Article 122. Expenses related to the involvement of victims, witnesses, specialists, interpreters/translators and experts

1. Expenses related to the involvement of witnesses, specialists, interpreters/translators and experts shall be borne by the party to criminal proceedings which filed a motion to summon witnesses, invite a specialist, interpreter/translator or expert, except as otherwise provided by Code.

2. Expenses related to the participation of victims in criminal proceedings, involvement and participation of interpreters to interpret testimonies of a suspect, accused, victim, civil plaintiff and civil defendant, representative of the legal entity in whose respect the proceedings are conducted shall be borne by the State Budget of Ukraine in the manner prescribed by the Cabinet of Ministers of Ukraine. Involvement by the prosecution of specialists, experts of specialised state institutions,

examination (inspection and research) on behalf of the investigating judge or court shall be conducted with the use of funds channelled for such institutions from the State Budget of Ukraine.

{Part 2 of Article 122 as amended by Laws No. 314-VII of 23 May 2013, No. 720-IX of 17 June 2020}

3. Victims, civil plaintiffs and witnesses shall be reimbursed for their travel, renting housing, and per diem (where it is a travel to another locality), as well as compensation for the lost earnings or break in traditional occupation.

Compensation for lost earnings shall be calculated in proportion to the amount of average monthly earnings, and compensation for break in traditional occupation shall be compensated in proportion to the amount of the minimum wage.

4. Experts, specialists and interpreters shall be reimbursed their travel cost and per diem where they travel to another locality. Experts, specialists and interpreters shall be paid a remuneration for the job done, unless it was done as their official duty.

5. The maximum amount of compensation of expenses related to the involvement of witnesses, specialists, and experts shall be established by the Cabinet of Ministers of Ukraine.

Article 123. Expenses related to storage and forwarding of items and documents

1. Expenses related to the storage and forwarding of items and documents shall be borne by the State Budget of Ukraine under procedure established by the Cabinet of Ministers of Ukraine.

2. The maximum amount for expenses related to the storage and forwarding of items and documents shall be determined by the Cabinet of Ministers of Ukraine.

Article 124. Allocation of procedural expenses

1. In the event of conviction, the court shall collect from the defendant in favour of the victim all the documented procedural expenses the latter has incurred. Where the defendant does not have funds sufficient to reimburse the said expenses, such shall be compensated to the victim out of the State Budget of Ukraine, where provided for by law for the purpose of compensation of damage caused to the victim due to criminal offence.

2. In the event of conviction, the court shall award in favour of the state the expenses on engaging an expert which are supported with documents.

4. Where appellate or cassation court without making decision to hold new court proceedings changes a court decision or renders a new one, it shall accordingly change the allocation of procedural expenses.

{Part 3 of Article 124 as amended by Law No. 2147-VIII of 3 October 2017}

Article 125. Determining the amount of procedural expenses

1. Upon motions of individuals, the court may determine the amount of procedural expenses to be reimbursed to them.

Article 126. Decisions in respect of procedural expenses

1. The court shall decide the issue of judicial expenses in the sentence or by ruling.

2. Parties to criminal proceedings, witnesses, experts, specialists, interpreters shall have the right to appeal against court decision in respect of procedural expenses where it concerns their interests.

Chapter 9. Reparation (compensation) of damage in criminal proceedings, civil action, payment of remuneration to a whistleblower

{Title of Chapter 9 as revised by Law No. 198-IX of 17 October 2019}

Article 127. Reparation (compensation) of damage to the victim

1. A suspect or accused, and any other individual or legal entity upon his/her consent, shall have the right to reimburse the damage caused to the victim, territorial community, the state as a result of criminal offence at any stage of criminal proceedings.

2. The damage caused by criminal offence or other socially dangerous act may be recovered by a court decision made as a result of hearing a civil action in criminal proceedings.

3. Damage caused to the victim by criminal offence shall be reimbursed out of the State Budget of Ukraine as prescribed by law.

Article 128. Civil action in criminal proceedings

1. The person to whom pecuniary and/or non-pecuniary damage has been caused by a criminal offence or another socially dangerous act shall have the right to enter a civil action in the course of criminal proceedings before the court proceedings against a suspect or accused or an individual or legal entity civilly liable by law for the damage caused by the acts of the suspect or accused or insane person who has committed a socially dangerous act.

2. A civil action on behalf of minors or persons lawfully declared incapable or partially incapable may be entered by their legal representatives.

3. Civil action on behalf of the state shall be filed by a public prosecutor. Civil action may also be entered by a public prosecutor where provided for by law and also on behalf of those citizens who cannot defend their rights on their own due to their physical or economic situation, being underage or elderly aged, incapacity or limited capacity.

Public prosecutor who files a civil action in criminal proceedings shall substantiate the existence of grounds for representing the interests of an individual or the state in court provided for by part 4 of Article 25 of the Law of Ukraine “On the Prosecutor's Office”. To represent the interests of an individual in court, a public prosecutor shall also provide documents confirming that a minor has not attained the age of majority, incapacity or limited capacity of an individual, and also a written consent of a legal representative or body authorised by law to protect the rights, freedoms and interests of a a particular person and represent him/her.

{Part 3 of Article 128 has been supplemented with paragraph 2 under Law No. 1697-VII of 14 October 2014}

{Part 3 of Article 128 as amended by Law No. 1697-VII of 14 October 2014}

4. The matter and manner of a statement of claim shall conform to the requirements provided for actions entered in civil procedure.

5. A civil action in criminal proceedings shall be considered by the court according to the rules established by this Code. Where the procedural relations that have arisen from the civil action are not regulated by this Code, the rules of the Civil Procedure Code of Ukraine shall apply provided that they do not contravene the principles of criminal procedure.

6. Where an action has been dismissed in civil, economic or administrative proceedings, a civil plaintiff shall not enter the same action in criminal proceedings.

7. A person who does not enter a civil action in criminal proceedings, and also a person whose civil action has been left undecided may enter same in civil proceedings.

Article 129. Deciding on a civil action in criminal proceedings

1. While rendering a judgment of conviction, a ruling of compulsory medical or reformatory measures, the court depending on the proof of grounds and amount of action shall sustain the civil action in full or in part or dismiss it.

2. Where no criminal event is found the court shall dismiss the action.

3. Where the defendant is acquitted for absence of elements of crime or his non-involvement, as well as in other cases provided for by part 1 of Article 326 hereof, the court shall leave the action undecided.

Article 130. Reparation (compensation) of damage caused by illegal decisions, acts or omission

1. Damage caused by illegal decisions, acts or omission of the agency conducting criminal intelligence activities, pre-trial investigation, public prosecutor's office or court shall be reimbursed by the state from the State Budget of Ukraine where and under procedure provided for by law.

2. The state, having reimbursed the damage caused by the investigator or public prosecutor, shall apply the right of recourse to these persons in the event of establishing in their actions a criminal offence under a court conviction that has entered into force or a disciplinary misdemeanor, regardless of the expiration of the terms of application and the effect of disciplinary action.

{Article 130 has been supplemented with part 2 under Law No. 2548-VIII of 18 September 2018}

Article 130[1]. Payment of remuneration to the whistleblower

1. For reporting a corruption crime, active assistance in its disclosure, where the monetary amount of the subject of the crime or damage to the state incurred by such a crime in five thousand and more times exceeds the subsistence minimum level for employable persons established by law at the time of the crime, a whistleblower shall be paid remuneration in the form of 10 per cent of the monetary amount of the subject of the corruption crime or of the damage caused to the state after the conviction of the court, but not more than three thousand minimum wages set at the time of the crime.

2. The court shall determine the specific amount of remuneration to be paid to the whistleblower, having regard to the following criteria:

personality of information, that means that information reported by the whistleblower to the law enforcement agency shall come from his/her personal knowledge, including information obtained from third parties, not be contained in public reports, inspection findings, records, research, information messages, etc. of media, except as a whistleblower is a source of such information, as well as not be known to law enforcement agency from other sources;

Importance of the information, that means that the information provided by a whistleblower shall contain factual data that can be verified and help to prove at least one of the circumstances of the corruption offence provided for by clauses 1–3, 6 and 7, part 1 of Article 91 hereof.

In the absence of at least one of these criteria, the court shall make a reasoned decision to refuse to pay remuneration.

3. A person shall have the right to receive remuneration who:

1) reported a corruption crime within the framework of an agreement in criminal proceedings or who is an accomplice to a corruption crime of which he/she has reported;

2) reported a corruption crime as a whistleblower, while having an opportunity to make an official statement of the detected crime within the exercise of his/her official powers.

4. Remuneration shall be paid to the whistleblower out of the State Budget of Ukraine by the state treasury bodies.

5. Remuneration shall be paid to the whistleblower under the indisputable write-off procedure.

6. The whistleblower shall have the right to represent his/her interests during the consideration of the issue of payment of remuneration to him/her personally and through a representative, a lawyer (including anonymously, but until the issue of payment of remuneration is resolved). In order to protect the personal data of an anonymous whistleblower after its disclosure to the court, in particular, security measures such as ensuring the confidentiality of personal information and/or a closed court proceedings may be taken.

7. The whistleblower shall have the right to appeal against the court decision to the extent that concerns his/her interests when deciding on the payment of remuneration to him/her as a whistleblower.

{Главу 9 has been supplemented with Article 130¹ under Law No. 198-IX of 17 October 2019}

Section II
MEASURES TO ENSURE CRIMINAL PROCEEDINGS

Chapter 10. Types of measures to ensure criminal proceedings

Article 131. Types of measures to ensure criminal proceedings

1. Measures to ensure criminal proceedings shall be applied to ensure efficiency of these proceedings.

2. Measures to ensure criminal proceedings shall be as follows:

1) summons by investigator, public prosecutor, court summons and compulsory attendance;

{Clause 1, part 2 of Article 131 as amended by Law No. 2617-VIII of 22 November 2018}

2) imposition of pecuniary penalty;

3) temporary restriction on a special right;

4) suspension from position;

4[1]) temporary suspension of the judge from the administration of justice;

{Part 2 of Article 131 has been supplemented with clause 4[1] under Law No. 1798-VIII of 21 December 2016}

5) provisional access to objects and documents;

6) provisional seizure of property;

7) attachment of property;

8) detention of a person;

9) restrictive measures.

Article 132. General rules for application of measures to ensure criminal proceedings

1. Measures to ensure criminal proceedings shall be applied based on the ruling of the investigating judge or court unless provided otherwise by this Code.

2. A request for the application of measures to ensure criminal proceedings based on a decision of an investigating judge shall be filed:

1) to a local court within the territorial jurisdiction of which the pre-trial investigation agency is located, unless otherwise provided for by clause 2 of this part;

2) in criminal proceedings in respect of criminal offences referred to the jurisdiction of the High Anti-Corruption Court it shall be filed to the High Anti-Corruption Court.

{Clause 2, part 2 of Article 132 as amended by Law No. 720-IX of 17 June 2020}

{Part 2 of Article 132 as revised by Law No. 2147-VIII of 3 October 2017 – amendments do not have retroactive effect in time and apply to cases in which the information of the criminal offence is entered into the Unified Register of Pre-Trial Investigations after the effective date of these amendments – refer to clause 4 § 2, Section 4 of the Law; as revised by Laws No. 2367-VIII of 22 March 2018, No. 2447-VIII of 7 June 2018}

3. Enforcement of measures to ensure criminal proceedings shall be denied unless investigator or public prosecutor proves that:

1) there is a reasonable suspicion of the commission of criminal offence of such gravity which may be grounds for application of measures to ensure criminal proceedings;

2) needs of pre-trial investigation justify such degree of interference in rights and freedoms of a person that is stipulated in the motion of an investigator or public prosecutor;

3) the task can be fulfilled and in order to accomplish this task, an investigator or public prosecutor shall file a motion.

{Part 3 of Article 132 as amended by Law No. 2617-VIII of 22 November 2018}

4. In order to evaluate needs of pre-trial investigation, investigating judge or court shall take into account the possibility to obtain, without applying a measure to ensure criminal proceedings, items and documents which can be used during trial for establishing circumstances in criminal proceedings.

5. During consideration of the enforcement of measures to ensure criminal proceedings, the parties to the criminal proceedings shall present to investigating judge or court evidence on circumstances to which they refer.

6. An extract from the Unified Register of Pre-Trial Investigations related to criminal proceedings, within the framework of which the motion is filed shall be attached to the request of an investigator, inquiring officer or public prosecutor to apply, change or cancel the measure of ensuring criminal proceedings.

{Part 6 of Article 132 as amended by Law No. 2617-VIII of 22 November 2018}

Chapter 11. Summons by investigator, public prosecutor, court summons and compulsory attendance

Article 133. Summons by investigator or public prosecutor

1. Investigator or public prosecutor during pre-trial investigation shall have the right to summon a suspect, witness, victim or other participant to criminal proceedings where provided for by this Code, for examination or participation in other procedural action.

2. Investigator or public prosecutor during pre-trial investigation shall have the right to summon a person where there are sufficient grounds to believe that such person can give testimonies that are important for criminal proceedings, or his/her participation in a procedural action is mandatory.

Article 134. Court summons

1. The investigating judge during the pre-trial investigation or the court during the trial shall have the right on their own initiative or at the request of the investigator, prosecutor, suspect, accused, his/her defence counsel, victim, his/her representative to summon a certain person given that the investigating judge or court finds sufficient grounds to believe that such a person may give evidence that is important to the criminal proceedings, or his/her participation in the proceedings is mandatory.

2. Court shall summon the participants to criminal proceedings whose participation in court proceedings is mandatory.

Article 135. Procedure for making summons in criminal proceedings

1. A person shall be summoned to investigator, public prosecutor, investigating judge or court by serving court summons on the respective person, sending it by mail, electronic mail or facsimile communication, by telephone or cable.

2. Where the individual concerned is temporarily out of his/her place of residence, a ruling on court summons shall be served against signature on his/her adult family member or to another individual who resides together with the addressee, to the residential management organisation at the place of residence, or to the administration at the place of employment.

3. A person under custody shall be summoned through the administration of the detention centre.

4. Ruling on court summons of an underage person shall be served, as a rule, on his/her parent, adoptive parent, or legal representative. Different procedure for serving a summons shall be admissible only where this is justified by circumstances of criminal proceedings.

5. Ruling on court summons of a partially capable individual shall be served on his/her caretaker.

6. Ruling on court summons shall be served on a person by an employee of the post office, employee of a law enforcement agency, investigator, public prosecutor, as well as by a court clerk where such serving is made in the court premises.

7. Ruling on court summons of an individual living abroad shall be served in accordance with international treaty of legal aid, ratified by the Verkhovna Rada of Ukraine, and in its absence, through diplomatic (consular) mission.

8. A person shall receive the summons or be notified of it by other means not later than three days before the day when he/she shall arrive on summons. Where this Code sets deadlines for procedural actions that do not allow to make a summons within the specified period, a person shall receive a summons or be notified of it in another way as soon as possible, but in any case with the required time to prepare and arrive on summons.

{Part 8 of Article 135 as amended by Law No. 725-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Law No. 767-VII of 23 February 2014}

Article 136. Confirmation of receipt by a person of court summons or of learning its content in other way

1. Appropriate confirmation of receipt of the summons by a person or learning its contents in another way shall a signature of the person on receipt of the summons, including by mail, video recording of serving the summons, any other data confirming the fact of delivery of the summons or viewing its content.

2. Where a person notified in advance investigator, public prosecutor, investigating judge, court on his/her email address, a court summons dispatched to such address shall be deemed received given that the person confirmed its receipt by a respective e-mail.

Article 137. Contents of court summons

1. Text of court summons shall state:

1) last name and position of investigator, public prosecutor, investigating judge or judge;

2) name and address of the court or other institution which issues summons, telephone number or other means of communication;

3) name (appellation) of a person being summoned and its address;

4) name (number) of the criminal proceeding within which summons is issued;

5) current procedural status of the summoned person;

6) hour, date, month, year and place for appearance of the person summoned;

7) procedural action (actions) for participation in which the person is summoned;

8) consequences of failure to appear, with citing of the text of the respective provisions of law, including the possibility of applying compulsory appearance and conducting special pre-trial investigation or special judicial proceedings;

{Clause 8, part 1 of Article 137 as amended by Law No. 1689-VII of 7 October 2014}

9) valid reasons specified in this Code for which a person may not appear in response to the summons, and the requirement to notify in advance of the inability to appear;

10) signature of the investigator, public prosecutor, investigating judge or judge who issued court summons.

Article 138. Valid reasons for non-compliance with court summons

1. Valid reasons for non-compliance with court summons shall be as follows:

1) apprehension, custody, or service of punishment;

2) restriction of the freedom of movement under law or based on court decision;

3) force-majeure circumstances (epidemics, military hostilities, natural or any other similar disasters);

4) absence of a summoned person in the place of residence during prolonged time due to official mission, travel, etc.;

5) serious disease or sojourn in a healthcare facility in connection with treatment or pregnancy, given the impossibility to temporarily leave the facility;

6) death of close relatives, family members, or any other close persons, or a serious threat to their life;

7) untimely receipt of the summons;

8) other circumstances objectively preventing appearance of a person on summons.

Article 139. Consequences of non-appearance on summons

1. Where a suspect, accused, witness, victim, civil plaintiff, representative of a legal entity in whose respect proceedings are taken, who has been summoned according to the procedure set forth in this Code (in particular, presence of confirmation of receipt of the court summons or of learning its content in other way), did not appear without valid reason or did not inform on reasons for his/her non-appearance, he/she shall be subject to imposition of pecuniary penalty in the amount of:

{Paragraph 1, part 1 of Article 139 as amended by Law No. 314-VII of 23 May 2013}

0.25 to 0.5 times minimum subsistence wages of employable people in case of non-compliance with court summons of investigator or public prosecutor;

{Paragraph 2, part 1 of Article 139 as amended by Law No. 1791-VIII of 20 December 2016}

-0.5 to 2 times minimum subsistence wages of employable people in case of non-compliance with court summons of investigating judge or court.

{Paragraph 3, part 1 of Article 139 as amended by Law No. 1791-VIII of 20 December 2016}

2. Where provided for part 1 of this Article, compulsory attendance may be enforced against the suspect, accused, and witness.

3. For persistent non-compliance with summons, a victim shall be held liable as established by law.

{Part 4 of Article 139 has been deleted under Law No. 767-VII of 23 February 2014}

5. Failure to comply with summons of an investigator, public prosecutor, investigating judge or court (failure to appear on summons without valid reason for more than two times) by a suspect or accused who are announced in interstate or international wanted list shall serve as the grounds for conducting special pre-trial investigation or special judicial proceedings.

{Article 139 has been supplemented with part 5 under Law No. 1689-VII of 7 October 2014; as amended by Law No. 119-VIII of 15 January 2015}

Article 140. Compulsory attendance

1. Compulsory attendance shall consist in compulsory forwarding of a person against whom it is enforced, by executor of the ruling on enforcement of compulsory attendance, to the place of summons, at the time specified in the ruling.

2. A decision to enforce compulsory attendance shall be taken: during pre-trial investigation, by an investigating judge upon motion of an investigator, public prosecutor or proprio motu; and during court proceedings, by court upon motion of a party to criminal proceedings, victim, or representative of a legal entity in respect of which the proceedings are conducted, or proprio motu. A decision to enforce compulsory attendance shall be taken in the form of ruling.

{Part 2 of Article 140 as amended by Law No. 314-VII of 23 May 2013}

3. Compulsory attendance may be enforced against a suspect, accused or a witness. Compulsory attendance of a witness shall not be enforced against an underage person, a pregnant woman, disabled persons of the first and second category, a person who is raising children under six years of age or children with disabilities alone, as well as individuals who shall not be examined as witnesses under this Code. Compulsory attendance of an officer from the personnel of an intelligence agency of Ukraine in the performance of his duties shall be enforced only in presence of that agency's official representatives.

{Part 3 of Article 140 as amended by Law No. 2581-VIII of 2 October 2018}

Article 141. Motion on enforcement of compulsory attendance

1. The following shall be specified in a motion on enforcement of compulsory attendance during pre-trial investigation:

1) name and registration number of the criminal proceeding concerned;

2) procedural status of a person against whom the enforcement of compulsory attendance is requested, his/her first name, last name, patronymic and place of residence;

3) procedural action, the participant of which shall be a person in whose respect a motion is filed;

4) provisions of this Code that established a person's duty to appear on summons, and circumstances of the person's non-compliance;

5) information corroborating the facts of summons having been made to the person according to the procedure prescribed by this Code, and of the court summons having been received by the person or the content of it having been learned by him/her in other way;

6) last name, first name, patronymic and official position of investigator or public prosecutor;

7) date and place of filing the motion.

Copies of records by which investigator or public prosecutor justifies his arguments shall be attached to the motion.

Article 142. Consideration of the motion for court summons

1. During pre-trial investigation, investigator's or public prosecutor's motion on enforcement of compulsory attendance shall be considered by investigating judge alone on the day it reached the court. Where necessary, investigating judge may hear arguments of the person who has filed a motion.

2. During court proceedings, a motion on enforcement of compulsory attendance shall be considered immediately after it is initiated.

3. Investigating judge or court upon establishing that a person prescribed to appear on summons of investigator, public prosecutor, investigating judge or court, was actually summoned according to the procedure established by this Code (in particular, in presence of confirmation of receipt by the person of the court summons or of learning its content in other way), and did not appear without valid reasons, or did not notify of reasons for failure to appear, shall adopt a ruling on enforcement of compulsory attendance against such person.

4. A copy of the ruling on enforcement of compulsory attendance certified with the court's stamp, shall be sent immediately to the agency charged with enforcing compulsory attendance.

Article 143. Enforcement of the ruling on compulsory attendance

1. Enforcement of the ruling for compulsory attendance may be entrusted to the respected units of the National Police, security agencies, bodies supervising compliance with tax legislation, the National Anti-Corruption Bureau of Ukraine or the State Bureau of Investigations.

{Part 1 of Article 143 as amended by Laws No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015}

2. Executor of the ruling shall read out the ruling for compulsory attendance to the person in whose respect compulsory attendance is enforced.

3. A person who is subject to compulsory attendance by decision of an investigating judge or court shall be required to to the place of summons at the time specified in the ruling on the enforcement of the compulsory attendance, accompanied by the executor of the ruling.

Where a person subject to compulsory attendance fails to comply with the lawful requirements in respect of enforcement of the ruling on compulsory attendance he/she may be subject to measures of physical coercion capable of ensuring his/her escorting to the place indicated in the summons. Application of physical coercion shall be subject to notice of the intent to apply such. Where physical coercion cannot be avoided, they shall not exceed the measure necessary for enforcement of the ruling on compulsory attendance and shall be limited to the least possible impact on the person. It shall be prohibited to apply measures of physical coercion capable of causing harm to the person's health, as well as to compel the person to remain in the conditions of restrained freedom of movement longer than it is required for his/her prompt reconduction to the place indicated in the summons. Excess of powers when applying measures of physical coercion shall entail a liability by law.

4. Where enforcement of compulsory attendance appears to be impossible, the executor of the ruling on compulsory attendance shall return the process to the court with written explanations of the reasons of non-execution.

Chapter 12. Imposition of pecuniary penalty

Article 144. General provisions related to imposition of pecuniary penalty

1. Pecuniary penalty may be imposed on participants to the criminal proceedings for failure to fulfil their procedural duties in the cases and amounts stipulated by this Code.

2. Pecuniary penalty shall be imposed: in the course of pre-trial investigation – upon the ruling of the investigating judge based on the motion made by the investigator or public prosecutor or proprio motu, or in the course of the judicial proceedings – upon the court's ruling based on the public prosecutor's motion or proprio motu.

Article 145. Motion for imposition of pecuniary penalty

1. The motion for imposition of pecuniary penalty on a person in the course of the pre-trial investigation shall contain the following information:

1) name and registration number of the criminal proceeding concerned;

2) procedural status of the person for whom the motion for imposition of pecuniary penalty was made, his/her last name, first name, patronymic and place of residence;

3) duty imposed on this person by this Code or by ruling of the investigating judge;

4) circumstances under which this person failed to fulfil his/her duty;

5) facts that corroborate the person's failure to fulfil his/her duty;

6) last name, first name, patronymic and official position of investigator or public prosecutor;

7) date and place of filing the motion.

Copies of records by which investigator or public prosecutor justifies his arguments shall be attached to the motion.

Article 146. Examining the issue of imposition of pecuniary penalty on a person

1. In the course of pre-trial investigation, the motion made by the investigator or public prosecutor for imposition of pecuniary penalty on a person shall be examined by the investigating judge no later than three days after the date of submission of the motion to the court.

The official who entered the motion and the person on whom pecuniary penalty may be imposed shall be notified of the time and place of consideration of the motion; however their default in appearance shall not impede examining this issue.

2. In the course of judicial proceedings the issue of imposition of pecuniary penalty on a person shall be considered immediately after its initiation.

3. The investigating judge or the court upon establishing that the given person failed to fulfil his/her procedural duty without valid reasons shall impose pecuniary penalty on this person. A copy of the corresponding ruling shall be forwarded to the person on whom pecuniary penalty was imposed no later than the next working day after taking the decision.

Article 147. Revocation of ruling on imposition of pecuniary penalty

1. A person on whom pecuniary penalty was imposed and who was absent during consideration of this issue by the investigating judge or the court shall have the right to lodge a motion for revocation of the ruling on imposition of pecuniary penalty. This motion shall be filed with the investigating judge or with the court who/which passed the ruling on imposition of pecuniary penalty.

2. The investigating judge or the court having recognised the validity of the person's arguments may revoke the ruling on imposition of pecuniary penalty at their own discretion, or schedule a court session for examining the motion for revocation of the ruling on imposition of pecuniary penalty. A person who has filed this motion, as well as the investigator or public prosecutor whose motion became the grounds for imposition of pecuniary penalty shall be notified of the place and time of consideration of the motion; however their default in appearance shall not impede such consideration.

3. The investigating judge or the court shall revoke the ruling on imposition of pecuniary penalty on a person based on the results of consideration of this motion during the court session, provided it is established that the penalty had been imposed unfoundedly, or if otherwise shall reject satisfaction of the motion.

4. The judgment made by the investigating judge or the court, based on the results of consideration of the motion to revoke the ruling on imposition of pecuniary penalty, shall be final and without appeal.

Chapter 13. Temporary restriction in exercising a special right

Article 148. General provisions relating to temporary restriction of exercising a special right and temporary seizure of documents confirming the special right.

1. Where there is a good reason to believe that it is necessary to restrict a suspect in his/her exercising a special right for the purpose of termination of a criminal offence or preventing commission of another offence, stopping or preventing a suspect's wrongdoing intended to obstruct criminal proceedings, or securing compensation of damage caused by a criminal offence, the investigator, public prosecutor, other authorised person shall have the right to temporarily seize

documents confirming special right from the person lawfully apprehended by them as prescribed by Article 208 hereof.

Documents confirming the following special rights may be temporarily seized:

1) right to operate a vehicle or a ship;

2) right to hunt;

3) right to conduct entrepreneurial activity.

4) right to possess and carry weapons.

{Part 1 of Article 148 has been supplemented with clause 4 under Law No. 2227-VIII of 6 December 2017}

2. Temporary restriction of exercising special right may be imposed by decision of investigating judge and during pre-trial investigation for a period not exceeding two months.

Article 149. Implications of temporary seizure of documents confirming special right

1. A person who has conducted lawful apprehension as prescribed by Article 208 hereof shall, concurrently with bringing the apprehended person to the authorised official (a person vested by law with the right to conduct temporary seizure of documents confirming special right) to hand over to this official the temporarily seized documents which confirm special right, where any have been seized. The fact of transfer of temporarily seized documents confirming the exercise of a special right shall be certified by a record drawn up in accordance with the procedure provided for by this Code.

2. Investigator, public prosecutor, other authorised official during lawful apprehension and temporary seizure of documents confirming special right or immediately thereafter, shall draw up an appropriate record as prescribed by this Code.

3. Having drawn up the record of temporary seizure of documents confirming special right, investigator, public prosecutor, and other authorised official shall transfer temporarily seized documents for storage under procedure established by the Cabinet of Ministers of Ukraine.

Article 150. Motion for temporary restriction of a special right

1. During pre-trial investigation, public prosecutor or investigator upon approval of public prosecutor may request that investigating judge temporarily restrict a special right. In the event of temporary seizure of documents granting a special right, public prosecutor or investigator upon approval of public prosecutor shall be required to lodge with the investigating judge appropriate motion not later than two days after temporary seizure has been made. Failure to comply with this time limit shall entail necessity to return temporarily seized documents.

2. The motion shall state:

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal qualification of the criminal offence under Ukrainian law on criminal liability;

3) description of circumstances laying grounds for suspecting the person of committing criminal offence, and reference to circumstances;

4) reasons for temporarily restriction of a special right;

5) type of special right to be temporarily restricted;

6) time limit for the temporary restriction of a special right;

7) list of witnesses whom public prosecutor or investigator finds necessary to examine during consideration of his motion.

The motion shall be also attached with:

1) copies of materials with which public prosecutor or investigator substantiates the arguments of his motion;

2) documents, which confirm that the suspect was provided copies of the motion and records which substantiate it.

Article 151. Consideration of the motion for temporary restriction of the special right

1. Investigating judge shall consider motion for temporary restriction of the special right not later than three days after such motion has been filed, with participation of public prosecutor and/or investigator, the suspect and his/her defence counsel.

2. Motion for temporary restriction of the special right, where documents confirming special right have not been temporarily seized, may be considered only in the presence of the suspect and his/her defence counsel.

3. Having established that motion for temporary restriction of the special right does not comply with Article 150 hereof, investigating judge shall return it to public prosecutor and adopt a ruling thereon.

4. When considering motion for temporary restriction of the special right, investigating judge may, upon motion of the parties to the criminal proceedings or proprio motu, hear any witness or examine any records of importance for deciding on the issue of temporary restriction of the special right.

Article 152. Deciding on the issue of temporary restriction of a special right

1. Investigating judge shall dismiss the motion for temporary restriction of the special right unless investigator or public prosecutor proves the presence of sufficient grounds to believe that probability that such a measure is necessary to stop criminal offence or prevent the commission of another offence, to stop or prevent unlawful behaviour of the suspect in respect of obstructing criminal proceedings, and to ensure compensation of damage caused by the criminal offence.

2. When disposing the issue of temporary restriction of a special right, investigating judge shall have regard to the following circumstances:

1) legal ground for temporary restriction of a special right;

2) sufficiency of evidence which indicates that the person has committed criminal offence;

3) implications of temporary restriction of the special right for other persons.

3. After having considered the motion, investigating judge passes a ruling which shall state:

1) motives for granting or denying the motion on application of temporary restriction of the special right;

2) list of documents, which grant special right and which shall be returned or seized for the time of temporary restriction of the special right;

3) period of temporary restriction of the special right, which shall not be longer than two months;

4) procedure under which the ruling shall be enforced.

4. A copy of the ruling shall be forwarded to the person who has filed the motion concerned, the suspect, and other parties concerned not later than the next day which follows the day of ruling and shall be immediately executed in accordance with the procedure established for enforcement of judicial decisions.

Article 153. Extending the term of temporary restriction of the special right

1. Public prosecutor shall have the right to file a motion seeking extension of the term of temporary restriction of the special right, with such motion to be considered as prescribed by Article 151 hereof.

2. Investigating judge or court shall deny extending the period of temporary restriction of the special right unless public prosecutor proves that:

1) circumstances which laid ground for temporary restriction of the special right continue to exist;

2) prosecution was unable to otherwise ensure achievement of goals for the sake of which the special right has been temporarily restricted, during the time the previous ruling was effective.

Chapter 14. Suspension from office

Article 154. General provisions related to suspension from office

1. Suspension from office may be applied to a person who is suspected of or charged with committing a crime.

{Part 1 of Article 154 as amended by Law No. 2617-VIII of 22 November 2018}

2. Suspension from office shall be effected on the grounds of the decision passed by the investigating judge in the course of pre-trial investigation or by the court in the course of judicial proceedings for a term not exceeding two months. The term of suspension from office may be extended in accordance with the requirements stipulated by Article 158 hereof.

3. The matter of suspension from office of the persons appointed by the President of Ukraine shall be decided by the President of Ukraine on the grounds of the public prosecutor's motion in accordance with the procedure set forth by law. The dismissal of Director of the National Anti-Corruption Bureau of Ukraine shall be conducted by an investigating judge on the basis of a reasoned motion of the Prosecutor General in accordance with the procedure established by law.

{Part 3 of Article 154 as amended by Laws No. 1698-VII of 14 October 2014, No. 1798-VIII of 21 December 2016}

Article 155. Motion for suspension from office

1. The public prosecutor or the investigator with the concurrence of the public prosecutor shall have the right to approach the investigating judge in the course of pre-trial investigation or the court in the course of judicial proceedings with a motion for suspension of a person from his/her office. Public prosecutor shall have the right to apply for suspension of a person from office to the government authorities specified in part 3 of Article 154 hereof, and for dismissal from office of the Chairperson of the National Agency for the Prevention of Corruption and his/her Deputy, the Prosecutor General or the Deputy Prosecutor General –Head of the Specialised Anti-Corruption Prosecutor's Office – shall have the right to apply for suspension from office.

{Part 1 of Article 155 as amended by Laws No. 1700-VII of 14 October 2014, No. 140-IX of 2 October 2019}

2. The motion shall state:

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

3) description of circumstances laying grounds for suspecting the person of committing criminal offence, and reference to circumstances;

4) office held by this person;

5) statement of the circumstances which give grounds to believe that holding the office by the suspect or the accused contributed to perpetration of criminal offence;

6) statement of the circumstances which give grounds to believe that the suspect or the accused, if holding the office, will destroy or forge items and documents of essential importance for the pre-trial investigation, or exert illegal influence on witnesses and other participants to criminal proceedings, or otherwise illegally obstruct criminal proceedings;

7) list of witnesses whom the investigator or the public prosecutor considers necessary to examine during consideration of the motion.

The motion shall be also attached with:

1) copies of records used by the investigator or public prosecutor to support their arguments for the motion;

2) documents which prove that the suspect or the accused was provided with the copies of the motion and the records which substantiate the motion.

Article 155[1]. Temporary suspension of the judge from the administration of justice due to bringing to criminal liability and extension of the term of such temporary suspension

1. The decision on the temporary suspension of the judge from the administration of justice due to bringing him/her to criminal liability shall be adopted by the High Council of Justice

following the grounded motion filed by the Prosecutor General or his/her deputy in a manner prescribed by law.

2. The motion for the temporary suspension of the judge due to bringing him/her to criminal responsibility shall be submitted to the High Council of Justice against the judge who is the suspect or the accused (the defendant) at any stage of the criminal proceedings.

3. The motion for the temporary suspension of a judge from the administration of justice due to bringing him/her to criminal liability shall be in line with the requirements of part 2 of Article 155 hereof.

4. The Prosecutor General or his/her deputy shall have the right to file the motion to extend the temporary suspension of the judge from the administration of justice.

5. The motion to extend the term of the temporary suspension of the judge brought to criminal liability shall be submitted to the High Council of Justice against the judge who is the suspect or the accused (the defendant) at any stage of the criminal proceedings.

6. The motion to extend the term of the temporary suspension of the judge from the administration of justice due to bringing him/her to criminal liability shall be in line with requirements of part 2 of Article 155 hereof;

{The Code has been supplemented with Article 155[1] under Law No. 1798-VIII of 21 December 2016}

Article 156. Consideration of the motion for suspension from office

1. The motion for suspension of a person from his/her office shall be considered by the investigating judge or the court no later than three days after the date of submission of the motion to the court, with the participation of the investigator and/or public prosecutor, as well as the suspect or accused and his/her defence counsel.

2. Having established that the filed motion does not comply with the requirements of Article 152 hereof, the investigating judge or the court shall return it to the public prosecutor and adopt a ruling thereon.

3. When considering the motion, the investigating judge or the court shall have the right, upon motion of the parties to the criminal proceedings or proprio motu, hear any witness or examine any records of importance for deciding on the issue of suspension from office.

Article 157. Deciding on the issue of suspension from office

1. The investigating judge or the court shall dismiss the motion for suspension from office where the investigator or the public prosecutor fails to prove existence of reasonable grounds to believe that this measure is necessary to stop criminal offence, stop or prevent unlawful behaviour of the suspect or accused, who, if holding the office, may destroy or forge items and documents of essential importance for the pre-trial investigation, or exert illegal influence on witnesses and other participants to the criminal proceedings, or otherwise illegally obstruct criminal proceedings.

2. When deciding on the issue of suspension from office, the investigating judge or the court shall be required to take due account of following circumstances:

1) legal grounds for suspension from office;

2) sufficiency of evidence which indicates that the person has committed criminal offence;

3) implications of suspension from office for other persons.

3. Based on the outcome of consideration of the motion, the investigating judge or the court passes a ruling that shall state the following:

1) reasons for granting or rejection of the motion for suspension from office;

2) list of the documents which prove holding of this office by the person and which are subject to be returned to the person or to be removed for the period of this person's suspension from office;

3) period of suspension from office which shall not exceed two months;

4) procedure under which the ruling shall be enforced.

4. A copy of the ruling shall be sent to the person who has filed the corresponding motion, the suspect or accused, other persons concerned, not later than the day following the day of passing the ruling, and shall be executed without delay in accordance with the procedure established for execution of judicial decisions.

Article 158. Extending the period of suspension from office and its termination

1. Public prosecutor, and as for Head of the National Agency for the Prevention of Corruption, his/her Deputy – the Prosecutor General or the Deputy Prosecutor General – Head of the Specialised Anti-Corruption Prosecutor's Office, shall have the right to request an extension of the term of suspension from office which shall be considered in the manner prescribed by Article 156 hereof.

{Part 1 of Article 158 as amended by Laws No. 1700-VII of 14 October 2014, No. 140-IX of 2 October 2019}

2. The investigating judge or the court shall deny extending the period of suspension from office unless the public prosecutor proves that:

1) the circumstances which became the reasons for suspension from office continue to exist;

2) the prosecution was unable to otherwise ensure achievement of the goals, for the sake of which suspension from office was enforced, during the time the previous ruling was effective.

3. Suspension from office may be revoked by the decision of the investigating judge in the course of the pre-trial investigation or by the court ruling in the course of judicial proceedings, based on the motion filed by the public prosecutor or the suspect or accused who was suspended from office, where further enforcement of this measure is no longer required. Consideration of the motion for revocation of suspension from office shall follow the rules laid down for consideration of motion for enforcement of this measure.

Chapter 15. Provisional access to items and documents

Article 159. General provisions for provisional access to items and documents

1. Provisional access to items and documents consists in providing a party in criminal proceedings by the person who owns such items and documents with the opportunity to examine such items and documents, make copies thereof and seize them (execute seizure).

Provisional access to electronic information systems or their parts, mobile terminals of communication systems shall be conducted by removing a copy of the information contained in such electronic information systems or their parts, mobile terminals of communication systems, without removing them.

{Part 1 of Article 159 has been supplemented with paragraph 2 under Law No. 191-VIII of 12 February 2015}

{Part 1 of Article 159 as amended by Law No. 198-VIII of 12 February 2015}

2. Provisional access to items and documents shall be executed based on a ruling of the investigating judge or court.

Article 160. Motion to grant provisional access to items and documents

1. The parties to the criminal proceedings may apply to investigating judge during pre-trial investigation or to court during judicial proceedings, for granting provisional access to items and documents of criminal proceedings, apart from those specified in Article 161 hereof. Investigator shall have the right submit such motion upon approval of public prosecutor.

2. The motion shall state:

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

3) items and documents the provisional access to which is to be granted;

4) grounds to believe that the items and documents are or can be in possession of an individual or legal entity concerned;

5) significance of the items and documents for establishing circumstances in the criminal proceedings concerned;

6) possibility to use as evidence the information contained in the items and documents, and impossibility to otherwise prove circumstances which are supposed to be proved with the use of such items and documents, where the motion to grant provisional access pertains to items and documents containing secrets protected by law;

7) substantiation of the need to seize things and original documents or copies of documents, where the respective issue is raised by a party to criminal proceedings.

{Clause 7, part 2 of Article 160 as amended by Law No. 2213-VIII of 16 November 2017}

Article 161. Items and documents to which access is prohibited

1. Items and documents to which access is prohibited shall include:

1) correspondence or any other form of communication between defence counsel and his/her client or any person who represents his/her client, in connection with the provision of legal aid;

2) items which are attached to such correspondence or any other form of communication.

Article 162. Items and documents containing secrets protected by law

1. Secrets protected by law and contained in objects and documents shall be:

1) information in possession of a mass medium or a journalist and which was provided to them on condition that its authorship or source of information would not be disclosed;

2) information, which may constitute physician-patient privilege;

3) information which may constitute secrecy of notary's activity;

4) confidential information, including trade secrets;

5) information which may constitute bank secrecy;

6) personal correspondence of a person and other notes of personal nature;

7) information held by telecommunication operators and providers on communications, subscriber, rendering of telecommunication services including on receipt of services, their duration, content, routes of transmission etc.;

8) personal data of an individual which are in his/her personal possession or in personal database, which the possessor of personal data has;

9) state secret

10) secrecy of financial monitoring

{Part 1 of Article 162 has been supplemented with clause 10 under Law No. 361-IX of 6 December 2019}

Article 163. Consideration of the motion for provisional access to items and documents

1. After having received motion for provisional access to items and documents, investigating judge or court shall summon the person who possesses such items and documents, with the exception of the case specified in part 2 of this Article.

2. Where the party to criminal proceedings that filed the motion proves the presence of sufficient grounds to believe that a real threat exists of altering or destruction of the objects and documents concerned, the motion may be considered by investigating judge or court without summonsing the person who possesses them.

3. In the ruling to summon the person who possesses such objects and documents, investigating judge shall state that objects and documents should be preserved in the condition in which they are at the moment of receiving court summons.

4. Investigating judge or court shall consider the motion with participation of the party to criminal proceedings which filed the motion, and the person who possesses the items and documents, except as provide otherwise by part 2 of this Article. Non-compliance with court summons of a person who possesses the items and documents, without valid reasons, or his/her failure to inform of the reasons for non-appearance, shall not be obstacle for considering the motion.

5. Investigating judge or court shall issue the ruling to grant provisional access to items and documents if the party to criminal proceedings proves in its motion the existence of sufficient grounds to believe that the items or documents:

1) are or can be in possession of an individual or legal entity;

2) per se or in combination with other items and documents of the criminal proceedings concerned, are significant for establishing important circumstances in the criminal proceedings;

3) are not or do not include such items and documents that contain secrets protected by law.

6. Investigating judge or court shall issue the ruling to grant provisional access to items and documents containing secrets protected by law, if a party to criminal proceedings, in addition to circumstances specified in part 5 of this Article, proves the possibility to use as evidence the information contained in such items and documents, and impossibility by other means to prove the circumstances which are intended to be proved with the help of such items and documents.

The access of a person to items and documents containing secrets protected by law shall be granted according to the procedure laid down by law. Access to items and documents containing information that is a state secret, shall not be granted to a person who has no security clearance as required by law.

7. Investigating judge or court in a ruling on the provisional access to items and documents may order that possibility be provided for seizure of items and documents, if a party to criminal proceedings proves the existence of sufficient grounds to believe that without such seizure, a real threat exists of altering or destruction of the items and documents, or that such seizure is necessary for attaining the goal of obtaining the access to the items and documents.

Article 164. Ruling on the provisional access to items and documents

1. Investigating judge's, court's ruling on the provisional access to privileged items and documents shall include:

1) last name, first name, and patronymic of the person who is granted provisional access

2) date of ruling;

3) statutory provision under which the ruling has been passed;

4) last name, first name, and patronymic of an individual or name of the legal entity that shall grant provisional access to items and documents;

5) name, description, other information which make it possible to identify items and documents, to which access shall be granted;

6) order to grant (ensure) provisional access to items and documents to the person specified in the ruling, and to provide him/her the opportunity to seize the items and documents concerned if a respective decision has been adopted by investigating judge or court;

{Clause 6, part 1 of Article 164 as amended by Law No. 2213-VIII of 16 November 2017}

the term of validity of the ruling which may not exceed two months from the date of the ruling, except for the rulings issued to comply with the requirements of part 2 of Article 562 hereof;

{Clause 7, part 1 of Article 164 as revised by Law No. 361-IX of 6 December 2019}

8) statutory provisions, which establish implications of a failure to comply with the ruling of the investigating judge or court.

Article 165. Execution of the investigating judge's or court's ruling on the provisional access to items and documents

1. The person named in investigating judge's, court's ruling on provisional access to items and documents as the possessor of items and documents shall be required to give provisional access to objects and documents specified in the ruling to the person indicated in the investigating judge's, court's ruling.

2. The person indicated in the investigating judge's, court's ruling shall be required to produce the original, and hand over a copy, of the investigating judge's, court's ruling on provisional access to objects and documents to the person named in the ruling as the possessor of the objects and documents

3. A person producing a ruling on temporary access to items and originals or copies of documents shall leave to the owner of items and originals or copies of documents a list of items and originals or copies of documents seized in pursuance of the ruling of the investigating judge or court.

{Part 3 of Article 165 as amended by Law No. 2213-VIII of 16 November 2017}

4. Upon demand of possessor, the person who produces the ruling on provisional access to items and documents, shall be required to leave copies of seized original documents. Copies of seized documents shall be made using copying equipment, electronic means of the owner (upon his/her consent) or copying equipment, electronic means of the person who produces the ruling on provisional access to items and documents.

{Part 4 of Article 165 as amended by Law No. 2213-VIII of 16 November 2017}

Article 166. Implications of failure to execute court's ruling on provisional access to items and documents

1. In case of failure to execute court's ruling on provisional access to items and documents, investigating judge or court upon motion of the party to criminal proceedings, which has been granted access to items and documents based on the ruling, may pass a ruling authorising search in accordance with provisions of this Code, with the purpose of finding and seizing the items and documents concerned.

2. Where the authorisation of search was given upon motion of defence party, investigating judge or court shall assign the conduct of search to the investigator, public prosecutor or body of National Police at the venue of these actions. Search shall be conducted with participation of the person upon whose motion it was authorised, pursuant to provisions of this Code.

{Part 2 of Article 166 as amended by Law No. 901-VIII of 23 December 2015}

Chapter 16. Provisional seizure of property

Article 167. Grounds for provisional seizure of property

1. Temporary seizure of property shall mean the actual deprivation of the suspect or persons in possession of the property specified in part 2 of this Article the possibility to own, use and dispose of certain property until the issue is resolved of seizure or return, or its asset forfeiture in the manner prescribed by law.

{Part 1 of Article 167 as revised by Law No. 222-VII of 18 April 2013; as amended by Law No. 2617-VIII of 22 November 2018}

2. Property in the form of things, documents, money, etc., in respect of which there are sufficient grounds to believe that they:

2. The property in the form of items, documents, money, etc. may be provisionally seized where there are sufficient grounds to believe that such property:

2) was intended (used) to induce a person to commit a criminal offence, to finance and/or provide material support for a criminal offence or to be rewarded for its commission;

{Clause 2, part 2 of Article 167 as revised by Law No. 222-VII of 18 April 2013}

3) has been an object of a criminal offence related inter alia to its illegal trafficking;

{Clause 3, part 2 of Article 167 as amended by Law No. 222-VII of 18 April 2013}

4) has been gained as a result of commission of a criminal offence and/or is proceeds of such, as well as the property into which they have been fully or partially converted.

{Clause 4, part 2 of Article 167 as revised by Law No. 222-VII of 18 April 2013}

Article 168. Procedure for provisional seizure of property

1. Everyone who has lawfully apprehended a person as prescribed by Articles 207 208, 298[2] *hereof shall have the right to provisionally seize property. Everyone who has conducted lawful apprehension shall concurrently with bringing the apprehended person to the investigator, public prosecutor, or any other authorised official to hand over provisionally seized property to the latter. A record shall be drawn up to attest the fact that provisionally seized property has been handed over.*

{Part 1 of Article 168 as amended by Law No. 2617-VIII of 22 November 2018}

2. Property may also be provisionally seized during search or examination.

Temporary seizure of electronic information systems or their parts, mobile terminals of communication systems for the study of physical properties that are important to criminal proceedings shall be conducted only where they are directly specified in the court ruling.

{Part 2 of Article 168 has been supplemented with paragraph 2 under Law No. 191-VIII of 12 February 2015}

Temporary seizure of electronic information systems or their parts, mobile terminals of communication systems shall be prohibited, except when their provision together with the information contained in them is a necessary condition for expert research, or where such objects are obtained as a result of criminal offence or they are means or tools of its commission, as well as where access to them is restricted by their owner, possessor or holder or is associated with breaking the system of logical security.

{Part 2 of Article 168 has been supplemented with paragraph 3 under Law No. 2213-VIII of 16 November 2017}

Where necessary, the investigator or prosecutor shall copy the information contained in information (automated) systems, telecommunication systems, information and telecommunication systems, and their integral parts. Copying of such information shall be conducted with the involvement of a specialist.

{Part 2 of Article 168 has been supplemented with paragraph 4 under Law No. 2213-VIII of 16 November 2017}

3. The investigator, public prosecutor or other authorised official during the detention or search and provisional seizure of property or immediately after their implementation shall draw up a report, a copy of which shall be provided to the person from whom the property was seized, or his/her representative.

{Part 3 of Article 168 as amended by Law No. 394-VIII of 13 May 2015}

4. After the provisional seizure of property, the authorised official shall ensure the safety of such property under procedure established by the Cabinet of Ministers of Ukraine.

Article 169. Terminating provisional seizure of property

1. Provisionally seized property shall be returned to the person from whom it has been seized:

1) upon public prosecutor's ruling, where he finds that the seizure was ill-grounded;

2) upon the ruling of investigating judge or court, if it dismisses public prosecutor's motion to attach the property;

3) where provided for by part 5 of Article 171 andpart six of Article 170 of this Code.

4) in cases where attachment is cancelled;

{Part 1 of Article 169 has been supplemented with clause 4 under Law No. 222-VII of 18 April 2013}

5) by a court sentence in criminal proceedings in respect of a criminal offence.

{Part 1 of Article 169 has been supplemented with clause 5 under Law No. 2617-VIII of 22 November 2018}

2. A copy of the court decision on refusal or partial satisfaction of the motion for attachment of temporarily seized property, a copy of the court decision on full or partial revocation of attachment of temporarily seized property shall be handed over to the investigator or public prosecutor immediately after its announcement. In the absence of the investigator or public prosecutor during the announcement of the court decision, a copy shall be forwarded to such persons no later than the next working day.

{Article 169 has been supplemented with part 2 under Law No. 187-IX of 04 October 2019}

3. The investigator or public prosecutor after receiving the court decision on refusal or partial satisfaction of the request for attachment of temporarily seized property, the court decision on full

or partial revocation of attachment of temporarily seized property shall immediately take measures to enforce the court decision and send a notice of its execution to the investigating judge.

{Article 169 has been supplemented with part 3 under Law No. 187-IX of 04 October 2019}

Chapter 17. Attachment of property

Article 170. Procedure for attachment of property

1. Attachment of property shall mean temporary, until revoked in the manner prescribed by this Code, deprivation by decision of the investigating judge or court of the right to alienate, dispose of and/or use property in respect of which there are grounds to reasonably suspect that it is evidence of a criminal offence, subject to asset forfeiture from the suspect, accused, convicted person, third parties, confiscation from a legal entity, to secure a civil action or recovery from the legal entity of the received improper advantage, probable forfeiture of property. Attachment of property shall be revoked in the manner prescribed by this Code.

{Paragraph 1, part 1 of Article 170 as amended by Law No. 720-IX of 17 June 2020}

Attachment of property shall aim to prevent the possibility of its concealment, damage, deterioration, destruction, transformation or alienation. The investigator or public prosecutor shall take all necessary measures to identify and search for property that may be attached in criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes, other government authorities and local governments, individuals and legal entities. The investigator or public prosecutor shall take all necessary measures to identify and search for property that may be attached in criminal proceedings, in particular by requesting the necessary information from the National Agency of Ukraine for Detection, Search and Management of Assets Obtained from Corruption and Other Crimes, other government authorities and local governments, individuals and legal entities.

{Part 1 of Article 170 as amended by Law No. 772-VIII of 10 November 2015}

2. Attachment of property shall be allowed in order to ensure:

1) preservation of physical evidence;

2) asset forfeiture;

3) forfeiture of property as a type of punishment or measure of a criminal law nature against a legal entity;

4) compensation for damage caused as a result of a criminal offence (civil action), or recovery of improper advantage received from a legal entity.

3. Where provided for by clause 1, part 2 of this Article, attachment shall be imposed on the property of any individual or legal entity where there are sufficient grounds to believe that it meets the criteria specified in Article 98 hereof.

Attachment may also be imposed on property that has previously been seized in accordance with other legislative acts. In this case, the ruling of the investigating judge or court on the attachment of property in accordance with the rules of this Code shall be subject to execution.

{Part 3 of Article 170 has been supplemented with paragraph 2 under Law No. 772-VIII of 10 November 2015}

It is prohibited to attach funds in a single account opened in the manner prescribed by Article 35[1] of the Tax Code of Ukraine, on funds in the accounts of taxpayers in the system of electronic administration of value added tax, on funds which are on current accounts with a special mode of use opened under Article 15[1] of the Law of Ukraine "On Electricity", on current accounts with a special mode of use opened pursuant to Article 19[1] of the Law of Ukraine "On Heat Supply", on current accounts with a special mode of use for settlements under investment programmes, on current accounts with a special mode of use for credit funds opened pursuant to Article 26[1] of the Law of Ukraine "On Heat Supply" and of Article 18[1]of the Law of Ukraine "On Drinking Water, Drinking Water Supply and Drainage", on a special account of the operating organisation (operator) under the Law of Ukraine "On Streamlining Issues Related to Nuclear Safety".

{Part 3 of Article 170 has been supplemented with paragraph 3 under Law No. 559-IX of 13 April 2020 – the amendments shall take effect from the day following the day of publication, in terms of seizure of funds in a single account opened in the manner prescribed by Article 35[1]of the Tax Code from 1 January 2021}

4. Where provided for by clause 2, part 2 of this Article, attachment shall be imposed on the property of a suspect, accused, convict or a third party provided there are sufficient grounds to believe that it will be subject to asset forfeiture where provided for by the Criminal Code of Ukraine.

Attachment shall be imposed on the property of a third party where it acquired it free of charge or at a price higher or lower than the market value, and knew or should have known that such property meets any of the criteria provided for by clauses 1–4, part 1 of Article 96[2] of the Criminal Code of Ukraine.

{Paragraph 2, Part 4 of Article 170 as revised by Law No. 187-IX of 04 October 2019}

5. Where provided for by clause 3, part 2 of this Article, attachment shall be imposed on the property of a suspect, accused, convict or legal entity subject to proceedings, provided there are sufficient grounds to believe that the court in cases prescribed by the Criminal Code of Ukraine may impose a punishment of forfeiture of property or apply a measure of criminal law nature to a legal entity in the form of forfeiture of property.

6. Where provided for by clause 4, part 2 of this Article, attachment shall be imposed on the property of a suspect, accused, convict, individual or legal entity who is legally liable for damage caused by acts (omission) of a suspect, accused, convict or insane person. the person who committed a socially dangerous act, as well as the legal entity in respect of which the proceedings are conducted, in the presence of a reasonable amount of civil action in criminal proceedings, as well as a reasonable amount of improper advantage received by the legal entity under proceedings.

Where a civil action or recovery from a legal entity of the amount of improper advantage is sustained, the court at the request of the prosecutor or civil plaintiff may decide to attach property to secure a civil action or recovery from the legal entity in respect of which the proceedings are taken by decision of well-grounded amount of the received improper advantage before the entry into force of the court decision, where such measures have not been taken before.

Attachment may be imposed on property that has previously been seized in accordance with other legislative acts. In this case, the ruling of the investigating judge or court on the attachment of property in accordance with the rules of this Code shall be subject to execution.

8. The value of the property to be attached for the purpose of securing a civil action or recovery of the received improper advantage shall be commensurate with the amount of damage caused by the criminal offence or specified in the civil action, the amount of improper advantage received by the legal entity.

9. In urgent cases and solely for the purpose of preserving physical evidence or ensuring possible confiscation or special forfeiture of property in criminal proceedings in respect of grave or special grave crimes by the decision of Director of the National Anti-Corruption Bureau of Ukraine (or his/her Deputy), agreed by the prosecutor, provisional attachment of property or funds on the accounts of individuals or legal entities in financial institutions may be imposed. Such measures shall be applied for up to 48 hours. Immediately after making such a decision, but not later than within 24 hours, a public prosecutor shall apply to the investigating judge with a request to attach the property.

Where a public prosecutor fails to apply to the investigating judge for the attachment of property within the period specified in this part, or where such a motion is denied, the provisional attachment of property or funds shall be deemed revoked and the attached property or funds shall be returned to the person immediately.

10. Attachment may be imposed in the manner prescribed by this Code on movable or immovable property, money in any currency in cash or in non-cash form, including funds and valuables in bank accounts or in custody in banks or other financial institutions, expenditure transactions, securities, property, corporate rights, in respect of which the decision or ruling of the investigating judge or court determined the need to attach property.

Property shall not be attached where it is owned by a bona fide purchaser, except for the seizure of property in order to ensure the preservation of physical evidence.

11. Prohibition or restriction of use, disposal of property may be applied only when there are circumstances that confirm that their non-application will result in concealment, damage, deterioration, disappearance, loss, destruction, use, transformation, movement or transfer of property.

12. Prohibition on use of living quarters where any persons reside on legitimate grounds shall not be allowed.

{Article 170 as amended by Laws No. 222-VII of 18 April 2013, No. 314-VII of 23 May 2013, No. 1698-VII of 14 October 2014, No. 198-VIII of 12 February 2015; as revised by Law No. 769-VIII of 10 November 2015; Title of Article 170 as revised by Law No. 1019-VIII of 18 February 2016}

Article 171. Motion for attachment of property

1. Public prosecutor an investigator in agreement with the prosecutor, and also a civil plaintiff in order to secure a civil action, shall have the right to apply to the investigating judge or court for the attachment of property.

2. Investigator's or public prosecutor's motion for the attachment of property shall include:

1) the grounds and purpose in accordance with the provisions of Article 170 hereof and the respective substantiation for the need to attach property;

2) list and types of property to be attached;

3) documents confirming the right to property to be attached, or specific facts and evidence proving the possession, use or disposal of such property by the suspect, accused, convict of third party;

4) the amount of damage, improper advantage received by the legal entity, in the case of filing a motion in accordance with part 6 of Article 170 hereof.

{Clause 4, part 2 of Article 171 as amended by Law No. 1019-VIII of 18 February 2016}

The motion shall also be attached original documents or copies of documents and other records with which investigator or public prosecutor substantiate their arguments.

{Part 2 of Article 171 as revised by Law No. 769-VIII of 10 November 2015}

3. A motion of a civil plaintiff in criminal proceedings for the attachment of property of a suspect, accused, legal entity in respect of which the proceedings are being conducted, third parties for compensation for damage caused by a criminal offence, shall specify:

1) the amount of damage caused by a criminal offence, as well as the amount of claims;

2) evidence that confirms the fact of inflicting damage and the amount of such damage.

{Part 3 of Article 171 as amended by Law No. 314-VII of 23 May 2013; as revised by Law No. 769-VIII of 10 November 2015}

{Part 4 of Article 171 has been deleted under Law No. 769-VIII of 10 November 2015}

5. Investigator, public prosecutor shall submit motion for the attachment of provisionally seized property not later than the next working day after the attachment of property, otherwise the property has to be immediately returned to the person from whom it has been seized.

In the event of provisional attachment of property during a search, inspection conducted pursuant the ruling of the investigating judge, provided for by Article 235 hereof, a request for attachment of such property shall be filed by an investigator or public prosecutor within 48 hours after the seizure of property, otherwise the property shall be immediately returned to the person from whom it has been seized.

{Part 5 of Article 171 has been supplemented with paragraph 2 under Law No. 769-VIII of 10 November 2015; as amended by Law No. 1019-VIII of 18 February 2016}

Article 172. Consideration of a motion for attachment of property

1. Motion for attachment of property shall be considered by the investigating judge or court not later than two days after it has been lodged, with participation of the investigator and/or public prosecutor, civil plaintiff, if he/she has filed the motion, suspect, accused, other holder of property, and also of the defence counsel, legal representative and representative of the legal entity in whose

respect proceedings are taken, if any. Failure to appear by these persons at the court session shall not preclude consideration of the motion.

{Part 1 of Article 172 as amended by Law No. 314-VII of 23 May 2013}

2. A motion of investigator, public prosecutor or civil plaintiff for the attachment of property which has not been provisionally seized may be considered without notifying the suspect, accused, other holder of property, their defence counsel or legal representative and the representative of the legal entity in whose respect proceedings are taken where this is necessary to ensure attachment of property.

{Part 2 of Article 172 as amended by Law No. 314-VII of 23 May 2013}

3. Having established that motion for attachment of property has been filed disregarding the requirements of Article 171 of the present Code, the investigating judge or court shall return the motion to the public prosecutor or civil plaintiff for correction of deficiencies within seventy two hours, and adopt an appropriate ruling thereon. In this case the property provisionally seized from a person shall be subject to immediate recovery on expiration of the period determined by the judge or, where a motion is filed within the period determined by the judge after the deficiencies have been rectified, upon consideration of the motion and its dismissal.

{Part 3 of Article 172 as amended by Laws No. 222-VII of 18 April 2013, No. 769-VIII of 10 November 2015}

4. During consideration of the motion for attachment of property, investigating judge shall have the right, upon motion of participants to consideration or proprio motu, hear any witness or examine any records which are important for deciding the issue of property attachment.

Article 173. Disposing the issue of property attachment

1. The investigating judge or court shall refuse to grant a request for seizure of property if the person who has filed it does not prove the need for such seizure, as well as the risks provided for by paragraph 2, part 1 of Article 170 hereof.

{Paragraph 1, part 1 of Article 173 as amended by Law No. 769-VIII of 10 November 2015}

It shall not be allowed to seize the property/ funds of a bank classified as insolvent, a bank in respect of which a decision has been made to revoke the banking license and liquidate the bank on the grounds specified by Article 77 of the Law of Ukraine “On Banks and Banking” (except for liquidation of the bank by the decision of its owners), property/funds of the Deposit Guarantee Fund, as well as a ban on actions of other persons during the sale by the Deposit Guarantee Fund the bank’s assets classified as insolvent and the bank being liquidated in accordance with the Law of Ukraine “On the Deposit Guarantee System for Individuals”.

{Part 1 of Article 173 has been supplemented with paragraph 2 under Law No. 629-VIII of 16 July 2015; as revised by Law No. 590-IX of 13 May 2020}

2. When disposing the issue of property attachment, investigating judge or court shall have regard to the following:

1) statutory ground for the attachment of property;

2) the possibility of using property as evidence in criminal proceedings (where the seizure of property is imposed where provided for by clause 1, part 2 of Article 170 hereof);

{Clause 2, part 2 of Article 173 as amended by Law No. 1019-VIII of 18 February 2016}

3) the existence of reasonable suspicion of committing a criminal offence or socially dangerous act that falls under an act provided for by the law of Ukraine on criminal liability (if the seizure of property is imposed in cases provided for by clause 3, 4, part 2 of Article 170 of this Code);

{Clause 3, part 2 of Article 173 as amended by Law No. 1019-VIII of 18 February 2016}

3[1]) the possibility of asset forfeiture of property (where the seizure of property is imposed in the case provided for by clause 2 of part 2 of Article 170 of this Code);

{Part 2 of Article 173 has been supplemented with clause 3[1] under Law No. 1019-VIII of 18 February 2016}

4) the amount of damage caused by a criminal offence, improper advantage received by a legal entity (where the seizure of property is imposed in the case provided for by clause 4, part of Article 170 of this Code);

{Clause 4, part 2 of Article 173 as amended by Law No. 1019-VIII of 18 February 2016}

5) reasonableness and commensurability of restricting the right to property with the objective of the criminal proceedings.

6) the consequences of the seizure of property for the suspect, accused, convict or third parties.

{Part 2 of Article 173 as revised by Law No. 769-VIII of 10 November 2015}

3. Dismissing or partial granting of a motion for the attachment of property shall entail the return of all or a part of temporarily seized property, respectively, to the person concerned.

4. Where the petition is granted by the investigating judge, the court shall use the least onerous method of attaching property. The investigating judge or court shall use such a method of attachment of property, which will not result in the suspension or excessive restriction of lawful business activities of the person, or other consequences that significantly affect the interests of others.

5. Where the motion is granted by the investigating judge, the court shall issue a ruling stating:

1) list of property to be attached;

{Clause 1, part 5 of Article 173 as amended by Law No. 769-VIII of 10 November 2015}

2) grounds for property attachment;

3) list of provisionally seized property to be returned to the person concerned where such decision is taken;

{Clause 3, part 5 of Article 173 as amended by Law No. 769-VIII of 10 November 2015}

4) prohibition on disposing of or using the property if such prohibition is stipulated, and indication of such property;

{Clause 4, part 5 of Article 173 as revised by Law No. 769-VIII of 10 November 2015}

5) the procedure for enforcement of the ruling indicating the method of informing the parties concerned.

{Clause 5, part 5 of Article 173 as revised by Law No. 769-VIII of 10 November 2015}

6. Investigating judge or court shall pass the ruling to attach provisionally seized property within seventy two hours after the motion has been received, otherwise such property has to be returned to the person from whom it has been seized.

7. A copy of the ruling shall be handed to the investigator or public prosecutor, as well as to those present during the announcement of the ruling as follows:

an individual or legal entity, in respect of whose property the issue of seizure was resolved, in resolving the issue of seizure of property in order to ensure the preservation of physical evidence;

a suspect, accused, convict or a third party, when deciding on the attachment of property in order to ensure asset forfeiture;

a suspect, accused, convict or legal entity in respect of which the proceedings are conducted, when deciding on the attachment of property in order to ensure the confiscation of property as a form of punishment or a measure of a criminal law nature against the legal entity;

a suspect, accused, convict, individual or legal entity who, in accordance with the law, is civilly liable for damage caused by the acts (omission) of a suspect, accused, convict or insane person who has committed a socially dangerous act, as well as a legal entity subject to proceedings, when resolving the issue of attachment of property in order to ensure compensation for damage caused as a result of a criminal offence (civil action), or recovery from the legal entity of the received improper advantage.

In the absence of such persons during the announcement of the ruling, a copy of the ruling shall be sent to them no later than the next working day after its adoption.

a suspect, accused, third parties shall have the right to defence, the right to appeal against the court decision on the attachment of property.

{Part 7 of Article 173 as amended by Law No. 314-VII of 23 May 2013; as revised by Law No. 769-VIII of 10 November 2015; as amended by Law No. 772-VIII of 10 November 2015; as revised by Law No. 1021-VIII of 18 February 2016}

8. Property or money of a client of an insolvent bank seized by a court before the day of classifying the bank as insolvent may be transferred to the host, transitional bank or specialised institution established by the Deposit Guarantee Fund in the manner prescribed by the legislation on the system of guaranteeing deposits of individuals with a written notice to the Deposit Guarantee Fund of the person in whose interests the attachment was imposed. In this case, the transferred property or sums of money shall remain encumbered in accordance with the court's decision to attachment.

{Article 173 has been supplemented with part 8 under Law No. 629-VIII of 16 July 2015}

Article 174. Revocation of property attachment

1. A suspect, accused, their defence counsel, legal representative, other owner or holder of property and representative of the legal entity in whose respect proceedings are taken, who were absent during consideration of the issue of property attachment shall have the right to file a motion to revoke property attachment fully or in part. Such motion shall considered in the course of pre-trial investigation by investigating judge, and during court proceedings it shall be considered by court.

{Paragraph 1, part 1 of Article 174 as amended by Law No. 314-VII of 23 May 2013}

Property attachment may also be revoked fully or in part by an investigating judge's ruling in the course of pre-trial investigation or by court during judicial proceedings, upon motion of a suspect, accused, their defence counsel, legal representative, other owner or holder of property or representative of the legal entity in whose respect proceedings are taken if they prove that there is no need for continued application of this measure, or that the attachment was ungrounded.

{Paragraph 2, part 1 of Article 174 as amended by Law No. 314-VII of 23 May 2013}

2. Investigating judge or court shall consider the motion to revoke property attachment within three days after such motion has been received by court. The person who filed the motion and the person upon whose motion the property has been attached shall be notified of the time and place of the consideration of the motion.

3. The public prosecutor while revoking property attachment shall adopt a ruling on terminating the criminal proceedings and revoke attachment of property unless such is subject to asset forfeiture.

{Part 3 of Article 174 as amended by Law No. 222-VII of 18 April 2013}

4. The court concurrently with adopting a judgment in the end of court proceedings shall dispose the issue of revoking property attachment. The court shall revoke property attachment in particular, in cases of acquittal of the accused, termination of criminal proceedings by court unless the property is subject to asset forfeiture, non-imposition of a court punishment in the form of confiscation of property and/or non-application of asset forfeiture, leaving the civil action undecided or dismissal of the civil claim.

{Part 4 of Article 174 as amended by Law No. 222-VII of 18 April 2013}

Article 175. Execution of the ruling on the attachment of property

1. Ruling on the attachment of property shall be immediately executed by investigator or public prosecutor.

Chapter 18. Measures of restraint, apprehension of a person

§ 1. Measures of restraint, apprehension of a person based on investigating judge's, court's ruling

Article 176. General provisions relating to measures of restraint

1. The measures of restraint shall be as follows:

1) personal commitment;

2) personal warranty;

3) bail;

4) house arrest;

5) custody.

2. Provisional measure of restraint shall mean apprehension of a person which is enforced on grounds and according to the procedure laid down in the present Code.

3. Investigating judge or court shall deny enforcement of a measure of restraint unless investigator, public prosecutor proves that circumstances established in the course of considering the motion on enforcement of measures of restraint are sufficient for belief that none of the less strict measures of restraint specified in part 1 of this Article, can prevent the risk or risks proved in the course of consideration. In this respect, the least strict measure of restraint shall be personal commitment, and the most strict measure shall be taking into custody.

4. Measures of restraint shall be enforced: during pre-trial investigation, by investigating judge upon motion of investigator approved by public prosecutor, or upon motion of public prosecutor; and during judicial proceedings, by court upon motion of public prosecutor.

{The provision of part 5 of Article 176 has been recognised inconsistent with the Constitution of Ukraine(unconstitutional), in accordance with the Decision of the Constitutional Court No. 7-r/2019 of 25 June 2019} Restrictive measures in the form of personal commitment, personal bail, house arrest, bail shall not be applied to persons suspected or accused of committing crimes under Articles 109–114[1], 258–258[5], 260, 261 of the Criminal Code of Ukraine

{Article 176 has been supplemented with part 5 under Law No. 1689-VII of 7 October 2014}

Article 177. Purpose and grounds for enforcement of measures of restraint

1. The purpose of a measure of restraint is to ensure the compliance of the suspect or accused with procedural obligations imposed on him/her, as well as to prevent attempts to:

1) hide from pre-trial investigation agency and/or the court;

2) destroy, conceal or spoil any of objects or documents that have essential importance for establishing circumstances of criminal offence;

3) exert unlawful influence on the victim, witness, another suspect, accused, expert or specialist in the same proceedings;

4) obstruct criminal proceedings in other way;

5) commit similar or the same criminal offence, or continue the criminal offence of which he/she is suspected or charged.

2. Grounds for enforcement of a measure of restraint shall be the existence of reasonable suspicion of having committed a criminal offence, as well as the existence of risks that provide sufficient grounds to investigating judge, court to believe that the suspect, accused or convict can commit actions specified in part 1 of this Article The investigator or public prosecutor shall not have the right to initiate application of a measure of restraint without grounds provided for by this Code.

Article 178. Circumstances taken into account in choosing a measure of restraint

1. To decide on the issue of choosing a measure of restraint, in addition to the existence of risks specified in Article 177 of this Code, investigating judge, court, drawing upon records submitted by the parties to the criminal proceedings shall assess the totality of circumstances including:

1) importance of available evidence concerning the commission of criminal offence by the suspect or accused;

2) severity of punishment which can be imposed on the person concerned if the suspect or accused is found guilty of the commission of the criminal offence he/she is suspected or charged of;

3) age and state of health of the suspect or accused;

4) firmness of social relations the suspect or accused has in the place of his/her permanent residence, including whether he/she has a family and dependants;

5) whether the suspect or accused has the place of permanent employment or study;

6) reputation of the suspect or accused;

7) property status of the suspect or accused;

8) previous convictions of the suspect or accused;

9) compliance by the suspect or accused with terms of previously enforced measures of restraint, if any;

10) existence of the notice that the person concerned is suspected of having committed another criminal offence;

11) the amount of property damage, in causing which a person is suspected or accused, or the amount of proceeds, resulting from committing a criminal offence a person is suspected or accused of, and also, the validity of available evidence justifying the appropriate circumstances;

12) the risk of continuation or repetition of illegal behaviour, in particular the risk of mortality created by the suspect or accused, including in connection with his/her access to weapons.

{Part 1 of Article 178 has been supplemented with clause 12 under Law No. 2227-VIII of 6 December 2017}

Article 179. Personal commitment

1. Personal commitment shall consist in submission on the suspect or accused of an obligation to perform duties imposed on him/her by investigating judge or court as specified in Article 194 hereof.

2. The suspect or accused shall be notified, in written form against his/her signature, of duties imposed on him/her, and advised that in case of non-observance, he/she may be applied a more strict measure, and he/she may be imposed a pecuniary penalty in the amount of 0.25 to 2 times minimum subsistence wages of employable people.

{Part 2 of Article 179 as revised by Law No. 1791-VIII of 20 December 2016}

3. Control over the observance of personal commitment shall be conducted by an investigator, and if the case is in the course of court proceedings, it shall be conducted by a public prosecutor.

Article 180. Personal warranty

1. Personal warranty shall consist in the giving by persons whom investigating judge or court regard as worthy of confidence, of a written obligation that they warrant the observance by the suspect or accused of duties imposed on him/her in accordance with Article 194 of this Code, and undertake, where necessary, to bring him/her to the pre-trial investigation agency or to the court at first request.

2. Number of warrantors shall be determined by the investigating judge or court which chooses the measure of restraint concerned. Presence of a single warrantor may be recognised as sufficient only provided he/she is a person worthy of special confidence.

3. Warrantors shall be advised of what criminal offence the person concerned is suspected or accused, of the statutory punishment for the commission thereof, of warrantor's duties and of the implications of non-fulfilment, of the right to waive assumed obligations and the procedure for the exercising of this right.

4. Warrantor shall have the right to waive assumed obligations before the emergence of grounds for his/her liability. In such case, he/she shall ensure the appearance of the suspect or accused at the pre-trial investigation agency or court for disposal of the issue of replacing his/her measure of restraint for another one.

5. In the event of non-fulfilment by warrantor of assumed obligations, he/she shall be imposed pecuniary penalty in the amount:

1) in proceedings on a criminal offence punishable by imprisonment for a term nor exceeding three years, or by other, less severe punishment, of two to five minimum subsistence levels of employable persons;

{Clause 1, part 5 of Article 180 as amended by Law No. 1791-VIII of 20 December 2016}

2) in proceedings on a crime punishable by imprisonment for a term of three to five years, it shall be punishable by five to ten times minimum wages;

{Clause 2, part 5 of Article 180 as amended by Law No. 1791-VIII of 20 December 2016}

3) in proceedings on a crime punishable by imprisonment for a term of five to ten years, it shall be punishable by ten to twenty times minimum wages;

{Clause 3, part 5 of Article 180 as amended by Law No. 1791-VIII of 20 December 2016}

4) in proceedings on a crime punishable by imprisonment for a term of over ten years, it shall be punishable by twenty to fifty times minimum wages.

{Clause 4, part 5 of Article 180 as amended by Law No. 1791-VIII of 20 December 2016}

6. Control over the fulfilment of personal warranty obligations shall be conducted by an investigator, and if the case is in the course of court proceedings, it shall be conducted by a public prosecutor.

Article 181. House arrest

1. House arrest shall consist in prohibition to the suspect or accused to leave his/her home on the 24/7 basis or during a certain period of day.

2. House arrest may be applied to a person who is suspected or accused of committing a crime punishable by imprisonment.

3. The decision to choose a measure of restraint in the form of house arrest shall be submitted for execution to the body of the National Police at the place of residence of the suspect or accused.

{Part 3 of Article 181 as amended by Law No. 901-VIII of 23 December 2015}

4. The National Police Authority shall immediately register the person subject to the house arrest as a measure of restraint and notify the investigator or the court where the precautionary measure was applied during the court proceedings.

{Part 4 of Article 181 as amended by Law No. 901-VIII of 23 December 2015}

5. In order to monitor the conduct of a suspect or accused who is under house arrest, officers of the National Police shall have the right to appear at that person's home, to demand oral or written explanations on issues related to the fulfilment of his/her duties, use electronic means of control.

{Part 5 of Article 181 as amended by Law No. 901-VIII of 23 December 2015}

6. The term of validity of the decision of the investigating judge on keeping a person under house arrest shall not exceed two months. Where necessary, the term of house arrest may be extended at the request of a public prosecutor within the pre-trial investigation in the manner prescribed by Article 199 hereof. The total period of detention under house arrest during the pre-trial investigation shall not exceed six months. Upon termination of this period, the ruling concerning application of the measure of restraint in the form of house arrest shall be valid no longer, and the measure of restraint shall be deemed revocated.

Article 182. Pledge

1. Bail shall consist in paying in of funds, in the legal tender of Ukraine, to a special account determined according to the procedure approved by the Cabinet of Ministers of Ukraine, with the purpose of ensuring the observance by the suspect or accused of obligations imposed on him/her, on condition of reverting the paid-in funds to the state’s revenue in case of non-observance of such duties. Where so warranted by part 3 or 4 of Article 183 of this Code, the investigating judge or court may by their ruling decide whether bail shall be applied to a person to whom custodial restraint is already applied.

2. Bail may be paid both by the suspect or accused himself/herself and by any other individual or legal entity (bail bondsman). No legal entity in the state or communal ownership, or one financed out of a local budget, state budget or that of the Autonomous Republic of Crimea, or in the charter capital of which there is a stake that belongs to the state or to an enterprise in state or communal ownership shall be a bail bondsman.

3. When bail is applied as a measure of restraint, the suspect, accused shall be informed of his/her duties and implications of non-fulfilment, and the bail bondsman shall be informed of the criminal offence that the person concerned is suspected or accused of, the statutory punishment for the commission thereof, the duties of ensuring proper behaviour of the suspect or accused and his/her appearance upon summons, as well as implications of non-fulfilment of such duties.

Where a bail is posted pursuant to a ruling of the investigating judge or court issued in respect of a person to whom a custodial restraint is already applied, the above information shall be provided by an authorised officer of the place of confinement

4. The amount of bail shall be determined by investigating judge or court with due account of circumstances of the criminal offence, of the property and family status of the suspect, accused, other data on the person and risks as specified in Article 177 hereof. Bail amount shall be required to sufficiently guarantee the fulfilment by the suspect or accused of obligations imposed upon him/her, and may not be deliberately crippling for him/her.

5. The amount of bail shall be determined within the following limits:

1) one to twenty times the minimum wage in respect of a person suspected or charged with the commission of a minor offence;

{Clause 1, part 5 of Article 182 as amended by Law No. 2617-VIII of 22 November 2018}

2) twenty to eighty times the minimum wage in respect of a person suspected or charged with the commission of a grave offence;

3) eighty to three times the minimum wage in respect of a person suspected or charged with the commission of a special grave offence.

In exceptional cases, where the investigating judge or the court finds that the bail in the amount specified will not suffice to ensure fulfilment of the obligations imposed on a person suspected of or charged with the commission of a grave or special grave offence, the bail may be established in the amount exceeding eighty or three thousand times the minimum wage accordingly.

{Part 5 of Article 182 as amended by Law No. 1774-VIII of 6 December 2016}

6. A suspect or accused person who is not in custody shall by no later than five days of determination of bail be required to deposit the funds into the respective account or ensure that this amount is deposited by a bail bondsman and submit documental proof thereof to the investigator, public prosecutor or the court. These actions may take place later than five days from the time when decision to apply restrictive measure in the form of bail was rendered, unless during this time it is decided to apply a different restrictive measure. As of the moment of determination of bail as a measure of restraint in regard of a person who is not in custody, inter alia until the money is actually deposited in an appropriate account, and also after the suspect or accused shall be released following the depositing of bail in the amount established by the investigating judge, court in its order to apply such restrictive measure as putting into custody, the suspect or accused person, bail bondsman shall be required to fulfil obligations imposed upon them in relation to bail as a measure of restraint.

7. Where so provided for by part 3 or 4 of Article 183 of this Code, the suspect or accused person or bail bondsman may at any time exercise their right to post bail in the amount determined in the ruling on application of a custodial measure of restraint.

8. In case of non-fulfilment of his/her duties by the bail bondsman, as well as in the case that the suspect or accused person, upon proper notice, fails to appear on summons before the investigator, public prosecutor, investigating judge or court without a valid excuse, or failed to

inform of the reasons for non-appearance, or violated any other duties imposed upon him/her in connection with the measure of restraint, the bail shall be reverted into the state's revenue, be credited to the special fund of the State Budget of Ukraine, and used in compliance with the procedure established by law for use of court fees.

9. The issue of reverting bail into the state's revenue shall be disposed by investigating judge or court upon motion of the public prosecutor or at the court's discretion in a court session attended by suspect, accused, bail bondsman, in compliance with the procedure established for consideration of motions on choosing a measure of restraint. Non-appearance in court session of the above persons, granted they have been duly notified of the place and time of consideration of the issue, shall not preclude the holding of the court session.

10. Where bail is reverted into the revenue of the state, the investigating judge or court shall decide the issue of applying to the suspect or accused person another measure of restraint in form of bail in a higher amount or another measure of restraint, having regard to provisions of part 7 of Article 194 hereof.

11. Bail which has not been forfeited to the state shall be returned to the suspect, accused or bail bondsman after such measure of restraint expires. The bail paid in by the suspect or accused may be, in full or in part, reverted by court to the execution of sentence in respect of punishment involving property. The bail paid in by a bail bondsman may be reverted by court to the execution of sentence in respect of punishment involving property, only upon his/her consent.

Article 183. Keeping in custody

1. Keeping in custody shall be an exceptional measure of restraint enforced exclusively where public prosecutor proves that none of the less strict measures of restraint can prevent risks specified in Article 177 hereof except for the cases specified by part 5 of Article 176 hereof.

{Part 1 of Article 183 as amended by Law No. 1689-VII of 7 October 2014}

2. Custody as measure of restraint shall not apply except as follows:

1) a person suspected of or charged with an offence the primary punishment for which by law is a fine in the amount exceeding 3,000 times the minimum income, exceptionally where the public prosecutor, in addition to the grounds provided for by Article 177 of this Code, has proven that the suspect, accused person failed to fulfil the obligations imposed upon him when an earlier measure of restraint or failed to comply as prescribed with the requirements concerning depositions of bail and submission of documentary proof of such deposition;

2) a person with prior record of convictions who is suspected of or charged with an offence punishable by imprisonment of up to three years, exceptionally where the public prosecutor, in addition to the grounds provided for by Article 177 of this Code, has proven that such person, when at large, was fleeing pre-trial investigation or court proceedings, obstructed criminal proceedings or has been notified of suspicion in the commission of another offence;

3) a person without prior convictions who is suspected of or charged with an offence that according to law is punishable by imprisonment of up to five years, exceptionally where the public prosecutor, in addition to the grounds provided for by Article 177 of this Code, has proven that such person, when at large, was fleeing pre-trial investigation or trial, obstructed criminal proceedings or has been notified of suspicion in the commission of another offence;

4) a person without prior convictions who is suspected of or charged with an offence punishable by imprisonment of more than five years;

5) a person with prior record of convictions who is suspected of or charged with an offence punishable by imprisonment of more that three years;

6) a person wanted by the competent authorities of a foreign state for commission of a criminal offence in connection with which the issue of surrender (extradition) to such foreign state for the purpose of instituting criminal proceedings against him/her or execution of the sentence may be decided, in the manner and on the grounds provided for by of Section IX hereof or an international treaty, ratified by the Verkhovna Rada of Ukraine.

3. The investigating judge or court when making a ruling on application of custody as a measure of restraint shall be required to determine an amount of bail sufficient for ensuring that the suspect or accused will comply with the duties provided for by this Code, except as provide otherwise under part 4 of this Article.

The investigating judge or court shall indicate in their ruling what duties as provided for by Article 194 of this Code shall be imposed on the suspect or accused if bail is posted, implications of failure to fulfil such duties, justify the amount of bail selected, as well as feasibility of its application in the case that such decision is made in criminal proceedings as provided under part 4 of this Article.

4. The investigating judge or court when rendering a decision on application of custody as a measure of restraint taking into account the grounds and circumstances stipulated by Articles 177 and 178 of this Code shall have the right to put aside a decision on the amount of bail in criminal proceedings:

1) in the matter of a violent offence or one involving threat of violence;

2) in the matter of an offence causing death of a person;

3) with regard to a person in respect of whom a measure restraint in the form of a bail has already been chosen in this proceeding, but has been violated by him/her;

4) with regard to a criminal offence provided for by Articles 255–255[3]

{Part 4 of Article 183 has been supplemented with clause 4 under Law No. 671-IX of 04 June 2020}

5) in respect of a special grave crime in trafficking in narcotic drugs, psychotropic substances, their analogues or precursors.

{Part 4 of Article 183 has been supplemented with clause 5 under Law No. 1094-IX of 16 December 2020}

Article 184. A motion of public prosecutor or investigator for measures of restraint

1. A motion of an investigator or prosecutor to apply a measure of restraint shall be submitted to the local general court, within the territorial jurisdiction of which the pre-trial investigation agency is located, and in criminal proceedings concerning criminal offences under the jurisdiction of the High Anti-Corruption Court, it shall be submitted to the High Anti-Corruption Court, and shall contain:

{Paragraph 1, part 1 of Article 184 as revised by Law No. 2147-VIII of 3 October 2017– the amendments do not have retroactive effect in time and shall apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the effective date of these amendments – refer to clause 4 § 2 of Section 4 of the Law; as revised by Law No. 2367-VIII of 22 March 2018; as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

1) brief description of factual circumstances of criminal offence which a person is suspected or accused of;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

3) description of circumstances which give grounds for suspecting, charging the individual concerned in the commission of criminal offence, and reference to records which support such facts;

4) reference to one or several risks specified in Article 177 hereof;

5) description of circumstances which gave ground to investigator or public prosecutor to conclude that a risk or several risks as stated in his/her motion are real, and reference to records which support such facts;

6) substantiation of impossibility to prevent the risk or risks referred to in the motion through the application of less strict measures of restraint;

7) substantiation of the necessity to impose specific duties as provided for by part 5 of Article 194 of this Code on the suspect or accused.

2. Copy of the motion and records in substantiation of the necessity to enforce the measure of restraint shall be handed over to the suspect or accused no later than three hours before the consideration of the motion begins.

3. The motion shall be attached with:

1) copies of records used by the investigator or public prosecutor to support their arguments for the motion;

2) list of witnesses whom investigator or public prosecutor finds necessary to question during consideration of the measure of restraint;

3) confirmation that the suspect or accused has been handed over copies of the motion and records used to substantiate the necessity to enforce the measure of restraint.

4. Enforcement of a measure of restraint to each individual shall require a separate motion.

Article 185. Revoking, changing or supplementing the motion to enforce a measure of restraint

1. Where after filing the motion to enforce a measure of restraint, public prosecutor learns about circumstances which exclude the reasonable suspicion that a person has committed criminal offence, he/she shall withdraw the motion to enforce a measure of restraint and recall the permission for apprehension where such permission has been granted.

2. Where after filing the motion to enforce a measure of restraint, public prosecutor learns about some other circumstances which can affect court's decision to enforce a measure of restraint, he/she shall supplement or change the motion or replace it with a new one.

Article 186. Time limits for consideration of the motion to enforce a measure of restraint

1. Investigating judge or court shall consider the motion to enforce or change a measure of restraint without any delay and in any case within seventy two hours after the suspect or accused has actually been apprehended, or after the filing of the motion where the suspect, accused is at large, or after the suspect or accused, his/her defence counsel has filed an appropriate plea with the court.

Article 187. Ensuring appearance of a person for consideration of the motion to enforce a measure of restraint

1. Investigating judge or court, after having received the motion to enforce a measure of restraint against the suspect or accused who is at large, shall fix the date of a court session and summons the person concerned.

2. Whenever investigator or public prosecutor together with the motion to enforce a measure of restraint, files the application for permission to apprehend the suspect or accused in view of his compulsory attendance, the investigating judge or court shall make decision in accordance with Article 189 of this Code.

3. Where a suspect or accused does not appear upon summons and the investigating judge or court, at the time of beginning the court's consideration, has no information about valid reasons which impede his/her timely appearance, investigating judge or court may issue a ruling on compelled appearance of the suspect or accused, where he/she fails to appear when the motion in respect of choosing the measure of restraint in the form of bail, house arrest or custody was considered, or on permission to apprehend him/her for the purpose of compulsory attendance, where the ruling on compulsory attendance was not delivered.

Article 188. Ruling to grant permission for apprehension with a view to compulsory attendance

1. Public prosecutor or investigator upon approval of public prosecutor shall have the right to file a motion on permission for apprehension with a view to compulsory attendance for participation in consideration of a motion on enforcement of a measure of restraint in the form of custody.

2. The motion may be filed:

1) concurrently with filing a motion on enforcement of a measure of restraint in the form of custody or on a change of a measure of restraint to custody;

2) after filing a motion on enforcement of a measure of restraint and prior to the appearance of the suspect or accused in court on grounds of court summons;

3) following the non-appearance of the suspect or accused on court summons for participation in consideration of a motion on enforcement of a measure of restraint in the form of custody and the investigating judge's, court's absence of information as of the beginning of court session about valid reasons that impede his/her timely appearance.

3. Public prosecutor shall attach to the motion such documents as confirm the existence of circumstances specified in clauses 1, 2 of part 4 of Article 189 hereof.

Article 189. Consideration of a motion for permission to apprehend in view of compulsory attendance

1. Investigating judge or court may not refuse considering the application for permission to apprehend the suspect or accused with a view of his/her compulsory attendance even if grounds are present for apprehension without court's ruling on the apprehension with a view to compulsory attendance.

2. Motion for permission to apprehend the suspect, accused with a view to his/her compulsory attendance shall be considered by investigating judge or court immediately after the receipt of such motion.

3. The motion shall be considered in camera with participation of a public prosecutor.

4. Investigating judge or court shall not grant a permission to detain a suspect or accused with a view of compulsory attendance unless the public prosecutor proves that the circumstances set forth in the motion to enforce the measure of restraint give grounds for taking the suspect or accused in custody, as well as that there are sufficient grounds to believe that:

1) the suspect or accused is hiding from the pre-trial investigation agencies or court

2) having received information that the investigator or public prosecutor has applied to court for enforcing a measure of restraint, the suspect or accused before the start of consideration of the motion on enforcement of a measure of restraint shall take actions which serve as a ground for the enforcement of the measure of restraint and which are specified in Article 177 hereof.

{Part 4 of Article 189 as revised by Law No. 5076-VI of 5 July 2012}

Article 190. Ruling to grant permission for apprehension with a view to compulsory attendance

1. Ruling to grant permission for apprehension with a view to compulsory attendance shall contain:

1) name of the court, last name and initials of investigating judge or judge (judges);

2) first name, last name, patronymic of the suspect or accused concerning whose apprehension the ruling is adopted, known at the moment of adoption of the ruling and if first name, last name, patronymic are unknown, detailed description of such person;

3) brief description of factual circumstances of criminal offence in the commission of which the person concerned is suspected or accused and its legal determination under criminal law of Ukraine;

4) reference to circumstances which give grounds for:

reasonable suspicion that the person concerned has committed criminal offence;

conclusion that risk referred to in the motion to enforce a measure of restraint does exist;

conclusion that circumstances for making a decision allowing apprehension, referred to in clauses 1 or 2, part 4 of Article 189 of this Code, do exist;

5) date of its adoption;

6) the date on which the ruling becomes legally ineffective;

7) signature of investigating judge, judge (judges) who passed the ruling.

2. Ruling granting permission for apprehension with a view to compelled appearance shall state first name, last name, patronymic, address and telephone number of public prosecutor or investigator upon whose motion the ruling has been adopted.

3. A ruling which grants permission for apprehension in view of compulsory attendance shall become legally ineffective upon:

1) compulsory attendance of the suspect or accused in the court;

2) expiration of the time of validity of the ruling as indicated in the ruling, or expiration of six months after the ruling with no time of validity indicated, has been passed;

2[1]) voluntary appearance of the suspect before the investigating judge, and the accused before the court, about which the investigating judge or court shall informs the prosecutor;

{Part 3 of Article 190 has been supplemented with clause 2[1] under Law No. 1950-VIII of 16 March 2017}

3) withdrawal of the ruling by public prosecutor.

4. Investigating judge or court, upon public prosecutor's motion, shall have the right to decide on the issue of repeated apprehension of a person with a view to compulsory attendance as prescribed by this Code. Repeated filing with the court of a motion requesting permission for apprehension of one and the same person in the same criminal proceedings after the adoption by investigating judge or court of a ruling denying such motion, shall be only possible where new circumstances emerge confirming the necessity of keeping the person concerned in custody.

5. The ruling denying apprehension may be appealed as prescribed by this Code. A ruling on permission of apprehension shall not be appealed against.

{The provisions of part 5 of Article 40 are recognised as complying with the Constitution of Ukraine (are constitutional), in accordance with the Decision of the Constitutional CourtNo. 5-r(II)/2020 of 17 March 2020}

Article 191. Actions by authorised officials after the apprehension based on investigating judge's, court's ruling to grant permission for apprehension

1. The individual apprehended based on investigating judge's, court's ruling, within thirty six hours after the apprehension shall be released or brought to the investigating judge or court which issued the ruling allowing apprehension in view of compulsory attendance.

2. Where apprehension was made in a vehicle, the place of apprehension shall be deemed the territory of the district where apprehension took place.

3. Where apprehension was made in a public transportation means, whose unscheduled stop is impossible without additional complications, the territory of the district where the closest next stop of the public transportation means is located shall be deemed the place of apprehension.

4. Where apprehension was made in an air or sea transportation means during trip outside the state border of Ukraine, the port within state border of Ukraine from which this trip begun shall be deemed the place of apprehension.

5. Official who apprehended a person based on investigating judge's, court's ruling to grant permission for apprehension, shall immediately hand over to the person a copy of the ruling concerned.

6. Authorised official (a person vested by law with the right to make apprehension) who apprehended a person based on investigating judge's, court's ruling to grant permission for apprehension or in whose custody the person that was allowed to be apprehended is kept, shall immediately inform thereon the investigator or public prosecutor named in the ruling.

7. Where after apprehension of the suspect or accused it turns out that he/she was apprehended on the grounds of a ruling to permit the apprehension which was withdrawn by the public prosecutor, the suspect or accused shall be immediately released by the authorised official in whose custody he/she is kept, unless there exist other legitimate grounds for his/her continued custody.

8. The official shall arrest the officer from the personnel of an intelligence agency of Ukraine in the performance of his duties and conduct the related personal search and examination of his personal effects only in the presence of official representatives of that agency.

Article 192. Lodging motion to enforce a measure of restraint after apprehension of a person without ruling granting permission for apprehension

1. Public prosecutor or investigator upon approval of public prosecutor shall have the right to lodge a motion to enforce a measure of restraint to the individual who was apprehended without ruling granting permission for apprehension, on the suspicion in the commission of criminal offence, with the local court within whose territorial jurisdiction the pre-trial investigation agency is located, and if this proves impossible within a period specified in part 2 of Article 211 hereof, with the local court within whose territorial jurisdiction the person was apprehended. In the event of detention without a ruling on the permission to detain a person on suspicion of committing a criminal offence within the jurisdiction of the High Anti-Corruption Court, the above ruling shall be submitted to the High Anti-Corruption Court.

{Part 1 of Article 192 as amended by Law No. 2447-VIII of 7 June 2018}

2. A motion for application of a measure of restraint to a person apprehended without a ruling granting leave of detention on suspicions of a criminal offence shall comply with the requirements of Article 184 hereof. The motion shall be attached with the record of apprehension of the suspect.

Article 193. Procedure for consideration of the motion to enforce a measure of restraint

1. Motion to enforce a measure of restraint shall be considered with participation of public prosecutor, a suspect, accused, his/her defence counsel, except for cases stipulated by part 6 of this Article.

2. Investigating judge or court before whom the suspect or accused appeared or was brought for participation in the consideration of the motion to enforce a measure of restraint, shall advice the suspect or accused of his/her rights to:

1) be represented by a defence counsel;

2) know merits of and grounds for the suspicion or charges;

3) know the grounds for his/her apprehension;

4) waive giving explanations, testimonies in respect of the suspicion or charges;

5) provide explanations in respect of any circumstances of his/her apprehension and custody;

6) examine objects, documents, explanations, testimonies that the public prosecutor invokes and produce objects, documents, explanations, testimonies of other persons to deny arguments of the public prosecutor;

7) make pleas to summon and examine witnesses whose testimonies can be important for deciding issues considered.

3. Investigating judge or court shall take all necessary measures to provide a defence counsel to the suspect or accused if the latter filed a plea on engaging a defence counsel, where participation of defence counsel is mandatory, or where investigating judge or court finds that circumstances of the proceeding require participation of a defence counsel.

4. Upon request of the parties or proprio motu, investigating judge or court shall have the right to hear any witness or examine any records of importance for deciding on the enforcement of a measure of restraint.

5. Any assertions or statements the suspect or accused made during consideration of the motion to enforce a measure of restraint may not be used for proving his/her guilt of the commission of criminal offence he/she is suspected or charged of, or of any other offence.

6. An investigating judge or a court may consider a motion for selection of such measure of restraint as putting into custody in absence of a suspect or accused solely in the case where a public prosecutor apart from the circumstances stipulated by Article 177 of this Code will prove that the suspect has been announced into international search. That being the case, upon apprehension of the person and no later than forty eight hours upon his/her delivery to the venue of criminal proceeding, the investigating judge or a court will, in the presence of a suspect or accused, decide whether to apply custody or a milder measure of restraint and will render a ruling thereupon.

Article 194. Enforcing a measure of restraint

1. When considering the motion to enforce a measure of restraint, investigating judge or court shall find out whether evidence produced by the parties to the criminal proceedings does prove circumstances which point to:

1) the existence of reasonable suspicion that the suspect or accused has committed criminal offence;

2) the existence of sufficient grounds to believe in the existence of at least one of the risks as referred to by Article 177 of the present Code, and as stated by the investigator or public prosecutor;

3) insufficiency of enforcing less strict measures of restraint for preventing the risk or risks specified in the motion.

2. Investigating judge or court shall pass a ruling denying enforcement of a measure of restraint unless, during consideration of the motion, a public prosecutor proves circumstances referred to in part 1 of this Article.

3. Investigating judge or court may impose on the suspect or accused the obligation to appear upon each request before court or in any other government authority as specified by the investigating judge or court where public prosecutor proves circumstances referred to in clause 1, part 1 of this Article, but fails to prove circumstances referred to in clauses 2 and 3 of part 1 of this Article.

4. Where in the course of consideration of the motion on choosing a measure of restraint, a public prosecutor proves circumstances referred to in clauses 1 and 2 of part 1 of this Article but fails to prove circumstances referred to clause 3, part 1of this Article, the investigating judge or court may enforce a less strict measure of restraint than the one indicated in the motion as well as imposed upon the suspect or accused any of the duties as provided for by part 5 and 6 of this Article, the necessity of which is established on the basis of the motion submitted by the public prosecutor.

{Part 4 of Article 194 as amended by Law No. 2227-VIII of 6 December 2017}

5. Where in the course of consideration of a motion on choosing a measure of restraint not involving custody, the public prosecutor proves the presence of all circumstances referred to in part 1 of this Article, the investigating judge or court shall apply appropriate measure of restraint, impose on the suspect or accused the obligation to appear upon each request before court or any other specified government authority and also perform one or more of the obligations the necessity imposing of which has been proven by the public prosecutor, namely:

1) appear before the official specified with frequency established;

2) not to leave the locality where he/she is registered, resides or stays, without permission of the investigator, public prosecutor or court;

3) inform the investigator, public prosecutor or court on the change of place of residence and/or employment;

4) abstain from communicating with any individual specified by investigating judge, court or communicate with such person on conditions imposed by investigating judge or court;

5) do not visit places specified by investigating judge or court;

6) undergo treatment from narcotic or alcohol addiction;

7) make efforts to find a job or to enter an educational institution;

8) surrender his internal ID, foreign travel passport(s) or other documents authorising leaving and coming to Ukraine;

9) carry an electronic monitor.

6. In the interests of the victim of a crime related to domestic violence, in addition to the obligations provided for by part 1 of this Article, the court may apply to a person suspected of committing such a criminal offence, one or more of the following measures of restraint:

1) prohibition to be in the place of cohabitation with a person who has suffered from domestic violence;

2) restriction of communication with the child in the event that domestic violence is committed against the child or in its presence;

3) prohibition to approach for a certain distance to a place where a person who has suffered from domestic violence may permanently or temporarily reside, temporarily or systematically stay in connection with work, study, treatment or for other reasons;

4) prohibition of correspondence, telephone conversations with a person who has suffered from domestic violence, other contacts through means of communication or electronic communications in person or through third parties;

5) referral for treatment from alcohol, drug or other addiction, from diseases that pose a threat to other people, referral to complete the offender treatment programme.

{Article 194 has been supplemented with new part under Law No. 2227-VIII of 6 December 2017}

7. Duties provided for by parts 5 and 6 of this Article, may be imposed on a suspect or accused for a period not exceeding two months. Where necessary, this period may be extended at the request of a public prosecutor in the manner prescribed by Article 199 hereof. Upon expiration of the term, including the extended one, for which the suspect or accused have been assigned the respective duties, the ruling to apply a measure or restraint in this part shall cease to have effect and the duties shall be revoked.

{Part 7 of Article 194 as amended by Law No. 2227-VIII of 6 December 2017}

7. Where a person is suspected of or charged with an offence with a primary punishment being a fine that equals or exceeds 3,000 tax-free minimum incomes, the only applicable measure of restraint shall be bail or custody, where provided for by this Chapter.

Article 195. Application of electronic control means

1. Application of electronic control means consists in fastening on the body of the suspect or accused of a device that allows monitoring and recording his/her whereabouts. Such a device shall be secured against unauthorised removal, damaging or other interference in its functioning with the purpose of eluding control, and send signals alerting to the person’s attempts to act in this way.

2. Electronic control means may be applied:

1) by the investigator based on investigating judge’s, court’s ruling to choose in respect of the suspect or accused a measure of restraint not involving keeping in custody, which imposes on the suspect or accused the appropriate duty;

2) by officers of the National Police body on the basis of a decision of an investigating judge, a court which has chosen a measure of restraint in the form of house arrest in respect of a suspect or accused.

{Clause 2, part 2 of Article 195 as amended by Law No. 901-VIII of 23 December 2015}

3. Electronic control means shall be applied in the manner prescribed by the Ministry of Internal Affairs of Ukraine.

4. Application of electronic control means which significantly disrupt the normal tenor of the concerned person's life, cause significant discomfort when worn, or may threaten life and health of the person, shall be inadmissible.

5. Investigator or officer of the National Police, shall before applying electronic control means explain to the suspect or accused the rules of using the device, safety of handling and implications of removal thereof or illegal interference in its operation with the purpose of eluding control.

{Part 5 of Article 195 as amended by Law No. 901-VIII of 23 December 2015}

6. Refusal to wear electronic control means, deliberate removal, damaging or other interference in its operation with the purpose of eluding control, as well as attempts to act in this way shall be deemed non-fulfilment of duties imposed by court on the suspect or accused when choosing a measure of restraint not involving keeping in custody, or in the form of house arrest.

Article 196. Ruling to enforce measures of restraint

1. The investigating judge or court shall include in the ruling to enforce a measure of restraint the information about:

1) criminal offence (its substance and legal determination, with indication of the Article (part of the Article) of the law of Ukraine on criminal liability) of which the person is suspected or accused;

2) circumstances which show existence of risks referred to in Article 177 of this Code;

3) circumstances which show that less severe measures of restraint are insufficient for preventing the risks specified in Article 177 hereof;

4) reference to evidence which supports such circumstances;

5) measure of restraint that is enforced.

2. A ruling to apply a non-custodial measure shall indicate specific duties, as provided for by part 5 of Article 194 hereof, imposed on a suspect or accused person and, where so provided for by this Code, the time for which they are imposed.

3. A ruling to apply a restraint in the form of house arrest shall state exact address of the dwelling which the suspect or accused is forbidden to leave.

4. Investigating judge or court shall determine in the ruling on choosing a measure of restraint in the form of custody or house arrest the date of its expiration within time limits established by this Code.

5. A copy of the ruling for the application of a measure of restraint shall be served on the suspect or accused immediately after its announcement, and also forwarded to persons who are state executors, the Ministry of Justice of Ukraine, and in respect of persons who are private executors it shall be forwarded to the Ministry of Justice of Ukraine and the Council of Private Executors of Ukraine.

{Part 5 of Article 196 as amended by Law No. 1403-VIII of 2 June 2016}

Article 197. Term of validity of the ruling to commit to custody, extend custody

1. Term of validity of the investigating judge's, court's ruling to commit to custody or to extend custody shall not exceed sixty days.

2. Duration of custody shall be calculated from the date of having been committed to custody, and where commission to custody was preceded by apprehension of the suspect or accused, from the date of apprehension. Time of custody shall include the time spent by the person concerned in a healthcare facility while undergoing in-patient psychiatric examination. In case of repeated commission to custody of a person in the course of the same criminal proceedings, time of custody shall be calculated with account of the time of the previous term under custody.

3. Time of keeping under custody may be extended by investigating judge within the time limits of pre-trial investigation according to the procedure laid down in this Code. Total duration of keeping under custody of the suspect or accused in the course of pre-trial investigation shall not exceed:

1) six months in criminal proceedings in respect of minor crimes;

{Clause 1, part 3 of Article 197 as amended by Law No. 2617-VIII of 22 November 2018}

2) twelve months in criminal proceedings in respect of grave or special grave crimes.

Article 198. Importance of findings, which are contained in a ruling to enforce measures of restraint

1. The findings expressed in the ruling of the investigating judge or court on the outcome of consideration of the motion for application of a measure of restraint on any circumstances concerning the essence of suspicion or charges shall have no prejudicial significance for the court during the judicial proceedings or for the investigator or prosecutor during this or other criminal proceedings.

Article 199. Procedure concerning the extension of custody

1. Motion to extend custody may be filed by public prosecutor or investigator upon approval of public prosecutor not later than five days before expiry of the previous ruling to commit to custody.

2. A motion to extend detention shall be submitted to the local court within the territorial jurisdiction of which the pre-trial investigation is conducted, and in criminal proceedings concerning criminal offences within the jurisdiction of the High Anti-Corruption Court it shall be submitted to the High Anti-Corruption Court.

{Part 2 of Article 199 as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

3. Motion to extend custody period, in addition to information referred to in Article 184 of this Code, shall contain:

1) description of circumstances which show that the stated risk has not decreased or that new risks have emerged, which justify committing to custody;

2) description of circumstances which obstruct completion of the pre-trial investigation before expiry of the previous ruling to commit to custody.

4. Investigating judge shall consider the motion to extend custody period before the expiry of the previous ruling to commit to custody, according to the rules established for consideration of a motion to enforce a measure of restraint.

5. Investigating judge shall deny the extension of custody period unless public prosecutor or investigator proves that circumstances specified in part 3 of this Article justify continued keeping under custody of the suspect or accused.

Article 200. Investigator's, public prosecutor's motion to change a measure of restraint

1. Public prosecutor or investigator upon approval of public prosecutor may apply, as prescribed by Article 184 of this Code, to the investigating judge or court for changing a measure of restraint, including for revocation, alteration or imposition of additional duties as provided for by part 5 of Article 194 of this Code, or for modifying the manner of their performance.

2. A motion to change a measure of restraint shall necessarily state circumstances which:

1) occurred after the previous decision to enforce the measure of restraint;

2) existed during the adoption of the previous decision to enforce the measure of restraint but which public prosecutor was at that time unaware of and could not be aware of.

3. Copies of the motion and records by which the necessity to change the measure of restraint was substantiated shall be handed over to the suspect or accused no later than three hours before the beginning of consideration of the motion.

4. The motion shall be attached with:

1) copies of records used by the investigator or public prosecutor to support their arguments for the motion;

2) list of witnesses whom investigator or public prosecutor finds necessary to question during consideration of the motion, specifying information they shall provide and substantiating the importance of this information for disposing the issue;

3) confirmation that a copy of the motion and copies of records which substantiate the motion were sent to the suspect or accused.

5. Public prosecutor or investigator upon approval of public prosecutor may also file a motion seeking permission to apprehend the person, which shall be considered by investigating judge or court according to the rules stipulated by Article 189 hereof.

Article 201. Plea of a suspect or accused to change measure of restraint

1. A suspect or accused, to whom a measure of restraint has been applied, his/her defence counsel shall be entitled to file with a local court, within the territorial jurisdiction of which a pre-trial investigation is conducted, and in criminal proceedings on criminal offences under the jurisdiction of the High Anti-Corruption Court file to the High Anti-Corruption Court a motion to change the measure of restraint, including the revocation or change of additional duties provided for by part 5 of Article 194 hereof and imposed on him/her by the investigating judge or court, or for modifying the manner of their performance.

{Part 1 of Article 201 as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

2. A copy of the motion and records on which in substantiation shall be provided to the public prosecutor not later than three hours before the beginning of the consideration of the motion.

3. The motion shall be attached with:

1) copies of records with which the suspect or accused substantiates the arguments of the motion;

2) list of witnesses whom the suspect or accused considers necessary to examine during the consideration of the motion, indicating the information they may provide and substantiating the value of this information for disposing the issue;

3) confirmation that a copy of the motion and copies of records which substantiate the motion were sent to the public prosecutor.

4. The investigating judge or court shall consider the motion of a suspect or accused within three days from the date of its receipt in accordance with the rules provided for consideration of the motion for the application of a measure of restraint.

4. Investigating judge or court may take no action on the motion to change the measure of restraint if such motion was filed earlier than thirty days after the previous ruling to enforce, change or refuse to change was passed, unless it specifies new circumstances which have not been considered by investigating judge, court.

Article 202. Procedure for release of a person from custody

1. Where the measure of restraint in the form of personal commitment is enforced, the suspect or accused who has been apprehended, shall be released immediately.

2. Where the measure of restraint in the form of personal warranty is enforced, the suspect or accused who has been apprehended shall be released immediately after he/she has provided the determined warranty.

3. Where the measure of restraint in the form of house arrest is enforced, the suspect or accused who has been apprehended shall be:

1) immediately brought to his place of residence and
released, where under conditions of the chosen measure of restraint he/she is forbidden to leave his/her dwelling 24/7;

2) immediately released and promptly proceed to his/her place of residence, where under conditions of the chosen measure of restraint he/she is forbidden to leave his/her dwelling at a certain time of the day.

4. The suspect or accused shall be released after paying in bail set by investigating judge or court in the ruling on enforcement of the measure of restraint in the form of keeping in custody, unless the competent official in whose custody he/she is kept has any other court's decision which has taken legal effect and which directly prescribes keeping this suspect or accused in custody.

Upon receipt of a document certifying the payment of the bail and its verification, the competent official in whose custody the suspect or accused is kept, shall immediately order his/her release and inform of this investigator, public prosecutor and investigating judge in oral and written form, and where bail was paid in during court proceedings, inform public prosecutor and court. Verification of the document confirming payment of bail shall not take more than one working day.

From the moment of release from custody in connection with payment of bail, the suspect or accused shall be deemed the one in whose respect measure of restraint is enforced in the form of bail.

5. Where investigating judge or court issues a ruling to deny the extension of keeping in custody, to revoke the measure of restraint in the form of keeping in custody, or to replace it with another measure of restraint, to release the person from custody in a case specified in part 3 of Article 206 of this Code, or in case of termination of the period of validity of the investigating judge's or court's ruling on keeping in custody, the suspect or accused shall be released immediately unless the competent official in whose custody he/she is kept has any other court's decision which has taken legal effect and which directly prescribes keeping this suspect or accused in custody.

Article 203. Immediate termination of measures of restraint

1. Ruling to enforce a measure of restraint terminates after expiry of the period of validity of the ruling to enforce the measure of restraint, after delivering judgment of acquittal, or after closing of criminal proceeding as prescribed by this Code.

Article 204. Prohibition to apprehend without permission of investigating judge or court

1. Where a measure of restraint other than custody was enforced against the suspect or accused, the latter may not be apprehended without investigating judge's or court's permission in connection with a suspicion or charges of the same criminal offence.

Article 205. Enforcement of a ruling to apply a measure of restraint

1. The investigating judge's or the court's ruling to apply a measure of restraint shall be subject to immediate enforcement upon pronouncement.

Article 206. General duties of a judge regarding the protection of human rights

1. Each investigating judge of the court whose territorial jurisdiction extends to a person committed to custody shall have the right to issue a ruling by which to order any government authority or official to ensure respect for such person's right.

2. Whenever an investigating judge receives information from any sources whatsoever, which gives ground for a reasonable suspicion that within the court's territorial jurisdiction there is a person who has been deprived of his liberty without valid court's decision, or has not been released from custody after the payment of bail in accordance with the procedure laid down in this Code, such judge shall issue a ruling by which to order any government authority or official in whose custody the person is kept to immediately bring this person to the investigating judge in view of verifying grounds for deprivation of liberty.

3. Investigating judge shall release the person deprived of liberty from custody unless the government authority or official that keeps such person in custody presents a valid court's decision, or proves the existence of any other legal grounds for deprivation of liberty.

4. Where a public prosecutor or investigator files a motion to apply a measure of restraint before such person has been brought to the investigating judge, the latter shall ensure consideration of such motion as soon as possible.

5. Irrespectively of the investigator's or public prosecutor's motion, the investigating judge shall release the person from custody unless the government authority or official that keeps such person in custody proves:

1) the existence of legal grounds for apprehension of the person concerned without investigating judge's or court's ruling;

2) that maximum custody period has not been exceeded;

3) that there have not been any delays in bringing the person before court.

6. Whenever, in any court proceedings, a person states that he/she has been subjected to violence during apprehension or custody in the competent government authority concerned, state institution (government authority, state institution empowered to keep in custody), investigating judge shall record such statement or accept a written statement from such person and:

1) ensure prompt forensic medical examination of this person;

2) assign investigation of the facts, provided in such a statement of this person to the appropriate investigative agency;

3) take necessary measures to ensure protection of the person concerned in accordance with law.

7. Investigating judge shall act as prescribed by part 6 of this Article, whatever the person's statement is, where the appearance or state, or any other information known to the investigating judge gives grounds for the investigating judge to reasonably suspect that law requirements were infringed in time of apprehension or while kept in custody in the competent government authority or state institution.

8. Investigating judge shall have the right not take actions referred to in part 6 of this Article, where public prosecutor proves that such actions has been already or are being conducted.

9. Investigating judge shall take necessary measures to provide a defence counsel for the person deprived of liberty and adjourn any court proceedings in which such person takes part for the time necessary to provide a defence counsel for such person provided the latter is willing to

have a defence counsel or if the investigating judge decides that circumstances as established during criminal proceedings require participation of a defence counsel.

§ 2. Apprehension of a person without investigating judge's or court's ruling

Article 207. Lawful apprehension

1. Nobody may be apprehended without investigating judge's or court's ruling except as prescribed by this Code.

A special procedure for apprehension involving specially designated categories of persons shall be established by Chapter 37 of this Code.

2. Everyone has the right to apprehend any person without court's ruling except persons specified in Articles 482 and 482[2] of this Code.

{Paragraph 1, part 2 of Article 207 as amended by Law No. 388-IX of 18 December 2019}

1) when someone commits or makes attempt to commit a criminal offence;

2) immediately after the commission of a criminal offence or during hot pursuit of the person who is suspected of having committed it.

3. Everyone who is not a competent official (person empowered by the law to execute apprehension) and who has apprehended the individual concerned as prescribed in part 2 of this Article, shall immediately bring him/her to a competent official or immediately inform the competent official of the apprehension and whereabouts of the individual suspected of the commission of criminal offence.

Article 208. Lawful apprehension by a competent official

1. A competent official shall have the right to apprehend without investigating judge's or court's ruling, an individual suspected of the commission of crime for which a punishment of imprisonment is stipulated, only in case:

1) this person was caught upon committing a criminal offence or making an attempt to commit it;

2) where immediately after the commission of crime, an eye-witness, including the victim, or totality of obvious signs on the body, cloth or the scene indicates that this individual has just committed the crime;

3) where there are reasonable grounds to believe that it is possible to escape in order to evade criminal liability of a person suspected of committing a grave or special grave corruption crime, which is within the jurisdiction of the National Anti-Corruption Bureau of Ukraine;

{Part 1 of Article 208 has been supplemented with paragraph 4 under Law No. 198-VIII of 12 February 2015}

4) where there are reasonable grounds to believe that it is possible to escape in order to evade criminal liability of a person suspected of committing a crime under Article 255, 255[1], 255[2]

{Part 1 of Article 208 has been supplemented with new paragraph under Law No. 671-IX of 4 June 2020}

A special procedure for apprehension involving specially designated categories of persons shall be established by Chapter 37 of this Code.

2. An authorised official shall have the right, without a warrant of the investigating judge or court, apprehend a person suspected of a crime the primary punishment provided for which being a fine that equals or exceeds 3,000 tax-free minimum incomes, only where the suspect has defaulted on the duties imposed upon him/her when a measure of restraint was decided or failed to comply as prescribed with the requirements concerning deposition of bail and submission of documentary proof of such deposition.

3. An authorised official, investigator or public prosecutor may search a detained person in compliance with the rules provided for by part 7 of Article 223 and Article 236 of this Code.

4. A competent official who apprehended the person shall be required to immediately inform the apprehended person, in a language known to him/her, of the grounds for the apprehension and of the commission of what crime he/she is suspected, as well as of the right to involve a defence counsel, receive medical assistance, give explanations, testimonies or keep silence regarding the ground for suspicion against him/her, inform promptly other persons of his/her apprehension and whereabouts in accordance with Article 213 of this Code, demand verification of the validity of apprehension, and of other procedural rights specified hereof.

A person detained in connection with his/her search by the competent authority of a foreign state for criminal prosecution or execution of a sentence shall be explained his/her right to consent to surrender (extradition) for the application of the surrender procedure (extradition) in a simplified manner, as well as the right to refuse to apply a special rule on the limits of criminal liability in the case of consent to his/her surrender (extradition).

{Part 4 of Article 208 has been supplemented with paragraph 2 under Law No. 2577-VIII of 2 October 2018}

5. On apprehension of a person suspected of the commission of crime, a report shall be drawn up in which, in addition to information specified in Article 104 of this Code, the following shall be indicated: place, date and exact time (hours and minutes) of apprehension under provisions of Article 209 hereof; grounds for apprehension; results of personal search; pleas, statements or complaints of the apprehended person, if any; comprehensive list of procedural rights and duties of the apprehended person. Where at the time of detention the last name, first name and patronymic of the apprehended person are unknown, a detailed description of such person shall be indicated in the report with his/her photograph attached. The report on apprehension shall be signed by the person who draw it up, and the apprehended person. A copy of the report shall be immediately handed over to the apprehended person against signature and also forwarded to a public prosecutor.

{Part 5 of Article 208 as revised by Law No. 187-IX of 4 October 2019}

6. Apprehension of an officer of an intelligence agency of Ukraine in the performance of his/her duties and related personal search and examination of his/her personal effects shall be used only in presence of official representatives of that agency.

Article 209. Moment of apprehension

1. An individual shall be deemed to be apprehended where he/she, with the use of force or through obedience to the order, has to stay next to the competent official or in premises prescribed by the competent official.

Article 210. Bringing to a pre-trial investigation agency

1. The competent official shall bring the apprehended individual to the nearest station of the pre-trial investigation agency, where a record shall be promptly made of the date, exact time (hours and minutes) of the bringing of the detainee and other information provided for by the legislation.

2. The competent official shall immediately inform, through technical means, appropriate officials of the pre-trial investigation agency's station on each apprehension.

3. Where there are grounds for reasonable suspicion that bringing the apprehended person lasted longer than it was necessary, investigator shall conduct verification to decide on liability of persons guilty thereof.

Article 211. Period of apprehension without investigating judge's court's ruling

1. Period of apprehension of a person without a ruling of investigating judge or court shall not exceed seventy two hours after the time of apprehension as determined under the requirements of Article 209 of this Code.

2. An individual apprehended without investigating judge's or court's ruling shall be released or brought to court for consideration of a motion to impose on him/her a measure of restraint no later than sixty hours after apprehension.

Article 212. Person responsible for keeping those apprehended

1. One or more officials responsible for keeping those apprehended shall be designated in the pre-trial investigation agency's station.

2. Investigators may not be designated to be responsible for keeping those apprehended.

3. An official responsible for keeping those apprehended shall:

1) register the apprehended person immediately;

2) advice the apprehended person of the grounds for apprehension, his/her rights and duties;

3) immediately release the apprehended person after grounds for apprehension seized to exist or time limit for apprehension as established in Article 211 of this Code has expired;

4) ensure appropriate treatment of the apprehended person and respect for his/her rights laid down in the Constitution of Ukraine, this Code, and other laws of Ukraine;

5) ensure recording all actions which are conducted with the involvement of the apprehended person, including the time when such actions started and completed, as well as persons who conducted such actions or were present during the conduct of such actions;

6) ensure prompt provision of adequate medical assistance and recording of any bodily injuries or deterioration of the apprehended person's state of health by medical personnel. If the detainee so wills, a specific person of his/her choosing who is certified to provide medical assistance may be allowed to be amongst providers of medical care to the detainee.

Article 213. Notification of other persons of the apprehension

1. A competent official who detains a person shall be under the obligation to give the detainee an opportunity to immediately inform of his/her detention and his whereabouts his/her close relatives, family or other persons of his/her own choosing.

Where the competent official who has conducted apprehension has grounds for a reasonable suspicion that notification of apprehension may jeopardize pre-trial investigation, he/she may make such informing himself/herself without, however, breeching the requirement concerning its immediacy.

2. Where the apprehended person is underage, the competent official who has conducted apprehension shall be required to immediately inform of this the apprehended person's parents or adopters, custodians, carers, the guardianship authorities.

3. Where the apprehended person is a regular officer of the Ukraine's intelligence agency who was in the line of his/her official duties at the time of apprehension, the apprehending official shall be required to immediately inform of this the intelligence agency concerned.

In the event of detention of a state or private executor, the competent official who conducted the detention shall notify the Ministry of Justice of Ukraine within 24 hours, and in respect of persons who are private executors he/she shall notify the Ministry of Justice of Ukraine and the Council of Private Executors of Ukraine.

{Part 3 of Article 213 has been supplemented with paragraph 2 under Law No. 1403-VIII of 2 June 2016}

4. An officer who carried out the apprehension shall notify the body (institution) authorised by the law to provide free legal aid immediately. Where the defence counsel appointed by the body (institution) authorised by law to provide free legal aid fails to arrive within the dates established by law, the responsible officer will immediately advise the body (institution) authorised by law to provide free legal aid.

5. A competent official responsible for the keeping of detainees shall verify compliance with the requirements of this Article and, in case of failure to perform notification of apprehension, to carry out the procedures provided herein on his/her own.

Section III
PRE-TRIAL INVESTIGATION

Chapter 19. General provisions in respect of pre-trial investigation

Article 214. Initiating pre-trial investigation

1. Investigator, inquiring officer or public prosecutor shall immediately but in any case no later than within 24 hours after submission of a report, notification on a criminal offence that has been committed or after he has learned on his own from any source about circumstances which are likely to indicate that a criminal offence has been committed, to enter the information concerned in the Unified Register of Pre-Trial Investigations, and to initiate investigation. The investigator who will conduct the pre-trial investigation shall be appointed by the chief officer of the pre-trial investigation agency, and the inquiring officer shall be appointed by the chief officer of the inquiry

agency, and in the absence of the inquiry agency he shall be appointed by the chief officer of the pre-trial investigation agency.

{Part 1 of Article 214 as amended by Laws No. 2213-VIII of 16 November 2017, No. 2617-VIII of 22 November 2018}

2. Pre-trial investigation shall start from the moment the information concerned has been entered in the Unified Register of Pre-Trial Investigations. Provision on the Unified Register of Pre-Trial Investigations, the procedure of its creation and maintaining shall be subject to approval of the Prosecutor General's Office of Ukraine with consent of the Ministry of Internal Affairs of Ukraine, the Security Service of Ukraine, the National Anti-Corruption Bureau, and the authority supervising compliance with the tax legislation.

{Part 2 of Article 214 as amended by Laws No. 1698-VII of 14 October 2014, No. 187-IX of 4 October 2019}

3. Conducting pre-trial investigation before entering the information in the Register or without such entering shall not be permitted and shall entail liability established by law. Inspection of the crime scene may be conducted before entering the information in the Unified Register of Pre-Trial Investigations which shall be done immediately after completion of the inspection. To clarify the circumstances of a criminal offence before entering information into the Unified Register of Pre-Trial Investigations the following may be done:

1) the explanation selected;

2) a medical examination conducted;

3) a specialist's conclusion obtained and readings taken from the technical devices and the technical means having functions of photo and film shooting, video recording, or means of photo and film shooting, video recording;

4) the tools and means of committing a criminal offence, things and documents that are the direct subject of the criminal offence, or which were found during the detention of a person, personal search or inspection of things, seized.

Where elements of a criminal offence are discovered on a sea or river vessel outside Ukraine, the pre-trial investigation shall be initiated immediately, with the information thereof entered into the Unified Register of Pre-Trial Investigations as soon as possible.

{Part 3 of Article 214 as revised by Law No. 2617-VIII of 22 November 2018}

4. Investigator or public prosecutor, other official authorised to accept and register reports, information on criminal offences shall accept and register such report or information. Refusal to accept and register a statement or information on a criminal offence shall be inadmissible.

5. The following information shall be entered in the Unified Register of Pre-Trial Investigations:

1) date of arrival of the report or information on criminal offence or of finding from another source the circumstances that may indicate the commission of criminal offence;

2) last name, first name, patronymic (appellation) of the victim or applicant;

3) other source of learning about the circumstances that may indicate the commission of criminal offence;

4) brief description of the circumstances that may indicate the commission of criminal offence, provided by victim, applicant or learned from another source;

5) provisional legal qualification of the criminal offence with indication of Article (part of the Article) of the Ukrainian law on criminal liability;

6) last name, first name, patronymic and position of the official who entered the information in the Register as well as of the investigator or public prosecutor who entered the information in the Register and/or initiated pre-trial investigation;

7) other circumstances specified by regulation on the Unified Register of Pre-Trial Investigations.

The date of entering the information shall be fixed automatically in the Unified Register of Pre-Trial Investigations, and the criminal proceedings number shall be assigned.

6. Investigator or inquiring officer shall immediately inform a public prosecutor in writing about the initiation of pre-trial investigation, the grounds for initiating the pre-trial investigation, and other information specified in part 5 of this Article.

{Part 6 of Article 214 as amended by Laws No. 1697-VII of 14 October 2014, No. 2617-VIII of 22 November 2018}

7. Where information on criminal offence has been entered in the Unified Register of Pre-Trial Investigations by a public prosecutor, he shall be required immediately but in any case not later than the next day, in compliance with investigative jurisdiction rules, to transfer records in his possession to the pre-trial investigation agency and assign the conduct of pre-trial investigation.

8. Information regarding the legal entity in whose respect criminal law measures may be applied shall be entered in the Unified Register of Pre-Trial Investigations by the investigator or public prosecutor immediately after the entity has been notified of suspicion of any offence under Articles 109, 110, 113, 146, 147, 160, 209, 260, 262, 306, part 1 or 2 of Article 368^{3},part 1 or 2 of Article 368^{4}, Articles 369, 369^{2}, 436, 437, 438, 442, 444, 447 of the Criminal Code of Ukraine, or any of the criminal offences provided for by Articles ^{2}-156^{1}, 301^{1}-303 of the Criminal Code of Ukraine (in the event of their commission against a child or a minor), or on behalf of such legal entity of any of the criminal offences provided for by Articles 258–258^{5} of the Criminal Code of Ukraine. The investigator or public prosecutor shall notify the legal entity in writing about entering information no later than the next working day. Proceedings against a legal entity shall be conducted simultaneously with the respective criminal proceedings within which the entity has been informed of suspicion.

{Article 214 has been supplemented with part 8 under Law No. 314-VII of 23 May 2013 as amended by Law No. 1207-VII of 15 April 2014; as amended by Law No. 1256-IX of 18 February 2021}

9. The investigator or inquiring officer shall within 24 hours from the moment of entering the respective information into the Unified Register of Pre-Trial Investigations notify the National Agency for Prevention of Corruption in writing of the initiation of the pre-trial investigation with

the participation of a whistleblower, the grounds for initiating a pre-trial investigation and other information provided for by part 5 of this Article.

A copy of the said notification to the National Agency for the Prevention of Corruption shall be provided to the whistleblower.

{Article 214 has been supplemented with part 9 under Law No. 198-IX of 17 October 2019; as amended by Law No. 720-IX of 17 June 2020}

Article 215. Pre-trial investigation of crimes and criminal misdemeanours

1. Pre-trial investigation of crimes shall be conducted in the form of pre-trial investigation, while pre-trial investigation of criminal misdemeanours shall be conducted in the form of inquiry as prescribed by this Code.

Article 216. Investigative jurisdiction (competence)

1. Investigators of the National Police shall conduct pre-trial investigation of criminal offences provided for by the Law of Ukraine on criminal liability, except for those referred to the jurisdiction of other pre-trial investigation agencies.

{Part 1 of Article 216 as amended by Laws No. 901-VIII of 23 December 2015, No. 2531-VIII of 6 September 2018}

2. Investigators of security agencies shall conduct pre-trial investigation of crimes specified in Articles 109, 110, 110[2], 111, 112, 113, 114, 114[1], 201, 201[1], 258–258[5], 265[1], 305, 328, 329, 330, 332[1], 332[2], 333, 334, 359, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 *of the Criminal Code of Ukraine.*

{Paragraph 1, part 2 of Article 216 as amended by Laws No. 771-VIII of 10 November 2015, No. 2531-VIII of 6 September 2018}

Where in the course of investigation of crimes specified in Articles 328, 329, 422 of the Criminal Code of Ukraine, crimes are established specified in Articles 364, 365, 366, 367, 425, 426 of Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, where they are related to crimes committed by a person in respect of whom pre-trial investigation is conducted, such crimes shall be investigated by investigators of security agencies, except cases, when such crimes are referred according to this Article to the investigative jurisdiction of investigators of the National Anti-Corruption Bureau of Ukraine.

{Part 2 of Article 216 as amended by Law No. 2599-VIII of 18 October 2018}

3. Investigators of authorities supervising compliance with the tax legislation shall conduct pre-trial investigation of criminal offences specified in Articles 204, 205[1], 212, 212[1], 216, 218[1], 219 of the Criminal Code of Ukraine.

{Paragraph 1, part 3 of Article 216 as amended by Laws No. 771-VIII of 10 November 2015, No. 101-IX of 18 September 2019}

Where in the course of investigation of above-indicated crimes, crimes are established specified in Articles 192, 199, 200, 222, 222[1], 358, 366 of the Criminal Code of Ukraine, committed by a person in respect of whom pre-trial investigation is conducted, or by other person, if they are related to crimes committed by a person in respect of whom pre-trial investigation is

conducted, such crimes shall be investigated by investigators of authorities supervising compliance with the tax legislation.

{Paragraph 2, part 3 of Article 216 as revised by Law No. 771-VIII of 10 November 2015}

{Part 3 of Article 216 as amended by Law No. 218-VIII of 2 March 2015}

4. Investigators from units of the State Bureau of Investigations of Ukraine shall conduct pre-trial investigation of criminal offences:

1) committed by the President of Ukraine, whose powers have been terminated, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, First Deputy and Deputy Ministers, a member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Services Markets, National Commission on Securities and Stock Market, the Antimonopoly Committee of Ukraine, Chairman of the State Committee for Television and Radio Broadcasting of Ukraine, Chairman of the State Property Fund of Ukraine, his First Deputy and Deputy, member of the Central Election Commission, Member of Parliament of Ukraine, Commissioner for Human Rights, Director of the National Anti-Corruption Bureau of Ukraine, Prosecutor General, his first deputy and deputy, Chairman of the National Bank of Ukraine, his First Deputy and Deputy Chairman, Chairman of the National Agency for the Prevention of Corruption, his Deputy, the Secretary of the National Security and Defence Council of Ukraine, his First Deputy and Deputy, the Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea, Adviser or Assistant to the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine, a law enforcement officer, a person whose office belongs to A category, except where the pre-trial investigation of these criminal offences is under the jurisdiction of the National Anti-Corruption Bureau of Ukraine in accordance with part 5 of this Article;

{Clause 1, Part 4 as amended by Laws No. 889-VIII of 10 December 2015, No. 140-IX of 2 October 2019}

2) committed by officials of the National Anti-Corruption Bureau of Ukraine, Deputy Prosecutor General – Head of the Specialised Anti-Corruption Prosecutor's Office or other prosecutors of the Specialised Anti-Corruption Prosecutor's Office, except when the pre-trial investigation of these criminal offences is under the jurisdiction of this Article;

3) against the established procedure for military service (military offences), except for criminal offences provided for by Article 422 of the Criminal Code of Ukraine.

{Part 4 of Article 216 as revised by Law No. 771-VIII of 10 November 2015}

5. Detectives of the National Anti-Corruption Bureau of Ukraine shall conduct a pre-trial investigation of criminal offences under Articles 191, 206[2], 209, 210, 211, 354 (in respect of officers of legal entities under public law), 364, 366[2], 366[3], 368, 368[5], 369, 369[2], 410 of the Criminal Code of Ukraine, if there is at least one of the following conditions:

{Paragraph 1, part 5 of Article 216 as amended by Law No. 628-VIII of 16 July 2015 – the amendment shall take effect after the start of the proper functioning of the National Anti-Corruption Bureau of Ukraine and the exercise of its powers in full in accordance with the law, refer to clause 1, of Section II of the Law No. 628-VIII of 16 July 2015; as amended by Laws No. 263-IX of 31 October 2019, No. 1074-IX of 4 December 2020}

1) where a criminal offence is committed by:

the President of Ukraine, whose powers have been terminated, Member of Parliament of Ukraine, the Prime Minister of Ukraine, a member of the Cabinet of Ministers of Ukraine, the First Deputy and Deputy Ministers, a member of the National Council of Ukraine on Television and Radio Broadcasting, the National Commission for State Regulation of Financial Markets Services, the National Commission on Securities and Stock Market, the Antimonopoly Committee of Ukraine, Chairman of the State Committee for Television and Radio Broadcasting of Ukraine, Chairman of the State Property Fund of Ukraine, his First Deputy and Deputy, member of the Central Election Commission, Chairman of the National Bank of Ukraine, his First Deputy and Deputy, Chairman of the National Agency for Prevention of Corruption, his Deputy, member of the Council of the National Bank of Ukraine, Secretary of the National Security and Defence Council of Ukraine, his First Deputy and Deputy, Permanent Representative of the President of Ukraine to the Autonomous Republic of Crimea, his First Deputy and Deputy, Adviser or Assistant to the President of Ukraine, Chairman of the Verkhovna Rada of Ukraine, Prime Minister of Ukraine;

{Paragraph 2, clause 1, part 5 of Article 216 as amended by Laws No. 889-VIII of 10 December 2015, No. 140-IX of 2 October 2019}

a civil servant of A category;

{Paragraph 3, clause 1, part 5 of Article 216 as revised by Law No. 889-VIII of 10 December 2015}

deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, councillor of a oblast council, city council of Kyiv and Sevastopol, official of local government, whose position is referred to the first and second categories of office;

judge (except for judges of the High Anti-Corruption Court), Judge of the Constitutional Court of Ukraine, juror (while performing his/her duties in court), Chairman, Deputy Chairman, member, inspector of the High Council of Justice, Chairman, Deputy Chairman, member, inspector of the High Qualification Commission of Judges of Ukraine;

{Paragraph 5, clause 1, part 5 of Article 216 as revised by Laws No. 1798-VIII of 21 December 2016, No. 2447-VIII of 7 June 2018}

public prosecutors of the prosecutor's offices specified in clauses 1–4, 5–11, part 1 of Article 15 of the Law of Ukraine “On the Prosecutor's Office”;

{Paragraph 6, clause 1, part 5 of Article 216 as revised by Law No. 771-VIII of 10 November 2015}

a person of the senior management of the State Penitentiary Service, bodies and units of civil protection, senior member of the National Police, a customs official who has been awarded the special title of State Counsellor of the Customs Service of Third Class and above, an official of the State Tax Service who was awarded the special title of state adviser to the tax service of Third Class and above;

{Paragraph 7, clause 1, part 5 of Article 216 as amended by Laws No. 901-VIII of 23 December 2015; as revised by Law No. 440-IX of 14 January 2020}

a serviceman of the senior officer staff of the Armed Forces of Ukraine, the Security Service of Ukraine, the State Border Guard Service of Ukraine, the State Special Transport Service, the National Guard of Ukraine and other military groups formed in accordance with the laws of Ukraine;

director of a large business enterprise, in the authorised capital of which the share of state or communal property exceeds 50 per cent;

2) the size of the subject of the criminal offence or the damage caused by equals or exceeds five hundred and more subsistence levels for employable persons established by law at the time of the criminal offence (where the criminal offence was committed by an official of a government authority, law enforcement agency, military group, local government, economic entity, in the authorised capital of which the share of state or communal property exceeds 50 per cent);

{Clause 2, part 5 of Article 216 as amended by Laws No. 771-VIII of 10 November 2015, No. 1791-VIII of 20 December 2016}

3) criminal offence provided for by Article 369, part 1of Article 369[2] of the Criminal Code of Ukraine committed in respect of an official specified in part 4 or Article 18 of the Criminal Code of Ukraine or in clause 1 hereof.

Public prosecutor supervising pre-trial investigations conducted by detectives of the National Anti-Corruption Bureau of Ukraine may, by his ruling, attribute criminal proceedings in criminal offences provided for by paragraph 1 of this part to the jurisdiction of detectives of the National Anti-Corruption Bureau of Ukraine where the respective criminal offence has caused or could have caused grave consequences to legally protected freedoms and interests of an individual or legal entity, as well as to state or public interests. Grave consequences shall be deemed as harm to the vital interests of society and the state, including state sovereignty, territorial integrity of Ukraine, exercise of constitutional rights, freedoms and responsibilities of three or more persons.

Detectives of the National Anti-Corruption Bureau of Ukraine for the purpose of prevention, detection, termination and disclosure of criminal offences referred to its jurisdiction under this Article, by decision of the Director of the National Anti-Corruption Bureau of Ukraine and in agreement with the Prosecutor of the Specialised Anti-Corruption Prosecutor's Office may also investigate criminal offences that fall under the jurisdiction of investigators of other agencies.

{Paragraph 3, clause 3, part 5 of Article 216 as amended by Law No. 771-VIII of 10 November 2015}

Where the internal control unit of the National Anti-Corruption Bureau of Ukraine establishes criminal offences provided for by Articles 354, 364–370 of the Criminal Code of Ukraine, which were committed by an official of the National Anti-Corruption Bureau of Ukraine (except for the Director of the National Anti-Corruption Bureau of Ukraine, his first deputy and deputy), such criminal offences shall be investigated by detectives of the above unit.

{Part 6 of Article 216 has been deleted under Law No. 187-IX of 4 October 2019}

7. In criminal proceedings concerning the criminal offences provided for by Articles 384, 385, 386, 387, 388, 396 of the Criminal Code of Ukraine, the pre-trial investigation shall be conducted by the investigator of the body under the jurisdiction of the criminal offence in connection with which the pre-trial investigation has been initiated.

{Part of Article 216 has been deleted under Law No. 771-VIII of 10 November 2015}

9. In criminal proceedings concerning the criminal offences stipulated by Articles 209 and 209[1] of the Criminal Code of Ukraine, pre-trial investigation shall be conducted by the investigator of the body that initiated the pre-trial investigation or to the jurisdiction of which the criminal offence that preceded the legalisation (laundering) of property obtained from proceeds of crime belongs, except when these criminal offences are classified under this Article to the jurisdiction of the National Anti-Corruption Bureau of Ukraine.

{Part 9 of Article 216 as revised by Law No. 361-IX of 6 December 2019}

10. Where during the pre-trial investigation other criminal offences committed by the person under pre-trial investigation or another person are established, where they are related to criminal offences committed by the person under pre-trial investigation and which are not subject to that body which conducts pre-trial investigation in criminal proceedings, the prosecutor who supervises the pre-trial investigation, in case of impossibility to allocate these records in a separate proceeding, shall determine by his ruling the jurisdiction of all these criminal offences.

11. In determining the body that will conduct a pre-trial investigation in the form of an inquiry, the rules of jurisdiction provided for by this Article shall apply.

{Article 216 has been supplemented with part 11 under Law No. 2617-VIII of 22 November 2018}

{Article 216 as amended by Laws No. 746-VII of 21 February 2014, No. 767-VII of 23 February 2014, No. 1207-VII of 15 April 2014, No. 1689-VII of 7 October 2014; as revised by Law No. 198-VIII of 12 February 2015; Title of Article 216 as amended by Law No. 2617-VIII of 22 November 2018}

Article 217. Joining and disjoining records of pre-trial proceedings

1. Whenever necessary, records of pre-trial investigations in respect of several persons suspected of committing one criminal offence, or in respect of one person suspected of committing several criminal offences, as well as records of pre-trial investigations in which no suspect was identified but there are sufficient grounds to believe that the criminal offences in respect of which such investigations are conducted, has been committed by one and the same person (persons), may be joined in one proceedings.

2. Materials of pre-trial investigations into criminal offences and criminal offences may not be joined in one proceeding, except where this may adversely affect the completeness of the pre-trial investigation and court proceedings. In such cases, the investigation of a crime and a criminal offence shall be conducted according to the rules of pre-trial investigation. The provisions of Chapter 25 hereof shall not apply in this case.

{Part 2 of Article 217 as amended by Law No. 2617-VIII of 22 November 2018}

3. Whenever necessary, materials of pre-trial investigations in respect of one or several criminal offences may be disjoined if one individual is suspected of committing one or several criminal offences, or two or more individuals are suspected of committing one or more criminal offences.

4. Materials of pre-trial investigations may not be disjoined if it can have adverse effect on the completeness of pre-trial investigation and court proceedings.

5. Public prosecutor shall decide whether to join or disjoin the materials of pre-trial investigation.

6. A decision whether to join or disjoin the materials of pre-trial proceedings may not be challenged.

7. The day of the beginning of the pre-trial investigation in the proceedings allocated to a separate proceeding shall be the day when the investigation was initiated, from which separate records were selected, and in the proceedings in which the materials of several pre-trial investigations are combined it shall be the day of the beginning of the investigation of the proceeding that started earlier.

{Article 217 has been supplemented with part 7 under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered in the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4 § 2, Section 4 of the Law}

Article 218. Place of pre-trial investigation

1. Pre-trial investigation is conducted by an investigator of the pre-trial investigation agency in whose territorial jurisdiction criminal offence has been committed.

2. Where investigator has learned from a report or information or another source, about circumstances which can indicate the commission of criminal offence the investigation of which does not fall within his competence, he shall conduct investigation till the public prosecutor determines other investigative jurisdiction.

3. Whenever place of commission of criminal offence is unknown or it has been committed outside Ukraine, respective public prosecutor shall determine place for the conduct of pre-trial investigation, having regard to the place where elements of criminal offence have been found, the suspect or most of witnesses stay, place where criminal offence has ended or implications occurred, etc.

4. At the outset of the investigation, investigator shall check whether other pre-trial investigations in respect of the same criminal offence have been initiated.

Whenever it is established that another investigator of the pre-trial investigation agency or investigator of another pre-trial investigation agency initiated criminal proceedings in respect of the same criminal offence, the investigator shall transfer records and information in his possession to the investigator who conducts pre-trial investigation, inform the public prosecutor, victim or the applicant thereon, and enter the information concerned in the Unified Register of Pre-Trial Investigations.

Where during the pre-trial investigation it is established that a person has committed a criminal offence in the absence of a corpus delicti in his/her actions, the investigator, in agreement with the public prosecutor, shall send the records of the criminal proceedings to the chief officer of the inquiry agency.

{Part 4 of Article 218 has been supplemented with paragraph 3 under Law No. 2617-VIII of 22 November 2018}

Where during the inquiry it is established that the person has committed a crime, the investigator, in agreement with the public prosecutor shall sends the records of the criminal proceedings to the chief officer of the pre-trial investigation agency, taking into account the jurisdiction.

{Part 4 of Article 218 has been supplemented with paragraph 4 under Law No. 2617-VIII of 22 November 2018}

5. Disputes concerning the jurisdiction shall be settled by chief prosecutor of a higher-level prosecutor's office.

Dispute concerning the jurisdiction in criminal proceedings that may belong to the investigative jurisdiction of the National Anti-Corruption Bureau of Ukraine shall be settled by the Prosecutor General of Ukraine or His Deputy.

{Part 5 of Article 218 has been supplemented with paragraph 2 under Law No. 1698-VII of 14 October 2014}

6. Investigator or public prosecutor shall have the right to conduct investigatory (search) actions and covert investigatory (search) actions in the territory under jurisdiction of another pre-trial investigation agency, or by his ruling assign the conduct to the pre-trial investigation agency whose duty it is.

Article 219. Time limits for pre-trial investigation

1. Time limits of pre-trial investigation shall be calculated from the moment of entering information on a criminal offence into the Unified Register of Pre-trial Investigations until the day of appealing to the court with an indictment, motion for coercive measures of medical or reformatory nature, request for release from criminal liability. closure of criminal proceedings or until the day of the decision to close the criminal proceedings.

{Part 1 of Article 219 as revised by Laws No. 2147-VIII of 3 October 2017, No. 2617-VIII of 22 November 2018}

2. Time limits of pre-trial investigation from the moment of entering information on a criminal offence into the Unified Register of pre-trial investigations until the day of notification to the person of suspicion shall be:

1) twelve months in criminal proceedings in respect of minor crimes;

1) eighteen months in criminal proceedings in respect of grave or special grave crimes;

{Part 2 of Article 219 as revised by Law No. 2617-VIII of 22 November 2018}

3. From the date of notification of a person of suspicion, the pre-trial investigation shall be completed:

1) within seventy-two hours in the case of notification of a person on suspicion of committing a criminal offence or detention of a person in the manner prescribed by part 4 of Article 298 [2] hereof;

2) within twenty days in the case of notifying a person of suspicion of committing a criminal offence in cases where the suspect does not admit guilt or the need for additional investigative (search) actions, or committing a criminal offence by a minor;

3) within one month in case of notification to the person on suspicion of committing a criminal offence, if the person has filed a request for examination in the case provided for by part 2 of Article 298[4] hereof;

4) within two months from the date of notification to the person of suspicion of committing a crime.

{Part of Article 219 as revised by Law No. 2617-VIII of 22 November 2018}

4. The term of the pre-trial investigation may be extended in accordance with the procedure provided for by paragraph 4, Chapter 24 of this Code. in this respect, the total term of the pre-trial investigation shall not exceed:

1) one month from the date of notification to the person of suspicion of committing a criminal offence in the cases provided for by clauses 1 and 2 of part 3 of this Article;

2) six months from the date of notification to the person of suspicion of committing a minor crime;

3) twelve months from the date of notification to the person of suspicion of committing a grave or special grave crime.

{Part of Article 219 as revised by Law No. 2617-VIII of 22 November 2018}

5. The term from the date of issuance of the decision on suspension of criminal proceedings to the issuance of the decision on resumption of criminal proceedings, as well as the term of viewing the records of pre-trial investigation by the parties to the criminal proceedings in accordance with Article 290 of this Code shall not be included in the terms provided for by this Article.

The term from the date of the decision to suspend the criminal proceedings until the day of its cancellation by the investigating judge shall be included in the terms provided for by this Article.

{Part of Article 219 as amended by Law No. 1950-VIII of 16 March 2017; as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered in the Unified Register of Pre-Trial Investigations after the entry into force of these amendments –refer to clause 4 § 2, Section 4 of the Law}

6. The general term of pre-trial investigation in the joining of criminal proceedings in the manner prescribed by Article 217 of this Code shall be determined:

1) in proceedings that were investigated in one period of time, by merging a shorter period of into larger one;

2) in proceedings investigated at different intervals, by adding the terms of pre-trial investigation in each of these proceedings, which disjoint, within the pre-trial investigation of the crime, which provides the longest pre-trial investigation, with due account of the possibility of its continuation provided for by part 2 of this Article.

{Article 219 has been supplemented with part under Law No. 1950-VIII of 16 March 2017}

7. The general term of pre-trial investigation calculated in accordance with part 4 of this Article in joint criminal proceedings shall be determined by the public prosecutor specified in part four of Article 295 hereof, with the respective ruling thereon. Where necessary, the issue of its extension may be resolved simultaneously with the calculation of the general term in the joint criminal proceedings.

{Article 219 has been supplemented with part under Law No. 1950-VIII of 16 March 2017}

Article 220. Consideration of motions during pre-trial investigation

1. Investigator, inquiring officer or public prosecutor shall consider a motion of defence, victim and his/her representative, legal representative or representative of the legal entity in whose respect proceedings are taken, requesting the conduct of any procedural actions and where provided for by this Code, other person whose rights or legitimate interests are restricted during the pre-trial investigation, within a period nor exceeding three days after filing and grant them in the presence of appropriate grounds.

{Part 1 of Article 220 as amended by Laws No. 314-VII of 23 May 2013, No. 2548-VIII of 18 September 2018, No. 720-IX of 17 June 2020}

2. The person who filed a motion shall be informed about the outcome of considering the motion. A motivated ruling shall be adopted on refusal, in full or in part, to sustain the motion, and a copy of it shall be handed over to the person who filed it, and if objective reasons exist rendering such delivery impossible, it shall be sent thereto.

Article 221. Review of records of pre-trial investigation before its completion

1. On a motion of the defence, victim or representative of the legal entity in whose respect proceedings are taken, the investigator, inquiring officer or public prosecutor shall release all records of the pre-trial investigation for viewing, except for the record of security measures initiated in respect of persons participating in criminal justice, as well as the records reviewing which at such stage of criminal proceedings may be to the prejudice of the pre-trial investigation. No denial shall be allowed in making a generally accessible document the original of which is contained in pre-trial investigation files available.

{Part 1 of Article 221 as amended by Laws No. 314-VII of 23 May 2013, No. 720-IX of 17 June 2020}

2. A person viewing the records of pre-trial investigation shall have the right to take necessary notes and copies.

Article 222. Inadmissibility of disclosing information of pre-trial investigation

1. Information of pre-trial investigation may be disclosed only with permission of investigator or public prosecutor, and in the scope they deem possible.

{Part 1 of Article 222 as amended by Law No. 2213-VIII of 16 November 2017}

2. Whenever necessary, investigator or public prosecutor shall advise persons who learned information of pre-trial investigation in connection with having participated therein, of their duty

not to disclose such information without his permission. Unlawful disclosure of information of pre-trial investigation shall entail criminal liability established by law.

{Part 2 of Article 222 as amended by Law No. 2213-VIII of 16 November 2017}

Chapter 20. Investigative (detective, search) actions

Article 223. Requirements in respect of investigative (detective) actions

1. Investigative (detective) actions shall imply actions aimed at obtaining (collecting) information or verifying already obtained evidence in specific criminal proceedings.

2. Availability of sufficient information which shows that the objective of a specific investigative (detective) action can be achieved shall be grounds for the conduct of such action.

3. An investigator or prosecutor shall take appropriate measures to ensure attendance of investigative (detective) action of the persons whose lawful interests may be restricted or infringed. Before the beginning of each investigative (detective) action, participants to this action are advised of their rights and duties as set forth in the present Code, as well as of the liability established by law.

4. Conducting investigative (detective) actions in night-time (between 10 pm till 6 am) shall not be permitted, except for urgent situations where delay in conducting investigative actions may result in the loss of traces of criminal offence or in the suspect's absconding.

5. If information, which may indicate that the individual concerned is not guilty of the commission of criminal offence, becomes available during the conduct of an investigative (detective) action, investigator or public prosecutor shall conduct the investigative (detective) action in full, attach procedural documents, which were drawn up, to records of pretrial proceedings, and submit such to court when submitting an indictment, a motion on enforcement of compulsory medical or reformatory measures, or a motion on discharge of the person from criminal liability.

6. A investigative (detective) action conducted on a motion of the defence, victim or representative of the legal entity in whose respect proceedings are taken, shall be conducted in the presence of the initiating party and/or its defence counsel or representative, unless the special aspects of the investigative action makes it impossible or such party has waived in writing its right to participate.

{Paragraph 1, part 6 of Article 223 as amended by Law No. 314-VII of 23 May 2013}

The initiators attending the conduct of such investigative (detective) action may ask questions, express their proposals, comments and challenges as to the procedure of conduct of an appropriate investigative (detective) action, that are recorded in a report.

7. Investigator or public prosecutor shall invite at least two impartial individuals (witnesses of investigative action) for presenting for identification a person, dead body, or an object, including in connection with exhumation, an investigative experiment, and examination of a person. Exceptions relate to cases when the conduct of an investigative (detective) action is subject to uninterrupted video recording. Witnesses of investigative action may be invited for participation in other procedural actions, where investigator or public prosecutor find it expedient.

Search or inspection of a dwelling or any other possession of a person, search of a person shall be conducted with mandatory participation of at least two witnesses of investigative action irrespective of the use of technical devices for recording of the investigative (detective) action.

Victim, relatives of the suspect, accused and victim, officers of law enforcement agencies, as well as persons concerned with the outcome of the criminal proceedings shall not be witnesses of investigative action.

The above individuals may be examined during court proceedings as witnesses of the conduct of the investigative (detective) action concerned.

8. Investigative (detective) actions shall not be conducted upon expiration of time limits of pre-trial investigation, except in cases stipulated by part 3 of Article 333 hereof. Any investigative (detective) actions or covert investigative (detective) actions conducted after expiry of the period of the pre-trial investigation shall be void and the resulting evidence shall be deemed inadmissible.

Article 224. Interviewing

1. Interviewing shall be conducted in the place of pre-trial investigation or in other place upon agreement with the individual to be interviewed. Each witness shall be interviewed separately and in absence of other witnesses.

2. Interviewing shall not last more than two hours without breaks, and in the aggregate more than eight hours per day.

3. Before being interviewed, the person of the individual concerned shall be established, with his/her rights and the way in which interviewing is conducted are explained. Where the age of a person is not established, but there are grounds to believe that the person is a minor, the interview of the person shall be conducted according to the rules provided for the interviewing of a minor. Where a witness is interviewed, he/she shall be advised of criminal liability for refusal to give testimony and for giving deliberately false testimony, and where a victim is interviewed, he/she shall be advised of criminal liability for giving deliberately false testimony. Where necessary, an interpreter shall be invited to take part in the interviewing.

{Part 3 of Article 224 as amended by Law No. 1256-IX of 18 February 2021}

4. If the suspect waives answering questions, giving testimony, the interviewer shall stop him/her immediately after such waiver.

5. Photographing, audio or/and video recording may be made during interviewing.

6. The interviewee shall have the right use his/her own documents and notes during interviewing where his/her testimony involves any calculations other information difficult to keep in memory.

7. Where the interviewee so willing, he/she may provide his/her testimony written by his own hand. Based on such written testimony, he/she may be asked additional questions.

8. A person shall have the right not to answer questions with regard to circumstances in whose respect there is a direct prohibition in law (secrecy of confession, medical secrets, defence counsel's professional secrets, secrecy of deliberations room etc.), or which may become grounds for suspicion, accusation of commission by himself/herself, his/her close relatives or family

members of criminal offence, as well as with regard to officials who conduct covert investigative (detective) actions and persons who confidentially cooperate with pre-trial investigation agencies.

9. Investigator or public prosecutor shall have the right to simultaneously interview two or more persons who have already been interviewed, to clarify the reasons for discrepancies in their testimonies. At the start of such interview, it shall be established whether the summoned persons know each other, and what are the relations between them. Witnesses shall be advised on criminal liability for refusal to give testimony and for giving knowingly false testimony, and victims shall be advised on criminal liability for giving knowingly false testimony.

Summoned persons shall be in turn proposed to testify about those circumstances of criminal proceedings for the clarification of which the interview is being conducted, after which investigator or public prosecutor may ask questions Persons taking part in the interview, their defence counsels or representative, shall have the right to ask questions to each other pertaining to the subject of the interview.

Pronouncement of testimonies given by participants in the interview during previous interviews shall only be allowed after they have given testimony.

In criminal proceedings involving crimes against sexual freedom and sexual inviolability of a person, as well as crimes involving violence or threat of violence, two or more persons that have already been interviewed where a child or underage witness is involved may not be interviewed concurrently with the suspect to find out why their testimonies are divergent.

Article 225. Interrogation of a witness, victim in the course of pre-trial investigation in court session

1. On exceptional basis, when it is necessary to obtain testimonies from a witness or victim during pre-trial investigation if because of the existence of a threat to witness's or victim's life and health, his/her serious illness, the existence of other circumstances that may make interviewing them in court impossible or affect the completeness or reliability of testimony, a party to criminal proceedings shall have the right to file a motion with the investigating judge requesting such witness or victim to be interrogated in court session, including simultaneous interrogation of two or more already interviewed persons. In such a case, the witness or victim concerned shall be interrogated in court session at the place of the court-house or where the ill witness, victim is, in the presence of the parties to the criminal proceedings with full respect for rules governing examination during judicial proceedings.

Non-appearance of the party duly notified of the place and time of the court session, for participation in the interrogation of a person upon motion of the opposed party, shall not prevent the conduct of such interrogation in court session.

Interrogation of a person in accordance with the provisions of this Article may also be conducted in the absence of the defence, where at the time of its conduct no person has been notified of the suspicion of this criminal proceeding.

{Part 1 of Article 225 as amended by Law No. 314-VII of 23 May 2013}

2. An on-site court hearing may be held for the interrogation of a seriously ill witness who has been a victim during a pre-trial investigation.

When issuing a judgment upon results of a trial, the court may disregard the evidence obtained in a procedure set forth in this Article, only upon giving motives of such decision.

4. During judicial proceedings, the court may interrogate a witness or victim who was interviewed as required by rules in this Article, inter alia where such interview has been conducted in the absence of the defence or where there is a need to clarify testimonies or take testimonies regarding any circumstances that were not clarified as a result of interrogations in the course of pre-trial investigation.

5. With a view to verify the veracity of testimonies of a witness or victim, and establish discrepancy with the testimonies given under this Article, they may be read out during his/her interrogation in the course of court hearing.

Article 226. Specific aspects of interrogating a child or an underage

1. A child or an underage shall be interrogated in the presence of the legal representative, a pedagogue, or psychologist and a medical practitioner, where necessary.

2. Continued interrogation of a child or an underage shall not last more than one hour without breaks, in the whole more than two hours per day.

3. Persons who have not attained sixteen years of age are advised of the duty to give true testimony without warning them about criminal liability for the refusal to give testimony and for knowingly misleading testimonies.

4. Prior to interrogation, persons referred to in part 1 of this Article shall be advised of their duty to attend the interrogation, as well as their right to object to questions and to ask questions.

Article 227. Participation of a legal representative, pedagogue, psychologist, or medical practitioner in investigative (detective) actions with involvement of a child or an underage

1. Participation of the legal representative, a pedagogue, or psychologist and a medical practitioner, if necessary, should be ensured in investigative (detective) actions conducted with involvement of a child or an underage.

2. Prior to investigative (detective) action, a legal representative, pedagogue, psychologist, or medical practitioner shall be advised of their right to ask the child or an underage qualifying questions upon permission.

3. In exceptional cases where the participation of a legal representative may harm the interests of a child or underage witness or victim, investigator or public prosecutor may upon a motion of the child or underage or proprio motu, limit the participation of legal representative in certain specific investigative (detective) actions or debar him/her from participation in criminal proceedings, and instead invite another legal representative for this purpose.

Article 228. Presentation of a person for identification

1. Before presenting an individual for identification, investigator or public prosecutor in advance shall find out if the identifying person can identify this individual, ask him/her about outward appearance and characteristic signs of this individual, as well as about circumstances under which the identifying person saw this individual, and draw up a record thereon. Where the person states that he/she is unable to list characteristic signs, which can help him to identify the

individual but is able to identify him by the totality of signs, the record shall state by the totality of which signs he can identify the individual concerned. It shall be prohibited to show in advance to the identifying person the individual signs to be presented for identification and provide other information on characteristic signs of this individual.

2. The individual to be identified shall be shown to the identifying person together with other individuals of the same sex, whose number shall be not less than three and who shall not have clear differences in the age, outward appearance, and garments. Prior to presenting an individual for identification, he/she shall be invited, in the absence of the identifying person, to take any place among other individuals who are presented.

3. The identifying person shall be invited to point at the individual he/she shall identify and to explain by which signs he/she has identified the individual concerned.

4. To ensure protection for the identifying person, identification of an individual may be conducted under conditions when the individual to be identified does not see nor hear identifying person, i.e. out of visual and audio reach. Conditions for, and results of, such identification shall be stated in the record. The individual who has been presented for identification shall informed on the results of identification.

5. When an individual is presented for identification by the person in whose respect protective measures have been taken under the present Code, details on the person protected shall not be entered in the record and shall be stored separately together with details.

6. Where necessary, identification may be conducted by photos, video recording materials in accordance with provisions of parts 1 and 2 of this Article. Identification by photos, video recording materials shall preclude presentation of the individual to identification at a later time.

7. A photo of the individual to be identified shall be presented to identifying individual together with other photos whose number shall not be less than three. Photos presented for identification shall not have strong differences in the form and other particulars, which seriously affect visual perception of the image. Individuals shown on other photos shall be of the same sex and shall not be strongly different in the age, outward appearance and garments from the individual to be identified.

Materials of video recording containing image of the individual to be identified may be presented only on condition that there are at least four individuals who shall be of the same sex and should not be strongly different in the age, outward appearance and garments from the individual to be identified.

8. When presenting an individual for identification, specialists may be invited to record the process of identification with the use of technical means, as well as psychologists, pedagogues, and other specialists.

9. Under the rules of this Article, an individual may be presented for identification by voice or gait; at that, voice identification shall be conducted out of visual contact between the identifying person and individuals presented for identification.

Article 229. Presentation of objects for identification

1. Before presenting an object for identification, investigator or public prosecutor or defence counsel first shall ask the identifying person whether he/she is able to identify this object, interview him/her about characteristic signs of this object, as well as about circumstances under which he/she saw this object, and draw up a record thereon. Where the person states that he/she is unable to list characteristic signs, which can help him/her identify the object but is able to identify it by totality of signs, the person who conducts procedural action shall enter this in the record. It shall be prohibited to show in advance to the identifying person the object to be presented for identification, and to provide other information on its characteristic signs.

2. The object to be identified shall be shown to the identifying person among other similar objects of the same type, quality and without clear differences in outward appearance, in the number of not less than three. Identifying person shall be invited to point at the object which he/she is supposed to identify, and to explain by which signs he/she has identified the object.

3. If there are no other similar objects, the identifying person shall be invited to explain by which characteristic signs he/she has identified the object which has been presented alone.

Article 230. Dead body identification

1. A dead body shall be presented for identification in accordance with the requirements specified by parts 1 and 8 of Article 228 of this Code.

Article 231. Record of identification

1. A record of identification shall be drawn up as prescribed by this Code, such record stating detailed characteristic signs by which the identifying person has identified an individual, object or dead body concerned, or states by totality of which signs the identifying person has identified the person, object or dead body concerned.

2. Where identification is conducted in accordance with rules specified in parts 5 and 6 of Article 228 hereof, the record, in addition to information required by this Article, shall necessarily state that identification was made under conditions when the individual produced for identification has never seen nor heard the identifying person, as well as states all circumstances and conditions of the conduct of such identification. In such case, biographical details of the identifying person shall not be entered into the record nor enclosed to the records of pre-trial proceedings.

3. If investigative (detective) action was recorded with technical means, the photos, video recording of individuals, objects or dead body which have been produced for identification shall be attached to the report. Whenever the individual subject to identification has never seen nor heard of the identifying person, all photos, video recordings by which identifying person can be disclosed, shall be stored separately from pre-trial investigation files.

Article 232. Conducting interrogation or identification in the mode of video conference during pre-trial investigation

{Title of Article 232 as revised by Law No. 725-VII of 16 January 2014 – has cease to have legal effect under Law No. 732-VII of 28 January 2014; as revised by Law No. 767-VII of 23 February 2014}

Interrogation of persons, identification of persons or objects during pre-trial investigation may be conducted in the mode of video conference involving transmission from other premises (remote pre-trial investigation) in the event that:

1) certain persons are not able to participate directly in pre-trial proceedings for health or other valid reasons;

2) it is necessary to ensure safety of persons;

3) a minor or underage witness or victim is interviewed;

4) such measures are necessary to ensure prompt pre-trial investigation;

5) there are other grounds deemed sufficient by the investigator, public prosecutor or investigating judge.

{Part 1 of Article 232 as amended by Law No. 725-VII of 16 January 2014 – has ceased to have legal effect under Law No. 732-VII of 28 January 2014; as amended by Law No. 767-VII of 23 February 2014}

2. A decision to conduct remote pre-trial investigation shall be made by the investigator or public prosecutor or, where an interrogation is conducted in the mode of video conference under Article 225 of this Code, by the investigating judge on his own initiative or on a motion of a party to criminal proceedings or other participants of criminal proceedings. Where a party to criminal proceedings or victim object to conducting remote pre-trial investigation, the investigator, public prosecutor, investigating judge, may decide to conduct one by his reasoned resolution (ruling), providing substantiation for such decision. A decision to conduct remote pre-trial investigation, if the suspect is to be in such other premises, may not be taken where the suspect objects to such;

3. Technical equipment and technologies used in remote pre-trial investigation shall ensure adequate quality of image and sound and informational security. Participants to investigative (detective) action concerned shall be ensured the possibility to remotely ask questions and obtain answers from the person participating in the investigative (detective) action and exercise other procedural rights granted to them and perform their procedural duties as provided for by this Code.

4. A person shall be interrogated in remote pre-trial proceedings in compliance with rules set out in Articles 225–227 of this Code.

Persons or objects shall be identified in remote pre-trial proceedings in compliance with rules set out in Articles 228 and 229 hereof.

5. If a person who is to be taking part in the pre-trial investigation remotely– pursuant to a decision of the investigator or public prosecutor– stays on the premises located in the territory under the jurisdiction of the body of pre-trial investigation or in the territory of the city where the it is located, an official of such body of pre-trial investigation shall be under the obligation to hand over a leaflet on his/her procedural rights to such the person, to check on his/her ID, and to stay near until the end of the investigative (detective) action.

6. If a person who is to be taking part in the pre-trial investigation remotely– pursuant to a decision of the investigator or public prosecutor stays on premises located outside the territory under the jurisdiction of the body of pre-trial investigation or outside the territory of the city where it is located, the investigator, public prosecutor assigns by his resolution and within his competence

body of security, body supervising compliance with the tax legislation, unit of the National Anti-Corruption Bureau of Ukraine or unit of the State Bureau of Investigations of Ukraine, in whose territorial jurisdiction such person stays, to carry out the actions specified in part 5 of this Article. A copy of this resolution may be sent by e-mail, fax or via other means of communication. The official of the requested body, in agreement with the investigator or public prosecutor, who gave the assignment, shall be required to organise the execution of such assignment as soon as possible.

{Part 6 of Article 232 as amended by Laws No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 4 October 2019}

7. Remote pre-trial investigation conducted under the decision of the investigating judge shall be conducted in accordance with provisions of this Article and parts 4 and 5 of Article 336 hereof.

8. If a person who is to be taking part in the pre-trial investigation remotely is held in custody in a remand prison or penal institution, actions provided for by part 5 of this Article shall be conducted by an official of such institution.

9. The course and results of investigative (detective) action as conducted in the video conference mode shall be fixed with the use of video (audio) technical devices.

10. A person under protection may be interrogated in the video conference mode with such changes in his/her outward appearance and voice which make impossible his/her identification.

11. In order to ensure promptness of criminal proceedings, the investigator or public prosecutor may conduct the interrogation in the video conference or telephone conference mode of a person who for reasons of staying in a location remote from the place where the pre-trial investigation is conducted, illness, being busy or for other reasons, is not able to appear on time and without excessive difficulty before the investigator or public prosecutor.

Based on results of interrogation conducted in the video conference or telephone conference mode, investigator or public prosecutor shall draw up a report in which he indicates the date and time of interrogation, data on the interrogated person, identification features of the communication device used by the interrogated person, as well as circumstances which he communicated. Where necessary, the interrogation shall be fixed by audio or video recording technical means.

Investigator or public prosecutor shall be required to take measures to establish the identity of the person who has been interrogated in the video conference or telephone conference mode, and to indicate in the report in what way the interrogated person’s identification was confirmed.

Whenever it is necessary to obtain testimonies from interrogated persons, investigator or public prosecutor shall conduct their interrogation.

Article 233. Entering home or any other possession of a person

1. Nobody is allowed to enter home or any other possession of a person for any purpose whatsoever otherwise than upon voluntary consent of the owner or based on a ruling of investigating judge, and except in cases specified in part 3 of this Article.

2. The home of a person shall mean any premise an individual owns permanently or temporarily whatever purpose it serves and whatever legal status it has, and adapted for permanent or temporary residence of physical persons, as well as all constituent parts of such premises. Premises specially intended for keeping of persons whose rights have been restricted by law, shall

not deemed a home. Other possession of a person shall mean a vehicle, land plot, garage, other structures or premises for household, service, business, production or other use etc., which a person owns.

3. The investigator or public prosecutor shall have the right, before the investigating judge's ruling, to enter home or any other possession of a person only in urgent circumstances related to saving human life and property or in a hot pursuit of persons suspected of committing a crime. In such a case, the public prosecutor or investigator, with approval of the public prosecutor, shall be required to file promptly after such actions a motion with the investigating judge for a search warrant. The investigating judge shall consider such motion under the rules of Article 234 of this Code, having verified inter alia whether there did exist grounds for entering home or other possession of the person without a ruling of the investigating judge. Where the public prosecutor refuses to approve the motion for search or the investigating judge dismisses the motion for search, evidence found as a result of such search shall be inadmissible and any information so obtained shall be subject to destruction as provided for by Article 255 of this Code.

{Part 3 of Article 233 as revised by Law No. 720-IX of 17 June 2020}

Article 234. Search

1. A search shall be conducted with the purpose of finding and fixing information on circumstances of commission of criminal offence, finding tools of criminal offence or property obtained as a result of its commission, as well as of establishing the whereabouts of wanted persons.

2. A search shall be conducted on the basis of a ruling of an investigating judge of a local general court within whose territorial jurisdiction the pre-trial investigation agency is located, and in criminal proceedings on crimes within the jurisdiction of the High Anti-Corruption Court ot shall be conducted on the basis of a decision of an investigating judge of the High Anti-Corruption Court.

{Part 2 of Article 234 as revised by Law No. 2367-VIII of 22 March 2018; as amended by Law No. 187-IX of 4 October 2019}

3. Whenever it is necessary to conduct a search, investigator with approval of public prosecutor, or public prosecutor shall submit an appropriate request to investigating judge containing the following information:

1) name and registration number of the criminal proceeding concerned;

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

4) grounds for search;

5) home or any other possession of a person or a part thereof or other possession of the person where the search is to be conducted;

6) person who owns the home or other possession, and person in whose actual possession it actually is;

7) individual or generic features of things, documents, other property or persons to be found, as well as their connection with the committed criminal offence;

8) substantiation that access to things, documents or information that may be contained in them cannot be obtained by the pre-trial investigation body voluntarily by requesting things, documents, information in accordance with part 2 of Article 93 of this Code, or by other investigative actions provided for by this Code, and access to the persons whom it is planned to find, by means of other investigative actions provided for by this Code. This requirement shall not apply to cases of searches to find tools of criminal offence, objects and documents withdrawn from circulation.

The motion shall also be accompanied by originals or copies of documents and other materials by which the prosecutor or investigator substantiates the arguments of the motion, as well as an extract from the Unified Register of Pre-Trial Investigations into criminal proceedings in which the petition is filed.

4. A request for search shall be considered in court on the day of its receipt, with participation of investigator or public prosecutor.

5. Investigating judge shall reject a request for search unless public prosecutor or investigator proves the existence of sufficient grounds to believe that:

1) a criminal offence was committed;

2) objects and documents to be found are important for pre-trial investigation;

3) knowledge contained in objects and documents being searched may be found to be evidence during court proceedings;

4) objects, documents or persons to be found are in the home or any other possession of a person indicated in the request;

5) under the established circumstances, a search shall be the most expedient and effective way to find and seize items and documents important to the pre-trial investigation, as well as to locate wanted persons, and as a measure proportional to interference with personal and family life.

6. Where the investigator refuses to satisfy the request for permission to search the dwelling or other property of the person, the prosecutor shall not have the right to re-apply to the investigating judge for permission to search the same house or other property of the person, unless new circumstances are specified in the request, which were not considered by the investigating judge.

{Article 234 as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

Article 235. Ruling to authorise a search of home or any other property of a person

1. Investigating judge's ruling authorising search of home or other property of a person on the grounds provided in public prosecutor's or investigator's request, shall give the right to enter home or other property of a person only once.

2. Investigating judge's ruling authorising search of home or other property of a person shall be required to comply with general requirements for court decisions laid down in this Code as well as contain information on the following:

1) term of effect of the ruling which may not exceed one month after the day it was passed;

2) public prosecutor or investigator who requests the search;

3) legal provision based on which the ruling is passed;

4) home or any other property of a person or a part thereof, or other possession of the person where the search is to be conducted;

5) person who owns the home or other property, and person in whose actual possession it actually is;

6) objects, documents or individuals to be found.

3. Two copies of the ruling shall be prepared and expressly marked as copies.

Article 236. Execution of the ruling to authorise search of home or any other property of a person

1. Investigator or public prosecutor may execute the ruling to authorise a search of home or any other property of a person. The victim, a suspect, defence counsel, representative, and other participants to the criminal proceedings may be invited to attend. Whenever investigator or public prosecutor needs assistance in issues requiring special knowledge, they may invite specialists to participate in the search. The investigator or public prosecutor shall take adequate measures to ensure that persons whose rights and legitimate interests may be restricted or violated shall be present during such search. Regardless of the stage of this investigative action, the investigator, public prosecutor, or other official involved in the search shall admit a defence counsel or attorney to the scene, whose authority shall be confirmed in accordance with the provisions of Article 50 of this Code.

2. A search of home or other possession of a person based on investigating judge's ruling should be conducted in time when the least damage is caused to usual occupations of their owner unless the investigator, public prosecutor finds that meeting such requirement can seriously compromise the objective of the search.

3. Prior to the execution of investigating judge's ruling, the owner of home or any other property or any other present individual in case of the absence of the owner, shall be produced court's ruling and given a copy thereof.

Investigator or public prosecutor may prohibit any person from leaving the searched place until the search is completed and from taking any action which impede conducting search. Failure to follow these requests shall entail liability established by law.

The investigator or public prosecutor shall not prohibit the participants to the search to use the legal aid of a lawyer or representative. The investigator or public prosecutor shall allow such a lawyer or representative to be present during the search at any stage of the investigation.

4. If no one is present in the home or other possession, the copy of ruling shall be left visible in the home or other possession. In such a case, investigator or public prosecutor shall ensure preservation of property contained in the home or any other property and make it impossible for unauthorised individuals to have access thereto.

5. Search based on court's ruling shall be conducted within the scope necessary to attain the objective of the search. Upon decision of the investigator or public prosecutor, individuals present in the home or other possession may be searched if there are sufficient grounds to believe that they hide on their person objects or documents which are important for criminal proceedings.

Such search shall be conducted by individuals of the same sex. Non-appearance of a lawyer, a representative to participate in the search of a person within three hours shall not prevent the search. The course and results of the personal search shall be recorded in the appropriate protocol.

6. During the search, investigator or public prosecutor shall have the right to open closed premises, depositories, objects if the person present during the search refuses to open them, or if the search is conducted in the absence of persons specified in part 3 of this Article.

7. During the search, investigator or public prosecutor may conduct measurements, shoot pictures, make audio or video recording, draw plans and schemes, produce graphic images of the searched home or other property of a person, or of particular objects, make prints and moulds, inspect and seize objects and documents which are important for criminal proceedings. Objects seized by law from trafficking shall be subject to seizure irrespective of their relation to the criminal proceedings concerned. Seized objects and documents not included in the list of those directly allowed to be found in the ruling authorising the search, and which are not among objects withdrawn by law from circulation, shall be deemed provisionally seized property.

8. Persons who are present during the search shall have the right to make statements in the course of investigative (detective) action, such statements being entered in the record of search.

9. The other copy of the search report together with the description of the seized documents and temporarily seized items (if any) shall be handed over to the person who was searched, and in his/her absence it shall be handed to an adult member of his/her family or his/her representative.

When conducting a search of an enterprise, institution or organisation, the other copy of the report shall be handed over to the director general or representative of the enterprise, institution or organisation.

10. A search of person's home or other property based on a ruling of an investigating judge shall be recorded by means of audio and video recordings.

{Article 236 as amended by Laws No. 394-VIII of 13 May 2015 No. 769-VIII of 10 November 2015, No. 2213-VIII of 16 November 2017; as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which the information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

Article 237. Inspection

1. Investigator or public prosecutor shall carry out visual inspection of the area, premises, items and documents to find and record the information relating to the commission of a criminal offence.

2. Inspection of home or any other possession of a person shall be done in accordance with rules of this Code governing the search of home or any other property of a person.

3. The victim, suspect, defence counsel, legal representative and other participants to the criminal proceedings may be invited to take part in the inspection. In order to have assistance in matters requiring special knowledge, investigator or public prosecutor may invite specialist to participate in the inspection.

4. Persons who are present during the inspection shall have the right to make statements in the course of investigative (detective) action, such statements being entered in the record of inspection.

5. During inspection, it shall be allowed to seize only objects and documents of importance for the pre-trial investigation, and objects withdrawn from circulation. All objects and documents which have been seized are subject to immediate inspection and sealing with signed acknowledgement by participants to the inspection. If it is impossible to inspect objects and documents on the premises or if their inspection is complicated, they shall be temporarily sealed and stored as they are until final inspection and sealing thereof is made.

6. Investigator or public prosecutor shall have the right to prohibit any individual from leaving the inspected place till the completion of inspection and from committing any actions which impede inspection. Failure to follow these requests shall entail liability established by law.

7. During inspection, investigator or public prosecutor or upon their assignment, the invited specialist may conduct measurements, photographing, audio or video recording, draw up plans and schemes, prepare graphical images of the place or particular objects, produce prints and moulds, examine and seize objects and documents of importance for criminal proceedings. Objects seized by law from trafficking shall be subject to seizure irrespective of their relation to the criminal proceedings concerned. Seized objects and documents which are not objects seized from circulation by law shall be deemed provisionally seized property.

Article 238. Inspection of a dead body

1. Inspection of a dead body shall be made by the investigator or public prosecutor with mandatory participation of forensic medical examiner or a doctor when timely invitation of a forensic medical examiner is impossible.

2. A dead body may be inspected concurrently with the inspection of the scene, home, or other property of a person in accordance with rules of this Code which govern inspection of home or other property of a person.

3. After the inspection, the dead body shall necessarily be sent to forensic medical examination for establishing causes of death.

4. A dead body shall be returned only upon written permission of public prosecutor and only after forensic medical examination has been completed and causes of death established.

Article 239. Inspection of a dead body in connection with exhumation

1. Exhumation shall made upon public prosecutor's ruling. Such ruling shall be executed by officials and officers of local government.

2. The dead body shall be taken out from the grave in the presence of forensic medical examiner and inspected in accordance with rules laid down in Article 238 hereof. After exhumation has been completed and necessary examinations made, the dead body shall be buried in the same place and the grave shall be restored to previous condition.

3. During exhumation, forensic medical examiner may take samples of tissue and organs or a part of the dead body which are necessary for expert examination.

4. Where necessary, the dead body may be brought to an appropriate expert institution for examination.

5. During exhumation, objects of importance for establishing circumstances of criminal offence can be removed from the grave.

6. A record of investigative (detective) action conducted is drawn up which shall state everything which was found out, in the same sequence as it was really done, in the same appearance as was noted during the conduct of investigative (detective) action. Where objects and samples are removed for examination, this shall be stated in the record. Measurements, photos, audio- or video recording, plans and schemes, graphic images, imprints, and moulds shall be attached to the record.

Article 240. Investigative experiment

1. In order to check and clarify details of importance for establishing circumstances of criminal offence, investigator or public prosecutor shall have the right to conduct an investigative experiment by way of reconstructing behaviour, situation, circumstances of a certain event, and conducting required experiments or tests.

2. Where necessary, investigative experiment may be conducted with participation of a specialist. During investigative experiment, measurements, photographing, audio or video recording may be made, plans and schemes drawn, graphic images, prints and moulds produced, which shall be attached to the record.

3. The suspect, victim, witness, defence counsel, representative may be involved in investigative experiment.

4. Investigative experiment shall be allowed provided that it does not endanger life and health of participants thereto or those around, nor degrade their honour and dignity or cause damage.

5. Investigative experiment in the home or other property of a person shall be conducted only upon voluntary consent of the holder, or based on an investigating judge ruling upon request of investigator approved by public prosecutor, or of public prosecutor, considered according to the procedure laid down in this Code for consideration of requests on the conduct of a search in the home or other property of a person.

6. Investigator or public prosecutor shall draw up a record of investigative experiment as prescribed by this Code. In addition, the record shall describe in detail the conditions and results of investigative experiment.

Article 241. Examination of an individual

1. Investigator or public prosecutor shall examine the suspect, witness or victim to detect traces of criminal offence or special signs at their body unless forensic medical examination is required for this.

2. Examination shall be made upon ruling of public prosecutor and, where necessary, with participation of a forensic medical examiner or a doctor. Examination which is accompanied by denudation of the individual examined shall be conducted by an individual of the same sex, with exception for a doctor, and upon consent of the individual examined. Investigator or public prosecutor shall have no right to be present when an individual of other sex is being examined, where the examination involves the necessity to denude the individual examined.

3. Before examination, the individual subject to examination shall be produced the public prosecutor's ruling. Thereafter, the individual concerned shall be invited to undergo voluntary examination, and if he/she refuses, forced examination shall be conducted.

4. When examining an individual, it shall be prohibited to humiliate honour and dignity or endanger his/her health. Where necessary, presence or absence of traces of criminal offence or special signs on the body of the examined individual shall be fixed by way of photographing, video recording or other technical means. Images the demonstration of which can be deemed to be offending for the individual examined shall be stored in a sealed form and may be produced only to court during judicial proceedings.

5. The record of examination shall be drawn up as prescribed by this Code. A copy of the record of examination shall be handed over to the individual who has been forcibly examined.

Article 242. Grounds for expert examination

1. The examination shall be conducted by an expert institution, expert or experts involved by the parties to the criminal proceedings or the investigating judge at the request of the defence in cases and in accordance with the procedure provided for Article 244 of this Code, where special knowledge is required to clarify the circumstances important for criminal proceedings. It is not allowed to conduct expertise examination for addressing issues related to law.

{Part 1 of Article 242 as revised by Law No. 2147-VIII of 3 October2017 –the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; as revised by Law No. 187-IX of 4 October 2019}

2. Investigator or public prosecutor shall commit an expertise to conduct examination in respect of:

{Part 1 of Article 242 as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these

amendments – refer to clause 4, § 2, Section 4 of the Law; as revised by LawNo. 187-IX of 4 October 2019}

1) establishing causes of death;

2) establishing gravity and nature of bodily injuries;

3) ascertaining mental state of the suspect upon availability of information which casts doubt on his/her sanity or limited capacity;

4) ascertaining the age of a person in so far as it is necessary to dispose the issue relating to his/her criminal liability whenever it is impossible to have such information otherwise;

{Clause 5, part 2 of Article 242 has been deleted under Law No. 187-IX of 04 October 2019}

6) determination of the amount of pecuniary damages, where the victim cannot determine them and has not provided a document confirming the amount of such damage, the amount of non-pecuniary damage, environmental damage caused by a criminal offence.

{Part 2 of Article 242 has been supplemented with clause 6 under Law 1261-VII of 13 May 2014; as revised by Law No. 187-IX of 4 October 2019}

3. Compulsory conduct of medical or psychiatric expertise examination shall be undertaken upon investigating judge's or court's ruling.

Article 243. Procedure of involving an expert

1. An expert shall be involved where there are grounds for conducting an examination on behalf of a party to the criminal proceedings.

The defence party shall have the right to engage experts on a contractual basis to conduct an examination, including mandatory one.

An expert may be engaged by the investigating judge at the request of the defence in cases and in the manner prescribed by Article 244 hereof.

{Article 243 as revised by Law No. 2147-VIII of 3 October2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; as revised by Law No. 187-IX of 4 October 2019}

Article 244. Consideration by investigating judge of a motion for involvement of expert

1. The defence shall have the right to apply to the investigating judge for an examination where:

1) in order to resolve issues that are essential for criminal proceedings, it is necessary to involve an expert, but the prosecution did not involve him either the expert involved by the prosecution has been asked questions that do not allow a full and appropriate opinion on the issues to be examined, or there are sufficient grounds to believe that the expert involved by the prosecution lacks the necessary knowledge, bias or for other reasons will provide or provided an incomplete or incorrect conclusion;

2) the defence shall not engage an expert on its own due to the absence of funds or for other objective reasons.

2. The motion shall state:

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

3) reference to the circumstances substantiating arguments of the motion;

4) reference to an expert or expert institution that shall be assigned the expert examination;

5) the type of expert examination to be conducted and the list of question to be posed before the expert.

The motion shall be also attached with:

1) copies of records substantiating arguments of the motion;

2) copies of documents confirming the defence's inability to involve an expert.

3. The motion shall be considered no later than five days from the date of its receipt by the investigating judge of the local court within whose territorial jurisdiction the pre-trial investigation is conducted, and in criminal proceedings concerning criminal offences under the jurisdiction of the High Anti-Corruption Court it shall considered by the investigating judge of the High Anti-Corruption Court. The person who filed the motion shall be notified of the place and time of its consideration, with his/her failure to arrive not precluding such consideration, except when his/her participation is recognised mandatory by the investigating judge

{Part 3 of Article 244 as amended by LawNo. 720-IX of 17 June 2020}

4. On finding that a motion has been filed in contravention of the requirements of part 2 of this Article, the investigating judge shall return it to the person who has filed it, on which a ruling is issued.

5. While hearing the motion, the investigating judge may, on request of any party to the hearing or on his own initiative, hear any witness or examine any records relevant for deciding on the motion.

6. Based on the results of consideration of the motion, the investigating judge shall have the right to entrust the examination to an expert institution, expert or experts, where the person who filed the petition proves the existence of the grounds specified in part 1 of this Article.

7. A ruling of an investigating judge on assigning an expert examination shall include the questions posed before the expert by the person who has filed the respective motion. The investigating judge shall have the right to not include the questions posed by the person who has filed the respective motion into his ruling, having provided reasons for such decision, where the answers to such questions are not related to the criminal proceedings or are irrelevant for the court proceedings.

8. Where necessary, the investigating judge shall have the right on request of the person who has filed the motion involve an expert, while granting leave to involve such, decide on obtaining samples for examination in accordance with Article 245 hereof.

9. The opinion of the expert involved by an investigating judge shall be made available to the person on whose motion the expert was involved.

{Article 244 as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; as amended by Law No. 2447-VIII of 7 June 2018; as revised by Law No. 187-IX of 4 October 2019}

Article 245. Obtaining samples for examination

1. Where samples are needed for expertise examination, such samples shall be taken by the party to criminal proceedings, which requested expert examination or on whose motion the examination was assigned by the investigating judge. Where an expert examination is commissioned by the court, the taking of samples for same shall be carried out by the court or, at its request, by a specialist involved for this purpose.

2. The way in which samples of objects and documents are taken shall be established in accordance with provisions governing provisional access to objects and documents (Articles 160–166 of this Code)

3. Biological samples shall be taken from a person in accordance with rules prescribed by Article 241 hereof. Should a person refuse to voluntarily provide biological samples, investigating judge or court upon motion of a party to criminal proceedings, considered in accordance with the procedure established by Articles 160–166 hereof, shall have the right to give permission to investigator or public prosecutor (or to oblige them where the motion was filed by defence) to take biological samples in a compulsory manner.

Chapter 21. Covert investigative (detective) actions

§ 1. General provisions for covert investigative (detective) actions

Article 246. Grounds for covert investigative (detective) actions

1. Covert investigative (detective) actions shall mean a type of investigative (detective) actions the information on the fact and methods in which they are conducted may not be disclosed, except as prescribed by this Code.

2. Covert investigative (detective) actions shall be conducted where information on criminal offence and its perpetrator cannot be obtained otherwise. Covert investigative (detective) actions specified in Articles 260, 261, 262, 263, 264 *(in part of actions based on the investigating judge's ruling),* 267, 269, 269[1], 270, 271, 272, 274 *of this Code, shall be conducted exclusively in criminal proceedings in respect of grave or special grave crimes.*

{Part 2 of Article 246 as amended by Laws No. 198-VIII of 12 February 2015, No. 720-IX of 17 June 2020}

3. Investigator, public prosecutor or investigating judge in cases specified by this Code, upon request of the public prosecutor or upon request of the investigator approved by public prosecutor, shall take decision on the conducting of covert investigative (detective) actions. Investigator shall be required to inform public prosecutor on the decision to conduct certain covert investigative (detective) actions and their findings. Public prosecutor shall have the right to prohibit or stop the conducting of covert investigative (detective) actions.

4. Only public prosecutor shall be vested with the right to take decision to conduct such a covert investigative (detective) action as control over the commission of crime.

5. Decision to conduct a covert investigative (detective) action shall state the time limit for its conduct. Time limit for the conducting of a covert investigative (detective) active may be extended:

by public prosecutor, where the covert investigative (detective) action is conducted by his decision, up to eighteen months;

by chief officer of pre-trial investigative agency, where the covert investigative (detective) action is conducted by his or investigator's decision, up to six months;

Head of the Main, Independent, Department, Department of the National Police, Territorial Bodies of the National Police and its separate units, Central Directorate of the Security Service of Ukraine, Head of the respective unit of the National Anti-Corruption Bureau of Ukraine,

{Paragraph 4, part 5 of Article 246 as amended by Laws No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016}

Head of the National Police, Head of the Security Service of Ukraine, Director of the National Anti-Corruption Bureau of Ukraine, head of the central executive body that ensures the development and implementation of state tax and customs policy, Head of the State Bureau of Investigations, where the covert investigative (detective) action is conducted upon the decision of the investigator, up to eighteen months;

{Paragraph 5, part 5 of Article 246 as amended by Laws No. 406-VII of 4 July 2013, No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 4 October 2019}

by investigating judge, if the covert investigative (detective) action is conducted by his decision, as prescribed by Article 249 of the present Code.

6. An investigator conducting a pre-trial investigation of a criminal offence or, on his behalf, authorised criminal intelligence units of the National Police, security agencies, the National Anti-Corruption Bureau of Ukraine, the State Bureau of Investigations, and authorities supervising compliance with tax and customs legislation shall have the right to conduct covert investigative (search) actions, bodies, penitentiary institutions and pre-trial detention centres of the State Penitentiary Service of Ukraine, bodies of the State Border Guard Service of Ukraine. Upon investigator's or public prosecutor's decision, other persons may also be engaged in the conducting of covert investigative (detective) actions.

{Part 6 of Article 246 as amended by Laws No. 406-VII of 4 July 2013, No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1492-VIII of 7 September 2016, No. 671-IX of 4 June 2020, No. 720-IX of 17 June 2020}

Article 247. Investigating judge who considers requests to conduct covert investigative (detective) actions

1. Consideration of motions referred to the powers of an investigating judge in accordance with the provisions of this Chapter shall be conducted by an investigating judge of the appellate court within whose territorial jurisdiction the pre-trial investigation agency is located, and in criminal proceedings concerning criminal offences it shall be conducted by the investigating judge of the High Anti-Corruption Court.

{Part 1 of Article 247 as revised by Law No. 2447-VIII of 7 June 2018; as amended by Law No. 720-IX of 17 June 2020}

2. Consideration of requests for permission to conduct covert investigative (search) actions against judges, court and law enforcement officers and/or in the premises of judicial and law enforcement agencies, which in accordance with the provisions of this Chapter is referred to the powers of an investigating judge, the court of appeal outside the territorial jurisdiction of the pre-trial investigation body conducting the pre-trial investigation, and in criminal proceedings concerning criminal offences within the jurisdiction of the High Anti-Corruption Court, it shall be conducted by an investigating judge of the High Anti-Corruption Court (except as provided for by paragraph 7, part 1 of Article 34 hereof).

{Paragraph 1, part 2 of Article 247 as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

In this case, the investigator or public prosecutor shall apply for permission to conduct covert investigative (detective) actions to the investigating judge of the respective appellate court closest to the appellate court within whose territorial jurisdiction the pre-trial investigation is conducted, or the High Anti-Corruption Court and and in the case provided for by paragraph 7, part 1 of Article 34 hereof, he shall appeal to the appellate court specified in paragraph 7, part 1 of Article 34 hereof).

{Paragraph 2, part 2 of Article 247 as revised by Law No. 2447-VIII of 7 June 2018}

{Article 247 has been supplemented with part 2 under Law No. 613-VIII of 15 July 2015}

{Article 247 as amended by Law No. 1698-VII of 14 October 2014}

Article 248. Examination of the request to obtain permission for the conducting of a covert investigative (detective) action

1. Investigating judge shall consider the request to obtain permission for the conducting of a covert investigative (detective) action within six hours after he has received such request. The request shall be considered with participation of the person who has filed the request.

2. The motion shall state:

1) name and registration number of the criminal proceeding concerned;

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

3) legal qualification of the crime with indication of Article (part of Article) of the Criminal Code of Ukraine;

4) information on the individual (individuals), place or object in whose respect it is necessary to conduct covert investigative (detective) action;

5) circumstances that provide grounds for suspecting the individual of committing the crime;

6) type of covert investigative (detective) action to be conducted, and substantiation of the time limits for the conducting thereof;

7) substantiation of impossibility to obtain otherwise knowledge on crime and the individual who has committed it;

8) information, depending on the type of covert investigative (detective) action, on identification signs, which will allow to uniquely identify the subscriber under surveillance, transport telecommunication network, and terminal equipment etc.;

9) substantiation of the possibility to obtain in the course of conducting of covert investigative (detective) action of evidence which, alone or in concurrence with other evidence, may be significantly important for the clarification of the circumstances of crime or the identification of perpetrators thereof.

Investigator's or public prosecutor's request shall be attached with an extract from the Unified Register of Pre-Trial Investigations pertaining to the criminal proceedings within the framework of which the request is filed.

3. Investigating judge shall pass a ruling to allow conducting the requested covert investigative (detective) action where the public prosecutor proves that sufficient grounds exist that:

1) a crime of respective gravity has been committed;

2) in the course of covert investigative (detective) action, information is likely to be obtained, which alone or in totality with other evidence may be of essential importance for establishing circumstances of the crime or identification of perpetrators thereof.

4. Investigating judge's ruling to allow conducting a covert investigative (detective) action shall meet general requirements for judicial decisions as prescribed by this Code, as well as contain information on:

1) public prosecutor or investigator who has applied for permission;

2) criminal offence which is subject of pre-trial investigation within which the ruling is passed;

3) person (persons) place or object targeted by the requested covert investigative (detective) action;

4) type of the covert investigative (detective) action and information depending on the type of investigative (detective) action, on identification signs, which will allow to uniquely identify the subscriber under surveillance, transport telecommunication network, and terminal equipment, etc.;

5) time in which the ruling is valid.

5. The ruling rendered by investigating judge to give no permission to conduct covert investigative (detective) action shall not impede filing a new motion to obtain such permit.

{Article 248 as amended by Law No. 720-IX of 17 June 2020}

Article 249. Time in which the investigating judge's ruling to allow conducting a covert investigative (detective) action is valid

1. Time in which the investigating judge's ruling to allow conducting a covert investigative (detective) action may not be valid for more than two months

2. Where investigator or public prosecutor finds it necessary to extend conducting a covert investigative (detective) action, the investigator upon approval of public prosecutor, or public prosecutor shall have the right to apply to the investigating judge for making a new ruling under Article 248 hereof.

3. In addition to information specified in Article 248 of this Code, investigator or public prosecutor shall provide additional information which provides grounds for extending the conducting of covert investigative (detective) action.

4. The aggregate duration of a covert investigative (detective) action in one criminal proceeding given permission of the investigating judge shall not exceed the maximum duration of pre-trial investigation as set forth in Article 219 hereof. In case where such investigative (detective) action is conducted to locate an individual hiding from the pre-trial investigation authority, investigating judge or court or being searched, it shall last until the wanted individual is located.

5. Public prosecutor shall take decision to discontinue conducting of a covert investigative (detective) action where such action is no longer needed.

Article 250. Conducting a covert investigative (detective) action before investigating judge adopts a ruling

1. In the exceptional and urgent cases related to saving human life and preventing the commission of grave or special grave crime as provided for by Sections I, II, VI, VII (Articles 201 and 209), IX, XIII, XIV, XV, XVII of the Special Part of the Criminal Code of Ukraine, a covert investigative (detective) action may be initiated before investigating judge adopts a ruling in the cases prescribed by this Code, upon decision of investigator approved by the public prosecutor, or upon decision of the public prosecutor. In such a case, public prosecutor shall immediately after the initiation of such covert investigative (detective) action apply to investigating judge with an appropriate request.

2. Investigating judge shall consider this request in accordance with the requirements of Article 248 hereof.

3. Conducting any activities related to rendering a covert investigative (detective) action shall be immediately discontinued where the investigating judge passes a ruling denying permission to conduct the covert investigative (detective) action concerned. Information obtained as a result of conducting such covert investigative (detective) action shall be subject to destruction as prescribed by Article 255 hereof.

Article 251. Requirements for investigator's or public prosecutor's ruling to conduct covert investigative (detective) actions

1. Investigator's or public prosecutor's ruling to conduct covert investigative (detective) actions shall state:

1) name and registration number of the criminal proceeding concerned;

3) legal qualification of the criminal offence with indication of Article (part of Article) of the Criminal Code of Ukraine;

3) information on the individual (individuals), place or object in whose respect it is necessary to conduct the covert investigative (detective) action;

4) beginning, duration, and objective of covert investigative (detective) action;

5) information on the individual (individuals) who will conduct covert investigative (detective) action;

6) substantiation of the decision taken including substantiation of impossibility to obtain otherwise knowledge on crime and the individual who committed it;

7) indication of the type of covert investigative (detective) action conducted.

{Article 251 as amended by Law No. 720-IX of 17 June 2020}

Article 252. Recording the progress and findings of covert investigative (detective) actions

1. Recording of the progress and findings of covert investigative (detective) actions shall comply with the general rules for recording criminal proceedings provided for by this Code. After the conduct of a covert investigative (detective) action, a record shall be drawn up, with attachments thereto, where necessary. Information about persons who conducted covert investigative (detective) actions, or were involved in the conduct thereof, where security measures are applied to them, may be indicated, provide that confidentiality of personal data relating to them is protected in accordance with the procedure established by law.

2. The conduct of covert investigative (detective) actions may be recorded with special technical and other means.

3. Records together with attachments on the conduct of investigative (detective) actions shall be transmitted to public prosecutor not later than within twenty four hours after termination of covert investigative (detective) actions concerned.

4. Public prosecutor shall take measures to preserve objects and documents which were obtained during conducting covert investigative (detective) actions and which he intends to use in criminal proceedings.

Article 253. Notifying individuals in whose respect covert investigative (detective) actions have been conducted

1. Individuals whose constitutional rights were temporarily restricted during conducting covert investigative (detective) actions, as well as the suspect, his/her defence counsel shall be informed about such restriction in written form by public prosecutor or, upon his instruction, by investigator.

2. Specific time of notification shall be chosen taking into account the presence or absence of possible risks for the attainment of the objective of pre-trial investigation, public security, life or

health of individuals who are involved in the conduct of covert investigative (detective) actions. Appropriate notification of the fact and findings of covert investigative (detective) actions shall be made within twelve months since the date of termination of such actions, but not later than an indictment has been produced to court.

Article 254. Measures to protect information obtained through covert investigative (detective) actions

1. Information on the fact and methods of the conducting of covert investigative (detective) actions, executors thereof, as well as information obtained as a result of the conduct thereof, may not be disclosed by individuals who took knowledge of such information by way of reviewing the materials as prescribed by Article 290 hereof.

2. Where records on the conduct of covert investigative (detective) actions contain information on private (personal or family) life of other persons, defence counsel and other individuals entitled to review such records shall be warned about criminal liability for disclosing information obtained in respect of other persons.

3. Making copies of records on conducting covert investigative (search) actions and appendices to them before making a decision on their declassification in the manner prescribed by law is not allowed.

{Part 3 of Article 254 as revised by Law No. 187-IX of 4 October 2019}

Article 255. Measures to protect information, which is not used in criminal proceedings

1. Information, objects and documents obtained as a result of the conduct of covert investigative (detective) actions which, in public prosecutor's opinion, are not necessary for subsequent pre-trial investigation, shall be destroyed immediately based on public prosecutor's decision, except in cases specified in part 3 of this Article and Article 256 hereof.

2. The use of records referred to in part 1 of this Article for purposes not related to the criminal proceedings, or reviewing such records by the participants to criminal proceedings shall be prohibited.

3. Where the holder of any objects or documents obtained as a result of covert investigative (detective) actions may be interested in recovering them, the public prosecutor shall serve him/her a notice of such objects or documents being in the possession of the prosecutor and find out whether such person would want to recover them. When deciding on the admissibility of actions provided under this part as well as on the time of conducting such, the public prosecutor shall have regard to the need to secure the rights and legitimate interests of persons, as well as the necessity to prevent any prejudice to the criminal proceedings.

4. Destruction of information, objects and documents shall be conducted under supervision of public prosecutor.

5. Destruction of information, objects and documents obtained as a result of covert investigative (detective) actions shall not exempt the public prosecutor from his duty of notification under Article 253 of this Code.

Article 256. Using results of covert investigative (detective) actions as evidence

1. Records of the conduct of covert investigative (detective) actions, audio or video recordings, photos, other outcome obtained through the use of technical means, objects and documents seized during such actions or copies thereof, may be used as evidence on the same grounds as the results of other investigative (detective) actions in the course of pre-trial investigation.

2. Persons who conducted covert investigative (detective) actions or were involved in the conduct thereof may be interrogated as witnesses. Interrogation of such persons may be carried out keeping secret the information on such persons and using in their respect appropriate protective measures as specified by law.

3. Whenever results of covert investigative (detective) actions are used for proving, persons in respect of whose actions or contacts such investigative action was conducted, may be interrogated. Such persons shall be notified of the conduct of covert investigative (detective) actions only in their respect, within a time limit specified in Article 253 of this Code, and the scope affecting their rights, freedoms, or interests.

Article 257. Using findings of covert investigative (detective) actions for other purposes or transmitting information

1. Where the conduct of a covert investigative (detective) action resulted in finding signs of a criminal offence which is not the subject of the criminal proceedings concerned, the obtained information may be used in another criminal proceedings only based on a ruling of the investigating judge made on a motion of the public prosecutor.

The investigating judge shall hear the motion under requirements of Article 247 and 248 hereof and dismiss any where the public prosecutor has failed to prove inter alia that the information has been obtained lawfully and that there are reasonable grounds to believe that it testifies to revealing elements of a criminal offence.

2. Information obtained as a result of covert investigative (detective) actions shall be transmitted only through the public prosecutor.

§ 2. Interference in private communication

Article 258. General provisions related to interference in private communication

1. Nobody may be subjected to interference in private communication without the investigating judge's ruling.

2. Public prosecutor or investigator upon approval of the public prosecutor shall be required to apply to the investigating judge for permission to interfere in private communication as prescribed by Articles 246, 248, 249 of this Code, where any investigative (detective) action implies such interference.

3. Communication shall mean the transmission of information in any form from one person to another directly or through any means of communication. Communication shall be deemed private insofar as information is transmitted and stored under such physical or legal conditions where participants to the communication can expect that such information is protected from interference on the part of others.

4. Interference in private communication shall imply access to the contents of communication under conditions when participants to the communication can reasonably expect that their communication is private. The following shall be types of interference in private communication:

1) audio, video monitoring of an individual;

2) arrest, examination and seizure of correspondence;

3) collecting information from telecommunication networks;

4) collecting information from electronic information systems.

5. Interference in private communication of a defence counsel, between clergyman and the suspect, accused, convict or acquitted shall be prohibited.

Article 259. Preservation of information

1. Where a public prosecutor intends to use as evidence, during court proceedings, information or any fragment of information obtained as a result of interference in private communication, he shall ensure preservation of all information or delegate preservation of all information to the investigator.

Article 260. Audio or video monitoring of a person

1. Audio, video monitoring of a person shall mean is a variety of interference in private communication conducted without the person's knowledge on grounds of a ruling of the investigating judge where there are sufficient grounds to believe that this person's conversations or other sounds, movements, actions related to his/her activity or place of stay, etc., can contain information of importance for pre-trial investigation.

Article 261. Arrest of correspondence

1. An individual's correspondence may be arrested without being aware thereof in exceptional cases based on the investigating judge's ruling.

2. Correspondence shall be arrested where, in the course of pre-trial investigation, there are sufficient grounds to believe that mail and cable correspondence a certain individual sends to other individuals or which is sent from other individuals to the individual concerned, can contain information on the circumstances which have importance for pre-trial investigation or objects and documents which have essential importance for pre-trial investigation.

3. Arrest of correspondence shall entitle the investigator to inspect and seize arrested correspondence.

4. Correspondence referred to in this Article shall include letters of all types, postal packets, parcels, postal containers, postal money orders, telegrams, and other material mediums for exchange of information among individuals.

5. After the time limit specified in the court's ruling has expired, arrest of individual's correspondence shall be deemed to be revoked.

Article 262. Inspection and seizure of correspondence

1. Seized correspondence shall be inspected in the postal office, which was assigned control and seizure of this correspondence, with participation of this office's representative and, where necessary, of a specialist. In the presence of the said individuals, the investigator shall decide on the opening of correspondence and inspect seized correspondence.

2. Should the objects (inclusive of substances) or documents be found in the correspondence that are important for a certain pre-trial investigation, the investigator within the scope prescribed in the investigating judge's ruling shall conduct seizure of the correspondence concerned or limit himself to making copies or taking samples of corresponding messages. Copies shall be made or samples taken in view of protecting confidentiality of correspondence arrest. Where necessary, a person who inspects mail and cable correspondence, may take a decision to put special marks on the detected objects and documents, equip them with technical control devices, replace objects and substances which endanger surrounding people or are prohibited from being in free circulation, with their safe analogues.

3. Where objects or documents of importance for pre-trial investigation are not found in the correspondence, the investigator shall give instruction to deliver the correspondence inspected to the addressee.

4. A record shall be drawn up of each occurrence of inspection, seizure or arrest of correspondence as prescribed by this Code. The record shall necessarily state what kind of messages have been inspected, what has been seized from the messages, and what should be delivered to the addressee or temporarily kept, and from what messages copies or samples have been made, and the conduct of other actions as provided for by part 2 of this Article.

5. General managers and employees of postal offices shall facilitate conducting this covert investigative (detective) action and not disclose the fact of conducting this covert investigative (detective) action or the information obtained.

Article 263. Collecting information from transport telecommunication networks

1. Collecting information from transport telecommunication networks (networks which provide transmitting of any signs, signals, written texts, images and sounds or messages between telecommunication access networks connected) shall mean a variety of interference in private communication conducted without the knowledge of individuals who use telecommunication facility for transmitting information based on the ruling rendered by the investigating judge, where there is possibility to substantiate the facts during its conducting, which have the importance for criminal proceedings.

2. Investigating judge's ruling to authorise interference in private communication in such a case shall additionally state identification characteristics which will allow to uniquely identify the subscriber under surveillance, transport telecommunication network, and terminal equipment which can be used for interference in private communication.

3. Collecting information from transport telecommunication networks shall consist in conducting with the use of appropriate technical means of surveillance, selection and recording of the content of information transmitted by a person and important for pre-trial investigation, as well as receiving, converting and recording various types of signals transmitted by communication channels.

4. Collecting information from transport telecommunication networks shall be effected by authorised units of National Police, National Anti-Corruption Bureau of Ukraine, and State Bureau of Investigation and Security. General managers and employees of telecommunication networks' operators shall facilitate conducting the actions on collecting information from transport telecommunication networks, taking required measures in order to not disclose the fact of conducting such actions and the information obtained, and preserve it unchanged.

{Part 4 of Article 263 as amended by Laws No. 901-VIII of 23 December 2015, No. 187-IX of 4 October 2019}

Article 264. Collecting information from electronic information systems

1. Search, detection, and recording information stored in an electronic information system or any part thereof, access to the information system or any part thereof, as well as obtaining such information without knowledge of its owner, holder or keeper may be made based on the ruling rendered by the investigating judge, where there it is known that such information system or any part thereof contains information of importance for a specific pre-trial investigation.

2. Obtaining information from electronic information systems or parts thereof the access to which is not restricted by the system's owner, holder or keeper, or is not related to circumventing a system of logical security shall not require permission of the investigating judge.

3. Investigating judge's ruling to authorise interference in private communication in such a case shall additionally state identification characteristics of the electronic information system which can be used for interference in private communication.

Article 265. Recording and preserving information obtained from communication channels through the use of technological devices and as a result of collecting information from electronic information systems

1. Contents of information which is transmitted by persons via the transport telecommunication networks shall be stated in the record of conducting of the said covert investigative (detective) actions. Where such information is found to contain knowledge of importance for a specific pre-trial investigation, the record shall reproduce its respective part, and then the public prosecutor shall take measures to preserve information obtained by monitoring.

2. Contents of information obtained as a result of monitoring an information system or any part thereof shall be recorded on the respective medium by the individual who has been responsible for monitoring and who is required to ensure processing, preserving, and transmitting the information.

Article 266. Examination of information obtained through the use of technological devices

1. Information obtained through the use of technological devices shall be examined, where necessary, with participation of a specialist. The investigator shall analyse contents of the information obtained and draw up a record thereof. In case of detection of the information of importance for pre-trial investigation and court proceedings, the record shall reproduce the respective part of the information and then the public prosecutor shall take measures to preserve information obtained.

2. Technological devices which have been used during the conduct of the said covert investigative (detective) actions, as well as original media for received information shall be preserved till the judgment takes legal effect.

3. Media and technological devices which helped obtain information may be the subject of examination by respective specialists or experts as prescribed by this Code.

§ 3. Other types of covert investigative (detective) actions

Article 267. Inspecting publicly inaccessible places, home or any other property of a person

1. Investigator shall have the right to covertly penetrate into publicly inaccessible places, home or any other property of a person, including with the use of technological devices, in order to:

1) find and record traces of the commission of grave crime or special grave crime, objects and documents which are of importance for pre-trial investigation;

2) prepare copies or samples of the said objects and documents;

3) find and seize samples for examination in the course of pre-trial investigation of a grave crime or special grave crime;

4) find wanted individuals;

5) install technological devices for audio or video monitoring of a person.

2. Publicly inaccessible place shall mean the place which is non-enterable or in which it is impossible to legally stay without consent of the owner, tenant, or persons authorised by him/her.

3. Premises specially intended for keeping of persons whose rights are restricted according to law (premises for compulsory keeping of persons in connection with serving a sentence, apprehension, and custody etc.) shall have the status of publicly accessible.

4. Examination by way of covert penetration into publicly inaccessible places, home or any other property of a person with a purpose prescribed in part 1 of this Article shall be conducted on the grounds of the investigating judge's ruling passed according to the procedure established by Articles 246, 248, 249 of this Code.

Article 268. Establishing the location of a radio electronic device

1. Establishing the location of a radio electronic device shall constitute a covert investigative (detective) action that involves the use of technological devices to locate a radio electronic device, including a mobile communication terminal, and other radio-emission devices activated in the networks of mobile communication operators, without disclosure of the content of transmitted messages, where such action makes it possible to establish the circumstances that are important for criminal proceedings.

2. Establishing the location of a radio electronic device shall be performed on the grounds of the investigating judge's ruling passed in accordance with the procedure prescribed by Articles 246, 248–250 of this Code.

3. In this case, the ruling of the investigating judge granting the permission to establish the location of a radio electronic device shall additionally indicate identification characteristics which

allow to uniquely identify the subscriber under surveillance, transport telecommunication network, and terminal equipment.

4. An operation to locate a radio electronic device before the investigating judge renders a ruling may commence based on an order issued by the investigator or public prosecutor exclusively in the case as specified by part 1 o Article 250 hereof.

Article 269. Surveillance of an individual, an object or a place

1. To find, record, and check during pre-trial investigation of a grave crime or special grave crime information on an individual and his/her behaviour or his/her contacts, or a certain object or place, visual monitoring of the said subjects or visual monitoring using video recording, photography, special technological devices for surveillance may be conducted.

Based on the findings of surveillance, a record shall be drawn up to which photos and/or video recording shall be attached.

2. Surveillance of an individual under part 1 of this Article shall be conducted on the basis of a ruling of the investigating judge issued as prescribed by Articles 246, 248–250 of this Code.

3. Surveillance of an individual before the ruling of investigating judge is issued may be commenced on the basis of a resolution of the investigator or public prosecutor only as provided for by the part 1 of Article 250 of this Code.

Article 269[1]. Monitoring of bank accounts

1. Where there is a reasonable suspicion that a person commits criminal acts using a bank account, or for the purpose of searching for or identifying property subject to confiscation or asset forfeiture, in criminal proceedings under the jurisdiction of the National Anti-Corruption Bureau of Ukraine, the public prosecutor may apply to the investigating judge in the manner prescribed by Articles 246, 248, 249 of this Code, to issue a ruling on the monitoring of bank accounts.

2. According to the ruling of the investigating judge on monitoring of bank accounts, the bank shall provide the National Anti-Corruption Bureau of Ukraine in the current mode with information on transactions conducted on one or more bank accounts.

In the ruling on monitoring bank accounts, the investigating judge shall notify head of the banking institution of the obligation not to disclose information about the conduct of this investigative action and of the respective criminal liability. Based on the ruling of the investigating judge, the head of the banking institution shall notify in writing all its employees involved in the monitoring of bank accounts of the obligation not to disclose information about this investigative action and the respective criminal liability.

3. Information on transactions conducted on bank accounts shall be brought to the notice of the National Anti-Corruption Bureau of Ukraine before the respective operation is performed, and where it is impossible it shall be brought to the notice immediately after its implementation.

{The Code has been supplemented with Article 269[1] under Law No. 198-VIII of 12 February 2015}

Article 270. Audio or video monitoring of a place

1. Audio or video monitoring of a place may be made during pre-trial investigation of a grave crime or of a special grave crime and shall imply covertly recording of information with audio or video recording devices inside publicly accessible places, without their owner, holder or individuals present therein being aware thereof, upon availability of information that conversations and behaviour of individuals in this place, as well as other events occurring therein, can contain information of importance for criminal proceedings.

2. The location may be audio or video monitored pursuant to part 1 of this Article based on the ruling of the investigating judge rendered in accordance with Articles 246, 248, 249 of this Code.

Article 271. Control of the commission of a crime

1. Control over the commission of a crime may be made where there are reasonable grounds to believe that a grave or special grave offence is prepared or being committed and shall be conducted in the following forms:

1) controlled delivery;

2) controlled and operative purchase;

3) special investigative experiment;

4) simulation of the situation of crime.

2. Control of the commission of crime shall not be conducted where such actions do not allow to completely prevent:

1) threat to life or infliction of grave bodily injury to an individual (people);

2) dispersion of substances hazardous for the life of many people;

3) escape of persons who committed grave crimes or special grave crimes;

4) environmental or anthropogenic disaster.

3. When preparing and conducting measures aimed at establishing control over the commission of crime, it shall be forbidden to provoke (incite) an individual to the commission of this crime in order to subsequently expose it, to assist the individual to commit a crime which he/she would not have committed if the investigator had not encouraged thereto, or with the same purpose exert influence on his/her behaviour through violence, threats or blackmailing. Objects and documents obtained in such a way shall not be used in the criminal proceeding.

4. A record shall be drawn up on the outcome of control over the commission of crime, which shall have attached objects and documents obtained in the course of this covert investigative (detective) action. Where control over the commission of crime ends with open recording of an individual's act, the record thereon shall be drawn up in the presence of this individual.

5. Procedure and practice of conducting controlled delivery, controlled and operative purchase, special investigative experiment, simulation of the situation of crime, shall be regulated by legislation.

6. Control over the commission of crime consisting in illegal transit via the Ukrainian territory, importing into Ukraine or export from Ukraine objects withdrawn from free circulation

or other objects or documents may be conducted according to the procedure laid down in current legislation, upon arrangements with the appropriate agencies of foreign states, or based on international treaties of Ukraine.

7. Public prosecutor in his decision to conduct control over the commission of crime, in addition to information referred to in Article 251 of this Code, shall:

1) state circumstances which show that the individual concerned was not incited to the commission of crime in the course of covert investigative (detective) action;

2) indicate the use of special simulation means.

8. Where control over the commission of crime requires temporary restrictions on constitutional rights of the individual concerned, such restrictions shall be carried out within limits permitted by the Constitution of Ukraine and based on the investigating judge's decision as prescribed by this Code.

Article 272. Undertaking a special mission to prevent or uncover criminal activities of an organised group or criminal organisation

1. In the course of pre-trial investigation of a grave crime or of a special grave crime, information, objects and documents of importance for pre-trial investigation may be obtained by the individual who in accordance with law conducts special assignment through taking part in an organised group or criminal organisation, or by a participant in such group or organisation who co-operates with pre-trial investigation agencies on the confidential basis.

2. The said individuals shall conduct a special assignment as covert investigative (detective) action based upon the investigator's ruling approved by the chief officer of the pre-trial investigation agency, or upon the public prosecutor's ruling, with true information about such individuals kept secret.

3. The ruling, in addition to the information specified in Article 251 hereof, shall set forth the following:

1) substantiation of the limits of special assignment;

2) use of special bogus (simulation) means.

4. Special assignment shall not be conducted for more than six months and, where necessary, its time limit may be extended by the investigator upon approval of the chief officer of the pre-trial investigation agency or the public prosecutor, for a period which shall not exceed the period of pre-trial investigation.

Article 273. Means employed in the course of conducting covert investigative (detective) actions

1. When conducting covert investigative (detective) actions upon decision of the chief officer of the pre-trial investigation agency or public prosecutor, there may be used identified (marked) beforehand or bogus (simulation) means. For this purpose, it shall be permitted to prepare and use specially produced objects and documents, found and use specially created enterprises, institutions or organisations. Using marked beforehand or bogus (simulation) means for other purposes shall be prohibited.

2. Production, creation of bogus (simulation) means for the conduct of specific covert investigative actions shall be registered in the respective record.

3. Where it is necessary to disclose prior to the completion of pre-trial investigation true information on specially created economic entities or on the individual who acts without disclosing his/her true identity, the agency by which the individual who in this way conducts covert investigation (detective) action is employed, and the chief officer of the pre-trial investigation agency, the public prosecutor who took the decision on the use of such means during covert investigative (detective) action, shall be informed thereon. Chief officer of the pre-trial investigation agency or public prosecutor shall make the decision on disclosure of true information on the said individual, circumstances under which objects or documents were produced or enterprises, institutions, organisation were specially founded. Where necessary, protective measures in respect to an individual the information on whom is subject to disclosure shall be taken as prescribed by law.

4. Bogus (simulation) means employed in the course of a covert investigative (detective) action shall be used in proving in the form of original means or tools of the commission of crime unless the court holds that provisions of this Code have been violated during the conduct of the respective covert investigative (detective) action.

Article 274. Covertly obtaining samples which are necessary for comparative analysis

1. Samples necessary for comparative analysis may be covertly obtained only in case their obtainment in accordance with Article 245 of this Code is impossible without inflicting substantial damage to criminal proceedings.

2. Samples shall be covertly taken based on the investigating judge’s ruling passed on the motion of the public prosecutor or on the motion of investigator approved by the public prosecutor, as prescribed by Articles 246, 248, 249 hereof.

3. The investigator’s or public prosecutor's motion requesting permission to covertly take samples which are necessary for comparative analysis and investigating judge’s ruling shall also state information on specific samples to be obtained.

4. Repeated obtaining of samples shall be made openly in accordance with rules set forth in this Code where there is no longer need to preserve the secrecy about the fact that previous samples obtained covertly were examined.

Article 275. Use of confidential cooperation

1. When conducting covert investigative (detective) actions, the investigator may use information obtained as a result of confidential co-operation with other persons, or involve such persons in carrying out covert investigative (detective) actions as prescribed by this Code.

2. When conducting covert investigative (detective) actions, it is forbidden to involve in confidential co-operation defence attorneys, notaries, medical staff, clergymen, journalists, where such co-operation would require disclosing confidential professional information.

Chapter 22. Notification of suspicion

Article 276. Instances of notification of suspicion

1. Notification of suspicion shall be necessarily issued in compliance with the procedure provided for by Article 278 of this Code in the following cases:

1) apprehension of an individual at the scene of criminal offence or immediately after the commission of criminal offence;

2) enforcement of a measure of restraint against an individual as prescribed by this Code;

3) availability of sufficient evidence to suspect a person of having committed a criminal offence.

A special procedure for notification of suspicion of a designated category of persons shall be established by Article 37 of this Code.

2. In the instances referred to in part 1 of this Article, the investigator, public prosecutor or other competent official (a person who is entitled to conduct apprehension under law) shall immediately advise the suspect of his/her rights under Article 42 hereof.

3. After these rights have been advised, the investigator, public prosecutor or other competent official, upon the suspect's request, shall explain each of the above rights in detail.

Article 277. Contents of the written notice of suspicion

1. Written notice of suspicion shall be drawn up by the public prosecutor or investigator upon approval of the public prosecutor.

Written notice of suspicion shall contain the following information:

1) last name and position of the investigator or public prosecutor giving the notice;

2) personal details of the person (last name, first name, patronymic, date and place of birth, place of residence, nationality) who is notified of suspicion;

3) appellation (number) of criminal proceedings in the framework of which the notice is given;

4) contents of the suspicion;

5) legal qualification of the criminal offence of the commission of which the person is suspected with indication of the Article (part of the Article) of Ukraine's law on criminal liability;

6) brief description of actual circumstances of criminal offence of which the person is suspected, including time, place of the commission of criminal offence, as well as other essential circumstances which are known at the time of notifying of the suspicion;

7) suspect's rights;

8) signature of the investigator or public prosecutor giving the notice.

Article 278. Serving written notice of suspicion

1. Written notice of suspicion shall be served the day on which it has been drawn up by the investigator or public prosecutor, and if it appears impossible to serve it, in the way prescribed by this Code for serving notifications.

2. Written notice of suspicion shall be served to the apprehended person within twenty four hours after he/she has been apprehended.

3. In case a person has not been served the notice of suspicion after twenty four hours elapsed after the moment of his/her apprehension, such person shall be subject to immediate release.

4. Date and time of serving the notice of suspicion, legal qualification of criminal offence of the commission of which the person is suspected, with indication of the Article (part of the Article) of Ukraine's law on criminal liability, shall be immediately entered by the investigator or public prosecutor to the Unified Register of Pre-Trial Investigations.

Article 279. Changing notice of suspicion

1. Should the grounds arise for notifying of a new suspicion or for changing previously notified suspicion, the investigator or public prosecutor shall carry out actions referred to in Article 278 hereof. Where notice of suspicion was given by the public prosecutor, only the public prosecutor shall have the right to notify of the new suspicion or to change previously notified suspicion.

Chapter 23. Suspension of pre-trial investigation

Article 280. Grounds for and procedure of suspension of pre-trial investigation after serving a person the notification of suspicion

{Title of Article 280 as amended by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer toclause 4, § 2, Section 4 of the Law}

1. The pre-trial investigation may be suspended after a person has been notified about suspicion in the following cases:

1) if the suspect falls seriously ill, which precludes him/her from participating in criminal proceedings, provided his/her illness is confirmed by the corresponding medical report;

2) if the suspect declared as wanted;

{Clause 2, part 1 of Article 280 as revised by Law No. 1950-VIII of 16 March 2017}

2[1]) the investigating judge rejected the motion for conducting special pre-trial investigation;

{Part 1 of Article 280 has been supplemented with clause 2[1] under Law No. 1689-VII of 7 October 2014}

3) if there is a necessity to conduct procedural actions within the framework of international co-operation.

2. Prior to suspension of the pre-trial investigation, the investigator shall carry out all investigative (detective) and other procedural actions, execution of which is necessary and possible, as well as all actions required to establish the whereabouts of the person if it is necessary to suspend the pre-trial investigation due to the circumstances prescribed by clause 2, part 1 of this Article.

{Part 2 of Article 280 as amended by Laws No. 1950-VIII of 16 March 2017, No. 720-IX of 17 June 2020}

3. Where two or several suspects participate in criminal proceedings, while the reasons for suspension of the pre-trial investigation do not apply to all of them, the public prosecutor shall have the right to separate the pre-trial investigation and suspend it in relation to certain suspects.

4. The pre-trial investigation shall be suspended by a reasoned decision of the public prosecutor or the investigator with the approval of the public prosecutor, the record of which fact shall be entered in the Unified Register of Pre-Trial Investigations. A copy of such decision shall be sent to the defence, victim, and the representative of the legal entity in whose respect proceedings are taken, who shall have the right to lodge an appeal against this decision with the investigating judge.

{Part 4 of Article 280 as amended by Laws No. 314-VII of 23 May 2013, No. 720-IX of 17 June 2020}

5. Upon suspension of the pre-trial investigation, no investigation (search) actions shall be allowed except for those aimed at establishing the whereabouts of the suspect.

Article 281. Search for the suspect

1. Where during the pre-trial investigation the whereabouts of the suspect is unknown, or the person is outside Ukraine and does not appear without good reason to summons issued by the investigator or public prosecutor, provided he/she is duly notified of such summons, the investigator or public prosecutor shall announce the search for him/her.

{Part 1 of Article 281 as revised by Law No. 1950-VIII of 16 March 2017}

2. Announcement of the search shall either be the subject of a separate resolution if the pre-trial investigation is not suspended, or it shall be indicated in the decision on suspension of the pre-trial investigation, provided such decision is adopted, which fact shall be entered in the Unified Register of Pre-Trial Investigations.

3. The search for the suspect may be entrusted to the criminal intelligence units.

Article 282. Renewal of the pre-trial investigation

1. The suspended pre-trial investigation shall be renewed by a decision of the investigator or public prosecutor where the reasons for its suspension no longer exist (the suspect has recovered from the illness, his/her whereabouts have been established, the procedural actions within the framework of the international co-operation have been completed), as well as where it is necessary to conduct investigative (detective) or any other procedural actions. A copy of the decision on renewal of the pre-trial investigation shall be sent to the defence, the victim, and the representative of the legal entity in whose respect proceedings are taken.

{Part 1 of Article 282 as amended by Law No. 314-VII of 23 May 2013}

2. The suspended pre-trial investigation shall also be renewed in case the investigating judge revokes the decision on suspension of the pre-trial investigation.

3. The information of renewal of the pre-trial investigation shall be entered by the investigator or public prosecutor in the Unified Register of Pre-Trial Investigations.

Chapter 24. Completion of pre-trial investigation. Extending time limit for pre-trial investigation

§ 1. Forms in which pre-trial investigation shall be completed

Article 283. General provisions related to the completion of pre-trial investigation

1. A person shall have the right to have charges brought against him/her be reviewed by a court as early as possible, or to dismissal of such charges through closure of the proceedings.

2. After the person has been notified of being a suspect, the public prosecutor shall within the shortest possible time do one of the following actions:

1) close criminal proceedings;

2) submit to the court a motion on releasing the person from criminal liability;

3) submit to the court an indictment, motion to impose compulsory medical or reformatory measures.

3. Public prosecutor shall enter the information on completion of pre-trial investigation in the Unified Register of Pre-Trial Investigations.

Article 284. Closing criminal proceedings and proceedings in respect of a legal entity

{Title of Article 284 as amended by Law No. 314-VII of 23 May 2013 as amended by Law No. 1207-VII of 15 April 2014}

1. Criminal proceedings shall be closed where:

1) absence of occurrence of the criminal offence has been established;

2) absence of elements of the criminal offence in the act concerned has been established;

3) no sufficient evidence has been obtained to prove the person's guilt in court, and options to obtain such evidence have been exhausted;

3^1) a person who has committed the criminal offence has not been established in case of expiration of the statute of limitations for criminal prosecution, except in cases of committing a special grave crime against the life or health of a person or a crime punishable by life imprisonment.

The participants to criminal proceedings shall have the right to request the public prosecutor to close the criminal proceedings where there are grounds provided for by this clause;

{Part 1 of Article 284 has been supplemented with clause 3^1 under Law No. 187-IX of 4 October 2019}

3^1) the person who has committed criminal offence has not been established in the case of expiration of the statute of limitations, except in cases of committing a special grave crime against the life or health of a person or a crime punishable by life imprisonment;

{Part 1 of Article 284 has been supplemented with clause 3^1 under Law No. 2617-VIII of 22 November 2018}

4) a law took effect by which criminal liability for the action committed by the person concerned, has been abolished;

5) the suspect or accused died, except when proceedings are necessary to vindicate the deceased;

6) there is a judgment rendered based on the same charges which has taken legal effect or court's ruling to close criminal proceedings on the same accusation;

7) the victim, and where provided for by this Code, his/her representative, waived the charge of criminal proceedings in the form of a private charge, except for criminal proceedings for a criminal offence related to domestic violence;

{Clause 7, part 1 of Article 284 as amended by Laws No. 2227-VIII of 6 December 2017, No. 720-IX of 17 June 2020}

8) concerning a criminal offence where no consent of the state that has surrendered a person has been obtained;

9) in respect of tax liabilities of the person who has committed actions provided for by Article 212 of the Criminal Code of Ukraine, a tax compromise has been reached according to subsection 9^2 of Section XX "Transitional Provisions" of the Tax Code of Ukraine;

{Part 1 of Article 284 has been supplemented with clause 9 under Law No. 63-VIII of 25 December 2014}

9^1) there is an irrevocable decision of the investigator, inquiring officer or public prosecutor to close the criminal proceedings on the grounds provided for by clauses 1, 2, 4, 9 of this part, in criminal proceedings concerning the same act which was investigated in compliance with the requirements of jurisdiction.

{Part 1 of Article 284 has been supplemented with clause under Law No. 2213-VIII of 16 November 2017; paragraph as amended by Law No. 2548-VIII of 18 September 2018; as amended by Law No. 720-IX of 17 June 2020}

The participants to criminal proceedings shall have the right to request the investigator, inquiring judge or public prosecutor to close the criminal proceedings where there are grounds provided for in this clause;

{Paragraph of part 1 of Article 284 as revised by Law No. 2548-VIII of 18 September 2018; as amended by Law No. 720-IX of 17 June 2020}

10) after notifying the person of suspicion, the term of pre-trial investigation specified in Article 219 hereof has expired, except in the case of notifying the person of suspicion of committing a grave or special grave crime against life and health of the person.

{Part 1 of Article 284 has been supplemented with clause 10 under Law No. 2147-VIII of 3 October 2017 - – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

The investigator, inquiring officer and public prosecutor shall close the criminal proceedings also in the event that the term of the pre-trial investigation specified in Article 219 hereof has expired and no person has suspicion reported.

{Part 1 of Article 284 has been supplemented with paragraph under Law No. 2147-VIII of 3 October 2017 - – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; as amended by Law No. 720-IX of 17 June 2020}

2. Criminal proceedings shall be closed by the court:

1) in connection with the person's discharge from criminal liability;

1[1]) on the grounds provided for by clause 3[1], part 4 of this Article;

{Part 2 of Article 284 has been supplemented with clause 1[1] under Law No. 187-IX of 4 October 2019}

1[1]) on the grounds provided for by clause 3[1], part 1 of this Article;

{Part 2 of Article 284 has been supplemented with clause 1[1] under Law No. 2617-VIII of 22 November 2018}

2) where the public prosecutor drops public prosecution, except in cases specified by this Code.

3) a tax compromise has been reached in cases of criminal offences stipulated by Article 212of the Criminal Code of Ukraine under subsection 9[2]of Section XX "Transitional Provisions" of the Tax Code of Ukraine.

{Part 2 of Article 284 has been supplemented with clause 3 under Law No. 63-VIII of 25 December 2014}

3) Proceedings in respect of a legal entity shall be subject to closure in the event that no grounds have been established to apply criminal law measures to it, with criminal proceedings against the authorised officer of the legal entity terminated or ended in an acquittal.

The prosecutor shall make a decision on the termination of proceedings against a legal entity, and the court shall indicate it in the acquittal or a ruling. The decision to close proceedings against a legal entity may be appealed following the procedure established hereby.

{Article 284 has been supplemented with new part under Law No. 314-VII of 23 May 2013 as amended by Law No. 1207-VII of 15 April 2014}

4. The investigator, inquiring officer or public prosecutor shall adopt a ruling on the closure of criminal proceedings, which may be appealed in accordance with the procedure established by this Code.

{Paragraph 1, part 4 of Article 284 as amended by Law No. 720-IX of 17 June 2020}

The investigator or inquiring officer shall make the decision on closing of criminal proceedings on the grounds provided for by clauses 1, 2, 4, 9, 9[1], part 1 of this Article, if no person has been notified of the suspicion in this criminal proceeding.

{Paragraph 2, part 4 of Article 284 as amended by Laws No. 63-VIII of 25 December 2014, No. 2213-VIII of 16 November 2017, No. 2548-VIII of 18 September 2018, No. 720-IX of 17 June 2020}

The public prosecutor shall issue a decision to close the criminal proceedings against the suspect on the grounds provided for by part 1 of this Article, except as provided for by paragraph 4 of this part.

{Paragraph 3, part 4 of Article 284 as amended by Laws No. 187-IX of 4 October 2019, No. 2617-VIII of 22 November 2018}

Closure of criminal proceedings on the grounds provided for by clause 3[1], part 1 of this Article shall be conducted by the court upon the motion of the public prosecutor.

{Part 4 of Article 284 has been supplemented with paragraph 4 under Laws No. 187-IX of 4 October 2019, No. 2617-VIII of 22 November 2018}

5. Decision made by the public prosecutor to close criminal proceedings against the suspect shall not preclude the continuation of pre-trial investigation in respect of the criminal offence concerned.

6. A copy of the decision of the investigator or inquiring officer to close criminal proceedings shall be forwarded to the applicant, victim, and public prosecutor. Public prosecutor may within a period of twenty days from the date of receipt of the decision copy overturn it on the grounds of illegitimacy or groundlessness thereof. The investigator's decision to close criminal proceedings may also be overturned by the public prosecutor upon complaint from the applicant or victim, where such complaint was filed within a period of ten days from the date of receipt by the applicant or victim of the decision copy.

{Paragraph 1, Part 6 of Article 284 as amended by Law No. 720-IX of 17 June 2020}

A copy of the public prosecutor's decision to close criminal proceedings and/or proceedings in respect of a legal entity shall be forwarded to the applicant or victim and his/her representative, the suspect, defence counsel and representative of the legal entity in whose respect proceedings are taken.

{Paragraph 2, Part 6 of Article 284 as revised by Law No. 314-VII of 23 May 2013 as amended by Law No. 1207-VII of 15 April 2014}

6. Whenever circumstances referred to in clauses 1, 2, part 1 of this Article are revealed during court proceedings, the court shall render a judgment of acquittal.

Where the circumstances provided for by clauses 5, 6, 7, 8, 9, 9[1], part 1 of this Article are revealed during court proceedings, as well as in cases specified in clauses 2, 3, part 2 of this Article, the court shall pass a ruling to close the criminal proceedings.

{Paragraph 2, part 7 of Article 284 as amended by Laws No. 63-VIII of 25 December 2014, No. 2213-VIII of 16 November 2017, No. 2548-VIII of 18 September 2018}

7. Closing criminal proceedings or passing a judgment on the grounds specified in clause 1, part 2 of this Article shall be inadmissible where the suspect or accused objects against this. In such case, criminal proceedings shall continue according to general procedure laid down in this Code.

9. Where the terms of pre-trial investigation have expired from the moment of entering information about a criminal offence into the Unified Register of Pre-Trial Investigations before

the day of notification of suspicion provided for by part 1of Article 219 hereof, the investigating judge may order the closure of criminal proceedings at the request of another person whose rights or legitimate interests are restricted during the pre-trial investigation, or his/her representative.

{Article 284 has been supplemented with new part under Law No. 2548-VIII of 18 September 2018}

8. Court's ruling to close criminal proceedings may be challenged under the appellate procedure.

§ 2. Relief of a person from criminal liability

Article 285. General provisions of criminal proceedings when relieving a person from criminal liability

1. A person shall be relieved from criminal liability where provided for by the Law of Ukraine on criminal liability.

2. A person who is suspected of or charged with perpetration of criminal offence, and in relation to whom provision is made for the possibility of relief from criminal liability in case this person performs the actions stipulated by the Law of Ukraine on criminal liability, shall be given the explanation of his/her right to such relief.

3. A suspect or accused who may be relieved from criminal liability shall be explained the essence of suspicion or charges, the reason for the relief from criminal liability, and the right to object against closing criminal proceedings for that reason. Where a suspect or the accused for whom provision is made for the relief from criminal liability objects against this, full-scale pre-trial investigation and judicial proceedings shall be conducted in accordance with the general procedure.

Article 286. Procedure for the relief from criminal liability

1. Relief from criminal liability for perpetration of criminal offence shall be provided for by the court.

2. Upon establishing, at the stage of the pre-trial investigation, the reasons for the relief from criminal liability and obtaining the suspect's consent to such relief, the public prosecutor shall make a motion for the relief from criminal liability and submit it to the court without conducting the full-scale pre-trial investigation.

3. Prior to submission of the motion to the court the public prosecutor shall be required to make the victim acquainted with it and ask his/her opinion on the possibility of relieving the suspect from criminal liability.

4. Where in the course of conducting judicial proceedings on the proceedings that were submitted to the court with an indictment, a party to criminal proceedings addresses the court with the motion for the relief of the accused from criminal liability, the court shall consider such motion without delay.

Article 287. Article 287. Public prosecutor's motion for the relief from criminal liability

1. The public prosecutor's motion for the relief from criminal liability shall contain the following information:

1) name and registration number of the criminal proceeding concerned;

2) personal information of the suspect (last name, first name, patronymic, date and place of birth, place of residence, citizenship);

6) last name, first name, patronymic and official position of the public prosecutor;

4) description of the factual circumstances of the criminal offence and its legal determination with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability, and statement of the suspicion;

5) amount of damage caused as a result of criminal offence and information about its compensation;

6) evidence that confirm the fact of perpetration of criminal offence by the given person;

7) circumstances testifying that the given person is subject to relief from criminal liability, and the corresponding legal grounds;

8) information about victim's being familiarised with the motion and his/her opinion on the possibility of relieving the suspect from criminal liability;

9) date and place of making the motion.

The written consent of the person to the relief from criminal liability shall be attached to the public prosecutor's motion.

Article 288. Examining the issue of relief from criminal liability

1. The public prosecutor's motion shall be examined in the presence of the parties to the criminal proceedings and the victim in accordance with the general procedure stipulated in this Code, with the specific aspects provided for by this Article.

2. The court shall inquire about the victim's opinion regarding the possibility of relieving the suspect or accused from criminal liability.

3. The court by its ruling shall close criminal proceedings and relieve the suspect or accused from criminal liability in the event of establishing the reasons/grounds stipulated by the Law of Ukraine on criminal liability.

4. Where the court establishes invalidity of the motion for the relief of the given person from criminal liability, the court by its ruling shall deny satisfaction of the motion and return it to the public prosecutor for conducting criminal proceedings in accordance with the general procedure, or continue judicial proceedings in accordance with the general procedure where such motion was entered after submission of the indictment to the court.

5. The court's ruling to close criminal proceedings and relieve the given person from criminal liability may be appealed against in accordance with the appellate procedure.

Article 289. Renewal of proceedings in case of refusal from release on probation

1. If within a year from the date when a collective of a company, institution or organisation took the given person on probation he/she fails to justify this collective's confidence, evades actions/measures of reformatory nature, and/or disturbs public order, the general meeting of the

respective collective may pass a decision to refuse from going bail for this person. The corresponding decision shall be submitted to the court which passed the ruling to relieve this person from criminal liability.

2. After receiving the collective's decision to refuse from going bail for the person, the court shall consider the issue of making this person criminally liable for the perpetrated criminal offence in accordance with the procedure prescribed by Article 288 of this Code.

3. Having got the evidence that the given person violated the terms and conditions of his/her release on probation, the court, by its ruling, shall revoke the ruling to close criminal proceedings and relieve the person from criminal liability, and shall submit the records of the proceedings for conducting the pre-trial investigation in accordance with the general procedure, or conduct judicial proceedings in accordance with the general procedure where the decision on the relief from criminal liability was passed after the indictment had been submitted to the court.

§ 3. Submitting an indictment to the court, motion to enforce compulsory medical or reformatory measures

Article 290. Disclosing records to the other party

1. Public prosecutor or investigator as directed by the prosecutor upon recognising that evidence collected in the course of pre-trial investigation is sufficient for drawing up of an indictment, a motion to enforce compulsory medical or reformatory measures, shall be required to notify the suspect, his/her defence counsel, legal representative and the defence counsel of the person subject to compulsory measures of medical or reformatory nature on completion of pre-trial investigation and on granting access to the records of pre-trial investigation.

2. Public prosecutor or investigator as directed by the prosecutor shall grant access to the records of pre-trial investigation he has in his possession, including such evidence which as such or in totality with other evidence may be used to prove the innocence or lesser degree of guilt of the accused or facilitate commitment of the punishment.

3. Public prosecutor or investigator as directed by the prosecutor shall also grant access and possibility to copy or appropriately reproduce any exhibits or parts thereof, documents or copies thereof, as well as provide access to premises or places if they are in possession or under control of the state and where the public prosecutor intends to use information contained therein as evidence in court.

4. Providing access to the records implies the possibility to copy or reproduce them.

5. In documents provided for review, information, which will not be disclosed during judicial proceedings, may be removed. Removal shall be expressly marked. Upon the motion of a party to criminal proceedings, the court may grant access to the removed information.

6. The defence, upon public prosecutor's request, shall grant access and possibility to copy or appropriately reproduce any exhibits or parts thereof, documents or copies thereof, as well as provide access to home or any other property if they are in possession or under control of the defence, where the latter intends to use the information contained therein as evidence in court.

The defence shall have the right to deny the public prosecutor access to any records, which the public prosecutor may use to prove the guilt of the accused in commission of a criminal offence.

A decision as to whether any specific records shall be deemed susceptible of being used by the public prosecutor to prove the guilt of the accused in commission of a criminal offence and, hence, a decision as to granting or not granting the public prosecutor access to such records may be postponed until the defence has finished their examination of the materials of pre-trial investigation.

7. Public prosecutor or investigator as directed by the prosecutor shall inform the victim and representative of the legal entity in whose respect proceedings are taken on the opening by the parties to criminal proceedings of records, after which the latter shall have the right to view such records in accordance with the rules laid down in this Article.

{Part 7 of Article 290 as amended by Law No. 314-VII of 23 May 2013}

8. The civil plaintiff, his/her representative and legal representative, civil defendant, and his/her representative shall be notified of the parties to the criminal proceedings having opened the records, after which these persons may examine them to the extent that they relate to the civil action, under the rules of this Article.

9. The parties to the criminal proceedings shall confirm in writing to the other party, and victim and the representative of the legal entity in whose respect proceedings are taken, to the public prosecutor, the fact of having been granted access to the records, with indication of titles of such records.

{Part 9 of Article 290 as amended by Law No. 314-VII of 23 May 2013, No. 725-VII of 16 January 2014 that has ceased to have legal effect under Law No. 732-VII of 28 January 2014; as amended by Law No. 767-VII of 23 February 2014}

10. The parties to the criminal proceedings, the victim and the representative of legal entity in whose respect proceedings are taken shall be afforded time sufficient for examining the records to which they have been granted access. In case of delay in viewing the records to which access has been granted, the investigating judge upon a motion of a party to criminal proceedings, with due account of the scope, complexity of the materials and of conditions of access thereto, shall be required to set a time limit for viewing the materials, upon expiry of which the party to criminal proceedings, the victim or representative of legal entity in whose respect proceedings are taken shall be deemed as such who exercised their right of access to the materials. The motion shall be considered by the investigating judge of the local court, within the territorial jurisdiction of which the pre-trial investigation is conducted, and in criminal proceedings concerning criminal offences within the jurisdiction of the High Anti-Corruption Court it shall be considered by the investigating judge of the High Anti-Corruption Court no later than five days from the date of its receipt in court with notification of the parties to the criminal proceedings. Failure of the persons who had been appropriately notified of the date and time of the court session shall not impede consideration of the motion.

{Part 10 of Article 290 as amended by Laws No. 314-VII of 23 May 2013, No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

11. The parties to the criminal proceedings shall disclose one another additional materials obtained before or during court proceedings.

12. Where either party to criminal proceedings does not disclose materials under this Article, the court shall have no right to accept information contained therein as evidence.

13. Opening the records of inquiry by the parties to the criminal proceedings shall be conducted in the manner prescribed for by Articles 301 and 314 hereof.

{Article 290 has been supplemented with part 13 under Law No. 2617-VIII of 22 November 2018}

Article 291. Indictment and register of criminal proceedings records

1. An indictment shall be drawn up by the investigator or inquiring officer following which it shall be approved by the public prosecutor. Indictment may be drawn up by the public prosecutor, in particular, where he does not agree with the indictment drawn up by the investigator or inquiring officer.

{Part 1 of Article 291 as amended by Law No. 720-IX of 17 June 2020}

2. An indictment shall contain the following:

1) name and registration number of the criminal proceeding concerned;

2) personal information on the accused (last name, first name, patronymic, date and place of birth, place of residence, citizenship);

2) personal information on the victim (last name, first name, patronymic, date and place of birth, place of residence, citizenship);

3^1) personal information on the whistleblower (last name, first name, patronymic, date and place of birth, place of residence, citizenship);

{Part 2 of Article 291 has been supplemented with clause 3^1 under Law No. 198-IX of 17 October 2019}

6) last name, first name, patronymic and official position of the investigator or public prosecutor;

5) description of actual circumstances of the criminal offence, which the public prosecutor finds established, and legal qualification of the criminal offence, with reference to provisions of law and Article (part of the Article) of Ukraine's law on criminal liability, and charges as such;

6) circumstances that aggravate or mitigate the punishment;

7) amount of damage caused as a result of criminal offence;

7^1) such grounds for application of criminal measures to the legal entity as the public prosecutor deems to have been established;

{Part 2 of Article 291 has been supplemented with clause 7^1 under Law No. 314-VII of 23 May 2013}

8) amount of expenses on engaging an expert (where expert examination was conducted during pre-trial investigation);

8^1) the amount of the proposed remuneration to the whistleblower;

{Part 2 of Article 291 has been supplemented with clause 8^1 under Law No. 198-IX of 17 October 2019}

9) date and place of its drawing up and approval.

3. Indictment shall be signed by investigator and public prosecutor who has approved it, or only by the public prosecutor if he has drawn it up alone.

{Part 3 of Article 291 as amended by LawNo. 720-IX of 17 June 2020}

4. The indictment shall have the following attached:

1) the register of records of pre-trial proceedings;

2) civil action, if any entered during pre-trial investigation;

3) the suspect's acknowledgement of his/her receipt of a copy of indictment, copy of the civil action, if any is entered during the pre-trial investigation, and that of the register of records of pre-trial proceedings (except as provided for by part 2 of Article 297 [1]hereof);

{Clause 3, part 4 of Article 291 as amended by Law No. 725-VII of 16 January 2014 that has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 1689-VII of 7 October 2014}

4) acknowledgement or any other document confirming the civil defendant's receipt of a copy of the civil action, if any entered during the pre-trial investigation against a person other than a suspect;

5) a note on the legal entity in whose respect proceedings are taken, indicating the name of the legal entity, its legal address, settlement account, identification code, date and place of state registration.

{Part 4 of Article 291 has been supplemented with clause 5 under Law No. 314-VII of 23 May 2013}

Provision of other documents to the court before commencement of the judicial proceedings shall be forbidden.

Article 292. Motion to impose compulsory medical or reformatory measures

1. A motion to apply compulsory reformatory measures shall comply with the requirements of Article 291 of this Code, as well as contain information on the proposed reformatory measure.

2. A motion to apply compulsory medical measures shall comply with the requirements of Article 291 of this Code, as well as contain information on the proposed compulsory medical measure and a standpoint in respect of the possibility to ensure the person's participation in court proceedings based on his/her state of health.

Article 293. Providing a copy of the indictment, of the motion to impose compulsory medical or reformatory measures and register of pre-trial proceedings records

1. In parallel with referring to the court the indictment, and the motion to impose compulsory medical or reformatory measures, the public prosecutor shall forward, against acknowledgement of receipt, their copy and a copy of the register of pre-trial proceedings records to the suspect (except for the case specified by part 2 of Article[1] of this Code), his/her defence counsel, legal representative, and to the defence counsel of a person subject to compulsory medical or reformatory measures. Where proceedings are taken in respect of a legal entity, a copy of the

indictment and that of the register of pre-trial proceedings records shall also be provided to the representative of such legal entity.

{Part 1 of Article 293 as amended by Laws No. 314-VII of 23 May 2013, No. 725-VII of 16 January 2014 that has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 1689-VII of 7 October 2014}

§ 4. Extending time limit for pre-trial investigation

Article 294. General provisions for extending time limit for pre-trial investigation

1. Where the pre-trial investigation of a criminal offence cannot be completed within the period specified in part 2 of Article 219 of this Code before the notification of the person of suspicion, the specified period may be extended repeatedly by the investigating judge at the request of the public prosecutor or the investigator agreed with the prosecutor, for a period established by clauses 2 and 3, part 4 of Article 219 of this Code.

{Part 1 of Article 294 as revised by Law No. 2617-VIII of 22 November 2018}

2. Where due to the complexity of the proceedings it is impossible to complete the pre-trial investigation from the date of notification to the person of suspicion of committing a criminal offence (inquiry) within the period specified in clauses 1 and 2, part 3 of Article 219 of this Code, such term may be extended by the prosecutor within the term established by clause 1, part 4 of Article 219 hereof.

{Part 2 of Article 294 as revised by Law No. 2617-VIII of 22 November 2018}

3. If from the date of notification to the person on suspicion of committing a crime the pre-trial investigation (pre-trial proceedings) cannot be completed within the term specified in clause 4, part 3 of Article 219 hereof, such term may be extended within the terms established by clauses 2 and 3, part 4 of Article 219 hereof:

1) for up to three months by a chief prosecutor of the district prosecutor's office, a chief prosecutor of the oblast prosecutor's office or his first deputy or deputy, or Deputy General Prosecutor;

2) for up to six months by the investigating judge at the request of the investigator, agreed with a chief prosecutor of the oblast prosecutor's office or his first deputy or deputy, deputies of the Prosecutor General;

3) for up to twelve months by the investigating judge at the request of the investigator, agreed with the Prosecutor General or his deputies.

{Part 3 of Article 294 as revised by Law No. 2617-VIII of 22 November 2018}

4. The time limits of pre-trial investigation of a crime, if it cannot be completed due to complicated nature of proceedings, may be extended to three months, or to six months in view of special complexity of proceedings, or to twelve months in view of exceptional complexity of proceedings.

5. A request for extension of the pre-trial investigation shall be submitted no later than five days before the expiration of the pre-trial investigation established by Article 219 hereof.

The expired term of pre-trial investigation shall not be renewable.

{Article 294 as amended by Law No. 1697-VII of 14 October 2014; as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

Article 295. Procedure for extending time limits for pre-trial investigation by public prosecutor

1. Extending of time limits for pre-trial investigation of a criminal offence where specified in clause 1, part 3 of Article 294 hereof, shall be conducted upon the request of the investigator or public prosecutor who supervises the compliance with law in the course of pre-trial investigation concerned.

2. Request to extend time limits for pre-trial investigation shall state:

1) last name, first name, patronymic of a suspect;

2) title (number) of the criminal proceedings;

3) essence of the suspicion, which has been notified, and legal qualification of the criminal offence with indication of Article (part of the Article) of Ukraine's law on criminal liability, the person concerned is suspected of;

4) reference to evidence which supports the suspicion;

5) procedural actions which require more time;

6) importance of the results of such procedural actions for court proceedings;

7) period of time required for the conduct or completion of such procedural actions;

8) circumstances which prevented the conduct of such procedural actions earlier.

3. A copy of the request shall be forwarded by the investigator or public prosecutor who supervises the compliance with law in the course of pre-trial investigation concerned, to the suspect and his/her defence counsel no later than five days before submitting the request to the public prosecutor authorised to dispose the issue of extending time limits for pre-trial investigation.

The suspect, his/her defence counsel shall have the right before the request to extend time limits for pre-trial investigation is submitted, shall submit to the investigator or public prosecutor who raises the issue, their written objections which shall be attached to the request and submitted with it to the public prosecutor authorised to dispose the issue.

4. Public prosecutor authorised to dispose the issue of extending time limits for pre-trial investigation, shall consider the request within three days after its receipt, but in any case before the expiry of the time limits for pre-trial investigation.

5. Public prosecutor's decision to extend time limits for pre-trial investigation or to refuse to do so shall be adopted in the form of a ruling.

6. Public prosecutor shall grant the request and extend the pre-trial investigation if he is satisfied that an additional period is necessary to obtain evidence that may be used in the court proceedings or to conduct or complete the examination, provided that these actions could not be carried out or completed earlier for objective reasons.

7. Where the public prosecutor satisfies the request of the investigator or prosecutor, he shall determine a new term of pre-trial investigation. Public prosecutor shall determine the shortest period sufficient for the requirements of the pre-trial investigation.

8. Public prosecutor shall refuse to grant the request and extend the term of the pre-trial investigation if the investigator or prosecutor who has filed the request does not prove the existence of the grounds provided for by part 6 of this Article, and where the circumstances examined during the decision indicate insufficient grounds to believe that an event of a criminal offence has occurred, which gave grounds for notification of suspicion, and/or the suspect involved in this event of a criminal offence.

{Part 8 of Article 295 as amended by Law No. 2234-VIII of 7 December 2017}

9. In case of refusal to extend the term of the pre-trial investigation, the public prosecutor supervising the observance of the law during the pre-trial investigation shall conduct one of the actions provided for by part 2 of Article 283 hereof.

{Article 295 as revised by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

Article 295[1]. Procedure for extending time limits for pre-trial investigation by judge

1. In the cases provided for by Article 294 of this Code, the extension of the pre-trial investigation shall be conducted on the basis of a decision of the investigating judge, issued at the request of the public prosecutor or investigator.

2. The request for extension of the term of pre-trial investigation prior to notification of the person of suspicion shall state:

2) title (number) of the criminal proceedings;

2) all investigative (detective) and other procedural actions carried out during criminal proceedings;

3) circumstances which prevented the conduct of such procedural actions earlier.

4) period of time required for the conduct or completion of such procedural actions;

5) other information that substantiates the need to extend the pre-trial investigation.

The request for extension of the term of pre-trial investigation after the notification of the person of suspicion shall state:

1) last name, first name, patronymic of a suspect;

2) title (number) of the criminal proceedings;

3) essence of the suspicion, which has been notified, and legal qualification of the criminal offence with indication of Article (part of the Article) of Ukraine's law on criminal liability, the person concerned is suspected of;

4) reference to evidence which supports the suspicion;

5) procedural actions which require more time;

6) importance of the results of such procedural actions for court proceedings;

7) period of time required for the conduct or completion of such procedural actions;

8) circumstances which prevented the conduct of such procedural actions earlier.

The motion shall also be accompanied by originals or copies of documents and other materials by which the prosecutor or investigator substantiates the arguments of the motion, as well as an extract from the Unified Register of Pre-Trial Investigations into criminal proceedings in which the petition is filed. In this respect, the investigator and the public prosecutor shall indicate in the respective request the shortest period sufficient for the requirements of the pre-trial investigation.

The investigating judge, having established that the request was filed with non-compliance with the requirements of this Article, shall return it to the public prosecutor or investigator, and adopt the ruling.

3. The investigating judge shall consider the request for extension of the pre-trial investigation within three days from the date of its receipt, but in any case before the expiration of the pre-trial investigation, with the participation of the investigator or public prosecutor and the suspect and his/her defence counsel, in the event of consideration of the request for extension of the pre-trial investigation after notifying the person of the suspicion.

4. The investigating judge shall refuse to grant the request to extend the term of the pre-trial investigation until the person has been notified of the suspicion in case of its illegality and inconsistency.

5. In addition to the grounds provided for by part 4 of this Article, the investigating judge shall refuse the request to extend the pre-trial investigation after notifying the person of suspicion, unless the investigator proves that the additional period is necessary to obtain evidence, which may be used during the court proceedings, or to conduct or complete the examination, provided that these actions could not be carried out or completed earlier for objective reasons, as well as if the circumstances investigated during the resolution of this issue indicate the absence of sufficient grounds to consider that a criminal offence has occurred which gave rise to a notice of suspicion, and /or the suspect is involved in the criminal offence.

6. The investigating judge shall issue a reasoned decision on the refusal to satisfy the request to extend the term of the pre-trial investigation.

7. Where the investigating judge refuses to extend the pre-trial investigation, the public prosecutor supervising compliance with the law during the pre-trial investigation shall, within five days, take one of the actions provided for by part 2 of Article 283 of this Code.

8. The decision of the investigating judge to extend the term of the pre-trial investigation shall comply with the general requirements for court decisions provided for by this Code, as well as contain a new specified term of the pre-trial investigation.

9. The decision of the investigating judge, adopted as a result of consideration of the request for extension of the pre-trial investigation, shall not be subject to appeal.

{Chapter 24 has been supplemented with Article 297[1] under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments –refer to clause 4, § 2, Section 4 of the Law}

{Article 297[1] of Chapter 24 shall be deemed Article 295[1] under Law No. 2234-VIII of 7 December 2017}

{Article 296 has been deleted under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

{Article 297 has been deleted under Law No. 2147-VIII of 3 October 2017– the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered in the Unified Register of Pre-Trial Investigations after the entry into force of these amendments –refer to clause 4, § 2, Section 4 of the Law}

Chapter 24[1]
SPECIFIC ASPECTS OF SPECIAL PRE-TRIAL INVESTIGATION OF CRIMINAL OFFENCES

Article 297[1]. General provisions related to special pre-trial investigation

1. Special pre-trial investigation (in absentia) shall be conducted in respect of one or more suspects in accordance with the general rules of pre-trial investigation provided for by this Code, subject to the provisions of this Chapter.

{Part 1 of Article 297[1] as amended by Law No. 1950-VIII of 16 March 2017}

2. Special pre-trial investigation shall be conducted following the investigative judge's resolution in criminal proceedings relating to crimes specified in Articles 109, 110, 110[2], 111, 112, 113, 114, 114[1], 115, 116, 118, parts 2–5 of Article 191 (in case of abuse of power by an official), Articles 209, 255–258, 258[1], 258[2], 258[3], 258[4], 258[5], 348, 364, 364[1], 365, 365[2], 368, 368[2], 368[3], 368[4], 369, 369[2], 370, 379, 400, 436, 436[1], 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine, with regard to a suspect, except for minors, who hides from the investigation and judicial bodies with the view of avoiding criminal liability, and if he/she is announced in interstate or international wanted list. Special pre-trial investigation of other crimes shall not be allowed, except in cases where crimes are committed by persons who are hiding from the investigation and judicial bodies with the view of avoiding criminal liability, and if he/she is announced in interstate or international wanted list, and they are investigated in the same criminal proceedings with crimes specified in this part, and the with the view of avoiding criminal liability, and if he/she is announced in interstate or international wanted list, and they are investigated in

the same criminal proceedings with the crimes specified in this part, and disjoining of records on them may adversely affect the completeness of the pre-trial investigation and court proceedings.

{Part 2 of Article 297[1] as amended by Laws No. 119-VIII of 15 January 2015, No. 769-VIII of 10 November 2015, No. 1950-VIII of 16 March 2017, No. 2617-VIII of 22 November 2018}

3. If several persons are notified of a suspicion in criminal proceedings, the investigator or public prosecutor may request the investigating judge to conduct a special pre-trial investigation only in respect of those suspects for whom there are grounds under part 2 of this Article, and in respect of other suspects, further pre-trial investigation in the same criminal proceedings shall be conducted in accordance with the general rules provided for by this Code.

{Article 297[1] has been supplemented with part 3 under Law No. 1950-VIII of 16 March 2017}

Article 297[2]. Motion of investigator or public prosecutor to conduct special pre-trial investigation

1. A public prosecutor or an investigator, with the consent of the public prosecutor, shall be entitled to apply to the investigative judge with the motion to conduct special pre-trial investigation.

2. The motion shall state:

1) brief description of circumstances of the criminal offence in connection with which the motion is filed;

2) legal determination of the criminal offence with the indication of the corresponding Article (part of the Article) of the Law of Ukraine on criminal liability;

3) description of circumstances laying grounds for suspecting the person of committing criminal offence, and reference to circumstances;

4) data on announcing person in interstate or international wanted list;

{Clause 4, part 2 of Article 297[2] as revised by Law No. 119-VIII of 15 January 2015}

5) statement of circumstances about the suspect absconding /hiding from the investigation and judicial bodies with the view of avoiding criminal liability;

7) list of witnesses whom the investigator or the public prosecutor considers necessary to examine during consideration of the motion.

Article 297[3]. Consideration of the motion on conducting special pre-trial investigation

1. A motion to conduct special pre-trial investigation shall be considered by the investigative judge within ten days from the moment of its submission to the court with engagement of the person who has submitted the motion, and a defence counsel.

Where the suspect has failed to solicit a defence counsel on his own, the investigative judge shall take all the actions to engage a defence counsel.

2. If the investigative judge establishes that the motion has been submitted without complying with the requirements of Article 297[2] of this Code, he/she shall return it to the investigator or public prosecutor and issue the corresponding ruling.

3. While considering the motion, the investigative judge shall be entitled, on the basis of a motion from any party to criminal proceedings or on own initiative, take testimony from any witness or examine any records which are of relevance to address the issue on special pre-trial investigation.

Article 297[4]. Making a decision to conduct special pre-trial investigation

1. The investigative judge shall reject the motion on conducting special pre-trial investigation if the public prosecutor and/or an investigator fails to prove that the suspect absconds from the investigation and judicial bodies with the view of avoiding criminal liability, and is announced in the interstate or international wanted list.

{Part 1 of Article 297[4] as amended by Law No. 119-VIII of 15 January 2015}

2. While deciding whether to conduct special pre-trial investigation, the investigative judge shall take into account the availability of sufficient evidence to suspect a person of having committed a criminal offence.

{Part 2 of Article 297[4] as amended by Law No. 1950-VIII of 16 March 2017}

3. Following the results of the consideration of the motion, the investigative judge shall issue a ruling specifying the reasons for sustaining or rejecting the motion to conduct special pre-trial investigation.

Where there are several suspects in the criminal proceedings, the investigative judge shall issue a ruling only with regard to those suspects in respect of whom there are circumstances specified by part 2 of Article 297[1] hereof.

Repeated submission of the motion to the investigative judge to conduct special pre-trial investigation in one criminal proceedings shall not be allowed except for cases when there are new circumstances proving that the suspect hides from the investigation and judicial bodies with the view of avoiding criminal liability, and is announced in the interstate or international wanted list.

{Paragraph 3, part 3 of Article 297[4] as amended by Law No. 119-VIII of 15 January 2015}

4. A copy of the ruling shall be sent to the public prosecutor, investigator and a defence counsel.

5. If a suspect, in respect of whom the investigating judge has ordered a special pre-trial investigation, is detained or voluntarily appears before the pre-trial investigation body, further pre-trial investigation shall be conducted in accordance with the general rules provided for by this Code.

{Part 5 of Article 297[4] as revised by Law No. 1950-VIII of 16 March 2017}

6. Information on suspects in respect of whom the investigating judge has ruled to conduct a special pre-trial investigation shall be entered into the Unified Register of Pre-Trial Investigations immediately, but not later than 24 hours after the effective date of the ruling.

{Part 6 of Article 297[4] as revised by Law No. 1950-VIII of 16 March 2017}

Article 297[5]. The procedures for delivering procedural documents to the suspect during special pre-trial investigation

1. In case of conducting special pre-trial investigation, the summons shall be sent to the last known address of residence or staying of the suspect and shall be published in the national mass media and official websites of the agencies conducting pre-trial investigation. The suspect shall be deemed to have been properly informed about the summons content from the moment of its publishing in national mass media.

The print medium which will publish the summons over the coming year shall be defined on or before 1 December of the current year according to the procedures established by the Cabinet of Ministers of Ukraine.

2. The copies of procedural documents to be delivered to the suspect shall be sent to a defence counsel.

{The Code has been supplemented with Chapter 24[1] under Law No. 1689-VII of 7 October 2014}

Chapter 25. Specific aspects of pre-trial investigation of criminal misdemeanours

Article 298. General provisions of pre-trial investigation of criminal misdemeanours

1. Chief officer of the inquiry agency shall appoint the inquiring officer who will conduct the pre-trial investigation in the form of an inquiry.

2. Pre-trial investigation of criminal offences (inquiry) shall be carried out in accordance with the general rules of pre-trial investigation provided for by this Code, with due account of the provisions of this Chapter.

3. Before the information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations, certain actions provided for by part 3 of Article 214 of this Code may be conducted.

{Article 21 as revised by Law No. 2617-VIII of 22 November 2018}

Article 298[1]. Procedural sources of evidence in criminal proceedings on criminal offences

1. Procedural sources of evidence in criminal proceedings on criminal offences, in addition to those specified in Article 84 hereof, shall also be explanations of persons, results of medical examination, expert opinion, recordings by technical devices and technical means that have photo and filming functions, video recording, or photo and filming, video recording tools.

Such procedural sources of evidence shall not be used in criminal proceedings concerning a crime, except under the ruling of the investigating judge, which shall be rendered at the request of the public prosecutor.

{The Code has been supplemented with Article 298[1] under LawNo. 2617-VIII of 22 November 2018}

Article 298[2]. Apprehension of a person who has committed a criminal offence by an authorised official

1. An authorised official shall have the right to detain a person suspected of committing a criminal offence without the ruling of the investigating judge or court, in the cases provided for by clauses 1 and 2, part 1 of Article 208 of this Code, and only provided this person:

1) refuses to comply with a lawful request of an authorised official to terminate a criminal offence or resists;

2) tries to leave the place of committing a criminal offence;

3) during the chase after the commission of a criminal offence fails to comply with the lawful requirements of the authorised official;

4) is in a state of alcohol, drug or other intoxication and may cause harm to himself/herself or others.

2. Detention of a person who has committed a criminal offence shall be carried out for no more than three hours from the moment of actual apprehension.

Detention of a person who has committed a criminal offence under Article 286[1] of the Criminal Code of Ukraine, being in a state of alcohol or drug intoxication or being under the influence of medicines that affect concentration, shall last no more than three hours with the obligatory delivery of such a person to a healthcare facility to ensure the respective medical examination.

4. A competent official who apprehended the person, and the inquiring officer shall immediately inform the apprehended person, in a language known to him/her, of the grounds for the apprehension and of the commission of what crime he/she is suspected, as well as of the right to involve a defence counsel, receive medical care, give explanations, testimonies or keep silence regarding the ground for suspicion against him/her, inform promptly other persons of his/her apprehension and whereabouts in accordance with Article 213 of this Code, demand verification of the validity of apprehension, and of other procedural rights specified hereof.

4. A person may be detained:

1) up to seventy-two hours, under the conditions provided for by clauses 1–3, part 1 of this Article, and in compliance with the requirements of Article 211 of this Code;

2) up to twenty-four hours, under the condition provided for by clause 4, part 1 of this Article.

A copy of the detention report shall be sent to the public prosecutor immediately.

5. The apprehended person shall be given the opportunity to notify other persons of his/her detention and whereabouts in accordance with the provisions of Article 213 hereof.

6. A competent official who made the apprehension shall conduct a personal search of the apprehended person in compliance with the rules provided for by part 7 of Article 223 hereof.

7. A competent official responsible for the stay of detainees for committing a criminal offence shall take actions provided for by part 3 of Article 212 hereof, with due account of the specific aspects provided for by this Article.

{The Code has been supplemented with Article 298[2] under LawNo. 2617-VIII of 22 November 2018}

Article 298[3]. Seizure of items and documents

1. Items and documents that are a tool and/or means of committing a criminal offence or a direct subject of encroachment, found during apprehension and personal search of a detainee or inspection of things, shall be seized by an authorised official of the National Police, security agency, authority supervising compliance with tax legislation, the body of the State Bureau of Investigation.

Seized items and documents shall be kept by the body that has seized them until the consideration of criminal proceedings on the merits in court in the manner prescribed by the Cabinet of Ministers of Ukraine.

In exceptional cases, seized items and documents may be returned to the owner for consideration of criminal proceedings on the merits in court. Depending on the results of the examination, the seized items and documents shall be confiscated or returned to the owner in the prescribed manner, or destroyed.

A report on the seizure of items and documents shall be drawn up or a corresponding entry shall be made in the detention report.

2. The items and documents specified in part 1 of this Article seized during the search of the detained person shall be recognised as physical evidence, on which the investigator shall issue a respective decision, and shall be attached to the records of the inquiry.

3. The authorised official, if there are sufficient grounds to believe that the person has committed an offence, for which in accordance with this Code he/she may be punishable by deprivation of the right to drive, shall temporarily seize the driver's license until the sentence enters into force, but for no more than three months from the date of such seizure, and issue a temporary license to drive vehicles.

{The Code has been supplemented with Article 298[3] under LawNo. 2617-VIII of 22 November 2018}

Article 298[4]. Special aspects of the notification of suspicion

1. A written notice of suspicion of committing a criminal offence shall be drawn up by the investigator in agreement with the public prosecutor in the cases and in the manner prescribed by this Code.

2. In parallel with the delivery of the notice of suspicion, the person shall be informed of the findings of the medical examination and the opinion of the specialist, if any. In case of disagreement with the findings of the medical examination or the opinion of the specialist, the person shall have the right to apply to the inquiring officer or the public prosecutor with a motion for an examination within forty-eight hours. In this case, the inquiring officer or public prosecutor shall have the right to apply to an expert for an examination in compliance with the rules provided for by this Code.

Where the person does not apply for an examination within the established period, the respective motion may be filed only during the judicial proceedings.

{The Code has been supplemented with Article 298[4] under LawNo. 2617-VIII of 22 November 2018}

Article 298[5]. Procedure, continuation, suspension of terms of inquiry

1. Where it is necessary to conduct additional investigative and detective actions, the term of inquiry may be extended by the public prosecutor up to thirty days. The public prosecutor shall issue a decision to extend the term of the inquiry.

2. Where it is impossible to complete the inquiry within the period specified in Article 219 of this Code, the investigator or public prosecutor shall release the apprehended person not later than seventy two hours from the moment of detention.

3. The inquiry period shall be suspended in the case provided for by Article 280 hereof.

4. The term from the date of adopting the decision on suspension of criminal proceedings to the date of its cancellation by the investigating judge or adopting the decision on resumption of criminal proceedings shall not be included in the terms provided for by this Article.

{The Code has been supplemented with Article 298[5] under LawNo. 2617-VIII of 22 November 2018}

Article 299. Measures of restraint during pre-trial investigation of criminal misdemeanours

1. During the pre-trial investigation of criminal offences, the apprehension of a person on the grounds and in accordance with the procedure established by this Code, as well as such measures of restraint as personal commitment and personal warranty shall be used as a provisional measure of restraint.

The suspect shall be explained his/her duty to appear on the first summons before the inquiring officer, public prosecutor or court.

{Title of Article 299 as revised by Law No. 2617-VIII of 22 November 2018}

Article 300. Investigative (detective) actions during pre-trial investigation of criminal misdemeanours

1. For pre-trial investigation of criminal offences it is allowed to perform all investigative (detective) actions provided for by this Code and covert investigative (detective) actions provided for by part 2 of Article 264 and Article 268 of this Code, as well as to select explanations to clarify the circumstances of criminal misdemeanor, conduct a medical examination, obtain a specialist's opinion, which shall meet the requirements of an expert opinion, to take recordings of technical devices and technical means in proceedings concerning the commission of criminal offences, which have the functions of photography and filming, video recording, or means of photo and filming, video recording, to seize tools and means of committing a criminal offence, things and documents that are the direct subject of criminal misdemeanor, or which are found during the apprehension of a person, personal search or inspection of things, before entering information about the criminal offence in the Unified Register of Pre-Trial Investigations.

{Article 300 as revised by Law No. 2617-VIII of 22 November 2018}

Article 301. Specific aspects of the completion of the inquiry

1. The inquiring officer shall as soon as possible, but not later than seventy-two hours from the moment of apprehension of the person in the manner prescribed by part 4 of Article 298[2] hereof, submit to the public prosecutor all the collected records of the inquiry together with the

notice of suspicion, which shall immediately notify the suspect, his/her defence counsel, legal representative and victim in writing.

2. The public prosecutor shall not later than three days after receiving the records of the inquiry together with the notice of suspicion, and in case of apprehension of the person in the manner prescribed by part 4 of Article 298² hereof, within twenty-four hours perform one of the following actions:

1) make a decision on closing the criminal proceedings, and in case of apprehension of the person in the manner prescribed by part 4 of Article 298² hereof, on the immediate release of the detained person;

2) return to the inquiring officer the criminal proceedings with written instructions on the conduct of procedural actions with the simultaneous extension of the inquiry to one month and release the detained person (in case of detention made in accordance with part 4 of Article 298 hereof, on the immediate release of the detained person;

3) refer to the court an indictment, request to enforce compulsory medical or reformatory measures, or request to discharge a person from criminal liability;

4) in case of establishment of elements of crime to refer criminal proceedings for conducting pre-judicial investigation.

3. In the case provided for by clause 3, part 2 of this Article, the term of detention of a person shall not exceed seventy-two hours from the moment of apprehension until the beginning of consideration of criminal proceedings in court.

4. In the case provided for by clause 4, part 2 of this Article, the term of detention of a person in the manner prescribed by part 4 of Article 298² hereof, shall be included in the term of detention of the person.

5. Where the public prosecutor decides to apply to the court with an indictment, a request for the application of compulsory measures of medical or reformatory nature, the prosecutor shall within the time limits specified in part 2 of this Article provide the person who has committed the offence or his/her defence counsel, the victim or his/her representative with copies of inquiry report by handing them, and in case of impossibility of such, it shall be delivered in the manner prescribed by this Code for service of notifications, in particular by sending copies of inquiry report at the last known address of the place of residence or stay of such persons. In case of refusal of the specified persons to receive them or delay in receiving, specified persons shall be deemed as having received access to the inquiry report.

A corresponding record shall be drawn up on the refusal to receive copies of inquiry report or failure to receive such copies, which shall be signed by the public prosecutor and the person who refused to receive them, or by the prosecutor where the person did not show up to receive copies of the inquiry report.

{Article 301 as revised by Law No. 2617-VIII of 22 November 2018}

Article 302. Public prosecutor's motion to consider the indictment in simplified procedure

1. Public prosecutor, upon having established in the course of pre-trial investigation that the suspect unconditionally has admitted his/her guilt, does not dispute circumstances established

through pre-trial investigation, and agrees to the consideration of the indictment in his/her absence, and the victim and representative of the legal entity in whose respect proceedings are taken do not object against such consideration, shall have the right to refer to court an indictment containing inter alia a motion on consideration thereof in simplified procedure, without conducting judicial proceedings in court session.

{Part 1 of Article 302 as amended by Law No. 314-VII of 23 May 2013}

2. Investigator, inquiring officer or public prosecutor shall advise the suspect, victim and representative of the legal entity in whose respect proceedings are taken of the content of circumstances established in pre-trial investigation, as well as that in case of giving their consent to consideration of the indictment in simplified procedure, they shall have no right to challenge the sentence under appellate procedure on the grounds of court proceedings in the absence of participants to court proceedings, of non-examination of evidence in court session, or with the purpose of disputing the circumstances established in pre-trial investigation. In addition, the investigator, inquiring officer or public prosecutor shall ensure the voluntary consent of the suspect, victim and the representative of the legal entity in respect of which the proceedings are being conducted, to consider the indictment in simplified proceedings.

{Part 2 of Article 302 as amended by Laws No. 314-VII of 23 May 2013, No. 720-IX of 17 June 2020}

3. The following shall be attached to the indictment with a motion for its consideration in simplified procedure:

1) written statement of the suspect, drafted in the presence of the defence counsel, asserting the unconditional admission of his/her guilt, the recognition of circumstances established in pre-trial investigation, the awareness of the restriction of the right to appeal pursuant to part 2 of this Article, and the consent to the consideration of the indictment in simplified procedure;

2) written statement of the victim and representative of the legal entity in whose respect proceedings are taken, asserting the recognition of circumstances established in pre-trial investigation, the awareness of the restriction of the right to appeal pursuant to part 2 of this Article, and the consent to the consideration of the indictment in simplified procedure;

{Clause 2, part 3 of Article 302 as amended by Law No. 314-VII of 23 May 2013}

3) records of pre-trial investigation including documents certifying unconditional admission by the suspect of his/her guilt.

Chapter 26. Challenging decisions, acts or omissions during pre-trial investigation

§ 1. Challenging decisions, acts or omissions of the pre-trial investigation agencies or public prosecutor during pre-trial proceedings

Article 303. Decisions, acts or omissions of the investigator, inquiring officer or public prosecutor, which may be challenged during pre-trial proceedings and the right to challenge

{Title of Article 303 as amended by Law No. 720-IX of 17 June 2020}

1. The following decisions, acts or omissions of the investigator, inquiring officer or public prosecutor may be challenged during pre-trial proceedings

1) Omission of the investigator, inquiring officer , public prosecutor consisting in failure to enter information on the criminal offence in the Unified Register of Pre-Trial Investigations after receipt of application or report on the criminal offence, to return temporarily seized property as prescribed by Article 169 of this Code, as well as failure to conduct other procedural actions which he is required to conduct within a period of time specified by the present Code, may be challenged by an applicant, victim, his/her representative or legal representative, the suspect, his/her defence counsel or legal representative, representative of legal entity in whose respect proceedings are taken, the owner of the temporarily seized property, or other person whose rights or legitimate interests are restricted during the pre-trial investigation;

{Clause 1, part 1 of Article 303 as amended by Laws No. 314-VII of 23 May 2013, No. 2213-VIII of 16 November 2017}

2) decision of the investigator, inquiring officer or public prosecutor to terminate pre-trial investigation may be challenged by victim, his/her representative or legal representative, the suspect, his/her defence counsel or legal representative and the representative of legal entity in whose respect proceedings are taken;

{Clause 2, part 1 of Article 303 as amended by Law No. 314-VII of 23 May 2013}

3) decision of the investigator or inquiring officer to close criminal proceedings may be challenged by the applicant, the victim, his/her representative or legal representative;

4) prosecutor's decision to close criminal proceedings may be challenged by the applicant, victim, his/her representative or legal representative, the suspect, his/her defence counsel or legal representative or the representative of the legal entity in whose respect proceedings are taken;

{Clause 4, part 1 of Article 303 as revised by Law No. 314-VII of 23 May 2013}

5) decision of the public prosecutor, investigator or inquiring officer to refuse recognition as a victim may be challenged by the person who was refused to be recognised as a victim;

6) decisions, acts or omissions of the investigator, inquiring officer or public prosecutor in enforcing security measures may be challenged by persons in respect to whom legal security measures may be enforced.

7) decision of the investigator, inquiring officer or public prosecutor to dismiss a motion for conducting investigative (detective) actions, covert investigative (detective) actions may be challenged by the person whose motion has been dismissed, his /her representative, legal representative or defence counsel;

8) decision of the investigator, inquiring officer or public prosecutor to change the procedure for pre-trial investigation and continue to proceed under the rules of Chapter 39 of this Code may be challenged by the suspect, his/her defence counsel or legal representative, victim, his/her representative or legal representative;

{Clause 9, part 1 of Article 303 has been deleted under Law No. 767-VII of 23 February 2014}

9[1]) the decision of the public prosecutor to refuse to sustain the complaint for failure to comply with reasonable deadlines by the investigator, inquiring officer or prosecutor during the pre-trial investigation may be challenged by the person who was refused the complaint, his/her representative, legal representative or defence counsel;

{Part 1 of Article 303 has been supplemented with clause 9[1] under Law No. 2213-VIII of 16 November 2017}

10) notification of the investigator, inquiring officer or public prosecutor on suspicion after one month from the date of notification of the person suspected of committing a criminal offence or two months from the date of notification of the person suspected of committing a crime, but prior to closure of the criminal proceedings or appeal to the court with an indictment may be challenged by the suspect, his/her lawyer or legal representative;

{Part 1 of Article 303 has been supplemented with clause 10 under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

11) refusal of the investigator, inquiring officer or public prosecutor to grant the motion to close the criminal proceedings on the grounds provided for by clause 9[1], part 1 of Article 284 hereof may be challenged by the defence, another person whose rights or legitimate interests are restricted during the pre-trial investigation, his/her representative.

{Part 1 of Article 303 has been supplemented with clause 11 under Law No. 2548-VIII of 18 September 2018}

2. Complaints against other decisions, acts or omissions of the investigator, inquiring officer or public prosecutor shall not be considered during pre-trial proceedings and may be subject to consideration during preparatory proceedings in court in accordance with Articles 314–316 of this Code.

3. Decisions, acts or omissions by the investigator, inquiring officer or public prosecutor as referred to in clauses 5 and 6 of part 1 of this Article may be also challenged during preparatory court session.

{Title of Article 303 as amended by Law No. 720-IX of 17 June 2020}

Article 304. Time limits for challenging decisions, acts or omissions of the investigator, inquiring officer or public prosecutor, its return or refusal to open proceedings

{Title of Article 304 as amended by Law No. 720-IX of 17 June 2020}

1. Complaints against decisions, acts or omissions of the investigator or public prosecutor referred to in part 1 of Article 303 of this Code, may be lodged by a person within ten days after the decision was taken, act or omission committed. If a decision of the investigator, inquiring officer or public prosecutor has been drawn up as a resolution, time limit for lodging of complaint shall be counted from the day the complainant has received its copy.

{Part 1 of Article 304 as amended by Law No. 720-IX of 17 June 2020}

2. A complaint shall be returned where:

1) it has been lodged by a person who is not entitled thereto;

2) it is not subject to consideration by this court;

3) it has been lodged after expiry of time limit specified in part 1 of this Article, and the complainant does not raise the issue of renewing the time limit, or investigating judge finds no grounds for renewing it upon the person's application.

4. A copy of the ruling to return the complaint shall be immediately forwarded to the complainant, together with the complaint and all records attached thereto.

5. Investigating judge or court shall refuse to open proceedings only if the complaint is lodged against such decisions, acts or omissions of the investigator, inquiring officer or public prosecutor that are not subject to challenging.

{Part 4 of Article 304 as amended by LawNo.720-IX of 17 June 2020}

6. A copy of the ruling to refuse opening the proceedings shall be immediately forwarded to the complainant, together with the complaint and all records attached thereto.

7. The ruling to return the complaint or refuse opening proceedings may be challenged under appellate procedure.

8. Returning the complaint shall not preclude re-applying to the investigating judge or court as prescribed by this Code.

Article 305. Legal implications of challenging decisions, acts or omissions of the investigator, inquiring officer or public prosecutor during pre-trial proceedings

{Title of Article 305 as amended by Law No. 720-IX of 17 June 2020}

1. Challenging a decision, act or omission of the investigator, inquiring officer or public prosecutor during pre-trial proceedings shall not preclude execution of the decision or act of the investigator, inquiring officer or public prosecutor.

2. Investigator, inquiring officer or public prosecutor may at their own discretion repeal a decision challenged, discontinue an act or omission specified in clauses 1, 2, 5 and 6 of part 1 of Article 303 hereof, which are complained against, and that shall entail the closure of proceedings on the complaint.

Public prosecutor may autonomously cancel decision specified in clauses 3 and 10, part 1 of Article 303 hereof, which may be appealed according to the procedure specified in part 6 of Article 284 of this Code and which shall entail the closure of proceedings on the complaint.

{Paragraph 2, part 2 of Article 305 as amended by Laws No. 314-VII of 23 May 2013, No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

{Title of Article 305 as amended by Law No. 720-IX of 17 June 2020}

Article 306. Procedure for consideration of complaints regarding decisions, acts or omissions of the investigator, inquiring officer or public prosecutor during pre-trial proceedings

{Title of Article 306 as amended by Law No. 720-IX of 17 June 2020}

1. Complaints against decisions, acts or omissions of the investigator, inquiring officer or public prosecutor shall be considered by an investigating judge of a local court, and in criminal proceedings concerning criminal offences within the jurisdiction of the High Anti-Corruption Court they shall be considered by an investigating judge of the High Anti-Corruption Court in accordance with the rules of the court proceedings provided for by Articles 318–380 of this Code, subject to the provisions of this Chapter.

{Part 1 of Article 306 as amended by Laws No. 2447-VIII of 7 June 2018, No. 720-IX of 17 June 2020}

2. Complaint against decisions, act or omission during pre-trial proceedings shall be considered within seventy-two hours from the receipt of the complaint concerned, except complaints against decision to close criminal proceedings which shall be considered within five days from the receipt of the complaint concerned.

3. Consideration of complaints against decision, act or omission during pre-trial proceedings shall be considered with mandatory participation of the complainant or his/her defence counsel, representative and the investigator, inquiring officer or public prosecutor whose decision, act or omission are challenged. Absence of the investigator, inquiring officer or public prosecutor shall not preclude consideration of the complaint.

{Part 3 of Article 306 as amended by LawNo. 720-IX of 17 June 2020}

Article 307. Investigating judge's decision following consideration of the challenge regarding decisions, acts or omissions of the investigator, inquiring officer or public prosecutor during pre-trial proceedings

{Title of Article 307 as amended by Law No. 720-IX of 17 June 2020}

1. Based on results of consideration of the challenge regarding decisions, acts or omissions of the investigator, inquiring officer or public prosecutor, a ruling shall be issued in accordance with the rules laid down in this Code.

2. The ruling of the investigating judge upon results of consideration of the complaint against a decision, act or omission during pre-trial proceedings, may be related to:

1) repeal of the decision of the investigator, inquiring officer or public prosecutor;

1[1]) cancellation of the notice of suspicion;

{Part 2 of Article 307 has been supplemented with clause 1[1] under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

2) order to stop conducting act;

3) order to conduct a certain act;

4) refusal to grant the challenge.

3. *{Provisions of pat 3 of Article 307 on the prohibition of challenging the ruling of the investigating judge on the outcome of consideration of the complaint on omission of the investigator, inquiring officer or public prosecutor, which consists in the failure to enter information about the criminal offence in the Unified Register of Pre-Trial Investigations after receiving an application, report of a criminal offence, found to be inconsistent with the Constitution of Ukraine (is unconstitutional), in accordance with the Decision of the Constitutional Court No. 4-r(II)/2020 of 17 June 2020}* The ruling of the investigating judge on the results of the appeal against the decision, act or omission of the investigator, inquiring officer or public prosecutor may not be appealed, except for the decision to refuse to grant the appeal against the decision to close criminal proceedings, the appeal of the investigator or public prosecutor on the grounds specified in clause 9[1], part 1 of Article 284 hereof, on cancellation of the notice of suspicion and refusal to satisfy the complaint on the notice of suspicion.

{Part 3 of Article 307 as amended by Laws No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to the cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; No. 2548-VIII of 18 September 2018}

{Title of Article 307 as amended by Law No. 720-IX of 17 June 2020}

Article 308. Complaining against failure to respect reasonable time

1. The suspect, accused, victim, or other persons whose rights or legitimate interests are restricted during the pre-trial investigation, shall have the right to appeal to the superior public prosecutor of non-compliance with reasonable time by the investigator, inquiring officer or public prosecutor during the pre-trial investigation.

{Part 1 of Article 308 as amended by Laws No. 2213-VIII of 16 November 2017, No. 720-IX of 17 June 2020}

2. The superior public prosecutor shall be required to consider the complaint within three days of its lodging and, present grounds for sustaining it, issue the respective public prosecutor binding instructions as to the time limits for conducting specific procedural actions or making procedural decisions. The person who has lodged the complaint shall be promptly notified of the results of its consideration.

2. Officials who are at fault for failure to respect reasonable time may be held liable under law.

§ 2. Challenging rulings of the investigating judge passes during pre-trial proceedings

Article 309. Investigating judge's rulings subject to be challenged during pre-trial proceedings

{Title of Article 309 as amended by Law No. 1689-VII of 7 October 2014}

1. During pre-trial investigation, the investigating judge's rulings may be challenged under appellate procedure related to:

1) refusal to grant permission to apprehension;

{The provision of clause 1, part 1 of Article 309 have been recognised as complying with the Constitution of Ukraine (is constitutional), in accordance with the Decision of the Constitutional Court No. 5-r/2020 of 17 March 2020}

2) enforcing the measure of restraint in the form of keeping in custody or refusal to enforce such;

3) extending duration of keeping in custody or refusal to extend;

4) enforcing the measure of restraint in the form of house arrest or refusal to enforce such;

5) extending duration of house arrest or refusal to extend;

5[1]) application of a measure of restraint in the form of bail or refusal to apply such;

{Part 1 of Article 309 has been supplemented with clause 5[1] under Law No. 187-IX of 4 October 2019}

6) putting a person in children's placement centre or refusal to put;

7) extending duration of keeping in children's placement centre or refusal to extend;

8) sending a person to a medical institution for psychiatric expert examination or refusal to send;

9) attachment of property or refusal to attach it;

10) temporary access to objects and documents granting permission to seize objects and documents which certify the exercise of the right to conduct entrepreneurial activity, or other in the absence of which an individual entrepreneur or a legal entity shall be deprived of possibility to carry out their activities;

11) removal from office or refusal to remove.

11[1]) continuation of removal from office;

{Part 1 of Article 309 has been supplemented with clause 11[1] under Law No. 2548-VIII of 18 September 2018}

12) refusal to conduct special pre-trial investigation.

{Part 1 of Article 309 has been supplemented with clause 12 under Law No. 1689-VII of 7 October 2014}

13) closure of criminal proceedings on the basis ofpart 9 of Article 284 of this Code.

{Part 1 of Article 309 has been supplemented with clause 13 under Law No. 2548-VIII of 18 September 2018}

During the pre-trial investigation, the decisions of the investigating judge on refusal to grant the complaint against the decision to close the criminal proceedings or against the decision of the investigator or public prosecutor to refuse to grant the request to close the criminal proceedings may also be appealed o the grounds of clause 9[1], part 1 of Article 284 hereof, on cancellation of the notice of suspicion or refusal to grant the complaint on the notice of suspicion, return of the

complaint on the decision, act or omission of the investigator or public prosecutor or refusal to open proceedings thereon.

{Part 2 of Article 309 as amended by Laws No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer toclause 4, § 2, Section 4 of the Law; No. 2548-VIII of 18 September 2018}

3. Complaints against other investigating judge's rulings shall be non-appealable, and may be subject to judicial hearing in the course of preparatory proceedings in court.

{Provisions of part 3 of Article 309 are recognised as complying with the Constitution of Ukraine (are constitutional), in accordance with the Decision of the Constitutional Court No. 5-r(II)/2020 of 17 March 2020}

Article 310. Procedure for challenging of investigating judge's rulings

1. Challenging of investigating judge's rulings shall be made under appellate procedure.

§ 3. Appeal by the investigator or inquiring officer of decisions, acts or omissions of the public prosecutor

{Title § 3 of Chapter 26 as amended by Law No. 720-IX of 17 June 2020}

Article 311. Decisions, acts or omissions of the public prosecutor which may be challenged by investigator or inquiring officer

{Title of Article 311 as amended by Law No. 720-IX of 17 June 2020}

1. In the course of pre-trial proceedings, the investigator or inquiring officer who investigates a criminal offence shall have a right to challenge any decisions, acts or omissions of the public prosecutor taken or committed in the pre-trial proceedings concerned, unless this Code provides otherwise.

{Part 1 of Article 311 as amended by Law No. 720-IX of 17 June 2020}

Article 312. Procedure for challenging public prosecutor's decisions, acts or omissions

1. Investigator or inquiring officer shall submit complaint against decisions, acts or omissions of the public prosecutor in writing, within three days after challenged decisions, acts or omissions have been taken or committed.

2. Complaint of the investigator or inquiring officer shall be submitted to a superior public prosecutor against the prosecutor whose decision, act or omission is being appealed.

{Part 2 of Article 312 as revised by Law No. 1697-VII of 14 October 2014}

3. Challenging of public prosecutor's decisions, acts or omissions by the investigator or inquiring officer shall not preclude execution thereof.

{Article 312 as amended by Law No. 720-IX of 17 June 2020}

Article 313. Procedure for disposing complaint against public prosecutor's decisions, acts or omissions

1. Superior public prosecutor who received complaint against decisions, act or omission of a public prosecutor shall consider such complaint within three days after it has been received and send his decision to the investigator, inquiring officer and the public prosecutor whose decisions, acts or omissions are challenged.

{Part 1 of Article 313 as amended by Laws No. 1697-VII of 14 October 2014, No. 720-IX of 17 June 2020}

2. After consideration of the complaint, the following decisions may be taken:

1) the decision being challenged is maintained, acts or omissions are found to be legitimate;

2) to change the decision challenged partly;

3) the decision being challenged is repealed and a new decision is adopted, acts or omissions are found to be illegitimate and a request is made to take a new action.

3. If the decision challenged is repealed or acts or omissions are found to be illegitimate, the superior public prosecutor shall have the right to replace the public prosecutor concerned with another one selected from among members of the prosecutor's office of the same level in pre-trial proceedings where illegitimate decision, act or omission have been adopted or have taken place.

{Part 3 of Article 313 as revised by Law No. 1697-VII of 14 October 2014}

4. Decision made by the superior public prosecutor shall be final and may not be challenged before court, other government authorities, functionaries or officials thereof.

{Part 4 of Article 313 as amended by Law No. 1697-VII of 14 October 2014}

Section IV
COURT PROCEEDINGS IN THE FIRST INSTANCE

Chapter 27. Preparatory proceedings

Article 314. Preparatory court session

1. Having received the indictment, motion to enforce compulsory medical or reformatory measures, or motion on discharge from criminal liability, the court shall within five days after the day of receipt thereof, assign the date of preparatory court session for which participants in court proceedings are summoned.

2. A preparatory court session shall be conducted with participation of the public prosecutor, the accused, defence counsel, victim and his/her representative and legal representative, civil plaintiff, his/her representative and legal representative, civil defendant and his representative, and the representative of the legal entity in whose respect proceedings are taken, as provided by the rules of court proceedings in this Code. Upon fulfilling the requirements specified in Articles 342–345 of this Code, the presiding judge shall ask the opinions of the participants to court proceedings regarding the possibility of assigning court proceedings.

In case of establishment of objective impossibility to view the inquiry report in the manner provided for by part 5 of Article 301 hereof, the court at the request of a party to the criminal proceedings shall decide on the opening by the parties to the criminal proceedings of inquiry report upon the respective ruling.

{Part 2 of Article 314 has been supplemented with paragraph 2 under Law No. 2617-VIII of 22 November 2018}

{Part 2 of Article 314 as amended by Law No. 314-VII of 23 May 2013}

3. In a preparatory court session, the court may take the following decisions:

1) approve agreement or refuse in its approving and return criminal proceedings to the public prosecutor for continuation of pre-trial investigation in accordance with the procedure laid down in Articles 468–475 of this Code;

2) close proceedings in case of establishing grounds specified in clauses 4–8, 10, part 1 or part 2 of Article 284 hereof;

{Clause 2, part 3 of Article 314 as amended by Law No. 2213-VIII of 16 November 2017}

3) return the indictment, motion to enforce compulsory medical or reformatory measures to the public prosecutor if they do not comply with the requirements of this Code;

4) forward the indictment, motion to enforce compulsory medical or reformatory measures to an appropriate court for definition of jurisdiction, in case the criminal proceeding concerned is found to be not under the jurisdiction;

5) assign court proceedings based on the indictment, motion to enforce compulsory medical or reformatory measures.

6) assign an officer of the probation agency to make a pre-trial report.

{Part 3 of Article 314 has been supplemented with clause 6 under Law No. 1492-VIII of 7 September 2016}

4. The ruling to return the indictment, motion to enforce compulsory medical or reformatory measures may be challenged under appellate procedure.

5. In a preparatory court hearing, the court in the cases provided for by this Code, on its own initiative or at the request of the accused, his/her lawyer or legal representative, or at the request of the public prosecutor and only in the interests of national security, economic welfare and human rights, which decides on the decision indicating the deadline for preparation of such a report.

{Article 314 has been supplemented with part 5 under Law No. 1492-VIII of 7 September 2016}

Article 314[1]. Preparation of a pre-trial report

1. In order to provide the court with information characterising the accused, as well as to make a court decision on the measure of punishment, the officer of the probation agency shall prepare a pre-trial report upon court ruling.

2. A pre-trial report shall be drawn up in respect of a person accused of committing a minor or grave crime, the lower limit of which shall not exceed five years of imprisonment. A pre-trial report on an accused minor of 14 to 18 years of age shall be drawn up regardless of the gravity of the crime committed, except as provided for by this Code.

{Part 2 of Article 314[1] as amended by Law No. 2617-VIII of 22 November 2018}

3. The form, content and procedure for compiling a pre-trial report on the accused shall be determined by law.

4. The pre-trial report shall not be compiled:

1) with regard to a person in respect of whom the public prosecutor has filed a motion for discharge from criminal liability;

2) in respect of a person who is already serving a sentence of restraint of liberty or imprisonment;

3) with regard to a minor in respect of whom the public prosecutor, in accordance with the procedure provided for by Article 497 of this Code, has filed a motion for the application of measures of restraint reformatory nature;

4) in respect of a minor who has not reached the age of criminal liability, if there are grounds for the application of measures of restraint of reformatory nature in accordance with paragraph 2, Chapter 38, Section VI hereof;

5) with regard to a person in respect of whom the public prosecutor has filed a motion for the application of measures of restraint of a medical nature;

6) in respect of a person to whom parole has been applied, but he/she has committed a new crime during the unserved part of the sentence;

7) where during the preparatory court session a court decision on approval of the agreement provided for by this Code is adopted.

5. A pre-trial report may not be used in criminal proceedings as evidence of the guilt of the accused in the commission of a crime.

6. The pre-trial report shall be attached to the records of the criminal proceedings.

{The Code has been supplemented with Article 314[1] under Law No. 1492-VIII of 7 September 2016}

Article 315. Disposing matters relating to preparation for court proceedings

1. Where in the course of preparatory court session no grounds are found for adoption of decisions specified in clauses 1–4, part 3 of Article 314 hereof, the court shall conduct preparation for court proceedings.

2. As a matter of preparation for trial, the court shall:

1) assign the date and place for judicial proceedings;

2) find out whether or not the court proceedings shall be conducted in private court session;

3) dispose the issue of the composition of participants to court proceedings;

4) consider motions of the participants to court proceedings on:

citing certain persons for examination in court;

demanding and obtaining certain objects or documents;

conducting court proceedings in camera.

{Clause 4, part 2 of Article 315 has been supplemented with paragraph 4 under Law No. 2213-VIII of 16 November 2017}

5) do whatever is necessary to prepare for court proceedings.

3. {The provision of the third sentence, part 3 of Article 315 shall cease to be valid as inconsistent with the Constitution of Ukraine (is unconstitutional) in accordance with the Decision of the Constitutional Court No. 1-r/2017 of 23 November 2017} During preparatory court session, the court may, upon motions of participants in court proceedings, enforce, change or repeal measures to ensure criminal proceedings including the measure of restraint enforced in respect of the accused. When considering such motions, the court shall comply with provisions of Section II *hereof. In the absence of such motions from the parties to the criminal proceedings, the application of measures to ensure that the criminal proceedings decided on during pre-trial investigation shall be deemed to continue.*

4. During the preparatory court hearing, the court shall explain to the accused in the commission of a crime punishable by imprisonment for a term exceeding ten years the right to file a motion for consideration of criminal proceedings against him/her by a panel of three judges.

{Article 315 has been supplemented with part 4 under Law No. 817-IX of 21 July 2020}

Article 316. Completion of preparatory proceedings and assigning court proceedings

1. Upon completion of preparation for court hearing, the court shall pass the ruling to assign judicial proceedings.

2. Court proceedings shall be scheduled no later than ten days after the ruling on its assignment.

Article 317. Records of criminal proceedings (criminal case) and the right to examine thereof

1. Documents, other materials forwarded to the court during court proceedings by participants thereto, court judgments and other documents and materials of importance for the criminal proceedings concerned, shall be attached to the indictment, a motion on application of compulsory medical or reformatory measures, a motion on discharge from criminal liability and shall be deemed materials of criminal proceedings (criminal case).

2. After the case is assigned for court proceedings, the presiding judge shall provide the opportunity to the participants to court proceedings, where they file a motion thereon, to examine the records of the criminal proceedings. During such examination, the participants to court proceedings may make necessary extracts and copies thereof.

3. Records relating to the enforcement of security measures in respect of persons who participate in criminal proceedings shall not be provided for examination.

Chapter 28. Court proceedings

§ 1. § 1. General provisions governing court proceedings

Article 318. Time limits and general procedure for court proceedings

1. Judicial proceedings shall be held and completed within a reasonable period of time.

2. Court proceedings shall be held in court session with mandatory participation of the parties to the criminal proceedings, except in cases provided for by this Code. The victim and other participants to criminal proceedings shall be summoned to appear in court session.

3. Court session shall be held in a specially equipped premise named the courtroom. Individual procedural actions, where necessary, may be conducted outside the courtroom.

Article 319. Invariability of the court composition

1. Court session in criminal proceedings shall be conducted in one court's composition. Whenever a judge cannot participate in the court session, he shall be replaced by another judge to be determined following the procedure established by part 3 of Article 35 hereof. After replacement of a judge, court proceedings shall start again, except in the cases specified in part 2 of this Article and in Article 320 of this Code.

2. The court may by its reasoned ruling decide that there is no need to re-start the court proceedings and conduct anew all or some of the procedural action performed during proceedings before replacement of a judge, provided such decision will not prejudice the proceedings and that the following conditions are met:

1) the parties to the criminal proceedings and the victim do not insist on a new conduct of procedural actions already performed by the court before replacement of a judge;

2) the judge who replaces the resigning judge has familiarised himself with the course of court proceedings and records of criminal proceedings available to the court, is in agreement with the procedural decisions taken by the court and deems inexpedient to conduct anew the procedural actions performed before replacement of a judge.

Where provided for by this part of the Article, the evidence examined during court proceedings before replacement of a judge shall retain their probative value and may be used in support of court judgments.

3. In the event of a transfer of a judge to a court whose jurisdiction extends to the territory to which the jurisdiction of the court from which the judge was transferred extends, such judge shall continue to hear cases pending at the time of the transfer.

The transfer of a case from one court to another in connection with the liquidation of the court shall not require the replacement of jurors involved in the case, except when the case is transferred to a court whose jurisdiction does not extend to the territory where the jury resides.

{Article 319 has been supplemented with part 3 under Law No. 2509-VIII of 12 July 2018}

Article 320. Reserve judge

1. In the criminal proceedings requiring significant time, a reserve judge shall be appointed to be staying in the courtroom throughout the judicial proceedings. The decision concerning a reserve judge shall be rendered concurrently with the appointment of preliminary court session by the court to be burdened with the trial of the case. An appropriate entry concerning the appointment of a reserve judge shall be made in the journal of court session.

2. Where in the course of the court session, a judge is replaced by the reserve judge, the court proceedings shall continue. That being the case, the new composition of the court shall complete judicial proceedings.

Article 321. Judge presiding in court session

1. Judge presiding in the court session shall direct the course of court session, ensure sequence and order of procedural actions, exercising by the participants to criminal proceedings of their procedural rights and fulfilment of their duties, aim proceedings at ensuring the ascertainment of all circumstances of criminal proceedings, removing from the trial everything which has no importance for criminal proceedings.

2. Presiding judge shall take necessary measures to ensure due order in court session.

Article 322. Continuity of court proceedings

1. Court proceedings shall continue without breaks, except for time to rest.

2. Shall not be considered to be a breach of the continuity of court proceedings the instances of adjourning the court session in consequence of:

1) non-appearance of a party or other participants to the criminal proceedings;

2) preparation and approval by the public prosecutor of procedural documents pertaining to dropping of public prosecution, changing of charges, or bringing of an additional charge;

3) preparation by the accused of his/her defence against a changed or new charge;

4) preparation of the victim for prosecution in court if public prosecutor refused to back the public prosecution;

5) examination of objects in the place of their location, on-site inspection;

6) examination to take place in the cases and pursuant to the procedure as set forth in Article 332 of this Code;

7) providing access to items or documents or commission to carry out investigative (detective) actions in the cases and pursuant to the procedure as set forth in Article 333 of this Code.

Article 323. Implications of non-appearance of the accused

1. Where the accused against whom such measure of restraint as keeping in custody was not enforced, does not appear upon summons, in court session without valid reasons, the court shall postpone the proceedings, fix the date of new court session, and take measures to ensure his/her appearance before court. The court may also pass the ruling on compulsory attendance of the accused and/or the ruling on imposition of pecuniary penalty in accordance with the procedure laid down in Chapters 11 and 12 hereof.

{Part 2 of Article 323 has been deleted under Law No. 767-VII of 23 February 2014}

3. The court hearing in criminal proceedings as to the crimes specified in part 2 of Article [1] of this Code may be held in absentia, without the accused, except for a minor who hides from the investigation and judicial bodies with the view of avoiding criminal liability (special judicial proceedings) if the accused is announced in interstate or international wanted list.

{Paragraph 1, part 3 of Article 323 as amended by Law No. 119-VIII of 15 January 2015}-1

In this case, the court shall issue a resolution to conduct special judicial proceedings in regard to the accused on the motion of the public prosecutor, which is to include materials proving that the accused was aware or must have been aware of the launch of criminal proceedings.

If there are several accused persons in the criminal proceedings, the court shall issue a ruling relating only to the suspects in regard to whom there are circumstances for special judicial proceedings.

It shall be mandatory to engage a defence counsel to participate in special judicial proceedings.

In case of special judicial proceedings the summons shall be sent to the last-known address of residence of staying of the accused and the procedural documents subject to the delivery to the accused shall be sent to the defence counsel. Information about the documents and the summons shall be published in national mass media according to provisions of Article 297[5] of this Code. The accused shall be deemed to have been properly informed about the summons contents from the moment of its publishing in the national mass media.

Where there are other accused in such proceedings, at the request of the public prosecutor, the court proceedings shall be conducted in a court session in one criminal proceeding.

{Part 3 of Article 323 has been supplemented with paragraph 6 under Law No. 1950-VIII of 16 March 2017}

{Article 323 has been supplemented with part 3 under Law No. 1689-VII of 7 October 2014}

4. In case the grounds for issuing a ruling to conduct special judicial proceedings are not valid any more, next judicial proceedings shall start from the beginning according to general rules specified by this Code.

{Article 323 has been supplemented with part 4 under Law No. 1689-VII of 7 October 2014}

Article 324. Implications of the public prosecutor's and defence counsel's non-appearance

1. Where public prosecutor or defence counsel does not appear in court session upon notice in criminal proceedings in which the participation of the defence counsel is mandatory, the court shall postpone the trial, fixe date, time and place of a new court session, and take measures to ensure their appearance in court. At the same time, where the reason for non-appearance is invalid, the court shall raise the issue of liability of the public prosecutor or defence counsel who has failed to appear before the bodies which are authorised by law to initiate disciplinary proceedings against them.

2. Where a public prosecutor is no longer able to participate in the court proceedings, he shall be replaced with another one according to the procedure established by Article 37 hereof.

3. Where defence counsel is no longer able to participate in the court proceedings, the judge presiding in the court session shall propose to the accused to select another defence counsel within three days. If in criminal proceedings where the participation of defence counsel is mandatory, the appearance at court session of the defence counsel selected by the accused is not possible within three days, the court shall postpone the trial for a period necessary for the defence counsel to

appear, or concurrently with postponing the trial, shall involve a defence counsel to provide defence by appointment.

4. The court shall give the public prosecutor and defence counsel who previously did not participate in the proceedings concerned the time sufficient for viewing the records of the criminal proceedings and preparing for participation in the court session.

Article 325. Implications of the victim's non-appearance

1. Where the summoned victim duly notified on the date, time and place of the court session, does not appear in court, the court having heard the opinion of the participants to the court proceedings, shall decide to conduct the proceedings without the victim or to postpone the trial, depending on to what extent it is possible to ascertain all circumstances during trial in his/her absence. The court shall be entitled to impose a pecuniary penalty on the victim in cases and in accordance with the procedure provided for by Chapter 12 of this Code.

Article 326. Implications of non-appearance of a civil plaintiff, civil defendant, their representatives and representative of the legal entity in whose respect proceedings are taken

{Title of Article 326 as amended by Law No. 314-VII of 23 May 2013}

1. Where a civil plaintiff, his/her representative or legal representative fails to appear in court session, the case shall be dismissed, except as provided otherwise by this Article.

A civil action may be considered in absence of a civil plaintiff, his/her representative or legal representative provided that he/she has requested so or that the defendant or civil defendant admitted the action.

2. Where the civil defendant, other than the accused, or his/her representative fails to appear on summons, the court may hear the opinion of the participants to the court proceedings and, depending on whether or not it is possible to establish the circumstances important for the civil action, shall decide to hold the hearing without them or to postpone the hearing. The court shall have the right to impose a pecuniary penalty on the civil defendant as prescribed by Chapter 12 of this Code

3. Where the representative of the legal entity in whose respect proceedings are taken fails to appear on summons, the court may hear the opinion of the participants to the court proceedings and, depending on whether or not it is possible to establish the circumstances important for the application of criminal law measures to such legal entity, shall decide to hold the hearing without him/her or to postpone the hearing. The court shall have the right to impose a pecuniary penalty on the representative of a legal entity in whose respect proceedings are taken under the rules of Chapter 12 of this Code.

{Article 326 has been supplemented with part 3 under Law No. 314-VII of 23 May 2013}

Article 327. Implications of the witness's, specialist's, interpreter's, probation agency officer's and expert's non-appearance

{Title of Article 327 as amended by Law No. 1492-VIII of 7 September 2016}

1. Where a witness, specialist, interpreter or expert does not appear in court session upon summons, the court, having heard the opinion of participants to court proceedings and after having

interrogated other witnesses, shall fix new court session and take measures to ensure his/her appearance. The court shall also have the right to pass a ruling to compel the appearance of the witness and/or a ruling to impose on him/her a pecuniary penalty in the cases and in accordance with the procedure laid down in Chapters 11 and 12 hereof.

2. Appearance in court of the interpreter (except where he/she is committed by court), witness, specialist or expert shall be ensured by the party to criminal proceedings which has filed the motion on his/her summons. The court shall assist the parties to ensure the appearance of such persons by way of court summons.

3. Non-appearance at the court hearing of the probation agency officer, duly notified of the time and place of the court hearing, shall not impede the court proceedings.

{Article 327 has been supplemented with part 3 under Law No. 1492-VIII of 7 September 2016}

Article 328. Right to be in the courtroom

1. The number of those present in the courtroom may be restricted by the presiding judge only in case of the lack of seats in the courtroom.

2. Close relatives and family members of the accused and victim, as well as representatives of mass media shall enjoy the preferential right to be present at the court session.

Article 329. Duties of those present in the courtroom

1. Individuals present in the courtroom shall stand up when the court enters and leaves the courtroom. The parties to the criminal proceedings shall examine witnesses and file motions, objections standing and only after judge presiding in the court session gives them the floor. Witnesses, experts and specialists shall testify standing in the place reserved for witnesses. Individuals present in the courtroom shall hear court judgment standing upright. Derogation from these rules is possible upon presiding judge's permission.

2. Parties and participants to the criminal proceedings, as well as other persons present in the courtroom, shall keep order in the court session and unconditionally obey appropriate instructions given by the presiding judge.

3. Parties and participants to the criminal proceedings shall address the court "Your Honour" or "Respected court".

4. Materials, objects and documents shall be handed over to the presiding judge through the court administrator.

Article 330. Measures to be taken in respect of violators of the order in the court session

1. Where the accused breaks order in court session or disobeys instructions of the presiding judge in court session, the latter shall warn the accused that, if he/she continues in the same way, he will be moved away from the courtroom. Where the accused repeats his behaviour in the court session, he/she may be moved away by the ruling of the court from the courtroom, temporarily or for the whole duration of the judicial proceedings. Where such an accused is not represented by the defence counsel, the court shall be required to involve a defence counsel for the provision of

defence by appointment and adjourn the court proceedings for a period necessary for him/her to prepare defence.

After the accused has been returned to the courtroom, he/she shall be given possibility to view evidence which was examined, as well as decisions taken in his/her absence, and to provide explanations thereon. If moved away for the whole duration of the trial, the accused shall have the court decision concluding proceedings in court, announced to him/her immediately upon taking.

2. Where public prosecutor or defence counsel disregards instructions of the presiding judge, the latter shall warn them about the liability for the contempt of court. If they repeat such a breach of order in the courtroom, they may be held liable under the law.

3. Where other individuals present in the courtroom disregard instructions of the presiding judge, the latter shall warn them about liability for the contempt of court. If they repeat such a breach of order in the courtroom, they may be by the ruling of the court moved away from courtroom and held liable under the law.

4. Persons guilty of contempt of court shall be held liable under the law. The issue of prosecuting a person for the contempt of court shall be disposed by court immediately after commission of the breach, for the purpose of which a break shall be called in the court session.

{Part 4 of Article 330 as amended by Law No. 721-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Law No. 767-VII of 23 February 2014}

Article 331. Imposing, revoking, or changing a measure of restraint in court

1. During the court proceedings, the court, upon the motion of the prosecution or defence, shall have the right by its ruling to change, revoke or impose a measure of restraint in respect of the accused.

2. The court shall decide on the measure of restraint in accordance with the procedure established by Article 18 of the present Code.

3. Irrespective of the presence of motions, the court shall dispose the issue of expedience to extend the period of keeping the accused in custody until the expiry of the two-month period after the receipt by the court of the indictment, a motion to enforce compulsory medical or reformatory measures, or after the day of enforcing in respect of the accused of the measure of restraint in the form of keeping in custody. Upon the results of consideration of the issue, the court shall by its motivated ruling, repeal or change the measure of restraint in the form of keeping in custody, or extent its validity for a period that may not exceed two months. A copy of the ruling shall be handed over to the accused and the public prosecutor and shall be forwarded to the authorised person of the place of custody.

Before the expiry of the extended period of custody, the court shall consider again the issue of expedience to extend the period of keeping the accused in custody, if the court proceeding has not ended before the expiry thereof.

In jury court, issues specified in this part shall be disposed by the presiding judge.

4. A court decision on choosing a measure of restraint in the form of detention, on changing another measure of restraint on a measure of restraint in the form of detention or on extending the

term of detention, rendered during the court proceedings before the court of first instance, may be appealed.

An appeal against a court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on a measure of restraint in the form of detention or on the extension of a term of detention imposed during court proceedings in a court of first instance shall not suspend the proceedings in the court of first instance.

{Article 331 has been supplemented with part 4 under Law No. 1027-IX of 2 December 2020}

Article 332. Conducting examination upon court ruling

1. During court proceedings, the court upon a motion from the parties to the criminal proceedings or a victim in the presence of the grounds specified in Article 242 of this Code, shall have the right by its ruling to assign the conduct of the examination to an expert institution, an expert or experts.

2. The court shall have the right by its ruling to assign the conduct of expert examination to an expert institution, an expert or experts irrespective of whether there is a motion on this, in the following cases:

1) if the court has been provided with a number of experts' opinions contradicting each other, and the interrogation of experts has not removed the discovered contradictions;

2) if during the court proceedings, grounds came to light specified in part 2 of Article 509 of this Code.

3) there are sufficient grounds to consider the conclusion of the expert (experts) unfounded or contrary to other materials of the case or raises other reasonable doubts about its correctness.

{Part 2 of Article 332 has been supplemented with clause 3 under Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry into force of these amendments – refer to clause 4, § 2, Section 4 of the Law}

3. A court's ruling to assign the conduct of expert examination in cases specified in part 1 of this Article, shall include the questions put to the expert by the participants in court proceedings, and the court. The court shall have the right to refrain from including in the ruling the questions put by the participants to the court proceedings, if answers to such are not related to the criminal proceedings concerned or are not important for the trial, providing substantiation of such decision in the ruling.

4. On issuing a ruling to assign expert examination, the court proceedings shall be continued, except for the cases when such continuation is not possible before an expert opinion is received.

Article 333. Application of measures to ensure criminal proceedings and conduct of investigative (detective) actions during court proceedings

1. Measures to ensure criminal proceedings shall be applied during the court proceedings in accordance with the provisions of Section II of this Code, subject to specific features established by this Section.

2. While considering a motion to grant interim access to objects and documents, the court shall also consider the reasons for which such access was not exercises during the pre-trial investigation. Where the court decides in court proceedings to grant access to objects and documents, the court shall postpone the trial for a time sufficient for conducting such measure of ensuring criminal proceedings and making its result known to the participants to the court proceedings. The person who obtained objects and documents as a result of granting interim access thereto shall be required to make them accessible as prescribed by Article 290 of this Code

3. Where in the course of the court proceedings there arises a need to establish or ascertain the circumstances essential for the court proceedings and such cannot be established or ascertained otherwise, the court on a motion of a party to criminal proceedings may direct the pre-trial investigation agency to conduct specific investigative (detective) actions. Where such decision is made, the court shall postpone the trial for a time sufficient for conducting such investigative (detective) action and making its result known to the participants to court proceedings.

4. While considering such motion the court shall take into account the significance of the circumstance, which the person who has filed the motion seeks to establish or ascertain, the feasibility of their establishment or ascertainment, by conducting the investigative (detective) actions as well as the reasons for which appropriate actions were not performed to the end of establishing or ascertaining same at the stage of pre-trial investigation. The court shall dismiss a public prosecutor's motion if he fails to demonstrate that the investigative (detective) actions which he requests to conduct could not have been conducted during the pre-trial investigation insofar as the circumstances calling for their conduct were not and could have been known at the time.

5. In its ruling to conduct investigative (detective) actions the court shall indicate the circumstances whose establishment or ascertainment necessitates the investigative (detective) actions as well as specify the investigative (detective) actions shall be conducted and determine the time for its assignment to be executed. The investigative (detective) actions conducted in furtherance of a court's assignment shall be conducted in accordance with the procedure established by Chapters 20 and21 of this Code

6. The public prosecutor shall provide access to the materials obtained as a result of the investigative (detective) actions conducted on the court's assignment to the participants in court proceedings under the rules of Article 290 of this Code and produce same to the court within the time specified.

Article 334. Joining and disjoining of materials of criminal proceedings

1. Materials of criminal proceedings may be joined in one proceeding or disjoined in separate proceedings by a ruling of the court hearing the proceedings, in accordance with the rules laid down in Article 217 of the present Code.

{Part 1 of Article 334 as amended by Law No. 2617-VIII of 22 November 2018}

2. Whenever a local court receives for consideration materials of criminal proceedings in respect of a person who is already the subject of proceedings in this court, such criminal proceedings shall be forwarded to the court composition conducting the proceedings, for disposal of the issue of joining them.

{Part 2 of Article 334 as amended by Law No. 2447-VIII of 7 June 2018}

Article 335. Suspension of court proceedings

1. In case where the accused has evaded from court or fallen ill with a mental or other grave prolonged disease that makes his participation in court proceedings impossible, the court shall suspend court proceedings in respect of this accused until his discovery or recovery, and shall continue court proceedings in respect of other accused persons, if it involves several persons. The search of the accused, who evades the court, shall be declared by ruling of the court the organization of the execution of which shall be assigned to investigator and/or public prosecutor.

{Part 1 of Article 335 as amended by Law No. 725-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Law No. 767-VII of 23 February 2014}

Article 336. Conducting of procedural actions during court proceedings through video conference

1. Court proceedings may be conducted through video conference with transmission from another premise, including such as is located beyond the bounds of the court premises, (remote court proceedings) where:

1) it is impossible for a participant of criminal proceedings to participate directly in the court proceedings for reason of health or for other valid reasons;

2) it is necessary to ensure safety of persons;

3) a minor or underage witness or victim is interviewed;

4) such measures are necessary to ensure prompt court proceedings;

5) there exist other grounds recognised sufficient by the court.

2. The court shall rule to conduct remote court proceedings proprio motu or on a motion of a party or other participants to the criminal proceedings. Should a party to criminal proceedings or victim object against conducting remote court proceedings, the court may decide to hold said proceedings only by its reasoned ruling, having substantiated thereby the decision so taken. The court shall not rule to conduct remote court proceedings with the accused being outside of the courtroom if the latter object to it.

3. The use in remote court proceedings of technical means and technologies shall be required to ensure adequate quality of image and sound, respect for the principles of publicity and openness of court proceedings, as well as information security. The participants to the criminal proceedings shall be ensured the possibility to hear and observe the course of court proceedings, to put questions and get answers, to exercise other procedural rights granted them, and to perform procedural duties specified by this Code.

4. If a person who is to participate remotely in court proceedings stays in any premises located in the territory within this court's jurisdiction or in the territory of the city where the court is located, the court administrator or court clerk shall be required to hand over to such person a leaflet on his/her procedural rights, check his/her ID, and stay near until the end of the court session.

5. If a person who is to participate remotely in court proceedings stays in any premises located outside of the territory within this court's jurisdiction and outside the territory of the city where

the court is located, the court may by its ruling assign the court, within the territorial jurisdiction of which such person is, to conduct the actions specified in part 4 of this Article. A copy of this ruling may be sent by e-mail, fax or other means of communication. The court which was given the assignment, upon agreement with the court that issued the assignment, shall be required within a period of time fixed in the ruling, to organise the execution of such assignment.

6. If a person who is to participate remotely in court proceedings is held in a remand prison or penal institution the actions as provided for by part 4 of this Article shall be performed by an official of such institution.

7. The course and results of procedural actions conducted through video conference shall be recorded with video recording technical means.

8. A protected person may be interrogated through video conference with such changes of appearance and voice as shall make his/her identification impossible.

9. Remote court proceedings in accordance with the rules of this Article may be conducted in the courts of first, appellate and cassation instances during the court proceedings on any issues, the consideration of which is within the jurisdiction of the court.

{Part 9 of Article 336 as amended by Law No. 2147-VIII of 3 October 2017}

§ 2. Scope of the court proceedings

Article 337. Definition of the scope of the court proceedings

1. Judicial proceedings shall be conducted only with regard to the person to whom charges were brought and only within the scope of the charge brought in the indictment, except as otherwise provided for by this Article.

2. During court proceedings, the public prosecutor may change charges brought, bring additional charges, refuse to back public prosecution, and initiate proceedings in respect of a legal entity.

{Part 2 of Article 337 as amended by Law No. 314-VII of 23 May 2013}

3. In view of delivering a just judicial decision and protecting human rights and fundamental freedoms, the court may go beyond the scope of charges brought in the indictment, only as regards changing legal qualification of the criminal offence concerned if such change alleviates the status of the person in respect of whom the criminal proceedings is conducted.

Article 338. Changing a charge in court

1. In order to change legal qualification and/or the scope of charges, the public prosecutor shall have the right to change charges if the trial ascertained new factual circumstances of the criminal offence of which a person is accused.

2. Having arrived at the conclusion that the charges brought shall be changed, the public prosecutor, after fulfilling the requirements of Article 341 of this Code, shall draw up an indictment where he states the changed charge and grounds for the decision taken. Copies of the indictment shall be handed over to the accused, his defence counsel, the victim, his/her representative and legal representatives as well as the representative of the legal entity in whose respect proceedings are taken. The indictment shall be attached to materials of criminal proceedings.

{Part 2 of Article 338 as amended by Law No. 314-VII of 23 May 2013}

3. If the indictment with changed charges raises the issue of applying such Law of Ukraine on criminal liability as provides for liability for a less grave criminal offence, or of reducing the scope of charges, the presiding judge shall be required to advise the victim of his/her right to press charges in court in the previously announced scope.

4. The court shall explain to the accused that he will be defended by the court according to a new charge in court session and thereafter to adjourn the court proceedings for at least seven days, to grant the accused, his/her defence counsel the possibility to prepare the defence against the new charge. Upon request of the defence, this time limit can be shortened or extended. The trial shall continue after expiration of this time limit.

5. In the event of a change in the gravity of the crime from a grave or special grave crime to the crime provided for by part 2 of Article 314 314[1] of this Code, the court on its own initiative or at the request of persons provided for by part 5 of Article 314 hereof, shall decide to make a pre-trial report indicating the term of its preparation and adjourns the trial.

{Article 338 has been supplemented with part 5 under Law No. 1492-VIII of 7 September 2016}

Article 339. Bringing an additional charge and initiation of proceedings in respect of a legal entity during the court hearing

{Title of Article 339 as amended by Law No. 314-VII of 23 May 2013}

1. If information is obtained that the accused has possibly committed another criminal offence in the respect of which charges were not brought and which is closely connected with the original one, where these may not be considered individually, as well as where grounds for applying criminal law measures to a legal entity have been established, the public prosecutor after fulfilling the requirements of Article 341 of this Code, shall have the right to lodge a motivated motion with court to consider an additional charge in the same proceedings with the original charge and/or initiate proceedings in respect of the legal entity.

{Part 1 of Article 339 as amended by Law No. 314-VII of 23 May 2013}

2. Whenever the court sustains such motion of the public prosecutor, the court is required to adjourn the trial for the time needed for the preparation of defence against a new charge or preparation of a representative of the legal entity in whose respect proceedings are taken and for the public prosecutor to comply with provisions of Articles 276–278, 290–293 of this Code, but not more than for fourteen days. The time of adjournment may be extended by the court on a motion of the defence or the representative of a legal entity in whose respect proceedings are taken if the scope or complex nature of the additional charge require more time for the preparation of defence.

{Part 2 of Article 339 as amended by Law No. 314-VII of 23 May 2013}

3. After expiry of the time limit specified by court, court proceedings shall begin with preparatory court session. New examination of evidence already examined by court prior to bringing additional charge shall be conducted only if the court finds this necessary.

Any evidence already examined by the court before proceedings in respect of the legal entity were initiated is considered anew on a motion of the representative of the legal entity in whose respect proceedings are taken where the court deems it necessary.

{Part 3 of Article 339 has been supplemented with paragraph 2 under Law No. 314-VII of 23 May 2013}

Article 340. Refusal to prosecute on behalf of the state in court

1. If as a result of trial proceedings, public prosecutor comes to the belief that charges brought against the person are not substantiated, he after fulfilling the requirements of Article 341 of the present Code, shall be required to drop public prosecution and to set forth the reasons in his decision which is attached to materials of criminal proceedings. A copy of the decision shall be handed over to the accused, his/her defence counsel, victim, his/her representative and legal representatives and the representative of the legal entity in whose respect proceedings are taken.

{Part 1 of Article 340 as amended by Law No. 314-VII of 23 May 2013}

2. If public prosecutor refuses to prosecute on behalf of the state in court, presiding judge shall be required to advise the victim of his/her right to press charges in court.

3. Whenever the victim expresses his/her consent to pressing charges in court, presiding judge shall give the victim sufficient time to prepare for trial.

4. The victim who has agreed to press charges in court shall have all rights inherent in the prosecution during court proceedings.

5. In a case specified in part 3 of this Article, criminal proceedings on the respective accusation shall acquire the status of private accusation and shall be tried in accordance with the procedure established for private accusation.

6. Repeated non-appearance in court session of the victim summoned in compliance with the procedure laid down in this Code (in particular, in presence of confirmation of receipt of the summons or of examining its content otherwise), without valid reasons or without notice on reasons of non-appearance after the onset of circumstances specified in part 2 and 3 of this Article, shall be deemed his refusal to support accusation and shall entail the closure of criminal proceedings on the accusation concerned.

Article 341. Approving change of charges, bringing new charges, dropping public prosecution and initiating proceedings in respect of a legal entity during court hearing

{Title of Article 341 as amended by Law No. 314-VII of 23 May 2013}

1. If as a result of court proceedings, public prosecutor arrives at a conclusion that it is necessary to drop public prosecution, change charges, or bring additional charge, he shall be required to conciliate the appropriate procedural documents with the head of the public prosecutor's office where he is employed. Upon public prosecutor's motion, the court shall postpone court session and give the public prosecutor time for drawing up and conciliating the appropriate procedural documents.

{Paragraph 1, part 1 of Article 341 as amended by Law No. 1697-VII of 14 October 2014}

{Paragraph 2, part 1 of Article 341 has been deleted under Law No. 1697-VII of 14 October 2014}

{Part 1 of Article 341 as amended by Law No. 314-VII of 23 May 2013}

If the head of the public prosecutor's office, the higher public prosecutor refuses to approve the indictment with the changed charge, a motion to bring additional charge, or a decision to drop public prosecution or initiate proceedings in respect of a legal entity, he shall remove from participation in trial the public prosecutor who raised the issue, and shall on his own participate in the trial as a public prosecutor, or assign such participation to another public prosecutor. In such case, the trial shall continue according to general procedure.

{Part 2 of Article 341 as amended by Laws No. 314-VII of 23 May 2013, No. 1697-VII of 14 October 2014}

§ 3. Procedure for court proceedings

Article 342. Opening a court session

1. Presiding judge shall open a court session at a time fixed for court proceedings and announces the trial in the criminal proceedings concerned.

1. Court clerk shall open court session at a time fixed for court trial and announce the trial in the criminal proceedings concerned.

Article 343. Advising of recording court proceedings in full with the use of technical means

1. Court clerk shall inform that the entire trial is recorded and on conditions for recording court session.

Article 344. Announcement of the court composition and clarification of the right of recusal

1. After the actions specified in Articles 342 and 343 of this Code have been completed, presiding judge shall announce the composition of the court, name of the reserve judge, if such a judge is present, names of the public prosecutor, victim, civil plaintiff, the accused, defence counsel, civil defendant, representatives and legal representatives, interpreter, expert, specialist, court clerk, advise participants to the court proceedings of the right to disqualify, and find out whether they intend to disqualify anybody.

2. The court shall decide on a disqualification in accordance with Articles 75–81 hereof.

Article 345. Advising of the rights and duties

1. The court administrator shall hand over to the participants who take part in trial the instruction on their rights and duties prescribed by this Code.

2. After the accused and other persons who participate in the trial, examine the instruction, presiding judge shall find out whether they understand their right and duties, and if necessary, provide explanations.

Article 346. Prohibition for witnesses to be present in courtroom

1. Prior to starting court proceedings, presiding judge shall order witnesses out of the courtroom.

2. The court administrator shall take measures to prevent communication between interrogated and not yet interrogated witnesses.

Article 347. Beginning of the court proceedings

1. Having completed preparatory actions, presiding judge announces that trial begins.

2. The trial shall begin with the announcement by the prosecutor of a summary of the indictment.

3. Where a civil action is entered in criminal proceedings, the civil plaintiff or his/her representative or legal representative, or, if they are absent, the presiding judge, shall read a summary of the statement of claim.

4. The court, with due account of reasonable time, may limit the duration of the announcement by the public prosecutor of the summary of the indictment, as well as the announcement of the summary of the statement of claim.

{Article 347 as revised by Law No. 187-IX of 4 October 2019}

Article 348. Explaining the essence of charges to the accused

1. After the indictment has been read, presiding judge shall identify the accused ascertaining his last name, first name, patronymic, place and date of birth, place of residence, occupation and family status, explain to the accused the essence of charges and ask him/he whether he/she pleads guilty and whether he wishes to testify.

If there are more than one accused, presiding judge shall conduct the actions described in respect of each of them.

2. Where a civil action is entered in the criminal proceedings, the presiding judge shall ask the accused, civil defendant whether they admit such.

Article 349. Establishing the scope of evidence to be examined and procedure for its examination

1. After actions referred to in Article 348 of this Code have been completed, presiding judge shall give the prosecution and the defence the right to make introductory speeches.

The introductory speech shall indicate what evidence the party will use to confirm the circumstances presented by it, the procedure for examining the evidence, and the position of the party.

The prosecution and the defence shall have the right to refuse to deliver an introductory speech.

The right to deliver an introductory speech shall be given first to the prosecution, after which the speech shall be delivered by the defence.

Introductory speeches shall be delivered within a reasonable time, depending on the scope of the charging. If the proclamation of the introductory speech shows signs of abuse of law in order to delay the trial, the court shall suspend the proclamation of the speech after an oral warning.

Other participants to the proceedings may express their views on what evidence needs to be examined and on the procedure for examining them after the introductory speech of the defence.

The court shall examine the evidence produced by the prosecution first and then the evidence presented by the defence counsel.

{Part 1 of Article 349 as revised by Law No. 187-IX of 4 October 2019}

2. The scope of evidence to be examined and the way in which it shall be examined shall be set in the court's ruling and, where necessary, can be changed.

In the course of special pre-trial investigation all the evidence provided shall be investigated.

{Part 2 of Article 349 has been supplemented with paragraph 2 under Law No. 1689-VII of 7 October 2014}

3. The court shall have the right, where the participants to court proceedings do not object thereto, to find that examination of evidence in respect of indisputable circumstances is unnecessary. In this regard, the court ascertains whether said persons understand correctly the contents of such circumstances, whether there are no doubts regarding voluntary nature of their position, as well as explains to them that in such a case they will be deprived of the right to challenge these circumstances by way of appeal.

4. Examination of the accused shall be mandatory, except where he/she has refused to give testimony, and in case specified by part 3 of Article 323 and Article 381 of this Code.

{Part 4 of Article 349 as amended by Law No. 725-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 1689-VII of 7 October 2014}

Article 350. Considering by court of motions from participants to court proceedings

1. Motions of the participants to court proceedings shall be considered by the court after having heard the opinions on them of the rest of the participants in court proceedings, with the ruling passed on that. Refusal to grant a motion shall not preclude repeated filing of the same on different grounds.

Article 351. Examination of the accused

1. Examination of the accused shall begin with the presiding judge's proposal to testify about criminal proceedings, after which the accused shall be first examined by the public prosecutor, then by defence counsel. Next, the accused may be asked questions by the victim, other defendants, civil plaintiff, civil defendant and the representative of the legal entity in whose respect proceedings are taken, as well as by presiding judge and the judges. In addition, the presiding judge may during the entire examination of the accused ask him/her questions in order to clarify and supplement his/her answers.

{Part 1 of Article 351 as amended by Law No. 314-VII of 23 May 2013}

2. Whenever the accused expresses himself/herself unclearly or if it appears impossible to conclude from his/her words whether he/she recognises circumstances or objects thereto, the court may direct him/her to give short answer "yes" or "no"

3. Where the court proceedings are held in relation to several defendants and if this serves the interests of criminal proceedings or the safety of the defendant, examination of one of the defendants may by a reasoned ruling of the court be carried out by video conference transmission from different premises under the rules of Article 336 of this Code.

4. In court session, the accused shall have a right to use notes.

Article 352. Examination of witness

1. Before examination of a witness, presiding judge shall establish his/her identity and find out his/her relation to the accused and the victim. In addition, presiding judge shall find out whether the witness received the instructions about the rights and duties of a witness, and whether he understands them, and if necessary, explains them to him, as well as find out whether he does not refuse to give testimony on the grounds specified by this Code, and warns him about the criminal liability for refusal to give testimony and for knowingly giving misleading testimony.

2. Whenever there are no obstacles to the examination of the witness, the judge presiding in the court session shall administer him/her the following oath:

"I, (last name, first name, patronymic), take my oath to tell the truth and nothing but the truth."

A dumb witness shall take the oath in written form, signing the text of the same content.

3. The court shall control the progress of examination of witnesses, to avoid losing time in vain, to protect witnesses from abuse or prevent violations of the examination rules.

4. Each witness shall be examined separately. Witnesses who have not yet testified may not be present in the courtroom during court proceedings.

5. Upon the motion of a party to criminal proceedings or the witness himself, the witness concerned shall be examined in the absence of a certain already examined witness.

6. The witness for the prosecution shall be examined first by the public prosecutor, and the witness for the defence shall be examined first by the defence counsel, or, if the accused defends himself/herself, by the accused (direct examination). During direct examination, leading questions shall not be allowed, that is questions which contain an answer, a part thereof or prompt thereto.

7. After direct examination, the opposite party to the criminal proceedings shall be given the opportunity of cross examination of the witness. During cross examination, leading questions are allowed.

8. During examination of the witness by the parties to the criminal proceedings, presiding judge, upon the protest of a party, shall have the right to dismiss questions which do not relate to the substance of the criminal proceedings.

9. In exceptional cases with a view to ensure security of a witness to be examined, the court, proprio motu or upon the motion of the parties to the criminal proceedings or of the witness himself/herself, passes a reasoned ruling to examine the witness concerned with the use of technical means from another premise, including outside court's building, or in other way making his/her identification impossible, and ensures the parties to criminal proceedings the possibility to ask questions and hear answers thereto. If there is a danger that witness's voice can be identified, examination may be accompanied by acoustic disturbance. Before such ruling is made the court

shall establish whether the parties to the criminal proceedings have any objections to the examination of a witness in the conditions making his/her identification impossible and, where founded, decline to have the witness examined under the rules of this part.

10. To ensure the security of the whistleblower, his/her interrogation as a witness shall be conducted in compliance with the Law of Ukraine "On Ensuring the Safety of Persons Participating in Criminal Proceedings".

{Article 352 has been supplemented with new part under Law No. 198-IX of 17 October 2019}

11. Whenever the witness expresses himself/herself unclearly or if it appears impossible to conclude from his/her words whether he recognises circumstances or objects thereto, the court may direct him/her to give short answer "yes" or "no".

12. After examination of a witness, the victim, civil plaintiff, civil defendant, their representatives and legal representatives, the representative of the legal entity in whose respect proceedings are taken as well as the presiding judge and other judges may pose their questions to him/her.

{Part 11 of Article 352 as amended by Law No. 314-VII of 23 May 2013}

13. When testifying, the witness shall have the right to use his/her notes if his/her testimonies relate to any calculations and other information which are hard to keep in mind.

14. The witness may be examined repeatedly in the same or next court session upon his own initiative, upon a motion of a party to criminal proceedings or upon court's initiative, particularly if, in the course of trial, it emerged that the witness can give testimonies regarding circumstances in respect of which he has not been examined. During examination of other evidence, participants to court proceedings, expert and court may put questions to witnesses.

14. The court shall have the right to order simultaneous examination of two or more already examined participants to the criminal proceedings (witnesses, victims, the accused) to clarify reasons of differences in their testimonies, with such examination to be conducted with the account of rules laid down in part nine of Article 224 of this Code.

15. Examined witness, upon the court's request, may remain in the courtroom.

Article 353. Examination of a victim

1. Before examination of a victim, presiding judge shall establish his/her identity and find out victim's relation to the accused. In addition, presiding judge shall find out whether the victim received the instructions about the rights and duties of a victim, and whether he/she understands them, and if necessary, explains them, as well as warns about criminal liability for giving knowingly misleading testimonies.

2. Examination of a victim shall be conducted in compliance with the rules laid down in parts 2, 3, and 5–14 of Article 352 hereof.

Article 354. Specific aspects of examining a child or underage witness or victim

1. Examination of a minor witness and, upon court's discretion, underage witness shall be conducted in the presence of a legal representative, pedagogue or psychologist and, if necessary, a medical practitioner.

2. Presiding judge shall advice the witness who has not attained the age of sixteen of the obligation to give true testimonies, without warning him/her about criminal liability for refusal to testify and for knowingly misleading testimonies, and shall not put him on oath.

3. Before the beginning of examination, a legal representative, pedagogue, psychologist or medical practitioner shall be advised of their duty to be present during examination as well as of their right to object to questions and ask the witness questions. Presiding judge shall have the right to dismiss the question asked.

4. Where it is necessary to ascertain facts objectively and/or to protect interests of a child or an underage witness he/she may by a court ruling be examined outside the courtroom, in another room, using video conference (remote court proceedings).

5. A child or underage victim shall be examined in accordance with rules set forth in this Article

Article 355. Presentation for identification

1. An individual or an object may be presented to a witness, victim, and the accused for identification during court proceedings.

2. Presentation for identification shall be made after the witness, during examination, indicates at signs by which he/she is able to identify an individual or an object.

3. Where an individual or an object is presented to a person for identification, the latter shall state whether he/she identifies the individual or object concerned and by which signs exactly.

Article 356. Examination of an expert in court

1. Upon a motion of a party to criminal proceedings, victim or proprio motu, the court may summon an expert for examination to clarify his/her findings. Before examination, presiding judge shall establish identity of the expert concerned and administer the following oath to him/her:

"I, (last name, first name, patronymic), swear to faithfully fulfil expert's duties using all my professional abilities."

Thereafter, presiding judge shall warn the expert about criminal liability for providing knowingly misleading findings.

2. Expert who conducted expert examination upon request of the prosecution shall be first examined by the prosecution, while expert who conducted expert examination upon request of the defence, shall be first examined by the defence. After that the victim, civil plaintiff, civil defendant, their representatives and legal representatives, the representative of the legal entity in whose respect proceedings are taken, as well as the presiding judge and other judges may pose their questions to the expert.

{Part 2 of Article 356 as amended by Law No. 314-VII of 23 May 2013}

3. Expert may be asked questions regarding his/her possession of special knowledge and qualification in the field of examination (education, working experience, scientific degree etc.), relevant to the subject of his expert examination; methods used, and theoretical developments; sufficiency of information based on which findings were prepared; scientific basis and methods used to arrive at the conclusion; applicability and correctness of application of principles and

methods to facts of the criminal proceedings; and other questions relating to the reliability of findings.

4. The court shall be entitled to order simultaneous examination of two or more experts to clarify reasons for differences in their findings pertaining to one and the same object or matter of research.

5. In order to prove or deny reliability of expert findings, either party to criminal proceedings may produce information related to the level of knowledge, skills, qualification, education, and training of the expert concerned.

6. When answering questions, expert shall have the right to use his/her written and other materials which were used during expert examination.

Article 357. Examination of exhibits

1. Exhibits shall be inspected by the court and produced for inspection to the participants to court proceedings and, where necessary, to other participants to the criminal proceedings. Persons to whom exhibits have been produced for inspection, may focus the court's attention to various circumstances related to the exhibits concerned and inspection thereof.

2. Examination of exhibits which cannot be brought to court session shall be conducted, where necessary, at the place of their location.

3. The participants to court proceedings shall have the right to put questions to witnesses, experts, specialists regarding exhibits they have examined.

Article 358. Examination of documents

1. Records of investigative (detective) actions and other documents attached to records of criminal proceedings, if information which is stated or authenticated therein is important for establishing facts and circumstances of the criminal proceedings, shall be announced in the court session upon court's initiative or motion of participants to court proceedings and produced for inspection to the participants to court proceedings, and, as the case may be, also to other participants to the criminal proceedings.

2. Participants to court proceedings shall have the right to put questions to witnesses, experts, specialists relating to documents.

3. Where a document which has been attached to the records of criminal proceedings or produced to the court by a participant to criminal proceedings casts doubts with regard to its reliability, participants to court proceedings shall have the right to ask the court to exclude it from evidence and to dispose the case based on other evidence, or request that an expert examination be conducted of such document.

Article 359. Examination of audio and video recording

1. Reproduction of audio recording and video replay shall be made in the courtroom or in any other specially equipped premise, with entering in journal of court session of main technical specifications of the equipment and media and the time when audio reproduction (video replay) was conducted. Thereafter, the court shall hear arguments of the participant to court proceedings.

2. If necessary, reproduction of audio recording and video replay can be repeated in fully or in a certain part.

3. With the purpose of clarifying information contained in audio and video recordings, the court may invite a specialist.

4. The court shall consider statements about forgery of audio and video recordings according to the procedure prescribed for considering statements about forgery of documents.

Article 360. Consultations and explanations of the specialist

1. When examining evidence, the court shall have the right to avail itself of oral advices or written explanations given by a specialist based on his special knowledge.

2. The specialist may be asked questions about the substance of oral consultations or written explanations he has given. Individual upon whose motion the specialist was invited, asks questions first, then other participants to the criminal proceedings ask questions. Judge presiding in the court session shall have the right to put questions to the specialist at any time during the examination of evidence.

Article 361. Field inspection

1. As an exception, having found it necessary to inspect a certain place, the court shall conduct on-site inspection as attended by participants in court proceedings and, when circumstances so require, with the participation of witnesses, specialists, and experts. An on-site inspection shall not be conducted during court proceedings by jury

2. On-site inspection shall be conducted according to the rules of inspection during pre-trial investigation, as provided for by this Code.

3. On site, the participants to court proceedings attending such inspection may be asked questions related to the conduct of inspection.

4. During on-site inspection, participants to court proceedings may focus the court’s attention to what, in their opinion, can have probative value.

5. The conduct of on-site inspection and its results shall be fixed in the field inspection record and may be recorded with technical means.

Article 362. Court actions where the accused is found incompetent in the court session

1. Where in the course of court proceedings, grounds are found for criminal proceedings to be held as to the application of compulsory medical measures, the court shall issue a ruling to change the procedure of court proceedings and continue trial in accordance with the rules set forth in Chapter 39 of this Code.

Article 363. End of ascertaining circumstances and their verification with evidence

1. After having ascertained circumstances established in the course of criminal proceedings and having verified them with evidence, judge presiding in the court session shall ask the participants to court proceedings whether they wish to submit supplementary arguments and what exactly.

2. Whenever motions are filed to submit supplementary arguments, the court shall consider such and in this connection may put questions to the parties or other participants to the criminal proceedings.

3. In the absence of such motions or after having disposed the motions filed, the court shall pass the ruling to end ascertaining circumstances and their verification with evidence and passes to pleadings.

Article 364. Pleadings

1. In pleadings, there shall speak the public prosecutor, the victim, his/her representative and legal representative, civil plaintiff, his/her representative and legal representative, civil defendant, his/her representative, the defendant, his/her legal representative and the defence counsel and the representative of legal entity in whose respect proceedings are taken.

{Part 1 of Article 364 as amended by Law No. 314-VII of 23 May 2013}

2. Where several public prosecutors participated in court proceedings, in pleadings, by their own discretion, one public prosecutor may speak, or each of them may substantiate his position in a certain part of charges.

3. Where several defence counsels of the accused participated in court proceedings, they shall fix the order of their taking floor in pleadings themselves. If they disagree on this point, the court shall fix the order of their taking floor in pleadings.

4. Where several accused, defence counsels and representatives participated in judicial proceedings, the court shall fix the order of their taking floor in pleadings.

5. In pleadings, participants to court proceedings shall have the right to invoke only such evidence as has been examined in court session. Where during pleadings a need should arise to present new evidence, the court shall resume the ascertaining of circumstances established in the course of criminal proceedings, and verification with evidence thereof, after which re-opens pleadings in respect of additionally examined circumstances.

6. The court shall not limit duration of pleadings by a certain time. Presiding judge shall have the right to stop the speech of a participant to pleadings if the latter, upon having been reprimanded, again goes beyond the scope of the criminal proceedings at hand, or again allows himself/herself to utter insulting or indecent words, and may pass the floor to another participant to pleadings.

7. After speeches have been completed, participants to pleadings shall have the right to exchange rejoinders. The accused or his/her defence counsel shall have the privilege of the last rejoinder.

Article 365. Last plea of the accused

1. After pleadings have been announced closed, the court shall give the accused the possibility to make the last plea.

2. The court shall not limit duration of the last plea of the accused by a certain time.

3. The accused may not be asked questions during his/her last plea.

4. Where in his/her last plea, the accused has informed of new circumstances of significant importance for criminal proceedings, the court proprio motu or upon a motion from the participants of the court proceedings, shall resume the ascertainment of circumstances established during criminal proceedings and verification thereof with evidence, upon completion of which open pleadings in respect of additionally examined circumstances, and shall give the floor to the accused for his/her last plea.

Article 366. Court's withdrawal for passing a judgment

1. After the last plea of the accused, the court shall immediately retire in deliberations room to pass a judgment which the presiding judge announces to those present in the courtroom.

Article 367. Secrecy of the deliberations room

1. During deliberations, no one shall stay in deliberations room, except court composition that conducts judicial proceedings.

2. The court shall have the right to discontinue deliberations only for rest with the fall of night. In the course of such break, judges shall not communicate with individuals who participated in criminal proceedings.

3. Judges shall not disclose the course of deliberations and passing of the judgment in deliberations room.

4. The court's ruling shall be made in deliberations room in compliance with the rules laid down in this Article.

Article 368. Issues to be disposed by court when passing a judgment

1. When passing the judgment, the court shall dispose the following issues:

1) whether the action in which an individual is accused has really occurred;

2) whether this action contains elements of criminal offence and under which exactly Article of the Law of Ukraine on criminal liability;

3) whether the defendant is guilty for committing this criminal offence;

4) whether the defendant should be punished for the criminal offence he/she has committed;

5) whether circumstances which aggravate or mitigate the punishment of the defendant do exist and which exactly;

6) what kind of punishment has to be imposed on the defendant and whether he/she shall serve it;

{Clause 6, part 1 of Article 368 as amended by Law No. 1492-VIII of 7 September 2016}

7) whether the civil action entered shall be granted and, if so, in whose favour, in what amount and according to which procedure;

7[1])) whether there are grounds to apply criminal law measures to the legal entity;

{Part 1 of Article 368 has been supplemented with clause 7[1] under Law No. 314-VII of 23 May 2013}

7²) whether there are grounds for payment of remuneration to the whistleblower and, if so, in what amount and in what order;

{Part 1 of Article 368 has been supplemented with clause 7² under Law No. 198-IX of 17 October 2019}

8) whether the defendant committed the criminal offence in a state of partial insanity;

9) whether grounds exist for imposing on the defendant who committed the criminal offence in a state of partial insanity compulsory medical measures specified in part 2 of Article 94 of the Criminal Code of Ukraine;

10) whether compulsory medical treatment shall be imposed on the defendant in cases prescribed by Article 96 of the Criminal Code of Ukraine;

11) whether it is necessary to assign a public tutor to the underage defendant;

12) what shall be done with attached property, objects and documents;

13) who shall be charged procedural expenses and in what amount;

14) what shall be done with measures to ensure criminal proceedings.

In passing sentence, the court shall takes note of the pre-trial report with information about the socio-psychological characteristics of the accused.

{Part 1 of Article 368 has been supplemented with paragraph 17 under Law No. 1492-VIII of 7 September 2016}

2. Where an individual is accused for committing several criminal offences, the court shall decide on issues referred to in clauses 1–8 of this Article, separately regarding each such offence.

3. If several individuals are accused, the court shall decide on issues referred to in this Article, separately in respect of each of the defendants.

4. A compulsory medical measure referred to in clause 9, part 1 of this Article, may be applied to a person who committed criminal offence in a state of partial insanity, only if there exist a respective psychiatric expert examination report and a conclusion of a medical treatment institution.

5. Compulsory medical treatment referred to in clause 10, part 1 of this Article, may be applied only if there exist a respective conclusion of a medical treatment institution.

6. Deciding on the rule of the Law of Ukraine on criminal liability to be applied to the socially dangerous acts when passing sentence the court shall have regard to the findings of the Supreme Court of Ukraine stipulated in its provisions.

{Part 6 of Article 368 as revised by Laws No. 192-VIII of 12 February 2015, No. 2147-VIII of 3 October 2017}

Chapter 29. Judgments

Article 369. Types of judgments

1. Court decision in which the court decides on the substance of litigation shall be stated in the form of a judgment.

2. Court decision in which the court decides other matters shall be stated in the form of a ruling.

{Part 2 of Article 369 as amended by Law No. 187-IX of 4 October 2019}

3. The court of cassation in the cases provided for by this Code shall adopt resolutions.

{Article 369 has been supplemented with part 3 under Law No. 2147-VIII of 3 October 2017}

Article 370. Legality, validity and reasonableness of court decision

1. Court decision shall be legal, valid and reasonable.

2. A decision shall mean legal where it is made by a competent court in accordance with the rules of substantive law and in observance of the requirements for criminal proceedings specified in this Code.

3. A decision shall be valid where it is made by court based on objectively ascertained circumstances which are supported with evidence examined during court proceedings and assessed by the court as prescribed by Article 94 of this Code.

4. A decision shall be reasonable when it sets forth appropriate and sufficient motives and grounds for passing thereof.

Article 371. Procedure for adoption of court decisions and their form

1. The court shall render judgment on behalf of Ukraine immediately after the trial.

2. Composition of court which conducted trial shall render judgment in deliberations room.

3. In cases specified in this Code, a ruling shall be passed in deliberations room by the composition of court which conducted the judicial proceedings.

4. Rulings passed without retiring to deliberations room shall be recorded in the court session journal by the court clerk.

5. Corrections in a court decision shall be certified by signatures of judges of the composition of the court that adopted the decision.

6. All court decisions shall be are set out in writing in paper and electronic forms.

Decisions in electronic form shall be executed in accordance with the requirements of the legislation in the area of electronic documents and electronic document management, as well as electronic digital signature.

{Article 371 has been supplemented with part 6 under Law No. 835-VIII of 26 November 2015}

Article 372. Contents of a ruling

1. A ruling which is stated in a separate document shall comprise:

1) introduction where the following shall be stated:

date and place of its passing;

name and composition of the court and the court clerk;

title (number) of criminal proceedings;

last name, first name and patronymic of the suspect or accused, year, month and date of his/her birth, place of birth and place of residence;

law of Ukraine on criminal liability which provides for the criminal offence in the commission of which the person concerned is suspected or accused;

the parties to the criminal proceedings and other participants to the court proceedings;

2) reasoning part where the following shall be stated:

essence of the issue disposed by the ruling, and who initiated the consideration thereof;

circumstances established by the court, with reference to evidence, as well as motives based on which some evidence were not taken into account;

motives underlying the court's ruling and legal provision the court were guided by;

3) operative part which shall state:

court's findings;

time and procedure in which the ruling takes legal effect and may be challenged.

2. The ruling passed by the court without retiring into deliberations room shall contain findings of the court and motives based on which the court arrived at such findings.

Article 373. Types of judgments

1. Judgment of acquittal shall be delivered unless it was proved that:

1) criminal offence was committed in which a person is accused;

2) criminal offence was committed by the defendant;

3) the act committed by the defendant contains elements of crime.

Judgment of acquittal shall also be delivered whenever the court establishes grounds for closing criminal proceedings as specified in clauses 1 and 2, part 4 of Article 284 hereof.

2. Where the defendant is found guilty of the commission of criminal offence, the court shall deliver judgment of conviction and impose a punishment or exempt from punishment or serving of the sentence where warranted by the Law of Ukraine on criminal liability, or apply other measures prescribed by the Law of Ukraine on criminal liability.

3. Judgment of conviction may not be grounded on assumptions and shall be delivered only provided that the guilt of the commission of criminal offence was proved in the course of court proceedings.

Article 374. Contents of a judgment

1. A judgment shall be comprised of introduction, reasoning part and operative part.

2. Introduction shall state:

1) date and place of delivery;

2) name and composition of the court, court clerk;

3) title (number) of criminal proceedings;

4) last name, first name and patronymic of the defendant, year, month and date of his/her birth, place of birth and place of residence; occupation, education, family status and other information on the defendant's person that is important for the case;

5) law of Ukraine on criminal liability which provides for the criminal offence in the commission of which the person concerned is accused;

6) the parties to the criminal proceedings and other participants to court proceedings.

3. Reasoning part of a judgment shall state:

1) where a person has been acquitted, with statement of charges brought against the person and found by court to not be proved, as well as grounds for acquittal of the defendant stating motives for repudiating evidence of accusation;

motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by;

2) if a person has been found guilty:

statement of charges found by court to be proved, with indication of place, time, and the way of commission and implications of the criminal offence, form of guilt, and motives of the criminal offence;

Articles (part of Article) of the law of Ukraine on criminal liability which establishes liability for the criminal offence guilty of committing which the defendant is found;

evidence in support of circumstances established by court, as well as motives for not taking into account particular evidence;

motives for changing charges, grounds for finding a part of charges unsubstantiated, where such decisions have been taken by the court;

circumstances which aggravate or mitigate punishment;

motives for imposition of punishment; for releasing from service of punishment; for application of compulsory medical measures where a state of partial insanity of the defendant has been established; for application of compulsory medical treatment as specified in Article 96 of the Criminal Code of Ukraine; motives of appointing a public tutor for the underage person;

grounds for granting, dismissing or leaving undecided the civil action;

motives for taking other decisions in respect of issues disposed by court when rendering a judgment, and statutory provisions the court was guided by.

4. Operative part of a judgment shall state:

1) where a person has been acquitted: last name, first name and patronymic of the defendant, decision on finding him/her innocent of charges brought against him/her and on his/her acquittal;

decision to close proceedings in respect of a legal entity;

{Clause 1, part 4 of Article 374 has been supplemented with new paragraph under Law No. 314-VII of 23 May 2013}

decision to restore rights restricted during the criminal proceedings;

decision regarding measures to ensure criminal proceedings including decision on a measure of restraint prior to taking legal effect by the judgment;

decision regarding exhibits and documents;

decision regarding procedural expenses;

time limit and procedure for the judgment to take legal effect and to be appealed against;

procedure for obtaining copies of the judgment and other information;

2) where a person has been found guilty: last name, first name and patronymic of the defendant, decision on finding him/her guilty of charges brought against him/her and respective Article (part of the Article) of the Law of Ukraine on criminal liability;

punishment for each charge which the court found proved, and the final sentence imposed by court;

beginning of the term of serving the punishment;

decision to apply compulsory medical treatment or compulsory medical measures in respect of a defendant with partial insanity, if any;

decision to appoint public tutor for the underage person;

decision to apply criminal law measures to a legal entity;

{Clause 2, part 4 of Article 374 has been supplemented with new paragraph under Law No. 314-VII of 23 May 2013}

decision as to the civil action;

decision on other executions on property and grounds for such;

decision regarding exhibits and documents and special confiscation;

{Paragraph of clause 2, Part 4 of Article 374 as amended by Law No. 222-VII of 18 April 2013}

decision on reimbursement of procedural expenses;

decision on the remuneration to a whistleblower;

{Clause 2, part 4 of Article 374 has been supplemented with new paragraph under Law No. 198-IX of 17 October 2019}

decision regarding measures to ensure criminal proceedings;

decision on the credit of detention pending trial;

time limit and procedure for the judgment to take legal effect and to be appealed against;

procedure for obtaining copies of the judgment and other information;

decision to include information on a person accused of committing a criminal offence against sexual freedom and sexual integrity of a minor in the Unified Register of Persons Convicted of Crimes against Sexual Freedom and Sexual Integrity of a Minor.

{Clause 2, part 4 of Article 374 has been supplemented with new paragraph under Law No. 409-IX of 19 December 2019; as amended by Law No. 720-IX of 17 June 2020}

Where several charges have been brought against a person and certain charges have not been proved, the operative part of a judgment shall state on which the defendant is acquitted and on which he/she is convicted.

Where the defendant is found guilty but is released from serving punishment, the court shall state this in the operative part of the judgment.

Whenever the defendant is released from serving punishment with probation as provided for by Articles 75–79 and 104 of the Criminal Code of Ukraine, the operative part of the judgment shall specify the duration of the probation period, duties imposed on the convicted person, upon his/her consent or request, the duty to supervise him/her and to conduct reformatory work in his/her respect.

{Paragraph of clause 2, Part 4 of Article 374 as amended by Law No. 1492-VIII of 7 September 2016}

Whenever a milder punishment than specified by law is imposed, in stating the awarded punishment the court shall refer to Article 69 of the Criminal Code of Ukraine.

5. Whenever a sentence resulting from a criminal proceeding in which a special pre-trial investigation or special court proceedings (in absentia) has been conducted was served, the court shall separately substantiate whether the prosecution has taken all possible statutory measures to protect the rights of the suspect or accused to protection and access to justice with due regard to the specific aspects of such proceedings established by law.

{Article 374 has been supplemented with part 5 under Law No. 1689-VII of 7 October 2014}

Article 375. Adoption of court decision and dissenting opinion of a judge

1. Court decision shall be passed by a majority of judges comprising the court.

2. Where the decision is passed in deliberations room, the issue at hand shall be decided on the basis of results of judges' deliberations by poll, in which none of the judges may abstain. Presiding judge shall be the last to vote. Where the decision is passed in deliberations room, it shall be signed by all judges.

3. Each judge of the panel of judges may state his own separate opinion in writing, which is not announced in court session but attached to the records of proceedings, and is accessible for perusal.

Article 376. Pronouncement of a judgment

1. A court decision shall be pronounced publicly immediately after the court has left deliberations room. Judge presiding in the court session shall explain contents of the decision, procedure and time limit for its challenge.

2. Where issuance of court decision in the form of ruling (resolution) requires significant time, the court shall have the right to confine itself to the issuance and pronouncement of a part of the operative part of decision to be signed by all judges. The full text of the ruling (resolution) shall be issued no later than within five days upon pronouncement of the operative part of decision and pronounced to the parties to judicial proceedings. The time of pronouncement of full text of the ruling shall be indicated in a previously issued operative part of decision.

{Part 2 of Article 376 as amended by Law No. 2509-VIII of 12 July 2018}

3. After the sentence has been pronounced, the presiding judge shall advise the defendant, defence counsel, his/her legal representative, victim, his/her representative and the representative of the legal entity in whose respect proceedings are taken of their right to file a plea for pardon, the right to review journal of court session and submit written comments thereto. The defendant committed to custody as a measure of restraint shall be advised of the right to submit motion to be brought to the court session of the court of appellate instance.

{Part 3 of Article 376 as amended by Law No. 314-VII of 23 May 2013}

4. Where the defendant or the representative of the legal entity in whose respect proceedings are taken has no knowledge of the state language, then, after the judgment has been pronounced, the interpreter shall explain to him/her the content of the operative part of the judgment. A copy of the judgment in the defendant's language or in other language he/she knows, in translation certified by a translator shall be handed over to the defendant.

{Part 4 of Article 376 as amended by Law No. 314-VII of 23 May 2013}

5. Rulings (resolutions) passed in court session shall be pronounced immediately after passing.

{Part 5 of Article 376 as amended by Law No. 2509-VIII of 12 July 2018}

6. Participants to court proceedings shall have the right to obtain in court a copy of the court's judgment or ruling (resolution). A copy of judgment shall be handed over to the defendant, the representative of the legal entity in whose respect proceedings are taken and the public prosecutor immediately after pronouncement thereof.

{Part 6 of Article 376 as amended by Laws No. 314-VII of 23 May 2013, No. 2509-VIII of 12 July 2018}

7. A copy of a court decision shall be forwarded to the participant to court proceedings who was absent in the court session, not later than on the day following the day when the decision was passed.

The Ministry of Justice of Ukraine shall be informed about the sentence on a person who is a state executive officer no later than the next day after it is passed, and the Ministry of Justice of Ukraine and the Council of Private Enforcement Agents of Ukraine shall be notified in relation to a person who is a private executive officer.

{Article 376 has been supplemented with part 8 under Law No. 1403-VIII of 2 June 2016}

Article 377. Releasing the accused from custody

1. Where the defendant has been kept in custody, the court shall release him/her from custody in the courtroom in case of acquittal; released from service of his/her punishment, or receives a sentence other than deprivation of freedom, as well as if he/she was sentenced without punishment.

2. Where the defendant is sentenced to restriction of freedom, the court, with due account of his/personality and circumstances established during criminal proceedings, shall have the right to release the defendant from custody.

3. As an exception, where an accused person who is in custody has been sentenced to arrest or deprivation of liberty, the court shall have the right, having regard to the personality and the facts established in criminal proceedings, to change the measure of restraint pending validity of the sentence to a non-custodial measure and release such defendant from custody.

Article 378. Measures of caring for underage, disabled and preserving property of the accused

1. Where the defendant has underage children who have lost their caretaker, incapable parents, grandmother, grandfather, great-grandmother, great-grandfather who require material aid and have lost care, the court shall when passing the judgment take a separate ruling to raise before the service in charge of children or appropriate custody and care authority, social protection authority the issue of necessity to find placement for these underage children and those unable to work, or to grant them custody or care.

2. Where home and property of the defendant lost care, the court upon the defendant's motion shall take measures to preserve them through the appropriate authorities.

3. The defendant shall be informed on the measures taken in accordance with the provisions of this Article.

Article 379. Correcting clerical errors and obvious arithmetic errors in a court decision

1. The court, proprio motu or upon the motion of a participant to criminal proceedings or of other individual concerned, shall have the right to correct clerical errors, obvious arithmetic errors committed in the decision of this court, irrespective of whether the judgment has taken legal effect or not.

2. The court shall decide the issue of introducing corrections in the court session. Participants to court proceedings shall be informed on the date, time, and place of the court session. Failure of individuals who have been duly informed to appear in the court session does not preclude consideration of the issue of introducing corrections.

3. Court's ruling on introducing corrections in the decision or refusal to introduce such corrections may be challenged.

Article 380. Explaining a judgment

1. Where a court decision is hardly understandable, the court which has passed it, upon the motion of a participant to court proceedings or the body enforcing court decisions, shall upon a ruling explain its own decision without changing its contents.

{Part 1 of Article 380 as amended by Law No. 1404-VIII of 2 June 2016}

2. The court shall consider a motion to explain court decision within ten days and notify the person who has applied for an explanation of the court decision and the participants to court proceedings. Failure of individuals who have been duly informed to appear in the court session shall not preclude consideration of the motion to explain the court decision.

3. A copy of the ruling to explain court decision, not later than on the day following the day when the ruling was passed, shall be sent to the person who has applied for an explanation of the court decision and the participants to court proceedings.

4. A copy of the ruling passed on the motion to explain court decision, not later than the next day after the ruling has been passed, shall be forwarded to the participants to the criminal proceedings, as well as to the requestor.

Chapter 30. Special procedure of criminal proceedings in the court of first instance

§ 1. Simplified procedure for criminal misdemeanours

Article 381. General provisions of simplified procedure for criminal misdemeanours

{Title of Article 381 as amended by Law No. 2617-VIII of 22 November 2018}

1. After receiving an indictment for a criminal offence, the court within five days, and in case of detention in the manner prescribed by part 4 of Article 298[2] of this Code, shall immediately appoint court hearing.

{Part 1 of Article 381 as revised by Law No. 2617-VIII of 22 November 2018}

2. The court shall consider the indictment for committing a criminal offence without conducting a court hearing in the absence of the participants to the proceedings, where the accused does not dispute the circumstances established during the inquiry and agrees with the indictment.

{Article 381 has been supplemented with new part under Law No. 2617-VIII of 22 November 2018}

2. Simplified procedure concerning criminal misdemeanours shall be provided in accordance with the general rules of judicial proceedings stipulated by this Code, with due account of the provisions of this paragraph.

Article 382. Consideration of the indictment in simplified procedure

{Title of Article 382 as amended by Law No. 2617-VIII of 22 November 2018}

1. The court within five days from the date of receipt of the indictment for a criminal offence, and in case of detention in the manner prescribed by part 4 of Article [2] of this Code, shall immediately examine it and the records attached thereto and adopt a sentence.

{Part 1 of Article 382 as amended by Law No. 2617-VIII of 22 November 2018}

2. The court's sentence based on the results of the simplified procedure shall be passed in accordance with the procedure stipulated by Code and shall meet the general requirements for the court's sentence. The court's sentence based on the results of the simplified procedure, instead of

the evidence to confirm the circumstances established by the court, shall indicate the circumstances which were established by the pre-trial investigation agency and which are not challenged by the participants to court proceedings.

3. The court shall have the right to schedule the hearing in the court session of the indictment which was submitted with the motion to consider it in simplified procedure, and to summon the participants to the criminal proceedings to take part in this court's hearing, where the court deems it necessary.

{Part 3 of Article 382 as amended by Law No. 2617-VIII of 22 November 2018}

4. A copy of the sentence based on the results of the court's hearing of the indictment, with the motion to consider it in simplified procedure, shall be sent to the participants to court proceedings no later than the day following the day of passing the sentence.

{Part 4 of Article 382 as amended by Law No. 2617-VIII of 22 November 2018}

5. The sentence based on the results of the court's hearing of the indictment, with the motion to consider it in simplified procedure, may be appealed against in accordance with the appellate procedure, with due account of the specific aspects prescribed by Article 394 of this Code.

{Part 5 of Article 382 as amended by Law No. 2617-VIII of 22 November 2018}

§ 2. Proceedings in trial by jury

Article 383. Procedure for criminal proceedings in trial by jury

1. Criminal proceedings shall be conducted by the jury in accordance with the general rules of this Code taking into account the specific aspects established by this paragraph.

2. The jury shall be empanelled at the local general court of first instance.

3. All matters related to the court proceedings except the issue stipulated for by part 3, Article 331 of this Code shall be considered jointly by the judges and jurors.

Article 384. Explaining the right to trial by jury

1. The public prosecutor and the court shall explain to the person accused of committing a crime punishable with life imprisonment the possibility and specific aspects of hearing his/her case in criminal proceedings in the trial by jury.

The public prosecutor's written explanations given to the accused regarding the possibility, specific aspects and legal implications of hearing his/her case in criminal proceedings in the trial by jury shall be attached to the indictment and the register of pre-trial investigation records, which shall be submitted to the court.

2. The person accused of committing a crime punishable by life imprisonment, in the course of the preparatory court session shall have the right to submit a motion for hearing his/her case in criminal proceedings in the trial by jury.

Article 385. Summoning the jurors

1. After scheduling the date of hearing the case in the trial of jury, the presiding judge shall give instructions to the court clerk to summon seven jurors who shall be selected by the court's automated workflow system from the persons listed in the array of jurors.

2. The citizens who are listed in the array of jurors and can be summoned to the court in the capacity of jurors, shall be selected in compliance with the Law of Ukraine "On the Judiciary and the Status of Judges"

3. Written summons shall be served to a juror against receipt not later than five days before the date of the court session. The summons shall indicate the date, time and place of holding the court session, the rights and duties of a juror, the list of requirements for jurors, as well as the grounds for their dismissal from jury duty, order of their appearance in court, also the obligation of a juror (or other person who has received the summons to be handed over to a juror) to immediately notify the court about the reasons for his/her impossibility of appearance in the court.

4. On the basis of written summons, an employer shall grant a juror a leave of absence for the period when he/she has to fulfil his/her duties related to administration of justice.

Article 386. Rights and duties of jurors

1. A juror shall have the right to:

1) participate in examination of all information and evidence in the course of a court session;

2) take notes during the court session;

3) with the permission of the presiding judge, pose questions to the accused, the victim, witnesses, experts and other persons being examined;

4) ask the presiding judge to explain the provisions of law that are subject to application when deciding certain issues, legal terms and definitions, content of the documents read out in the course of a court session, elements of the crime the perpetration of which the person is accused of.

2. A juror shall:

1) honestly answer the questions asked by the presiding judge and participants to court proceedings regarding possible impediments stipulated by this Code or law that can prevent his/her participation in the trial, his/her relationships with the persons participating in the criminal proceedings subject to court's hearing, extent of his/her knowledge about the circumstances of the given criminal proceedings, and also, upon the request of the presiding judge, provide required information about himself/herself;

2) maintain order in court session and obey orders of the presiding judge;

3) not leave the court session room during trial;

4) without permission of the presiding judge, not talk about the essence of the criminal proceedings and the procedural actions conducted during them with the persons who are not part of the court;

5) not collect information related to the criminal proceedings outside court session;

6) not disclose the information directly related to the essence of the criminal proceedings and the procedural actions conducted during them, which became known to the juror while performing his duties.

Article 387. Selection of jurors in the court

1. Jurors shall be selected upon opening of the court session.

2. The presiding judge shall inform the jurors about what kind of criminal proceedings will be conducted, explain to them their rights and duties, as well as the conditions of their participation in the court proceedings. Each juror shall have the right to declare impossibility of his/her participation in trial, indicating the reason for that, and recuse himself/herself as a juror.

3. The presiding judge shall find out whether there are any grounds stipulated by this Code or law that preclude inviting a citizen as a juror or which can be the reason for relieving certain jurors from their duties, also for relieving jurors from performing their duties following their oral or written requests.

In order to clarify the circumstances that can impede participation of a juror in trial, the public prosecutor, the victim and the accused, with the permission of the presiding judge, may put corresponding questions to jurors.

4. Each juror who appears in the court may be challenged by the participants to the court proceedings on the grounds prescribed by Articles 75 and 76 hereof.

5. All issues related to the dismissal of jurors from participation in trial, as well as the issues associated with self-recusations and recusations of jurors shall be decided by a ruling of the court composed of two judges, which shall be made after counsel on the spot without retiring to the deliberations room, unless the court deems such retirement necessary. Where the judges do not reach a unanimous decision on the issue related to the dismissal of a juror from the criminal proceedings or the recusal or removal of a juror, a juror shall be deemed dismissed from the criminal proceedings or recused.

{Part 5 of Article 387 as amended by Law No. 2147-VIII of 3 October 2017}

6. Where the number of jurors, after the requirements as provided for by parts 1–5 of this Article are met, is more than is required for participation in trial, the jurors shall be selected by the automated court workflow system from among the jurors not dismissed or recused from participation in the criminal proceedings.

7. In the event that, as a result of performing the actions provided for by part 5 of this Article, the number of jurors is less than what is required for participation in trial, the court clerk, as directed by the presiding judge, shall additionally summon candidates for jurors.

8. Upon selection of principal jurors, two reserve jurors shall be selected in accordance with the rules stated in this Article.

9. Last names of the principal and reserve jurors shall be entered in the court session register in the order of their selection.

10. In the course of the court session, the reserve jurors shall always remain in the seats specified for them, and before the sentence is passed, they may be included in the panel of principal

jurors where any of the principal jurors cannot continue to participate in the court proceedings. The jury trial shall make a ruling on replacing the dismissed principal jurors with the reserve ones.

Article 388. Administering oath to the jury

1. Upon completion of the selection of principal and reserve jurors they shall occupy the seats indicated by the presiding judge.

2. On the proposal of the presiding judge the jurors shall make the following oath: "I, (last name, first name, patronymic) swear that I will fulfil my duties honestly and impartially and will take into account only those evidence which were examined by court, in delivering a sentence I will be guided by law, my inner convictions and the conscience as it befits a free citizen and fair human being."

The text of the oath shall be read out by each juror, after which he shall confirm that his rights, duties and competence are understood.

Article 389. Inadmissibility of exerting illegal influence on a juror

1. Throughout the trial, the public prosecutor, the accused, the victim and other participants to the criminal proceedings shall be prohibited to communicate with the jurors other than in accordance with the procedure stipulated by this Code.

Article 390. Removal of a juror

1. A juror may be removed and relieved from further participation in the criminal proceedings in the following cases:

1) Where a juror fails to perform his duties prescribed by part 2 of Article 386 hereof;

2) if there are solid grounds to believe that a juror, as a result of illegal influence, has lost impartiality required for resolving the issues of criminal proceedings in compliance with law.

2. A juror may be removed and relieved from further participation in the criminal proceedings on the initiative of the presiding judge or by a decision of the majority of jurors, which shall be passed in the deliberations room and affirmed by a reasoned ruling.

3. In case of dismissal of a juror, a reserve juror shall be empanelled, after which the proceedings shall continue, or, in case there are no reserve jurors, a new juror shall be selected in accordance with the procedure stipulated by this paragraph, after which judicial proceedings shall start from the beginning.

Article 391. Procedure of deliberation and voting in trial by jury

1. The jury's deliberation shall be directed by the presiding judge who shall sequentially pose questions to be discussed listed in Article 368 of this Code, and shall conduct open voting and counting of votes.

2. All issued shall be resolved by the vote of majority. Presiding judge shall be the last to vote.

3. No one of the jurors may abstain from voting, except for the case when decision is made on fixing a punishment and the judge or a juror voted for acquittal of the accused. In this case the vote of the juror who has abstained shall be added to the votes for the decision that is most

favourable for the accused. If there are differences of opinion which decision is most favourable for the accused, the issue shall be resolved by voting.

4. Each juror shall have the right to express in writing his dissenting opinion, which shall not be subject to announcement in the court session but shall be attached to the case records and made open to perusal.

5. Where there are no judges in the bench that rendered a decision, the presiding judge shall provide assistance to jurors with the drafting of court decision.

{Part 5 of Article 391 as amended by Law No. 2147-VIII of 3 October 2017}

Section V
COURT PROCEEDINGS RELATED TO REVIEWING COURT DECISIONS

Chapter 31. Proceedings in the court of appellate instance

Article 392. Court decisions which may be challenged under appellate procedure

1. Under appellate procedure, court decisions may be challenged which have been passed by courts of first instance and have not yet taken legal effect, to wit:

1) judgments, except as provided otherwise by Article 394 of this Code;

2) rulings to apply or refusal to apply compulsory medical or reformatory measures;

3) other rulings, in cases specified by this Code.

2. *{The provision of part 2 of Article 392 on the impossibility of a separate appeal against the court decision to extend the term of detention issued during the court proceedings in the court of first instance before the court adopted the decision on the merits is declared as inconsistent with the Constitution (is unconstitutional) under Decision of the Constitutional Court No. 4-r/2019 of 13 June 2019}* Rulings rendered during court proceedings in the court of first instance prior to the adoption of court decisions provided for by part 1 of Article shall not be subject to a separate appeal, except in cases specified by this Code. 3. Investigating judge's rulings may also be challenged under appellate procedure, in cases specified by part 1 this Code.

Decisions of the court to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention or to extend the term of detention, adopted during the proceedings in the court of first instance before the court decision on the merits shall be challenged under appellate procedure in the manner prescribed by this Code.

{Part 2 of Article 392 has been supplemented with paragraph 2 under Law No. 1027-IX of 2 December 2020}

3. Investigating judge's rulings may also be challenged under appellate procedure, in cases specified in this Code.

Article 393. Right to appeal

1. Appellate complaint shall be submitted by:

1) a defendant found guilty, his/her legal representative or defence counsel, as regards the defendant's interests;

2) a defendant in whose respect a judgment of acquittal has been passed, his/her legal representative or defence counsel, as regards the motives and grounds for acquittal;

3) the suspect, accused, his/her legal representative or defence counsel;

4) legal representative, defence counsel of an underage person or underage person himself/herself in whose respect the issue has been disposed of application of a compulsory reformatory measure, as regards the underage person's interests;

5) legal representative and defence counsel of a person in whose respect the issue has been disposed of application of compulsory medical measures;

6) public prosecutor;

7) victim or his/her legal representative or representative, as regards the victim's interests but within the limits of demands submitted by them in the court of first instance;

8) civil plaintiff, his/her representative or legal representative, to the extent related to the decision on the civil action;

9) civil defendant or his/her representative, to the extent related to the decision on the civil action;

9^1) the representative of the legal entity in whose respect proceedings are taken, to the extent relevant for the interests of the legal entity;

{Part 1 of Article 393 has been supplemented with clause 9^1 under Law No. 314-VII of 23 May 2013}

9^2) individual or legal entity, to the extent that concerns its interests when deciding on the disposal of exhibits, documents that have been produced to the court; a third party, to the extent related to its interests when disposing the issue of asset forfeiture;

{Part 1 of Article 393 has been supplemented with clause 9^2 under Law No. 1019-VIII of 18 February 2016}

9^3) the whistleblower, as regards his/her interests when deciding on the payment of remuneration to him/her as a whistleblower;

{Part 1 of Article 393 has been supplemented with clause 9^3 under Law No. 198-IX of 17 October 2019}

10) other persons in cases provided for by this Code.

Article 394. Specific aspects of appellate challenge of certain court decisions

1. A judgment by a court of first instance passed on the basis of results of simplified proceedings in accordance with the procedure laid down in Articles 381 and 382 hereof, shall not be challenged under appellate procedure on the grounds of the conduct of proceedings in the absence of participants to court proceedings, non-examination of evidence in court session or with the purpose to contest the circumstances established by the pre-trial investigation.

2. A court decision of a court of first instance shall not be challenged under appellate procedure on the grounds of denying such circumstances as have not been contested by anybody during court proceedings and the examination of which was deemed inexpedient by the court in accordance with the provisions of part 3 of Article 349 hereof.

3. A court of first instance's judgment based on an agreement of conciliation between the victim and the suspect or accused may be challenged under appellate procedure by:

1) the accused, his/her defence counsel, legal representative exclusively on the following grounds: imposition by court of a more severe punishment than has been agreed upon between the parties to the agreement; passing of judgment without his/her consent to the imposition of punishment; failure of the court to comply with the requirements established by parts 5–7 of Article 474 of this Code, including the failure to advise him/her of the implications of concluding the agreement;

2) the victim, his/her representative, legal representative, exclusively on the following grounds: imposition by court of a less severe punishment than has been agreed upon between the parties to an agreement; passing of judgment without his/her consent to the imposition of punishment; failure to advise him/her of the implications of concluding the agreement; failure of the court to comply with the requirements established by parts 6 or 7 of Article 474 hereof;

3) public prosecutor, exclusively on the grounds of approval by court of an agreement in such criminal proceedings in which according to part 3 of Article 469 of this Code, an agreement might not be concluded.

4. A court of first instance's judgment based on an agreement between public prosecutor and the suspect or accused on a guilty plea may be challenged by:

1) the accused, his/her defence counsel, legal representative exclusively on the following grounds: imposition by court of a more severe punishment than has been agreed upon between the parties to the agreement; passing of judgment without his/her consent to the imposition of punishment; failure of the court to comply with the requirements established by parts 4, 6 and 7 of Article 474 hereof, including its failure to advise him/her of the implications of concluding the agreement;

2) the public prosecutor, exclusively on the following grounds: imposition by the court of a less severe punishment than has been agreed upon between the parties to an agreement; approval by the court of an agreement in such proceedings in which according to part 4 of Article 469 hereof, an agreement might not be concluded.

4. A court decision on choosing a measure of restraint in the form of detention, on changing another measure of restraint on a measure of restraint in the form of detention or on extending the term of detention, rendered during the court proceedings before the court of first instance, may be appealed by the accused, his/her defence counsel, legal representative, or public prosecutor.

{Article 394 has been supplemented with part 5 under Law No. 1027-IX of 2 December 2020}

Article 395. Procedure and time limits for appeal

1. Appellate complaint shall be filed:

1) against decisions of the court of first instance, through the court which has passed the decision;

2) on a decision of an investigating judge or a court decision on choosing a measure of restraint in the form of detention, on changing another measure of restraint on a measure of restraint in the form of detention or on extension of detention, before the court decision on the merits, directly to the appellate court.

{Clause 2, part 1 of Article 395 as revised by Law No. 1027-IX of 2 December 2020}

2. Appellate complaint, unless otherwise provided for by this Code, may be filed:

1) against judgment or ruling to apply or refusal to apply compulsory medical or reformatory measures – within thirty days from the date of pronouncement;

1^1) against a court decision on choosing a measure of restraint in the form of detention, changing another measure of restraint to a measure of restraint in the form of detention or extending the term of detention, issued during the court proceedings in the court of first instance before the court decision on the merits, within five days from the date of its announcement;

{Part 2 of Article 395 has been supplemented with clause 1^1 under Law No. 1027-IX of 2 December 2020}

2) against other ruling of the court of first instance, within seven days from the date of pronouncement;

3) against the ruling of the investigating judge, within five days from the date of pronouncement.

3. For persons kept in custody, the time limit for filing appellate complaint shall be computed from the date on which this individual has received the copy of the court decision concerned.

Where a ruling of the court or investigating judge was passed without summoning the person who challenges it, as well as where a judgment was passed without summoning the person who challenges it, in a procedure laid down in Article 382 hereof, then the time limit for filing appellate complaint shall be computed from the date on which this individual has received the copy of the court decision concerned.

{Paragraph 3, part 3 of Article 395 has been deleted under Law No. 767-VII of 23 February 2014}

4. During the period set for appellate challenge, no one shall demand and obtain records of criminal proceedings from the court. During this period, the court shall provide the participants to court proceedings, upon their request, the possibility to examine the records of the criminal proceedings.

Article 396. Requirements for appellate complaint

1. Appellate complaint shall be filed in written form.

2. Appellate complaint shall state:

1) name of the appellate court;

2) last name, name, patronymic (appellation), place of residence (stay) of the appellant, as well as number of communication means, e-mail address, if any;

3) challenged court decision and the name of court which passed it;

4) claims of the appellant and substantiation thereof stating why the court decision challenged is illegal or groundless;

5) motion of the appellant to examine evidence;

7) list of records attached.

3. Where the appellant is not willing to participate in the appellate procedure, he/she shall state it in his/her appellate complaint.

4. Where appellate complaint states circumstances which were not examined by the court of first instance or evidence which was not produced to the court of first instance, the appellate complaint shall indicate reasons for that.

5. Appellate complaint shall be signed by the appellant. Where appellate complaint is filed by defence counsel or victim's representative, it shall have attached duly drawn up documents certifying his/her powers as required by this Code.

6. Appellate complaint and records attached thereto shall be filed in a number of copies required for forwarding to the parties to the criminal proceedings and other participants to the court proceedings whose interests are affected in the appellate complaint. This duty shall not extend to a defendant who is held under house arrest or kept in custody.

Article 397. Actions by the court of first instance after the receipt of appellate complaints

1. Within three days after expiry of the time limit for appellate complaint against a court decision, the court of first instance shall send the appellate complaint received together with records of criminal proceedings to the court of appellate instance.

2. Appellate complaints which were received after referring records of criminal proceedings to the court of appellate instance not later than on the day following the day of filing.

Article 398. Admission of the appellate complaint by the court of appeal

1. Appellate complaint which came to the court of appellate instance shall not later than on the day following the day of receipt be referred to the judge-rapporteur. Having received the appellate complaint against judgment or ruling of the court of first instance, the judge-rapporteur shall within three days verify the extent to which it complies with Article 396 of this Code and, in the absence of impediments, shall pass the ruling to open appeal proceedings.

Article 399. Taking no action on an appellate complaint, returning the complaint, or refusal to open proceedings

1. Having established that the appellate complaint against judgment or ruling of the court of first instance has been filed in violation of requirements of Article 396 hereof, the judge-rapporteur shall pass the ruling to take no action on the appellate complaint such ruling stating shortcomings of the complaint and fixing a time limit which is sufficient to eliminate shortcomings and may not

exceed fifteen days after the day of receipt of the ruling by the appellant. A copy of the ruling to take no action on the appellate complaint shall be immediately sent to the appellant.

2. Where the appellant has eliminated shortcomings of the appellate complaint within time limit fixed by the judge-rapporteur, the complaint shall be deemed to be filed the day it was first submitted to the court of appellate instance. Within three days after elimination of shortcomings of the appellate complaint and, in the absence of impediments, the judge-rapporteur shall pass the ruling to open appeals proceedings.

3. An appellate complaint shall be dismissed where:

1) the appellant has not eliminated shortcomings in the appellate complaint, on which no action has been taken, within a specified time limit;

2) the appellate complaint has been filed by an individual, who is not entitled to file an appellate complaint;

3) the appellate complaint may not be considered in this court of appellate instance;

4) the appellate complaint has been filed after expiry of the time limit fixed for appeals challenge and the person who has filed it does not raise the issue of renewing of this period or a court of appellate instance upon a motion of a person does not find any grounds for renewal.

4. Judge-rapporteur shall refuse to open proceedings only where the appellate complaint is filed against a court decision which is not subject to challenge in appeals procedure, or the court decision has been challenged exclusively on the grounds it may not be challenged under provisions of Article 394 hereof.

5. A copy of the ruling to dismiss the appellate complaint, not to open proceedings shall be immediately sent to the appellant together with the appellate complaint and all records attached thereto.

6. Ruling to dismiss the appellate complaint or not to open proceedings may be challenged by way of cassation.

7. Taking no action on the appellate complaint or dismissing the complaint shall not preclude re-filing the complaint with the court of appellate instance as prescribed by this Code, within the time limit fixed for appeals challenge.

Article 400. Implications of filing an appellate complaint

1. Filing an appellate complaint against judgment or ruling of the court shall deter the taking of legal effect by such decisions and execution thereof, except in cases specified in this Code

2. Filing an appeal against the decision of the investigating judge, the court's decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention, as well as to extend the term of detention imposed during the court proceedings in the court of first instance before the adoption of a court decision on the merits, shall deter its entry into force, but shall not deter its implementation, except in cases established by this Code.

{Part 2 of Article 400 as revised by Law No. 1027-IX of 2 December 2020}

3. Where an appellate complaint is submitted by the accused in regard to whom the court has issued a judgement on the outcome of special judicial proceedings, the court shall renew the time limits provided the accused has proved the availability of valid reasons specified by Article 138 of this Code and send the appellate complaint together with the pre-trial investigation records to the appellate court following the rules provided for by Article 399 hereof.

{Article 400 has been supplemented with part 3 under Law No. 1689-VII of 7 October 2014}

Article 401. Preparing for appeal proceedings

1. Within ten days after appeal proceedings have been opened on a complaint against a judgment or ruling of a court of first instance, the judge-rapporteur shall:

1) send copies of the ruling on the opening of appeal proceedings to the participants to court proceedings together with copies of appellate complaints and information on their rights and duties, and fixes time limit for the submission of objections to the appellate complaint;

2) suggest that the participants to court proceedings present new evidence they evoke or shall demand and obtain new evidence upon the request of the appellant;

3) decide on other motions including the imposition, change or repeal of a measure of restraint;

4) decide on other matters as necessary for appeal proceedings.

2. All court decisions of the judge-rapporteur during preparations for appeal proceedings shall be drawn up in the form of ruling. Copies of the ruling shall be sent to the participants to court proceedings.

3. After preparation to appeal proceedings has been completed, the judge-rapporteur shall pass a ruling on the termination of preparation, and schedule appeal proceedings.

4. The defendant shall be summoned to participate in the appeal proceedings where the appeal raises the issue of aggravating his/her situation, or where the court finds his/her participation necessary, or, where the defendant is in custody, also in the case that his/her motion for participation has been filed.

Article 402. Objection to an appellate complaint

1. Persons indicated in Article 393 hereof may file with the court of appellate instance objections to the appellate complaint against judgment or ruling of the court of first instance in written form and within the time limits fixed by the court of appellate instance.

2. Objection to the appellate complaint shall state:

1) name of the appellate court;

2) last name, first name, patronymic (appellation), place of residence (stay) of the objector, as well as the number of communication means, e-mail address, if any;

3) challenged court decision and the name of court which passed it;

4) number of criminal proceedings in the court of appellate instance, where it was communicated by the court of appellate instance;

5) substantiation of objections regarding the contents and claims of the appellate complaint;

6) where necessary, the motion of the objector;

7) list of records attached.

3. Objections to the appellate complaint shall state whether the objector intends to participate in the appeal proceedings.

4. Objections to the appellate complaint shall be signed by the objector.

Article 403. Withdrawal of appellate complaint, changing and supplementing of appellate complaint during appeal proceedings

1. The appellant shall have the right to withdraw his/her appellate complaint before the appeal proceeding has ended. Defence counsel of the suspect, accused, and victim's representative may withdraw their appellate complaint only upon consent of the suspect, accused or victim, respectively.

2. Where the judgment or ruling of the court of first instance was not challenged by other persons, or in the absence of objections from other persons who filed appellate complaint, against closure of proceedings in connection with withdrawal of the appellate complaint, the court of appellate instance shall, by its ruling, close appeal proceedings.

3. The appellant shall have the right to change or supplement his/her appellate complaint before appeal proceedings have started. In such case, the court of appellate instance, upon the motion of the participants to the appeal proceedings, shall give them time which is necessary to review the changed appellate complaint and file objections thereto.

4. No changes to appellate complaint shall be allowed where such changes would entail deterioration of the accused person's status, beyond the time limits fixed for appellate challenge.

Article 404. Scope of review by the court of appeals

1. The court of appellate instance shall review decisions of the first instance court within the scope of the appellate complaint.

2. Court of appellate instance shall have the right to go beyond the scope of the appellate demands where the status of the accused or the person in respect to whom the issue has been disposed of applying compulsory medical or reformatory measures, is not aggravated thereby. Where consideration of appellate complaint gives grounds for adoption of a decision in favour of persons in whose interests no appellate complaints have been received, the court of appellate instance shall adopt such decisions.

3. Upon the motion of the participants to the court proceedings, the court of appellate instance shall once again examine circumstances established during the criminal proceedings, provided that such circumstances were examined by the court of first instance not to the full extent or with violations, and may examine evidence which was not examined by the court of first instance, only where a participant to court proceedings requested examining such evidence during trial in the court of first instance, or where such evidence came to light after the adoption of the court decision which is being challenged.

4. Court of appellate instance shall not have the right to consider the charge which was not brought in the court of first instance.

Article 405. Appeal review

1. Appeal review shall be conducted in accordance with the rules which govern the court hearing in the court of first instance, with due account of specific aspects set forth in this Chapter.

2. After conducting actions specified in Articles 342–345 of this Code, taking action on motions, the judge-rapporteur shall narrate in the necessary scope the contents of the challenged court decision, arguments of the participants to court proceedings as stated in their appellate complaints and objections, and find out whether the appellants support their appellate complaints.

3. The appellant shall be the first to take the floor to produce arguments, as well as in pleadings. Where appellate complaints were filed by both parties to the criminal proceedings, the accused shall be the first to produce arguments. After that, the floor shall be given to other participants to court proceedings.

4. Failure to appear of the parties or other participants to the criminal proceedings who have been duly notified of the date, time and place of the appeal review and have not informed of any good cause for their non-appearance, shall not preclude holding of the appeal proceedings. Where participation in the court session of those participants to the criminal proceedings who have failed to appear shall be mandatory by the decision of the appellate court or by law, appeal review shall be adjourned.

{Paragraph 2, part 4 of Article 405 has been deleted under Law No. 767-VII of 23 February 2014}

5. Before the court retires to the deliberations room to render judgment on the legality and validity of the court of first instance's judgment, the accused who took part in the appeal review shall be given the floor for his/her last plea.

Article 406. Written appeal proceedings

1. The court of appellate instance shall have the right to take a decision based on the results of written proceedings where all the participants to court proceedings have applied for conducting proceedings in their absence.

2. Whenever during written proceedings the court of appellate instance arrives at the conclusion that it is necessary to hold appeal review, it shall schedule such review.

3. In case of written appellate proceedings, a copy of the court of appellate instance's decision shall be sent to the participants to the court proceedings within three days from the date it was signed.

Article 407. Powers of the appellate court after an appellate complaint has been considered

1. Upon the results of appeal review on a complaint against judgment or ruling of the court of first instance, the court of appellate instance shall have the right:

1) leave the judgment or ruling unchanged;

2) change the judgment or ruling;

3) set aside the judgment in full or in part and pass a new judgment;

4) set aside the ruling in full or in part and pass a new ruling;

5) set aside the judgment or ruling and close criminal proceedings;

6) set aside the judgment or ruling and assign new proceedings in the court of first instance.

2. Based on the results of appeal review on a complaint against judgment of the court on the grounds of an agreement, the court of appellate instance, in addition to decisions provided for by clauses 1–5, part 1 of this Article, shall have the right to set aside the judgment and forward the criminal proceedings:

1) to the court of first instance for the conduct of court proceedings under general procedure, where the agreement was concluded in the course of court proceedings;

2) to the pre-trial investigation agency for the conduct of pre-trial investigation under general procedure, where the agreement was concluded in the course of pre-trial investigation.

3. Following the appeal review of a complaint against a decision of the investigating judge or a court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint to a measure of restraint in the form of detention, decided during the proceedings in the court of first instance before the court decision on the merits, the appellate court shall have the right to:

1) uphold the ruling;

2) set aside the ruling and pass a new ruling.

Deciding on the implications of the appellate review of the appeal against the court decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention, as well as to extend the term of detention imposed during the proceedings in the court of first instance before the court decision on the merits, the appellate court shall decide on the measure of restraint in the manner prescribed by Chapter 18, Section II hereof.

{Part 3 of Article 407 as revised by Law No. 1027-IX of 2 December 2020}

Article 408. Changing the judgment or ruling of appellate court

1. The court of appellate instance shall change a judgment in the following cases:

1) mitigation of the imposed punishment where it finds that the punishment by its severity is inconsistent with the gravity of the criminal offence and the personality of the accused;

2) where legal qualification of the criminal offence is changed, and Article (part of the Article) of the Law of Ukraine on criminal liability for less grave criminal offence is applied;

3) reducing the amounts subject to exaction, or increasing such amounts where such increase shall not affect the scope of accusation and legal qualification of the criminal offence;

4) in other cases, where change of judgment will not aggravate the defendant’s status.

2. Court of appellate instance shall change a court ruling to apply compulsory medical or reformatory measures in the following cases:

1) where legal qualification of the action under the Law of Ukraine on criminal liability is changed, and Article (part of the Article) of the Law of Ukraine on criminal liability for less grave criminal offence is applied;

2) mitigation of the type of the compulsory medical or reformatory measures.

Article 409. Grounds for setting aside or changing decisions of appellate court

1. The following shall be the grounds for setting aside or changing court decisions in the consideration of a case in the court of appellate instance:

1) incomplete nature of the court proceedings;

2) inconsistency of the court's findings as stated in the decision with factual circumstances of the criminal proceedings;

3) significant non-compliance with the requirements of the criminal procedure;

4) wrong application of the law of Ukraine on criminal liability.

2. Grounds for setting aside or changing a judgment of a court of first instance may also be the inconsistency of imposed punishment with the gravity of the criminal offence and the personality of the accused.

3. The court of appellate instance shall not have the right to set aside a judgment of acquittal only for the reasons of substantial violation of the defendant's rights. Court of appellate instance shall not have the right to set aside a ruling not to apply compulsory medical or reformatory measures, based only on motives of substantial violation of rights of the person in respect of whom the issue of applying such measures was considered.

Article 410. Incomplete court proceedings

1. A trial shall be deemed incomplete where circumstances which may have been important for rendering a lawful, reasoned and fair judgment were not investigated during such trial, in particular where:

1) the court has dismissed motions of the participants to court proceedings for examination of certain persons, examination of evidence or conduct of other procedural actions in order to ascertain or reject certain circumstances which may have been important for rendering a lawful, reasoned and fair judgment;

2) the necessity to examine a given reason arises from new facts found during consideration of the case by the appellate court

Article 411. Inconsistency of the court of first instance's findings with factual circumstances of the criminal proceedings

1. A court decision shall be deemed inconsistent with factual circumstances of criminal proceedings where:

1) the court's findings are not substantiated with evidence examined during the court proceedings;

2) the court paid no attention to evidence which could significantly affect the court's findings;

3) while contradictory evidence of significant importance for the court's findings exist, the court's decision did not state why the court paid attention to certain evidence and dismissed other evidence;

4) the court's findings as set forth in the court decision, contain significant contradictions.

2. A judgment and a ruling shall be subject to setting aside or changing on the above specified grounds only where the inconsistency of the court of first instance's findings with factual circumstances of criminal proceedings has affected or could affect the disposal of the issue of guilt or innocence of the defendant, the correctness of application of the Law of Ukraine on criminal liability, the determination of the sanction or application of compulsory medical or reformatory measures.

Article 412. Significant violations of the provisions of criminal procedure law

1. Significant violations of the provisions of the criminal procedure law shall mean such violations of the provisions of this Code as prevented or could prevent the passing by court of a legitimate and justified court decision.

2. A court decision shall be in any case subject to setting aside where:

1) in the presence of grounds for closure of the court proceedings on a criminal case it was not closed;

2) the court decision was passed by the court in powerless composition;

3) the court proceedings were conducted in the absence of the accused, except in cases specified in Article 323 or Article 381 *of this Code, or in the absence of public prosecutor, except in cases when his participation was not mandatory;*

{Clause 3, part 2 of Article 412 as amended by Law No. 725-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 1689-VII of 7 October 2014}

4) the court proceedings were conducted in the absence of the defence counsel when his/her participation was mandatory;

5) the court proceedings were conducted in the absence of the victim who was not duly informed on the date, time and place of the court session;

6) rules of jurisdiction were breached;

7) the records of proceedings do not include the court session register, or the technical information medium on which the court proceedings in the court of first instance were recorded.

Article 413. Wrong application of the Law of Ukraine on criminal liability

1. Wrong application of the Law of Ukraine on criminal liability entailing setting aside or changing a court decision, shall be:

1) non-application by court of a statute subject to be applied;

2) application of a statute not subject to be applied;

3) wrong interpretation of a statute at odds with the statute's exact content;

4) imposition of a punishment more severe than specified in the respective Article (part of the Article) of the Law of Ukraine on criminal liability.

Article 414. Inconsistency of imposed punishment with the degree of gravity of the criminal offence and the personality of the accused

1. Inconsistent with the degree of gravity of the criminal offence and the personality of the accused shall be recognised such punishment that, while not going beyond the scope established by the respective Article (part of the Article) of the Law of Ukraine on criminal liability, in its type and size is clearly unfair because of its leniency or its severity.

Article 415. Grounds for assigning a new trial in the court of first instance

1. The court of appellate instance shall set aside the judgment or ruling of the court and assign a new trial in the court of first instance where:

1) violations have been ascertained specified in clauses 2, 3, 4, 5, 6, 7, part 2 of Article 412 hereof;

2) a judge whose qualification was challenged on the grounds of circumstances which clearly cast doubts on his impartiality, participated in the adoption of the court's decision, and the court of appellate instance held that the motion on his disqualification was justified;

3) a court decision has been passed or signed by the court composition other than the one which tried the case.

2. When assigning a new trial in the court of first instance, the court of appellate instance shall not have the right to decide in advance on the issue of whether charges were proved or not, whether evidence was reliable or not, whether one evidence prevails over another, whether the court of first instance was right to apply one or another of the statutes of Ukraine on the criminal liability and punishment.

3. Findings and motives of setting aside court decisions, shall be binding on the court of first instance in the new trial.

Article 416. Special aspects of the new trial by the court of first instance

1. After the judgment or ruling to terminate criminal proceedings or to apply or refuse to apply compulsory medical or reformatory measures has been set aside by the court of appellate instance, the court of first instance shall conduct court proceedings as specified in of Section IV hereof in a different composition of court.

2. In the new proceedings in the court of first instance, it shall be permitted to apply a statute pertaining to a more grave criminal offence and providing for more severe punishment only where the judgment was reversed based on the appellate complaint of the public prosecutor or victim or his/her representative in connection with the necessity to apply the statute pertaining to a more grave criminal offence and providing for more severe punishment.

3. In the new proceedings in the court of first instance, the issue related to the imposition of compulsory medical or reformatory measures, legal qualification of the action committed as more grave, as specified by the Law of Ukraine on the criminal liability, shall be permitted where the

appellate complaint on such grounds was submitted by the public prosecutor, victim or his/her representative.

Article 417. Closing of criminal proceedings in the court of appellate instance

1. Having established the circumstances specified in Article 284 hereof, the court of appellate instance shall set aside the judgment of conviction and close the criminal proceedings.

Article 418. Court decisions of the court of appellate instance

1. In case referred to in clause 3, part 1 of Article 407 of the present Code, the court of appellate instance shall pass a judgment. Any other decision an appellate court takes in the form of ruling.

2. Court decisions of the court of appellate instance shall be taken, pronounced, distributed, explained or forwarded to the participants in the court proceedings as prescribed by Articles 368–380 of this Code.

Article 419. Contents of the ruling of the court of appellate instance

1. The ruling of the court of appellate instance shall consist of:

1) introduction where the following shall be stated:

date and place of its passing;

b) appellation of the court of appeal, names and initials of the judges and the court clerk;

title (number) of criminal proceedings;

last name, first name and patronymic of the suspect or accused, year, month and date of his/her birth, place of birth and place of residence;

law of Ukraine on criminal liability which provides for the criminal offence in the commission of which the person concerned is suspected or accused;

names (appellations) of the participants to the court proceedings;

2) reasoning part where the following shall be stated:

brief description of claims contained in the appellate complaint and of the court of first instance's decision;

summary of arguments of the appellant;

summary of positions of other participants to the court proceedings;

circumstances established by the court of first instance;

circumstances established by the court of appellate instance with reference to the evidence and motives why certain evidence was found to be inadmissible or irrelevant;

motives underlying the ruling of the court of appellate instance and legal provisions it was guided by;

3) operative part which shall state:

findings of the court of appellate instance in respect of the substance of claims contained in the appellate complaint;

decision regarding the measure of restraint;

allotment of procedural expenses;

time and procedure in which the ruling takes legal effect and may be challenged.

2. Where the appellate complaint is dismissed, the ruling of the court of appellate instance shall state grounds for finding the appellate complaint groundless.

3. Whenever the court decision is reversed or changed, the ruling shall indicate what Articles of the law have been breached and exactly what such infringements were, or the groundlessness of the judgment or ruling.

Article 420. Judgment or ruling of the court of appeals to impose compulsory medical or reformatory measures

1. The court of appellate instance shall set aside the judgment of the court of first instance and pass its own judgment in the following cases:

1) necessity to apply a law on a more grave criminal offence or to increase the scope of charges;

2) necessity to apply a more severe punishment;

3) reversal of groundless judgment of acquittal of the court of first instance;

4) wrong discharge of the defendant from the service of punishment.

2. A court of appellate instance's judgment shall be required to comply with general requirements for sentencing decisions. In addition, a court of appellate instance's judgment shall relate to the content of the court of first instance's judgment, brief content of the claims of appellate complaint, motives for the adopted decision, and the decision on the essence of the claims of appellate complaint.

3. A court of appellate instance shall overturn a ruling on the application of compulsory measures of reformatory or medical nature and pass its own ruling in the following cases:

1) necessity to legally qualify an action provided for by the law of Ukraine on criminal liability, as more grave;

2) application of more severe type of compulsory medical or reformatory measures;

3) reversal of groundless court ruling refusing to apply compulsory medical or reformatory measures and closure of criminal proceedings in respect of insane or underage person based on motives that they had not committed an action provided for by the Law of Ukraine on the criminal liability

Article 421. Inadmissibility of deterioration of the legal position of the accused

1. A judgment of conviction passed by a court of first instance, may be reversed where it is necessary to apply statutory provision, which establishes more grave criminal offence or more severe punishment, cancel wrong discharge of the defendant from service of punishment or

increase the amounts subject to exaction, or in other cases where the defendant's position is aggravated, only where the public prosecutor, victim or his/her representative filed the appellate complaint based on these grounds.

2. A judgment of acquittal passed by a court of first instance, may be reversed only where an appellate complaint was filed by a public prosecutor, victim or his/her representative, as well as based on the appellate complaint of the accused, his/her defence counsel as regards the motives and grounds for acquittal.

3. A ruling of a court of first instance to apply compulsory medical or reformatory measures may be overturned in connection with the necessity to apply statutory provision of the law of Ukraine on the criminal liability which establishes more grave action and more severe compulsory medical or reformatory measures, only where an appellate complaint based on such grounds was filed by the public prosecutor, victim or his/her representative

4. A ruling of the court of first instance to refuse to apply compulsory medical or reformatory measures and terminate criminal proceedings in relation to an insane person or an underage person for the reason that they did not commit an act provided for by the Law of Ukraine on criminal liability may be reversed only where an appellate complaint based on such grounds was filed by the public prosecutor, victim or his/her representative.

5. A ruling of a court of first instance may be overturned with the purpose to aggravate the position of the person in respect of whom it was passed, only where an appellate complaint based on such grounds was filed by the public prosecutor, victim or his/her representative.

Article 422. Procedure for examination of the investigating judge's ruling

1. Having received an appellate complaint against an investigating judge's ruling, the judge-rapporteur shall immediately demand and obtain from the court of first instance the respective records, and not later than within a day shall notify the appellant, the public prosecutor and other persons concerned of the time, date and place of the appeal proceeding.

2. An appellate complaint against an investigating judge's ruling shall be considered not later than within three days after its receipt by the court of appellate instance.

Article 422[1]. Procedure for reviewing court rulings on choosing a measure of restraint in the form of detention, on changing another measure of restraint on a measure of restraint in the form of detention, as well as on extending the term of detention issued during court proceedings before the adoption of the court decision on the merits.

1. Appeal against a court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on a measure of restraint in the form of detention or on the extension of detention, issued during the court proceedings before the court adopts the decision on the merits received by the appellate court shall be transmitted to the judge-rapporteur no later than the next day.

2. The judge-rapporteur shall, where necessary, verify the circumstances confirming the existence of risks which have given rise to the choice of a measure of restraint in the form of detention, the change of another measure of restraint to a measure of restraint or the extension of detention, and immediately demand from the court of first instance:

a decision to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention or to extend the term of detention;

a request to choose a measure of restraint in the form of detention, to change another measure of restraint to a measure of restraint in the form of detention or to extend the term of detention, filed during the court proceedings before the court of first instance before the adoption of the court decision on the merits.

3. Appeals against the decision of the court on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on the measure of restraint in the form of detention, as well as on the extension of detention, adopted during the court proceedings in the court of first instance before the adoption of the court decision on the merits shall be considered no later than three days after their receipt by the appellate court.

4. Consideration of an appeal against a court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on a measure of restraint in the form of detention, as well as on the extension of detention adopted during the court proceedings in the court of first instance before the adoption of a decision on the merits, shall be conducted without the participation of the parties to the criminal proceedings, unless the public prosecutor, accused, his/her defence counsel or legal representative has filed a motion for the consideration of the appellate complaint with the parties attending.

5. The ruling of the appellate court based on the results of the consideration of the appellate complaint against the court decision on the choice of a measure of restraint in the form of detention, on the change of another measure of restraint on a measure of restraint in the form of detention, as well as on the extension of detention adopted during the court proceedings in the court of first instance before the adoption of the court decision on the merits, shall enter into force after its promulgation and shall not be appealed under the cassation procedure.

6. A copy of the decision of the appellate court based on the results of consideration of the appellate complaint against the court decision on choosing a preventive measure in the form of detention, on changing another measure of restraint to a measure of restraint in the form of detention, and on the extension of the term of detention adopted during the court proceedings in the court of first instance before the adoption of the court decision on the merits, shall be sent to the participants to the court proceedings and to the authorised official of the place of detention not later than the next day after its pronouncement.

*{The Code has been supplemented with Article 422**1** under Law No. 1027-IX of 2 December 2020}*

Article 423. Returning records of criminal proceedings

1. After the appeal proceedings have ended, the records of the criminal proceedings shall be forwarded to the court of first instance not later than within seven days, but in the proceedings on the appellate complaint against the decision of the investigating judge or the court decision on choosing a measure of restraint precautionary measure in the form of detention, as well as the extension of the period of detention imposed during the proceedings in the court of first instance until the adoption of a court decision on the merits no later than three days.

{Title of Article 423 as revised by Law No. 1027-IX of 2 December 2020}

Chapter 32. Criminal proceedings in the court of cassation

Article 424. Court decisions which may be challenged under cassation procedure

1. A court of first instance's judgments and rulings on the application or refusal to apply compulsory medical or reformatory measures, after review thereof under appellate procedure, as well as court decisions of a court of appellate instance passed in respect of said court of first instance's decisions, may be challenged under cassation procedure.

2. The court of first instance's rulings, after review thereof under appellate procedure, as well as the court of appellate instance's rulings may be challenged under cassation procedure where they adversely affect further criminal proceedings, except in cases specified by this Code. Objections to other rulings can be included in a cassation complaint against a court decision made following appeal proceedings.

3. A court of first instance's judgment based on an agreement, after review thereof under appellate procedure, as well as a court decision of a court of appellate instance based on the results of review of the appellate complaint against such judgment, shall not be subject to challenge in cassation procedure:

1) by a convict, his/her defence counsel or legal representative, exceptionally for the reasons of the court having set a more severe penalty than the one agreed upon by the parties to the agreement; affirming a conviction without the convicted person's consent to imposition of punishment; failure of the court to respect the requirements established by parts 4–7 of Article 474, including failure to explain the consequences of making agreement to the convicted person;

2) by the victim, his/her representative or legal representative, exceptionally for the reasons of the court having set a less severe penalty than the one agreed upon by the parties to the agreement; affirming a conviction without the victim's consent to imposition of punishment; failure of the court to respect the requirements established by parts 6 or 7 of Article 474 hereof; failure to explain the consequences of making agreement to the victim;

3) by the public prosecutor exceptionally for the reasons of the court having set a less severe penalty than the one agreed upon by the parties to the agreement; affirming of an agreement by the court in the proceedings in which, according to part 4 of Article 469 hereof no agreement may be made.

4. Investigating judge's ruling, after review thereof under appellate procedure, as well as a court of appellate instance's ruling based on the results of review of the appellate complaint against such ruling shall not be subject to challenge under cassation procedure.

Article 425. Right to cassation

1. A cassation complaint shall be filed by:

1) a convict, his/her legal representative or defence counsel, as regards the convict's interests;

2) acquitted defendant, his/her legal representative or defence counsel, as regards the motives and grounds for acquittal;

3) the suspect, accused, his/her legal representative or defence counsel;

4) a legal representative, defence counsel of an underage person, or the underage person himself/herself, in respect to whom the issue was disposed on the application of compulsory reformatory measures, as regards the underage person's interests;

5) a legal representative or defence counsel of a person in respect to whom the issue was disposed on the application of compulsory medical measures;

6) public prosecutor;

7) victim or his/her legal representative or representative, as regards the victim's interests but within the limits of demands submitted by them in the court of first instance;

8) civil plaintiff, his/her representative or legal representative, to the extent related to the decision on the civil action;

9) civil defendant or his/her representative, to the extent related to the decision on the civil action;

10) representative of the legal entity in whose respect proceedings are taken, to the extent relevant for the interests of the legal entity.

{Part 1 of Article 425 has been supplemented with clause 10 under Law No. 314-VII of 23 May 2013}

2. Individuals who have the right to file cassation complaint shall be given the opportunity to review in court the records of the criminal proceedings concerned, to decide whether to file a cassation complaint.

Article 426. Procedure and time limits for cassation appeal

1. A cassation appeal shall be filed directly to the court of cassation.

2. Cassation complaint against court decisions shall be filed within three months from the date on which decision of the court of appellate instance was pronounced, and by a convict kept in custody, within the same time limits from the date of service on him/her of a copy of the court decision.

3. During the period fixed for cassation challenge, records of criminal proceedings shall not be demanded and obtained from the court which executes the court decision, except by the court of cassation instance.

Article 427. Requirements for a cassation complaint

1. Cassation complaint shall be filed in written form.

2. Cassation complaint shall state:

1) name of the court of cassation instance;

2) last name, first name, patronymic (name), mailing address of the individual who files cassation complaint, as well as number of communication means, e-mail address, if any;

3) court decision which is challenged;

4) arguments of the individual who files cassation complaint, in support of his/her claims, explaining what is the essence of illegality or groundlessness of the court decision concerned;

5) claims of the individual who files cassation complaint, addressed to the court of cassation instance;

7) list of records attached.

3. Where the individual is not willing to participate in the cassation trial, he/she shall state it in his/her cassation complaint.

4. Cassation complaint shall be signed by the individual who files it. Where the cassation complaint is filed by the victim's defence counsel or representative, it shall have attached duly drawn up documents certifying his/her powers as prescribed by this Code.

5. Cassation complaint shall have attached copies of challenged court decisions.

6. Cassation complaint shall have attached its copies with annexes, in the number necessary for sending to the parties to the criminal proceedings and participants in court proceedings. This requirement shall not extent to a convict held in custody.

Article 428. Opening of cassation proceedings

1. A court of cassation instance shall open cassation proceedings within five days from the date of receipt of the cassation complaint, where no grounds are found for taking no action on the cassation complaint, returning the cassation complaint, or refusal to open cassation proceedings. The issue of opening cassation proceedings shall be disposed by the court of cassation instance without summoning the parties to the criminal proceedings.

2. The court of cassation instance shall pass a ruling to dismiss cassation proceedings where:

1) the cassation complaint is filed against a court decision which is not subject to challenging under cassation procedure;

2) it follows from the cassation complaint, court decisions and other documents attached thereto that there are no grounds for granting the complaint.

3. The court of cassation instance shall have the right to refuse to open cassation proceedings on the grounds specified in clause 1, part 2 of this Article without verification of the compliance of the cassation complaint with the requirements of Article 420 hereof.

4. The court of cassation instance shall have no right to refuse to open cassation proceedings on the grounds specified in clause 2, part 1 of this Article, where by the challenged court decision, according to provisions of Article 430 hereof, the court of appellate instance has aggravated the position of the suspect, accused, convict or acquitted.

5. Court of cassation instance shall pass a ruling to open or to refuse to open cassation proceedings.

6. A copy of the ruling to open cassation proceedings or to refuse to open cassation proceedings along with the cassation complaint and all records attached thereto shall be immediately sent to the person who has filed the cassation complaint.

Article 429. Taking no action on a cassation complaint or dismissal of the complaint

1. Having established that cassation complaint has been filed in violation of requirements specified in Article 427 hereof, the court of cassation instance shall pass the ruling to take no action on the cassation complaint, such ruling stating shortcomings of the cassation complaint and fixing the time limit which is sufficient to eliminate shortcomings, which shall not exceed fifteen days after the date of receipt of the ruling by the person who has filed the cassation complaint.

A copy of the ruling not to take action on the cassation complaint shall be immediately sent to the person who has filed the cassation complaint.

2. Where the person has eliminated shortcomings in the cassation complaint within time limit fixed by the court, the complaint shall be deemed to be filed the day it was first filed with the court of cassation instance. Within five days after shortcomings in the cassation complaint were eliminated, or after expiry of the time limit fixed for eliminating the shortcomings in the cassation complaint, the court of cassation instance shall dispose the issue of opening cassation proceedings.

3. A cassation complaint shall be dismissed where:

1) the person failed to eliminate shortcomings in the cassation complaint on which no action has been taken within a specified time limit;

2) the cassation complaint has been filed by an individual who was not entitled to file the cassation complaint;

3) the cassation complaint has been filed after expiry of the time limit fixed for cassation challenge, and the person who filed it, has not raised the issue of renewing the time limit, or the court of cassation instance, upon the person's request, finds no grounds for renewing thereof.

A copy of the ruling to dismiss the cassation complaint shall be immediately sent to the person who has filed it together with the cassation complaint and all records attached thereto.

4. Taking no action on the cassation complaint or dismissing the complaint shall not preclude re-filing the complaint with the court of cassation instance as prescribed by this Code, within time limits fixed for cassation challenge.

Article 430. Preparation for cassation trial

1. Judge-rapporteur within ten days after cassation proceedings have been opened without summoning the parties to the criminal proceedings shall:

1) send copies of the ruling on the opening of cassation proceedings to the participants to the court proceedings together with the copies of cassation complaints, information on their rights and duties, and fix time limits for the submission of objections to the cassation complaint;

2) demand and obtain records of criminal proceedings;

3) decide on filed motions;

4) decide on the suspension of execution of the challenged court decisions;

5) decide other matters as necessary for cassation review.

2. All decisions made by the judge-rapporteur at the stage of preparation to cassation trial shall be formulated in the form of ruling. The copies of rulings shall be sent to the participants to the court proceedings.

3. After conducting preparatory actions and obtaining the records of the criminal proceedings, judge-rapporteur shall pass the ruling on the termination of preparation and assignment of the cassation trial.

4. A convict shall be subject to mandatory summoning to participate in the cassation proceedings where the court finds his/her participation mandatory, and the convict who is held in custody, also in the case that his/her motion for participation has been filed.

Article 431. Objection to a cassation complaint

1. Individuals referred to in Article 425 of this Code, shall have the right to file with the court of cassation instance objections to the cassation complaint in written form within the deadline fixed by the court of cassation instance.

2. Objection to the cassation complaint shall contain:

1) name of the court of cassation instance;

2) last name, first name, patronymic (name), mailing address of the objector to the cassation complaint, as well as number of communication means, e-mail address, if any;

3) indication of the challenged court decision;

4) number of criminal proceedings in the court of cassation instance, where it was communicated by the court of cassation instance;

5) substantiation of objections regarding the contents and claims of the cassation complaint;

6) where necessary, application of the objector to the cassation complaint;

7) list of records attached.

3. Objection to the cassation complaint shall state whether the objector intends to participate in the cassation trial.

4. Objection to the cassation complaint shall be signed by the objector.

Article 432. Withdrawal of cassation complaint, changing and supplementing of cassation complaint during cassation proceedings

1. Waiver of cassation complaint, changing and supplementing of the cassation complaint during cassation proceedings shall be conducted in accordance with provisions of Article 403 hereof.

Article 433. Scope of review by the court of cassation

1. A court of cassation shall verify whether a court of first instance and a court of appellate instance applied the rules of substantive and procedural law and of legal assessment of circumstances correctly, and shall not have the right to examine evidence, ascertain and find proved the circumstances which were not established in the challenged court decision, and to resolve the issue of how reliable is one or other evidence.

2. A court of cassation shall review judgments of first and appellate instance courts within the scope of the cassation complaint. A court of cassation shall have the right to go beyond the scope of cassation claims unless this may aggravate the position of the convict, the acquitted, or the

person in respect of whom applying compulsory medical or reformatory measures was considered. Where granting the complaint gives grounds for taking a decision in favour of other convicts who have not filed complaints, the court of cassation instance shall take such decision.

Article 434. Cassation review

1. Cassation review shall be conducted in accordance with the rules of trial in a court of appellate instance, with due account of the specific aspects provided for by this Article.

2. After conducting actions provided for by Articles 342–345 of this Code, and taking action on the motion of the participants to the court proceedings, the judge-rapporteur shall narrate in the necessary scope the contents of the challenged decisions, the cassation complaint and objections thereto.

3. The parties to the criminal proceedings and other participants to the court proceedings shall produce their arguments. The first to produce arguments shall be the person who has filed the cassation complaint. Where both parties to the criminal proceedings file cassation complaints, the defending parties to the court proceedings shall be the first to produce their arguments. After them, other participants to the court proceedings shall produce arguments. The court shall have the right to limit the duration of producing arguments and fix an equal lapse of time for all the participants to court proceedings, with this limitation announced at the beginning of the court session.

4. Failure of the parties or other participants to the court proceedings who have been duly informed of the date, time and place of the cassation review and failed to inform of any valid reasons for their non-appearance shall not preclude cassation review. Where participants to the criminal proceedings whose participation under this Code or decision of a court of cassation instance is mandatory, the cassation review shall be postponed.

5. After the completion of cassation review, judges shall retire to the deliberations room to pass a decision.

Article 434[1]. Grounds for referring criminal proceedings to a chamber, Joint or Grand Chamber of the Supreme Court

1. A court which hears criminal proceedings under cassation procedure before a panel of judges shall refer such criminal proceedings to a chamber to which such a panel is a member, where that panel deems it necessary to depart from the conclusion on the application of the rule of law in such legal relations set out in a previously adopted decision of the Supreme Court in the composition of the panel of judges of this chamber or in such a chamber.

2. A court which hears criminal proceedings under cassation procedure before a panel of judges or a chamber shall refer such criminal proceedings to the Joint Chamber where that panel or chamber deems it necessary to withdraw from the conclusion on the application of the rule of law in such legal relations set out in a previously adopted decision of the Supreme Court in a panel of judges from another chamber or in another chamber or another Joint Chamber.

3. A court which hears criminal proceedings under cassation procedure within a panel of judges, a chamber or a joint chamber shall refer such criminal proceedings to the Grand Chamber of the Supreme Court where such a panel (chamber, Joint Chamber) deems it necessary to withdraw from the opinion on the application of the rule of law in such legal relations, set out in a

previously adopted decision of the Supreme Court in the panel of judges (chamber, Joint Chamber) of another court of cassation.

4. A court which hears criminal proceedings under cassation procedure within a panel of judges, a chamber or a Joint Chamber shall refer such criminal proceedings to the Grand Chamber of the Supreme Court where such a panel of judges (chamber, Joint Chamber) deems it necessary to withdraw from the opinion on the application of the rule of law in such legal relations, set out in the previously adopted decision of the Grand Chamber.

5. A court which considers criminal proceedings under cassation procedure before a panel or chamber shall have the right to refer such criminal proceedings to the Grand Chamber of the Supreme Court where it concludes that the case contains an exclusive legal issue and such transfer is necessary to ensure the development of law and formation of the unified law enforcement practice.

{The Code has been supplemented with Article 434[1] under Law No. 2147-VIII of 3 October 2017}

Article 434[2]. Procedure for transferring criminal proceedings to the chamber, Joint Chamber, and the Grand Chamber of the Supreme Court

1. The issue of transferring criminal proceedings to the Chamber, the Joint Chamber or the Grand Chamber of the Supreme Court shall be decided by the court on its own initiative or at the request of a party to the case.

2. The issue of transferring criminal proceedings to a Chamber, Joint Chamber or the Grand Chamber of the Supreme Court shall be disposed by a majority of its members.

3. The issue of transferring criminal proceedings to the Chamber, the Joint Chamber or the Grand Chamber of the Supreme Court may be disposed before the decision of the court of cassation.

4. The court shall issue a ruling on the transfer of the criminal proceedings to the Chamber, the Joint Chamber or the Grand Chamber of the Supreme Court, stating the reasons for the need to withdraw from the opinion on the application of the rule of law in such legal relations set out in the decision specified in parts 1–4 of Article 434[1]of this Code, or with justification of the grounds specified in part 5 of Article 434[1] hereof.

5. A judge who does not agree with the decision to transfer (refusal to transfer) criminal proceedings to the Chamber, the Joint Chamber or Grand Chamber of the Supreme Court shall state his dissenting opinion in writing on the decision to transfer criminal proceedings to the Chamber, Joint Chamber or the Grand Chamber or in a resolution taken as a result of the cassation review.

6. Where the Grand Chamber of the Supreme Court decides that there are no grounds for transferring criminal proceedings for its consideration, such criminal proceedings shall be returned to the respective panel (Chamber, Joint Chamber) for further consideration, which shall be supported by the respective ruling. Criminal proceedings returned to the panel (Chamber, Joint Chamber) shall not be re-referred to the Grand Chamber of the Supreme Court.

7. After the transfer of criminal proceedings to the Chamber, the Joint Chamber or the Grand Chamber of the Supreme Court, the judge-rapporteur appointed therein shall, where necessary, address the respective experts of the Scientific Advisory Board at the Supreme Court regarding the preparation of a scientific opinion on the application of law the issue in respect of which became the basis for referral of the case to the Grand Chamber of the Supreme Court, except where the opinion on the application of this rule in such legal relations was previously obtained by the Supreme Court.

{The Code has been supplemented with Article 434² under Law No. 2147-VIII of 3 October 2017}

Article 435. Written cassation proceedings

1. The court of cassation instance shall have the right to take a decision based on the results of written proceedings where all the participants to the court proceedings have applied for resolving the case in their absence.

2. In case of written cassation proceedings, a copy of the court of cassation instance's decision shall be forwarded to the participants to the court proceedings within three days from the date of its signing.

Article 436. Powers of the court of cassation after a cassation complaint has been considered

1. Based on the results of the court of cassation instance's review of a cassation complaint, the court shall have the right:

1) to leave the court decision unchanged and dismiss the cassation complaint;

2) to reverse the court decision and assign new proceedings in the court of first or appellate instance;

3) to reverse the court decision and close criminal proceedings;

4) change the court decision.

Article 437. Inadmissibility of impairment of a legal status of the acquitted and accused

1. The court of cassation instance shall not have the right to apply a statute which provides for criminal offence of a higher gravity or for more severe punishment.

2. A judgment of conviction passed by the court of first or appellate instance, a ruling of the court of appellate instance in respect of a court of first instance's judgment may be reversed, where it is necessary to apply a statute which provides for the criminal offence of a higher gravity or more severe punishment, or otherwise aggravate the convict's position, only where the public prosecutor, the victim or his/her representative has filed a cassation complaint on such grounds.

3. The judgment of acquittal pronounced by the court of first or appellate instance, the court of appellate instance's ruling regarding the judgment of the court of first instance, may be reversed only based on a cassation complaint of the public prosecutor, the victim or his/her representative, as well as based on the cassation complaint of the acquitted regarding motives for his/her acquittal.

Article 438. Grounds for reversing or changing decisions by court of cassation instance

1. Grounds for reversing or changing court decisions in reviewing a case in a court of cassation instance shall be:

1) significant non-compliance with the requirements of the criminal procedure law;

2) wrong application of the Law of Ukraine on criminal liability;

3) inconsistency of the imposed punishment with the gravity of the criminal offence and the convict's personality.

2. In deciding on the issue of the presence of the grounds specified in part 1 of this Article, the court of cassation instance shall be governed by Articles 412–414 hereof.

3. The court of cassation shall not have the right to reverse a judgment of acquittal, a ruling to refuse to apply compulsory medical or reformatory measures, a ruling to close criminal proceedings only based on motives of significant infringement of the rights of the accused or a person in whose respect the issue of applying compulsory medical or reformatory measures was decided.

Article 439. New consideration of a case after reversal of the court of cassation instance's decision

1. After a judgment or ruling of the court of cassation instance, the court of first or appellate instance shall conduct court proceedings in accordance with the general requirements laid down in this Code, in a different composition of court.

2. Instructions of the court which has reviewed the case under cassation procedure shall be binding on the court of first or appellate instance in the new proceedings.

3. In a new proceedings in the court of first or appellate instance, the application of more severe punishment or of a statute providing for more grave offence, shall only be admissible provided that the judgment was reversed in connection with the necessity to apply a statute providing for more grave offence or more severe punishment, upon a complaint of the public prosecutor, the victim or his/her representative, as well as where in the course of new proceedings it would be established that the accused committed a more grave criminal offence, or where the scope of charges increased.

Article 440. Closing criminal proceedings in the court of cassation instance

1. Having ascertained circumstances specified in Article 284 hereof, the court of cassation instance shall reverse the judgment of conviction or the ruling and close criminal proceedings.

Article 441. Court decisions of the court of cassation instance

1. As a result of consideration of the cassation appeal on the merits, the court of cassation instance shall pass court decisions in the form of rulings.

{Part 1 of Article 441 as revised by Law No. 2147-VIII of 3 October 2017}

2. Procedural issues related to the initiation of criminal proceedings, motions and statements of the parties, issues of adjournment of criminal proceedings, taking a recess, suspension of criminal proceedings, as well as in other cases provided for by this Code, shall be decided by the

court of cassation in the manner prescribed hereby for the decision of the court of first instance, with due account of the specific aspects provided for by Chapter 32 hereof.

{Article 441 has been supplemented with new part under Law No. 2147-VIII of 3 October 2017}

3. The decision or ruling of the court of cassation shall be executed by the judge-rapporteur (another judge given the judge-rapporteur does not agree with the decision/ruling) and signed by all court composition that considered the criminal proceedings, unless otherwise provided for by this Code.

{Article 441 has been supplemented with new part under Law No. 2147-VIII of 3 October 2017}

2. Court decisions of the court of cassation instance shall be taken, pronounced, distributed, explained or forwarded to the participants to the court proceedings as prescribed by Articles 368–380 of this Code.

Article 442. Ruling of the court of cassation

{Title of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

1. A ruling of the court of cassation instance shall consists of:

{Paragraph 1, part 1 of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

1) introduction where the following shall be stated:

a) date and place of its adoption;

{Paragraph 2, clause 1, part 1 of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

appellation of the court of cassation, names and initials of the judges and the court clerk;

title (number) of criminal proceedings;

last name, first name and patronymic of the suspect or accused, year, month and date of his/her birth, place of birth and place of residence;

the law of Ukraine on the criminal liability which provides for the criminal offence in the commission of which the person concerned is suspected or accused;

names (appellations) of the participants to the court proceedings;

2) reasoning part where the following shall be stated:

brief description of claims contained in the cassation complaint and of the challenged court decisions;

summary of arguments of the person who has filed the cassation complaint;

summary of positions of other participants to the court proceedings;

circumstances ascertained by the courts of first and appellate instances;

motives for the court of cassation instance's ruling, and statutory provision the court was governed by;

{Paragraph 6, clause 2, part 1 of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

3) operative part which shall state:

findings of the court of cassation instance in respect of the essence of claims contained in the cassation complaint;

allotment of procedural expenses;

date when, and the manner in which the ruling takes legal effect.

{Paragraph 4, clause 3, part 1 of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

2. Where the cassation complaint is dismissed, the ruling shall state rules which overturn arguments contained in the cassation complaint.

{Part 2 of Article 442 as amended by LawNo. 2147-VIII of 3 October 2017}

3. Whenever court decisions are reversed or changed, the ruling shall state what Articles of the law have been infringed and the essence of such infringements.

{Part 3 of Article 442 as amended by Law No. 2147-VIII of 3 October 2017}

4. The ruling of the Chamber, the Joint Chamber, the Grand Chamber of the Supreme Court shall contain a conclusion on how exactly the rule of law should be applied, the application of which was disagreed with by the panel of judges or the Chamber, the Joint Chamber which referred the case to the Chamber, the United Chamber, the Grand Chamber of the Supreme Court.

{Article 442 has been supplemented with part 4 under Law No. 2147-VIII of 3 October 2017}

5. The decision of the Supreme Court shall be final and not subject to appeal.

{Article 442 has been supplemented with part 5 under Law No. 2147-VIII of 3 October 2017}

Article 443. Returning records of criminal proceedings

1. After the cassation proceedings have ended, records of criminal proceedings shall be forwarded to the court of first instance within seven days, unless otherwise provided for by the decision taken by the court of cassation instance.

{Chapter 33 has been deleted under Law No. 2147-VIII of 3 October 2017}

Chapter 34. Criminal proceedings upon discovery of new or exceptional circumstances

{Title of Chapter 34 as amended by Law No. 2147-VIII of 3 October 2017}

Article 459. Grounds for criminal proceedings upon discovery of new or exceptional circumstances

{Title of Article 459 as amended by Law No. 2147-VIII of 3 October 2017}

1. Court decisions which have taken legal effect may be reviewed upon discovery of new or exceptional circumstances.

{Part 1 of Article 459 as amended by Law No. 2147-VIII of 3 October 2017}

2. The following shall be recognised as newly-discovered circumstances:

1) artificial manufacture or falsification of evidence, incorrect translation of the findings and explanations of expert, deliberately misleading testimonies of the witness, victim, the suspect or accused on which the judgment was based;

{Clause 2, part 2 of Article 459 has been deleted under Law No. 2147-VIII of 3 October 2017}

3) reversal of a court decision based on which the judgment or ruling to be reviewed were made;

4) other circumstances that were not known to the court at the time of the court proceedings when passing a court decision and which by themselves or together with previously identified circumstances prove the incorrectness of the sentence or decision to be reviewed.

{Clause 4, part 2 of Article 459 as revised by Laws No. 2136-VIII of 13 July 2017, No. 2147-VIII of 3 October 2017}

{Clause 5, part 2 of Article 459 has been deleted under Law No. 2147-VIII of 3 October 2017}

3. Exceptional circumstances shall be deemed:

1) the unconstitutionality or constitutionality of a law, other legal act or their separate provision applied by the court in resolving a case which has been established by the Constitutional Court of Ukraine;

2) establishment by an international judicial institution, the jurisdiction of which is recognised by Ukraine, of violation by Ukraine of international obligations while considering this case in a court;

3) establishing the guilt of a judge in committing a criminal offence or abuse of office by an investigator, public prosecutor, investigating judge or court during the criminal proceedings, as a result of which a court decision was passed.

{Clause 3, part 3 of Article 459 as amended by Law No. 720-IX of 17 June 2020}

{Part 3 of Article 459 as revised by Law No. 2147-VIII of 3 October 2017}

4. The circumstances provided for by clause 3, part 3 of this Article shall be established by a court judgment that has taken legal effect. The circumstances that relate to the abuse of an investigator, public prosecutor, investigating judge or court during criminal proceedings, where it is impossible to pass a sentence may be confirmed by a ruling or decision to close criminal proceedings, a ruling to apply coercive measures of restraint of medical nature.

{Part of Article 459 as revised by Law No. 2147-VIII of 3 October 2017}

5. Review of the court decisions on newly discovered circumstances in case of adoption of new laws, other regulatory acts, which repealed laws and other regulatory acts, which were in force at the time of the proceedings, shall not be allowed.

Article 460. Right to lodge a request to review court decision upon discovery of new or exceptional circumstances

{Title of Article 460 as amended by Law No. 2147-VIII of 3 October 2017}

1. Participants to the court proceedings shall have the right to lodge a request to review upon discovery of new or exceptional circumstance a decision adopted by a court of any instance which has taken legal effect.

{Part 1 of Article 460 as amended by Law No. 2147-VIII of 3 October 2017}

Article 461. Time limits for lodging a request to review court decision upon discovery of new or exceptional circumstances

{Title of Article 461 as amended by Law No. 2147-VIII of 3 October 2017}

1. A request to review a court decision upon discovery of new circumstances may be lodged within three months after the requester has learned or could have learned of such circumstances.

2. Review upon discovery of new circumstances of a judgment of acquittal shall be allowed only within periods of limitation prescribed by law.

3. Upon discovery of circumstances which confirm that the individual concerned has committed more grave criminal offence than the offence for which he/she was sentenced, the court decision may be reviewed upon discovery of new circumstances within periods of limitation prescribed for the criminal offence of a higher degree of gravity.

4. Upon discovery of circumstances which confirm that the convict is innocent or that he/she has committed a less grave criminal offence, review of the court decision upon discovery of new circumstances shall not be limited by any periods.

5. A request for reviewing a court decision under exceptional circumstances may be filed:

4) on the grounds specified in clause 1, part 3 of Article 459 of this Code within thirty days from the date of official promulgation of the respective judgement passed by the Constitutional Court of Ukraine;

5) on the grounds provided for by clause 2, part 3 of Article 459 of this Code by a person in whose favour the judgement was passed by an international judicial institution whose jurisdiction is recognised in Ukraine, not later than thirty days from the date when such person became aware or could become aware of the finality of this judgement;

6) on the grounds provided for by clause 3, part 3 of Article 459 of this Code, by the litigants within thirty days from the date when the verdict in the criminal proceedings entered into force. Where it is impossible to pass a court sentence, the request may be filed within thirty days from the date of establishment by the respective decision or a court ruling of the circumstances provided for by clause 3, part 3 of Article 459 hereof.

{Article 461 has been supplemented with part 5 under Law No. 2147-VIII of 3 October 2017}

Article 462. Requirements for the request to review court decision upon discovery of new or exceptional circumstances

{Title of Article 462 as amended by Law No. 2147-VIII of 3 October 2017}

1. Request to review a court decision upon discovery of new or exceptional circumstances shall be lodged in written form.

{Part 1 of Article 462 as amended by Law No. 2147-VIII of 3 October 2017}

2. A request to review court decision upon discovery of new or exceptional circumstances shall state:

{Paragraph 1, part 2 of Article 462 as amended by Law No. 2147-VIII of 3 October 2017}

1) name of the court to which request is submitted;

2) last name, first name, patronymic (appellation), mailing address of the person who has filed the request, as well as number of communication means, e-mail address, if any;

3) court decision requested to be reviewed upon discovery of new or exceptional circumstances;

{Clause 3, part 2 of Article 462 as amended by Law No. 2147-VIII of 3 October 2017}

4) circumstances which could have affected the court decision but were not known and could not be known by the court and requester at the time of court proceedings;

5) substantiation with reference to circumstances which confirm existence of newly discovered or exceptional circumstances, and content of claims of the requester;

{Clause 5, part 2 of Article 462 as amended by Law No. 2147-VIII of 3 October 2017}

5[1]) a motion of the person to request a copy of the decision of an international judicial institution whose jurisdiction is recognised by Ukraine, in the body responsible for coordinating the enforcement of decisions of the international judicial institution, where it is unavailable to the requester, in case of requesting for review of the court decision provided for by clause 2, part 3 of Article 459 hereof;

{Part 2 of Article 462 has been supplemented with clause 5[1] under Law No. 2147-VIII of 3 October 2017}

5[2]) request for renewal of the deadline for a motion;

{Part 2 of Article 462 has been supplemented with clause 5[2] under Law No. 2147-VIII of 3 October 2017}

6) list of documents and other records attached.

3. Request shall be signed by the requester. Whenever the request is filed by a defence counsel or the victim's representative, it shall attach duly executed documents certifying his/her powers as required by this Code.

4. Copies of the request in the number necessary for sending to the parties to the criminal proceedings and other participants to the court proceedings shall be attached to the request. This requirement shall not extend to a person held in custody.

5. The requester shall have the right to attach to his/her request the documents or their copies which are of importance for the criminal proceedings and which were not known at the time when the court decision concerned was passed.

Article 463. Procedure for filing a request to review judgment upon discovery of new or exceptional circumstances

{Title of Article 463 as amended by Law No. 2147-VIII of 3 October 2017}

1. Request to review the court decision upon discovery of new or exceptional circumstances shall be filed with the court of the instance which was the first to commit mistake as a result of not being aware of the existence of these circumstances, except as provided for by part 3 of this Article.

{Part 1 of Article 463 as revised by Law No. 2147-VIII of 3 October 2017}

2. Request to review the court decision upon discovery of new or exceptional circumstances in case the judge has committed a crime as a result of which illegal or groundless decision was taken, filed with the court of the instance of which he was a judge.

{Part 2 of Article 463 as amended by LawNo. 2147-VIII of 3 October 2017}

3. Request to review the court decision under exceptional circumstances in the event that an international judicial institution whose jurisdiction is recognised by Ukraine finds that Ukraine has infringed its international obligations in resolving the case shall be submitted to the Supreme Court for consideration by the Grand Chamber.

{Article 463 has been supplemented with part 3 under Law No. 2147-VIII of 3 October 2017}

Article 464. Opening criminal proceedings upon discovery of new or exceptional circumstances

{Title of Article 464 as amended by Law No. 2147-VIII of 3 October 2017}

1. Request to review the court decision upon discovery of new or exceptional circumstances, which has been filed with the court, shall be transmitted to a judge of the court, panel of judges in the manner prescribed by Article 35 of this Code.

{Part 1 of Article 464 as revised by Law No. 2147-VIII of 3 October 2017}

2. Not later than on the day after the day when the request was received by the court, the judge shall verify the extent to which this request complies with Article 462 of this Code, and decide on the opening the criminal proceedings upon discovery of new or exceptional circumstances.

3. To a request to review court decision upon discovery of new or exceptional circumstances, which is not drawn up in accordance with the requirements of Article 462 of this Code, shall be applied rules of part 3 of Article 429 hereof. A copy of the ruling shall be immediately sent to the requestor, together with the request to review court decision upon discovery of new or exceptional circumstances and all records attached thereto.

4. Having opened criminal proceedings upon discovery of new or exceptional circumstances, the judge shall send to the parties to the court proceedings copies of the request concerned and schedule the date, time and place of a court session and inform specified persons thereon.

{Text of Article 464 as amended by Law No. 2147-VIII of 3 October 2017}

Article 465. Withdrawing request to review judgment upon discovery of new or exceptional circumstances and implications of such withdrawal

{Title of Article 465 as amended by Law No. 2147-VIII of 3 October 2017}

1. The person who has lodged the request to review court decision upon discovery of new or exceptional circumstances shall have the right to withdraw his/her request before the beginning of the judicial proceedings. Where the court admits withdrawal, it shall close the criminal proceedings upon discovery of new or exceptional circumstances and pass the appropriate ruling.

2. A person who has withdrawn his/her request to review court decision upon discovery of new or exceptional circumstances shall not have the right to file with the court a new request on the same grounds.

{Text of Article 465 as amended by Law No. 2147-VIII of 3 October 2017}

Article 466. Procedure for review of a court decision upon discovery of new or exceptional circumstances

{Title of Article 466 as amended by Law No. 2147-VIII of 3 October 2017}

1. Request to review court decision upon discovery of new or exceptional circumstances shall be considered by the court within two months after it has been received, in accordance with the rules laid down in this Code for the conduct of criminal proceedings in the court of the instance which shall conduct the review.

2. Participants to the court proceedings shall be informed of the date, time and place where the request will be reviewed. Failure of the individuals who have been duly informed to appear in the court session shall not preclude consideration of the request to review the court decision.

3. The court by its ruling shall have the right to suspend execution of the court decision which is being reviewed upon discovery of new or exceptional circumstances till the end of the review.

4. The court shall have the right to refrain from examining evidence regarding circumstances which were established in the court decision being reviewed upon discovery of new or exceptional circumstances, where such are not challenged.

{Text of Article 466 as amended by Law No. 2147-VIII of 3 October 2017}

Article 467. Court decision on the implications of the criminal proceedings upon discovery of new or exceptional circumstances

{Title of Article 467 as amended by Law No. 2147-VIII of 3 October 2017}

1. The court shall have the right to reverse the judgment or ruling and render a new judgment or pass a ruling, or dismiss the request to review a court decision upon discovery of new or exceptional circumstances. When passing a new judgment, the court shall exercises powers of a court of the respective instance.

Based on the results of the review of a court decision upon newly discovered or exceptional circumstances, the Supreme Court may also overturn the court decision (court decisions) in whole or in part and remand the case to a court of first or appellate instance.

{Part 1 of Article 467 has been supplemented with paragraph 2 under Law No. 2234-VIII of 7 December 2017}

2. A court decision taken as a result of the criminal proceedings upon discovery of new or exceptional circumstances may be challenged as prescribed by this Code for challenging court decisions made by court of the respective instance. When the new court decision takes legal effect, the court decisions of other courts in these criminal proceedings shall lose legal effect.

{Text of Article 467 as amended by Law No. 2147-VIII of 3 October 2017}

Section VI
SPECIAL PROCEDURES FOR CRIMINAL PROCEEDINGS

Chapter 35. Criminal proceedings based on agreements

Article 468. Agreements in criminal proceedings

1. The following types of agreements may be concluded in criminal proceedings:

1) reconciliation agreement between the victim and the suspect or the accused;

2) plea agreement between the public prosecutor and the suspect or the accused about pleading guilty.

Article 469. Initiation and conclusion of the agreement

1. The reconciliation agreement may be concluded on the initiative of the victim, the suspect or the accused. Arrangements in respect of the reconciliation agreement may be made independently by the victim and the suspect or accused, the defence counsel and a representative or with the assistance of another person as agreed between the parties to the criminal proceedings (except for the investigator, public prosecutor or judge).

A conciliation agreement in criminal proceedings for criminal offences related to domestic violence may be concluded only on the initiative of the victim, his/her representative or legal representative.

{Part 1 of Article 469 has been supplemented with paragraph 2 under Law No. 2227-VIII of 6 December 2017; as amended by Law No. 720-IX of 17 June 2020}

Where the actions or interests of the legal representative contradict the interests of the person he/she represents, by decision of the public prosecutor, investigating judge or court such legal representative shall be replaced by another one from among the persons specified in Article 44 of this Code.

{Part 1 of Article 469 has been supplemented with paragraph 3 under Law No. 2227-VIII of 6 December 2017}

2. The plea agreement may be concluded upon the initiative of the public prosecutor or the suspect or accused.

3. The reconciliation agreement between the victim and the suspect or accused may be concluded in the proceedings in respect of criminal misdemeanours and minor crimes, and in the criminal proceedings in the form of private prosecution. A reconciliation agreement in the criminal proceedings in respect of the authorised officer of a legal entity that has committed a criminal violation in relation to which proceedings are taken in respect of the legal entity is inadmissible.

{Part 3 of Article 469 as amended by Laws No. 314-VII of 23 May 2013, No. 2617-VIII of 22 November 2018}

4. The plea agreement between the public prosecutor and the suspect or accused may be concluded in the proceedings in respect of:

1) criminal misdemeanours, minor crimes or grave crimes;

{Clause 1, part 4 of Article 469 as amended by Law No. 2617-VIII of 22 November 2018}

2) special grave crimes under the jurisdiction of the National Anti-Corruption Bureau of Ukraine, provided the exposing another person by the suspect or accused who has committed a crime under the jurisdiction of the National Anti-Corruption Bureau of Ukraine, where the information about such a crime is confirmed by evidence;

3) special grave crimes committed by a group of persons upon their prior conspiracy, by an organised group or criminal organisation or terrorist group, provided that the suspect who is not the organiser of such group or organisation, criminal acts of other members of the group or other crimes committed by the group or organisation of crimes, provided the reported information is corroborated by evidence.

{Part 4 of Article 469 has been supplemented with new paragraph under Law No. 1950-VIII of 16 March 2017}

A plea agreement between the public prosecutor and the suspect or accused may be concluded in respect of criminal offences, crimes as a result of which the damage is caused only to the state or public interests. Conclusion of a plea agreement in the criminal proceedings against an authorised person of a legal entity that has committed a criminal offence in respect of which proceedings are taken against a legal entity, as well as in the criminal proceedings as for criminal offences resulting in damage to state or public interests or rights and the interests of individuals in which the victim or victims participate is not allowed, except in cases where all victims give written consent to the public prosecutor to enter into an agreement.

{Paragraph 5, part 4 of Article 469 as amended by Law No. 1950-VIII of 16 March 2017}

{Part 4 of Article 469 as amended by Law No. 314-VII of 23 May 2013; as revised by Law No. 198-VIII of 12 February 2015}

5. Conclusion of a reconciliation agreement or a plea agreement may be initiated at any time between the moment of notifying the person of the suspicion and retirement of judges into the deliberations room to pass the sentence/judgment.

6. In case of failure to reach an agreement, the fact of initiating conclusion of the agreement and the statements which were made to arrive at an agreement may not be considered as refusal from prosecution or pleading guilty.

7. The investigator and the public prosecutor shall inform the suspect and the victim about their right to reconciliation, explain to them the mechanism of its implementation, and not to impede conclusion of the reconciliation agreement.

8. Where the criminal proceedings are conducted in relation to several persons who are suspected or accused of committing one or several criminal offences, and not all suspects or the

accused agreed to conclude the agreement, such agreement may be concluded with one of the (several) suspects or the accused. Criminal proceedings in relation to the person (persons) with whom agreement was reached shall be subject to disjoining in separate proceedings.

Where several victims, who have suffered from one (the same) criminal offence, participate in the criminal proceedings, the agreement may only be concluded and approved with all victims.

Where several victims who suffered from different criminal offences participate in the criminal proceedings, and not all of them agreed to conclude the agreement, such agreement may be concluded with one (several) victims. Criminal proceedings in relation to the person (persons) with whom agreement was reached shall be subject to disjoining in separate proceedings.

Article 470. Circumstances to be considered by the public prosecutor when concluding a plea agreement

1. When taking decision on the conclusion of a plea agreement, the public prosecutor shall have regard to the following circumstances:

1) degree and nature of co-operation on the part of the suspect or the accused in conducting criminal proceedings regarding him/her or other persons;

2) nature and severity of the charges brought (suspicion);

3) availability of public interest in ensuring a faster pre-trial investigation and court proceedings, and detection of more criminal offences;

4) availability of public interest in prevention, detection and termination of more criminal offences or other more grave criminal offences.

Article 471. Content of a reconciliation agreement

1. A reconciliation agreement shall indicate its parties, statement of the suspicion or charges and their legal determination with the reference to the Article (part of the Article) of the law of Ukraine on criminal liability, the circumstances essential for the criminal proceedings concerned, the amount of damage caused by the criminal offence, the time period for its compensation or the list of actions other than compensation, which the suspect or accused is required to take in favour of the victim, the time period for completion of such actions, agreed punishment and consent of the parties to the imposition of that punishment or to the imposition of a punishment and relief from serving the punishment on parole, the implications of conclusion and approval of the agreement set forth in Article 473 of this Code, and implications of non-execution of the agreement.

The agreement shall indicate the date of its conclusion and shall be signed by the parties.

Article 472. Content of a plea agreement

1. A plea agreement shall indicate its parties, statement of the suspicion or charges and their legal determination with the reference to the Article (part of the Article) of the Law of Ukraine on criminal liability, the circumstances essential for the criminal proceedings concerned, unconditional admission by the suspect or the accused of his/her guilt in committing criminal offence, the duties (obligations) of the suspect or accused regarding cooperation in detection of the criminal offence perpetrated by the other person (provided the corresponding arrangements took

place), agreed punishment and agreement of the suspect or the accused to imposition of such punishment (sentencing) or to imposition of a punishment (sentencing) and relief from serving the punishment on parole, conditions of application of asset forfeiture, the implications of conclusion and approval of the agreement, set forth in Article 473 of this Code, and implications of non-execution of the agreement.

{Part 1 of Article 472 as amended by Laws No. 198-VIII of 12 February 2015, No. 187-IX of 4 October 2019}

2. The agreement shall indicate the date of its conclusion and shall be signed by the parties.

Article 473. Implications of conclusion and approval of an agreement

1. Conclusion and approval of a reconciliation agreement shall have the following implications:

1) for the suspect or accused, it shall be restriction of his/her right to appeal against a sentence in accordance with the provisions of Articles 394 and 424 of this Code, and waiver from the rights set forth in clause 1, part 4 of Article 474 of this Code;

2) for the victim, it shall be restriction of his/her right to appeal against a sentence in accordance with the provisions of Articles 394 and 424 of this Code, deprivation of the right to demand, at a later date, making the person criminally liable for the corresponding criminal offence and to change his/her claims for compensation for the inflicted damage.

2. The implications of conclusion and approval of a plea agreement for the public prosecutor, the suspect or accused shall be restriction of their right to appeal against a sentence in accordance with the provisions of Articles 394 and 424 of this Code, and for the suspect or accused, it shall also be waiver of the rights set forth in paragraph 1 and 4, clause 1, part 4 of Article 474 hereof.

Article 474. General procedure for court proceedings based on an agreement

1. Where an agreement was reached at the stage of pre-trial investigation, the indictment together with the agreement signed by the parties thereto shall be referred to court without delay. The public prosecutor shall have the right to postpone referral of the indictment together with the agreement signed by the parties thereto to the court until the receipt of the expert's findings or completion of other investigation actions required to collect and fix evidence which can be lost in the course of time or which will be impossible to conduct later without significant detriment to their results in case the court refuses to approve the agreement.

2. The court shall examine the agreement during the preparatory court session with compulsory participation of the parties thereto and notification of other participants to the court proceedings. Absence of other participants to the court proceedings shall not preclude such examination.

3. Where an agreement was reached during court proceedings, the court shall immediately suspend the conduct of procedural actions and start examination of the agreement.

4. Prior to taking the decision on approval of the plea agreement, the court, during the court session, shall find out whether the accused understands clearly enough the following:

1) that he/she has the right to a fair court hearing during which the public prosecutor shall prove beyond any reasonable doubt each circumstance in respect of the criminal offence of which he/she is accused, and that he/she has the following rights:

to keep silence, and the fact of keeping silence shall not have any probative value for the court;

be represented by the defence counsel, including getting legal assistance free of charge in accordance with the procedure and in the cases stipulated by law, or conduct his/her own defence;

during court proceedings, to examine witnesses for the prosecution, file motions to summon witnesses, and produce evidence in his/her favour;

2) implications of the conclusion and approval of the agreements set forth in Article 473 of this Code;

3) nature of each charge in relation to which the accused pleads guilty;

4) type of punishment and other measures/actions which will be enforced against him/her where the court approves the agreement.

5. Prior to taking the decision on approval of the reconciliation agreement, the court, during court session, shall find out whether the accused understands clearly enough the following:

1) that he/she has the right to a fair court hearing during which the prosecution shall prove beyond any reasonable doubt each circumstance in respect of the criminal offence of which he/she is accused, and that he/she has the following rights:

to keep silence, and the fact of keeping silence shall not have any probative value for the court;

be represented by the defence counsel, including getting legal assistance free of charge in accordance with the procedure and in the cases stipulated by law, or conduct his/her own defence;

during court proceedings, to examine witnesses for the prosecution, file motions to summon witnesses, and produce evidence in his/her favour;

2) implications of the conclusion and approval of the agreements set forth in Article 473 of this Code;

3) nature of each charge;

4) type of punishment and other measures/actions which will be enforced against him/her where the court approves the agreement.

Besides, prior to taking the decision on approval of the reconciliation agreement, the court during the court session shall find out whether the victim understands clearly enough the implications of approval of the agreement, set forth in Article 473 hereof.

6. The court shall make sure during the court session that the agreement was concluded by the parties thereto voluntarily, that is without use of compulsion, threats or promises or any other circumstances other than those provided for by the agreement. In order to ascertain voluntary nature of the agreement the court shall have the right, where necessary, to request documents, including any complaints of the suspect or accused, filed by them during criminal proceedings and

decision taken as a result of their consideration, as well as summon and interview persons in the court.

7. The court shall verify whether the agreement complies with the requirements of this Code and/or the law. The court shall deny approval of the agreement where:

1) the terms and conditions of the agreement contradict the requirements of this Code and/or the law, including wrong legal determination of the nature of criminal offence which is more severe than the one in respect of which the possibility of conclusion of the agreement is provided for;

2) the terms and conditions of the agreement do not correspond to the public interests;

3) the terms and conditions of the agreement violate the rights, freedoms or interests of the parties to the agreement or other persons;

4) there are solid grounds to believe that the agreement was not concluded voluntarily or the parties have not reconciled;

5) it is obvious that the accused cannot fulfil the obligations assumed under the agreement;

6) there are no factual evidence to establish guilt.

In such cases the pre-trial investigation or court proceedings shall continue in accordance with the regular procedure.

8. Addressing the court for the approval of another agreement during the same criminal proceedings shall not be allowed.

Article 475. Judgment based on an agreement

1. Where the court makes sure that the agreement may be approved, it shall pass the judgment by which it approves the agreement and imposes the punishment agreed between the parties.

2. Judgment based on the agreement shall meet general requirements for judgments of guilty with due regard for the specific aspects set forth in part 3 of this Article.

3. The reasoning part of the judgment based on the agreement shall contain: statement of the charges with the reference to the Article (part of the Article) of the law of Ukraine on criminal liability, which concerns the criminal offence in perpetration of which the person was accused; information about the concluded agreement, its details, content and the imposed punishment; reasons from which the court proceeded when deciding on compliance of the agreement with this Code and the law and passing the judgment, and the legal provisions the court was guided by.

The operative part of the judgment based on the agreement shall contain the decision on the approval of the agreement with indication of its details, decision on the guilt of the person with reference to the Article (part of the Article) of the law of Ukraine on criminal liability, decision on imposition of the punitive measures agreed between the parties for each of the charges and the final punishment, as well as other information set forth in Article 374 hereof.

4. Judgment based on the agreement may be appealed against in accordance with the procedure stipulated by this Code and based on the grounds set forth in Article 394 of this Code.

Article 476. Implications of non-execution of the agreement

1. In case of non-execution of the reconciliation agreement or plea agreement, the victim or the public prosecutor, respectively, shall have the right to address the court, which approved such agreement, with the motion to revoke the judgment. The motion for revocation of the judgment, by which the agreement was approved, may be filed within the statutory period of limitations established for making the person criminally liable for perpetration of the corresponding criminal offence.

2. The motion for revocation of the judgment, by which the agreement was approved, shall be examined in the court session with participation of the parties to the agreement and with notification of the other participants to the court proceedings. Absence of other participants to the court proceedings shall not preclude such examination.

3. The court, by its ruling, shall revoke the judgment by which the agreement was approved, provided the person who has filed the corresponding motion proves that the convict failed to fulfil the terms and conditions of the agreement. The revocation of the judgment shall entail scheduling the court proceedings in accordance with the regular procedure, or returning the records of proceedings for the completion of the pre-trial investigation in accordance with the regular procedure where the agreement was initiated at the stage of the pre-trial investigation.

4. The ruling on revocation of the judgment by which the agreement was approved, or on the refusal to do so may be appealed against under the appellate procedure.

5. Deliberate non-execution of the agreement shall be the reason for making the person criminally liable under the law.

Chapter 36. Private criminal proceedings

Article 477. Concept of private criminal proceedings

1. Private criminal proceedings shall mean proceedings which may by initiated by the investigator or public prosecutor only based on the victim's report in respect of criminal offences provided for by:

{Paragraph 1, part 1 of Article 477 as amended by Law No. 720-IX of 17 June 2020}

1) part 1 of Article 122 (intentional bodily injury of medium gravity without aggravating circumstances), Article 125 (intentional minor bodily injuries), part 1 of Article 126 (intentional battery or beating or committing other violent acts without aggravating circumstances), Article 126[1] (domestic violence), part 1 of Article 129 (threats of murder without aggravating circumstances), Article 132 (disclosing information on medical examination for AIDS or any other incurable infectious disease), part 1 of Article 133 (infecting with venereal disease without aggravating circumstances), Article 134(illegal abortion or asexualisation), (leaving in danger without aggravating circumstances), part 1 of Article 135 (leaving in danger without aggravating circumstances), part 1 of Article 136 (failure to provide assistance to the person being in the state which is dangerous to his/her life, without aggravating circumstances), part 1 of Article 139 (failure of a medical worker to provide assistance to the patient without aggravating circumstances), past 1 of Article 142 (illegal experiments on a human being, without aggravating circumstances), Article 145 (illegally disclosing of a medical secret), Article 151[2] (forced marriage), part 1 of Article 152 (rape without aggravating circumstances), part 1 of Article 153 (sexual violence), Article 154 (forcing to sexual relations), part 1 of Article 161 (violation of

equality of citizens on the ground of their race, ethnic origin or religious beliefs, without aggravating circumstances), paragraph 1 of Article 162 (breaking inviolability of home without aggravating circumstances), part 1 of Article 162 (infringement of the security of home without aggravating circumstances), part 1 of Article 163 (breaking the secrecy of letters, telephone conversations, telegraph or any other correspondence transmitted through means of communication or computer, without aggravating circumstances), part 1 of Article 164 (avoiding payment of alimony for children, without aggravating circumstances), part 1 of Article 165 (avoiding payments for dependent parents, without aggravating circumstances), part 1 of Article 168 (disclosing the secrecy of adoption, without aggravating circumstances), part 1 of Article 176 (violation of intellectual property rights and related rights, without aggravating circumstances), part 1 of Article 177 (violation of the right to invention, utility model, design, topography of integrated circuit, variety of plants, innovation), Article 180 (impeding worship), Article 182 (violation of privacy), part 1 of Article 194 (intended destroying or damaging property, without aggravating circumstances), Article 195 (threat of destroying property), Article 197 (disrespecting duties with regard to protection of property), Article 203[1] (illegal trafficking in laser disks, arrays, equipment and supplies for fabrication thereof), part 1 of Article 206 (obstructing legal business activities, without aggravating circumstances), Article 219 (bankrupting in terms of actions which caused damage to lenders), Article 229 (illegal use of a brand, trade mark, qualified indication of the origin of good), Article 231 (illegal collection, with a view to use, or illegal use of information which constitutes commercial or bank secret), Article 232 (disclosing commercial or bank secret), Article 232[1] (illegal use of insider information in terms of actions which caused damage to rights, freedoms and interests of private citizens or interests of legal entities), Article 232[2] (concealing information on issuer's activities), part 1 of Article 355 (forcing to fulfil or not to fulfil civil obligations, without aggravating circumstances), Article 356 (arbitrariness in terms of actions which have caused damage to the rights and interests of citizens or interests of an owner), part 1 of Article 361 (unauthorised interference in the operation of electronic computing machines (computers), automated systems, computer networks or electricity supply networks, without aggravating circumstances), part 1 of Article 362 (unauthorised actions with information processed in electronic computing machines (computers), automated systems, computer networks or stored in media of such information, committed by the person who has access thereto, without aggravating circumstances), Article 364[1] (abuse of powers by an official of a private law legal entity, irrespective of its organisation and legal form), Article 365[1] (abuse of powers by an official of a private law legal entity, irrespective of its organisation and legal form), Article365[2](abuse of powers by persons providing public services) of the Criminal Code of Ukraine;

{Clause 1, part 1 of Article 477 as amended by Law No. 721-VII of 16 January 2014 – has ceased to be in force under Law No. 732-VII of 28 January 2014; as amended by Laws No. 767-VII of 23 February 2014, No. 2227-VIII of 6 December 2017}

{Clause 2, part 1 of Article 477 has been deleted under Law No. 2227-VIII of 6 December 2017}

{Clause 3, part 1 of Article 477 has been deleted under Law No. 2227-VIII of 6 December 2017}

Article 478. Commencing private criminal proceedings

1. The victim shall have the right to file with the investigator, public prosecutor, other officer of the agency authorised to commence pre-trial investigation, a report that a criminal offence has

been committed, within the statute of limitations for the prosecution for the commission of the criminal offence concerned.

{Article 478 as amended by Law No. 720-IX of 17 June 2020}

Article 479. Reparation of damage caused to the victim in the private criminal proceedings

1. Damage caused to the victim in the private criminal proceedings may be repaired on the grounds of a reconciliation agreement or without such.

Chapter 37. Criminal proceedings with regard to a specific category of individuals

Article 480. Individuals subject to special procedure of criminal proceedings

1. A special procedure for the criminal proceedings shall apply with regard to:

1) Member of Parliament of Ukraine;

2) a judge, a judge of the Constitutional Court of Ukraine, a judge of the High Anti-Corruption Court, as well as a juror while performing his/her duties in court, Chairman, Deputy Chairman, member of the High Council of Justice, Chairman, Deputy Chairman, member of the High Qualification Commission of Judges of Ukraine;

{Clause 2, part 1 of Article 480 as revised by Law No. 1798-VIII of 21 December 2016; as amended by Law No. 2447-VIII of 7 June 2018}

3) candidate for the office of the President of Ukraine;

4) Ukrainian Parliament Commissioner for Human Rights;

5) Chairman, other member of the Accounting Chamber;

{Clause 5, part 1 of Article 480 as revised by Law No. 576-VIII of 2 July 2015}

6) councillor of local council;

7) defence attorney;

8) Prosecutor General, his Deputy, the Prosecutor of the Specialised Anti-Corruption Prosecutor's Office;

{Clause 8 of Article 480 as amended by Law No. 198-VIII of 12 February 2015}

9) Director and officials of the National Anti-Corruption Bureau of Ukraine;

{Article 480 has been supplemented with clause 9 under Law No. 1698-VII of 14 October 2014}

10) Chairman of the National Agency for the Prevention of Corruption, his Deputy.

{Part 1 of Article 480 has been supplemented with clause under Law No. 1700-VII of 14 October 2014 as amended by Law No. 198-VIII of 12 February 2015; as revised by Law No. 140-IX of 2 October 2019}

Article 480[1]. Specific aspects of the beginning of pre-trial investigation of the criminal offences committed by a judge of the High Anti-Corruption Court

1. Information that may indicate the commission of a criminal offence by a judge of the High Anti-Corruption Court shall be entered into the Unified Register of Pre-Trial Investigations by the Prosecutor General (Acting Prosecutor General) in the manner prescribed by this Code.

2. Prosecutor General (Acting Prosecutor General) shall immediately, but not later than 24 hours from the date of entry of such information, notify the Supreme Court of the commencement of the pre-trial investigation.

{The Code has been supplemented with Article 480[1] under Law No. 2447-VIII of 7 June 2018}

Article 481. Notification of suspicion

1. A written notice of suspicion shall be sent:

1) to a defence attorney, a councillor of a local council, a deputy of the Verkhovna Rada of the Autonomous Republic of Crimea, a village, settlement, city mayor by the Prosecutor General, his deputy, head of an oblast prosecutor's office within his powers;

{Clause , part 1 of Article 481 as amended by Law No. 1697-VII of 14 October 2014}

2) to a Member of Parliament of Ukraine, a candidate for the office of the President of Ukraine, Ukrainian Parliament Commissioner for Human Rights, Chairman or other member of the Accounting Chamber, Prosecutor of the Specialised Anti-Corruption Prosecutor's Office, Director or other official of the National Anti-Corruption Bureau of Ukraine, Deputies of Prosecutor General, Head of the National Agency for the Prevention of Corruption, his Deputy from Prosecutor General (Acting Prosecutor General) or the Deputy Prosecutor General, Head of the Specialised Anti-Corruption Prosecutor's Office;

{Clause 2, part 1 of Article 481 as amended by Laws No. 1235-VII of 6 May 2014, No. 1698-VII of 14 October 2014,No. 1700-VII of 14 October 2014, No. 198-VIII of 12 February 2015, No. 576-VIII of 2 July 2015, No. 140-IX of 2 October 2019}

3) to a judge, a judge of the Constitutional Court of Ukraine, a juror during performance of his/her duties in the court, Chairman, Deputy Chairman, member of the High Council of Justice, Chairman, Deputy Chairman, member of the High Qualifications Commission of Judges of Ukraine, officials of the National Anti-Corruption Bureau of Ukraine or his deputy;

{Clause 3, part 1 of Article 481 as amended by Law No. 1698-VII of 14 October 2014; as revised by Law No. 1798-VIII of 21 December 2016}

3[1]) to Judge of the High Anti-Corruption Court from the Prosecutor General (Acting Prosecutor General);

{Part 1 of Article 481 has been supplemented with clause 3[1] under Law No. 2447-VIII of 7 June 2018}

4) to the Prosecutor General from the Deputy Prosecutor General.

2. Prosecutor General (Acting Prosecutor General), his Deputy, head of an oblast prosecutor's office may instruct other prosecutors to make a written notice of suspicion to the persons specified in part 1 of this Article, in the manner prescribed by parts 1 and 2of Article 278 of this Code.

{Article 481 has been supplemented with part 2 under Law No. 187-IX of 4 October 2019}

Article 482. Special procedure for conviction of a criminal offence, detention, and imposition of measures of restraint in respect of a judge

{Title of Article 482 as amended by Law No. 388-IX of 18 December 2019}

1. A judge shall not be apprehended or be subject to an imposed measure of restraint in the form of detention or arrest without consent of the Supreme Council of Justice.

Without the consent of the Supreme Council of Justice, a judge shall not be apprehended or remanded in custody or arrest pending a conviction by a court, except for the detention of a judge during or immediately after the commission of a grave or a special grave crime.

A judge detained on suspicion of committing an act for which criminal liability has been established shall be released immediately after his identity has been established, except:

1) where the Supreme Council of Justice provided its consent for the detention of the judge because of this offence;

2) detention of a judge during or immediately after the commission of a grave or special grave crime, where such detention is necessary to prevent the commission of a crime, to preclude or prevent the consequences of a crime or to ensure the preservation of evidence of this crime. The judge shall be released immediately where the purpose of such detention (prevention of a crime, deterrence or prevention of the consequences of a crime or ensuring the preservation of evidence of this crime) is achieved.

{Part 1 of Article 482 as revised by Law No. 1798-VIII of 21 December 2016}

{Part 2 of Article 482 has been deleted under Law No. 388-IX of 18 December 2019}

{Part 3 of Article 482 has been deleted under Law No. 388-IX of 18 December 2019}

{Part 4 of Article 482 has been deleted under Law No. 388-IX of 18 December 2019}

Article 482[1]. Criminal proceedings against judges of the High Anti-Corruption Court

1. During the pre-trial investigation in criminal proceedings against a judge of the High Anti-Corruption Court, a motion of the participants to the criminal proceedings shall be considered by the investigating judge specified in clause 18, part 1, Article 3 of this Code, in the manner prescribed by this Code.

{The Code has been supplemented with Article 482[1] under Law No. 2447-VIII of 7 June 2018}

Article 482[2]. Specific aspects of the procedure for prosecuting, detaining, choosing a measure of restraint, conducting investigative (detective) and covert investigative (detective) actions against a Member of Parliament of Ukraine

1. Information that may testify to the commission of a criminal offence by a Member of Parliament of Ukraine shall be entered into the Unified Register of Pre-trial Investigations by the

Prosecutor General (Acting Prosecutor General) in accordance with the procedure established by this Code.

2. Request for permission to apprehend, choose a measure of restraint in the form of detention or house arrest, search, violation of the secrecy of correspondence, telephone conversations, telegraph and other correspondence, as well as the application of other measures, including covert investigative (detective) actions, which in accordance with the law restrict the rights and freedoms of a Member of Parliament of Ukraine, the consideration of which is attributed to the powers of the investigating judge, shall be approved by the Prosecutor General (Acting Prosecutor General).

Such motions, in addition to the use of covert investigative (detective) actions, shall be considered by an investigating judge within whose territorial jurisdiction the pre-trial investigation agency is located, and in the criminal proceedings for crimes within the jurisdiction of the High Anti-Corruption Court they shall be considered by an investigating judge of the High Anti-Corruption Court.

Such requests shall be considered with the obligatory participation of a Member of Parliament of Ukraine. The investigating judge shall inform a Member of Parliament of Ukraine in advance about the consideration of the said request, except for the request for the use of covert investigative (detective) actions or search.

Where a Member of Parliament of Ukraine failed to arrive to the court hearing without a valid reason or has not reported the reasons for his/her absence, such a request may be considered without the participation of the Member of Parliament of Ukraine.

Without the permission of the investigating judge, issued on the basis of a request approved by the Prosecutor General (Acting Prosecutor General), detention of a Member of Parliament of Ukraine shall be permitted only where the latter was caught during or immediately after committing a grave or special grave crime, related to the use of violence, or that caused the death of a person.

The body or officials who detained the Member of Parliament of Ukraine, informed him/her of the suspicion or applied a measure of restraint against him/her, or conducted other investigative actions (except for search and covert investigative (detective) actions), shall immediately, but not later than 24 hours from the moment of committing such actions, inform the Chairman of the Verkhovna Rada of Ukraine.

Where the actions specified in part six of this part are committed against the Chairman of the Verkhovna Rada of Ukraine, the body or officials shall immediately, but not later than 24 hours from the moment of such actions, notify the First Deputy Chairman of the Verkhovna Rada of Ukraine.

The rulings on the results of consideration of such petitions may be appealed in the cases provided for by this Code.

{The Code has been supplemented with Article 482[2] under Law No. 388-IX of 18 December 2019}

Article 483. Informing public and other authorities or officials

1. On application of a measure of restraint, rendering of a judgment, the following entities shall be informed:

1) regarding defence attorneys: advocacy self-government agencies;

2) regarding other categories of individuals referred to in Article 480 of this Code: authorities and officials who elected or appointed them or who are responsible for filling their offices.

Chapter 38. Criminal proceedings in respect of underage persons

§ 1. General rules of criminal proceedings in respect of underage persons

Article 484. Procedure for criminal proceedings in respect of underage persons

1. Procedure for criminal proceedings in respect of underage persons shall be governed by the general rules of this Code, with due account of specific aspects referred to in this Article.

2. Criminal proceedings against an underage person, particularly criminal proceedings against a group of persons of whom at least one is underage, shall be conducted by an investigator who is specially authorised by the chief officer of a pre-trial investigation agency to conduct pre-trial investigations against underage persons. In the course of criminal proceedings against an underage person, including proceedings in the matter of application of compulsory reformatory measures, the investigator, public prosecutor, investigating judge, court and all other persons participating therein shall perform procedural actions in a manner which intrudes the least on the underage person's usual way of life and otherwise corresponds to his/her age and psychological profile, explain the substance and meaning of the procedural actions and decisions, have him/her heard during adoption of procedural decisions, and take other measures intended to prevent negative impact on the underage person.

{Part 2 of Article 484 as amended by Law No. 720-IX of 17 June 2020}

3. Provisions of this paragraph shall apply to the criminal proceedings related to the criminal offences committed by persons who have not attained the age of eighteen.

Article 485. Circumstances to be ascertained in the criminal proceedings in respect of underage persons

1. During pre-trial investigation and court proceedings related to the criminal offences committed by underage persons, in addition to the circumstances provided for by Article 91 of this Code, also the following shall be ascertained:

1) full and comprehensive information on the personality of the underage person concerned: his/her age (date, month and year of birth), state of health and level of development, other social and psychological personal traits which shall be taken into account when individualising his/her liability or imposing a measure of restraint of reformatory nature. Where information is available on the underage person's mental deficiency not related to a mental disease, it shall also be ascertained whether he/she was capable to be fully aware of the meaning of his/her actions, and to what extent he/she was capable to be in control of his/her actions;

2) the underage person's attitude towards his/her actions;

3) environment in which the underage lives and is brought up;

4) existence of adult instigators and other accomplices in the criminal offence.

Article 486. Comprehensive psychology-psychiatric and psychological examination of an underage suspect or accused

1. Comprehensive psychology-psychiatric and psychological examination shall be assigned where it is necessary to find out whether the underage suspect or accused has a mental disease or his/her mental development is inhibited, and whether he/she is able to fully or partially realise the meaning of his/her actions and control of his/her actions in a specific situation.

2. Psychological examination may be assigned to establish the level of development, other social and psychological personal traits of the underage suspect or defendant which shall be taken into account imposing a punishment or enforcing a measure of restraint of reformatory nature.

Article 487. Ascertaining conditions in which an underage suspect or defendant lives and is brought up

1. When ascertaining conditions in which an underage suspect or accused lives and is brought up, the following shall be found out:

1) composition of family of the underage person, environment therein, relations between adult family members and between adults and children, parents' attitude to education of the underage person, forms of control over his/her behaviour, moral and household conditions in the family;

2) environment prevailing at school or other educational institution or place of employment of the underage person, his/her attitude towards studies or work, relations with tutors, teachers, his/her peers, nature and effectiveness of reformatory measures which have been previously applied to him/her;

3) contacts and behaviour of the underage person outside home, educational institution and place of employment.

Article 488. Participation of legal representative of an underage suspect or accused

1. Parents or any other legal representatives of the underage person shall participate in the criminal proceedings involving an underage suspect or accused.

2. Legal representatives shall be summoned to the court session. Their failure to appear in the court session shall not preclude judicial proceedings, except in cases when court finds their participation indispensable. They shall stay in the courtroom throughout the entire court proceedings and, where necessary, may be examined as witnesses.

3. On exceptional basis, when legal representative's participation can jeopardize interests of the underage suspect or accused, the court upon his/her plea or public prosecutor's motion or proprio motu, may by its ruling limit the participation of the legal representative concerned in certain procedural or judicial actions, or remove him/her from participation in the criminal proceedings and invite another legal representative in his/her place.

Article 489. Procedure for summoning an underage suspect or accused

1. An investigator, public prosecutor, investigating judge or court shall notify or summon the underage suspect or accused through his/her parents or other legal representative. A different procedure shall be permitted only where it is required by circumstances established in the course of criminal proceedings.

{Article 489 as amended by Law No. 720-IX of 17 June 2020}

Article 490. Interviewing an underage suspect or accused

1. Interrogation of an underage suspect or defendant shall be conducted in compliance with the rules laid down in this Code, in the presence of a defence counsel.

Article 491. Participation of a legal representative, pedagogue, psychologist or a medical practitioner in interviewing an underage suspect or accused

1. If the underage person has not attained sixteen years of age or if he/she has been found mentally underdeveloped, participation of a legal representative, pedagogue, psychologist and, where necessary, medical practitioner in interviewing shall be ensured upon the decision of the investigator, inquiring officer, public prosecutor, investigating judge or court or upon the motion of the defence counsel.

2. Before the interview, a legal representative, pedagogue, psychologist or medical practitioner shall be advised of their right to pose questions to the underage suspect or accused. An investigator, inquiring officer or a public prosecutor may disallow the question asked however the question shall be placed on record.

{Article 491 as amended by Law No. 720-IX of 17 June 2020}

Article 492. Imposition of a measure of restraint on an underage suspect or accused

1. One of the measures of restraint specified in this Code may be applied to an underage suspect or accused, with due account of his/her age-related and psychological specifics, occupation, where grounds specified in this Code exist.

2. Apprehension and keeping in custody may be applied to an underage person only where he/she is suspected or accused of committing a grave or special grave crime, provided no other measure of restraint may ensure prevention of risks specified in Article 177 hereof.

3. Parents or persons who substitute them, shall be immediately informed of apprehension or taking into in custody of the underage concerned.

Article 493. Committing an underage suspect or accused to supervision

1. In addition to measures of restraint specified in Article 176 of this Code, in respect of underage suspects or accused, committing them may be applied to supervision of their parents, custodians, caretakers, and in respect of underage persons brought up in a children care institution, committing them to supervision of that institution's administration.

2. Commitment of an underage suspect or accused to supervision of his/her parents, custodians, caretakers or administration of the children care institution implies that said individuals or a representative of the administration of the children care institution shall undertake in written form to ensure appearance of the underage suspect or accused before investigator, inquiring officer, public prosecutor, investigating judge or court, as well as his/her proper behaviour.

{Part 2 of Article 493 as amended by Law No. 720-IX of 17 June 2020}

3. Commitment to supervision of parents and other persons shall only be possible upon their consent to that and upon consent of the underage suspect or accused. A person who undertook to conduct supervision, shall have the right to refuse further fulfilling of this obligation, upon giving a notice thereon in advance.

4. Prior to committing an underage suspect or defendant to supervision, the court shall collect information on parents, custodians or caretakers, their relations with the underage, and ascertain their ability to duly supervise the underage.

5. When undertaking obligation of supervision, parents, custodians, caretakers or administration of children care institution shall be advised of the nature of suspicion or charges brought against the underage, and of their liability in case the undertaken obligation is disregarded. For a breach of the obligation concerned, parents, custodians or caretakers shall be subject to imposition of pecuniary penalty in the amount of 2 to 5 times minimum wages.

{Part 5 of Article 493 as amended by Law No. 1791-VIII of 20 December 2016}

6. The issue of committing an underage suspect or defendant to supervision of parents, custodians, caretakers or administration of the children care institution shall be considered upon the motion of the public prosecutor in accordance with the rules for choosing a measure of restraint, or upon the motion of defence, in the course of deliberating on the issue of enforcing a measure of restraint.

Article 494. Disjoining proceedings in respect of criminal offence committed by an underage

1. Where an underage person is suspected of having committed a criminal offence together with an adult, possibility of disjoining proceedings in respect of the underage shall be deliberated during pre-trial investigation.

Article 495. Temporary removing the underage accused from the courtroom

1. Having heard the opinion of the public prosecutor, defence counsel and legal representative of the underage accused, the court by its ruling may remove him/her from the courtroom for the time necessary to ascertain circumstances which can adversely affect the underage accused concerned.

2. After the underage person returns to the courtroom, presiding judge shall let him/her know the results of examination of circumstances which was conducted in his/her absence, and provided him/her the possibility to pose questions to the individuals who were examined in his/her absence.

Article 496. Participation in the court proceedings of the representatives of the children's services and the authorised unit of the National Police

{Title of Article 496 as amended by Law No. 193-VIII of 12 February 2015}

1. The court shall inform on the time and place of judicial proceedings involving underage accused, the appropriate children's services and authorised unit of the National Police. The court shall have the right to also summon representatives of these institutions to attend the court session.

2. Representatives of children's services and authorised unit of the National Police shall have the right to submit motions, pose questions to the underage accused, his/her legal representative,

victim, witnesses, expert and specialist, express their opinions about the most appropriate measures aimed at the underage defendant's reformation.

{Title of Article 496 as amended by Laws No. 193-VIII of 12 February 2015, No. 901-VIII of 23 December 2015}

Article 497. Procedure for imposition of compulsory reformatory measures on underage accused

1. Where at the stage of pre-trial investigation the public prosecutor comes to a conclusion that the underage person who is accused of committing a criminal misdemeanor, or a reckless minor crime that may be corrected without imposition of criminal sanction, the public prosecutor shall draw up a motion to impose on the underage person compulsory reformatory measures, and forward the motion to the court.

{Part 1 of Article 497 as amended by Law No. 2617-VIII of 22 November 2018}

2. Based on the grounds referred to in part 1 of this Article, the motion to impose compulsory reformatory measures on the underage accused may be drawn up and sent to the court, provided the underage defendant and his/her legal representative do not object thereto.

3. Where grounds specified in part 1 of this Article exist, the court in the course of judicial proceedings may take a decision to apply to the underage defendant compulsory reformatory measures provided for by the Law of Ukraine on criminal liability.

§ 2. Application of compulsory reformatory measures on underage persons who have not attained the age of criminal discretion

Article 498. Grounds for application of compulsory reformatory measures

1. Criminal proceedings in respect of application of compulsory reformatory measures specified by the Law of Ukraine on criminal liability shall be conducted where a person who has attained the age of eleven but has not yet attained the age after which criminal liability may ensue, commits a socially dangerous act which contains elements of action punishable under the Law of Ukraine on criminal liability.

Article 499. Pre-trial investigation in the criminal proceedings regarding imposition of compulsory reformatory measures

1. Pre-trial investigation in criminal proceedings regarding imposition of compulsory reformatory measures shall be conducted as prescribed by this Code. Such investigation shall be conducted by an investigator specially authorised by the chief officer of a pre-trial investigation agency to conduct pre-trial investigations against underage persons.

{Part 1 of Article 499 as amended by Law No. 720-IX of 17 June 2020}

2. Required procedural actions shall be conducted at the stage of pre-trial investigation to ascertain circumstances under which a socially dangerous act has been committed, and establish personality of the underage person.

3. Participation of a defence counsel in criminal proceedings shall be mandatory.

4. Where there are reasonable grounds to believe that the person specified in Article 498 of this Code has committed a socially dangerous act which contains elements of action punishable under the Criminal Code of Ukraine by imprisonment for a term of over five years, he/she may be placed in a children's placement centre for the period of up to thirty days based on a ruling of the investigating judge or court, adopted upon the motion of the public prosecutor in accordance with the rules specified for selecting a measure of restraint in the form of keeping in custody.

Investigating judge or court shall refuse to place a person in a children's placement centre unless the public prosecutor proves reasonable grounds for believing that this person has committed a socially dangerous action which contains elements of action punishable under the Criminal Code of Ukraine by imprisonment for a term of over five years, the existence of risks providing sufficient grounds to believe that the person concerned may commit actions specified in part 1 of Article 177 of this Code, and that none of less strict measures can prevent this.

The period of keeping the person in a children's placement centre may be extended by investigating judge's or court's ruling by up to thirty days. The issue of terminating or extending the period of keeping in children's placement centre shall be disposed under procedure provided for terminating the measure of restraint in the form of keeping in custody, or extending the period of keeping in custody, respectively.

5. If there are no grounds for closing criminal proceedings, the public prosecutor shall approve a motion drawn up by the investigator, draw the motion himself/herself, on applying to the underage person of compulsory reformatory measures, and send it to his court according to the procedure laid down in this Code.

{Part 5 of Article 449 as amended by Law No. 720-IX of 17 June 2020}

Article 500. Procedure for court consideration

1. Judicial proceedings shall be conducted in the court session with participation of the public prosecutor, legal representative, defence counsel and representatives of children's services and authorised unit of the National Police, if they appear or have been summoned to the court session as prescribed by general rules of this Code.

{Part 1 of Article 500 as amended by Laws No. 193-VIII of 12 February 2015, No. 901-VIII of 23 December 2015}

2. Court proceedings shall end in passing a ruling on the application of compulsory reformatory measures or on refusal to apply such measures.

Article 501. 1. Court's rulings in the criminal proceedings regarding the imposition of compulsory reformatory measure

1. When passing a ruling in the criminal proceedings in respect of the imposition of compulsory reformatory measures, the court shall find out the following:

1) whether a socially dangerous action has really occurred;

2) whether such action was committed by the underage concerned in the age from eleven till the age of criminal liability for this act;

3) whether it is necessary to impose compulsory reformatory measure and, if so, which measure exactly.

2. Where, during court hearing, one of the circumstances referred to in clause 1 or 2, part 1 of this Article, the court shall pass a ruling on the denial of imposition of compulsory reformatory measure and shall close the criminal proceedings.

3. When the compulsory measure in the form of placement in the special educational reformatory institution is imposed on the underage, the authorised unit of the National Police shall deliver the underage person to the special educational reformatory institution.

{Part 3 of Article 501 as amended by Laws No. 193-VIII of 12 February 2015, No. 901-VIII of 23 December 2015}

4. A ruling which was passed after consideration of the motion to impose compulsory reformatory measure may be challenged as prescribed by this Code.

Article 502. Early release from a compulsory reformatory measure

1. The court in whose territorial jurisdiction operates the special educational reformatory institution may by its ruling release the underage concerned from the compulsory reformatory measure ahead of time as prescribed by this Code.

2. Such court's ruling may be passed upon the motion of the underage person, his/her defence counsel, legal representative, or public prosecutor, where the underage concerned, when being in special educational reformatory institution displays behaviour which confirms that the underage has been reformed. Deliberating on the motion, the court shall hear the opinion of the board of the special educational reformatory institution where the underage person is kept, regarding the possibility of his/her early release from the compulsory reformatory measure.

Chapter 39. Criminal proceedings in the matter of application of compulsory medical measures

Article 503. Grounds for conducting criminal proceedings in respect of application of compulsory medical measures

1. Criminal proceedings in respect of imposition of compulsory medical measures provided for the by the law of Ukraine on criminal liability shall be conducted where there are reasonable grounds for believing that:

1) a person has committed a socially dangerous act provided for the by the law of Ukraine on criminal liability in the state of insanity;

2) a person committed a criminal offence in the state of sanity but fell mentally ill before the passing of judgment.

2. Where grounds for conducting criminal proceedings in respect of the imposition of compulsory medical measures in the course of pre-trial investigation, the investigator, inquiring officer or public prosecutor shall issue a resolution to change the procedure of pre-trial investigation and shall continue it under the rules provided for by this Chapter.

{Part 2 of Article 504 as amended by Law No. 720-IX of 17 June 2020}

3. Criminal law assessment of the socially dangerous act committed in a state of insanity shall be built only on the information that characterises social danger of acts committed. At this respect, previous criminal history, the fact of commission of the criminal offence in the past for which the individual concerned was released from liability or punishment, the fact that compulsory medical measures were imposed on this individual shall not be taken into account.

4. Compulsory medical measures shall be applied only to persons who are socially dangerous.

Article 504. Procedure for pre-trial investigation in the criminal proceedings in respect of application of compulsory medical measures and in respect of partially insane persons.

1. Pre-trial investigation in the criminal proceedings in respect of the application of compulsory medical measures shall be conducted by an investigator in accordance with the general rules laid down in this Code, with due account of provisions of this Chapter.

{Part 1 of Article 504 as amended by Law No. 720-IX of 17 June 2020}

2. Pre-trial investigation in respect of persons suspected of the commission of criminal offences in the state of partial insanity shall be conducted by an investigator or inquiring officer in accordance with general rules laid down in this Code. Passing a judgment, the court may take into account the state of partial insanity as the grounds for application of compulsory medical measures.

{Part 2 of Article 504 as amended by Law No. 720-IX of 17 June 2020}

Article 505. Circumstances to be ascertained during pre-trial investigation in the criminal proceedings in respect of application of compulsory medical measures

1. During pre-trial investigation in the criminal proceedings in respect of the application of compulsory medical measures, the following shall be ascertained:

1) time, place, means, and other circumstances of the commission of a socially dangerous act or criminal offence;

2) commission of this socially dangerous act or criminal offence by the person concerned;

3) existence of this person's mental disorder in the past, degree and nature of mental disorder or mental disease at the time of commission of the socially dangerous act or criminal offence, or at the time of pre-trial investigation;

4) behaviour of the person both before and after the commission of the socially dangerous act or criminal offence;

5) the danger which the person presents due to his/her mental state for himself/herself and for other persons, as well as the likelihood of such person causing other serious damage;

6) nature and amount of damage caused by the socially dangerous act or criminal offence.

7) the circumstances proving that the money, valuables and other property subject to asset forfeiture have been gained as a result of a social dangerous act or criminal violation and/or are the proceeds of such property or have been intended (used) for a person to commit a socially dangerous act or criminal violation, financing and/or supporting materially a socially dangerous act or criminal violation, related inter alia to their illicit trafficking, or have been sought, made,

modified or used as a means or instrument of commission of a socially dangerous act or criminal violation.

{Part 1 of Article 505 has been supplemented with clause 7 under Law No. 1261-VII of 13 May 2014}

Article 506. Rights of the person who participates in the criminal proceedings, in respect of imposing compulsory medical measures

1. A person in whose respect it is provided to apply compulsory medical measures or the matter of applying was considered shall enjoy the rights of the suspect and accused in the scope which is determined by the nature of mental disorder or mental disease as established in accordance with findings of forensic psychiatric examination, and shall exercise such rights through a legal representative or defence counsel.

{Part 2 of Article 506 has been deleted under Law No. 2205-VIII of 14 November 2017}

Article 507. Participation of a defence counsel

1. Defence counsel's participation in the criminal proceedings regarding imposition of compulsory medical measure shall be mandatory.

Article 508. Measures of restraint

1. The court may apply to a person in whose respect it is provided to apply compulsory medical measures or the matter of applying was considered the following measure of restraint:

1) commitment for care to custodians, close relatives or family members, under mandatory medical supervision;

2) placement in a psychiatric care facility under the regime which excludes their dangerous behaviour.

{Clause 2, part 1 of Article 508 as amended by Law No. 2205-VIII of 14 November 2017}

2. The court shall impose measures of restraint referred to in part 1 of this Article, to the person as soon as the fact of mental disorder or mental disease has been established.

3. Specified measures of restraint shall be applied in accordance with general rules prescribed by this Code.

Article 509. Psychiatric examination

1. The investigator, inquiring officer or public prosecutor shall involve an expert (experts) to conduct a psychiatric examination where in the course of the criminal proceedings there are circumstances established giving grounds to believe that the person at the time of commission of a socially dangerous act was insane or partially insane or was sane at the time of commission of a criminal offence but fell ill thereafter with a mental disease which makes him/her unable to recognise or be in control of his/her actions. Such circumstances are inter alia the following:

{Paragraph 1, part 1 of Article 509 as amended by Law No. 2147-VIII of 3 October 2017 – the amendments do not have retroactive effect in time and apply to the cases in which information on a criminal offence is entered into the Unified Register of Pre-Trial Investigations after the entry

into force of these amendments – refer to clause 4, § 2, Section 4 of the Law; as amended by Laws No. 187-IX of 4 October 2019, No. 720-IX of 17 June 2020}

1) mental disorder or mental disease of the person as certified by a medical document;

2) inadequacy of the person's behaviour at the time or after committing of the socially dangerous act (disturbance of consciousness, dysfunction of perception, thinking, will, emotions, intellect or memory, etc.).

2. Whenever prolonged observation and examination of the person is necessary, in-hospital psychiatric examination may be undertaken, for which purpose he/she shall be placed in an appropriate medical institution for the period which shall not exceed two months. The issue of placing the person in a medical institution for conducting psychiatric expert examination shall be disposed at the time of pre-trial investigation by the investigating judge's ruling upon the motion of a party to the criminal proceedings, in a procedure laid down for submission and consideration of motions to enforce a measure of restraint, and during the court proceedings, by a ruling of the court.

3. Investigating judge's ruling to place a person to the institution for carrying out psychiatric expert examination or to refuse to do so may be challenged under appellate procedure.

Article 510. Joining and disjoining criminal proceedings

1. Criminal proceedings conducted in accordance with the general rules provided for by this Code and criminal proceedings regarding application of a compulsory medical measure may be joined in one or disjoined in separate proceedings where grounds specified in this Code are present.

Article 511. Completion of pre-trial investigation in the criminal proceedings regarding application of a compulsory medical measure

1. Pre-trial investigation in the criminal proceedings regarding application of compulsory medical measures shall end with closing proceedings or drawing up a motion to apply compulsory medical measures.

2. The public prosecutor shall take a decision to close criminal proceedings which may be challenged in a procedure prescribed by this Code. The decision to close criminal proceedings shall be sent to the local public healthcare authorities.

3. The public prosecutor shall approve a motion drawn up by the investigator, or himself/herself draw up the motion to apply compulsory medical measures, and send it to the court in the manner prescribed by this Code.

{Part 3 of Article 511 as amended by Law No. 720-IX of 17 June 2020}

Article 512. Court proceedings

1. Court proceedings shall be conducted in a court session by a sole judge, with the participation of a public prosecutor, mandatory participation of an individual in respect of whom the issue of the application of a compulsory medical measure is being disposed, a legal representative, and a defence counsel in accordance with the general rules of this Code.

{Part 1 of Article 512 as revised by Law No. 2205-VIII of 14 November 2017}

2. The court proceedings shall end with passing of a ruling on the application of the compulsory medical measures or on the refusal to apply them.

3. Where criminal proceedings conducted in accordance with regular procedure established in this Code are joined with the proceedings regarding imposition of compulsory medical measures, they shall be considered in the court session within the framework of one proceeding as prescribed by this Code. After the end of court proceedings, the court shall retire to the deliberations room to render a judgment in respect of the defendant and to pass a ruling to apply compulsory medical measures.

Article 513. Court's ruling in the criminal proceedings regarding application of compulsory medical measures

1. When passing a ruling to apply compulsory medical measures, the court shall find out the following:

1) whether a socially dangerous action or criminal offence was committed;

2) whether such socially dangerous action or criminal offence was committed by the person concerned;

3) whether the person committed the socially dangerous action or criminal offence in a state of insanity;

4) whether after commission of a criminal offence the person fell ill with a mental disease which precludes imposition of punishment;

5) whether it is necessary to apply compulsory medical measures to the person, and if so, which ones exactly.

2. Having found as proved that the person concerned has committed the socially dangerous action in a state of insanity or after commission of the criminal offence fell ill with a mental disease which precludes imposition of punishment, the court shall pass a ruling to apply compulsory medical measures.

3. Having found that the socially dangerous action or criminal offence was not committed or was committed by another person, as well as that it was not proved that the person concerned has committed the socially dangerous action or criminal offence, the court shall pass a ruling to refuse to apply compulsory medical measures, and shall close the criminal proceedings.

4. Where it is established that the socially dangerous action has been committed by the person in a state of insanity who in the course of judicial proceedings has recovered or, as a result of changes in his/her state of health, applying compulsory medical measures is no longer needed, the court shall pass a ruling to close criminal proceedings regarding application of a compulsory medical measure.

5. The court may also close criminal proceedings regarding application of compulsory medical measures, where insanity of the person at the moment of the commission of the socially dangerous action has not been established, as well as where the person fell ill with mental disease after the commission of the criminal offence. In such case, after the court closes the criminal proceedings regarding application of compulsory medical measures, the public prosecutor shall commence criminal proceedings under general procedure.

Article 514. Extension, change or termination of a compulsory medical measure

1. Compulsory medical measure shall be extended, changed or terminated upon the ruling of the court within whose territorial jurisdiction this measure has been imposed or medical treatment conducted.

2. Change or termination of application of a compulsory medical measure shall be effected where the person who has committed a socially dangerous action in the state of insanity, recovered, or where as a result of changes in his/her state of health, the need to apply the previously imposed measure of medical nature no longer exists.

3. Consideration of the issue of extending, changing or terminating the application of a compulsory medical measure shall be conducted upon the request of a representative of the medical institution (a psychiatrist) where the person is held. The request shall be attached an opinion of a panel of psychiatrists which substantiates the necessity to extend, change or terminate the application of such compulsory measures. Consideration of the issue of changing or terminating the application of compulsory medical measure may also be conducted upon a written motion of the person to whom compulsory medical measures are applied, or his/her defence counsel or legal representative where such person due to his/her health condition cannot be aware of his/her actions (omission) or manage them, and also in unable to consciously submit a respective application to the court. The motion shall have attached the opinion of the panel of psychiatrists of the facility in which the person is provided with psychiatric care, or, where available, the opinion of an independent psychiatrist chosen by the person.

{Part 3 of Article 514 as amended by Law No. 233-VIII of 4 March 2015; as revised by Law No. 2205-VIII of 14 November 2017}

4. The extension of the application of compulsory medical measures imposed by a decision of a court in a foreign state to a person extradited to Ukraine under the procedure specified by Articles 605–611 of this Code and the international treaties of Ukraine shall be decided based on the outcomes of court hearings.

Article 515. Reopening criminal proceedings

1. Where the person who after commission of the criminal offence fell ill with mental disease, or suffered a temporary mental disorder or other mental affection which deprived him/her of capacity to be aware of or to control his/her actions, the court, based on the opinion of the panel of psychiatrists, shall by its ruling terminate the application of compulsory medical measures.

2. Passing the ruling on the termination of the imposed compulsory medical measures shall constitute the ground for the conduct of pre-trial investigation or court proceedings.

3. Where this person is sentenced to imprisonment, restriction of liberty or commitment to a military disciplinary unit, the time he/she spent in the medical institution shall be credited to the service of the sentenced pronounced.

4. Where, at the time when the issue of re-opening criminal proceedings was considered, statute of limitations has expired or a new law has been adopted which abolishes criminal liability for the committed criminal offence, the criminal proceedings shall be closed unless the person in whose respect the issue is being considered objects thereto.

Article 516. Challenging court's ruling

1. Court's ruling on the application or refusal to apply compulsory medical measures, on extending, changing, termination of application of compulsory medical measures or on refusal to do so, may be challenged in accordance with the procedure established by this Code.

In such a case, objections may be made to the court's ruling to close criminal proceedings regarding the application of compulsory medical measures which shall be stated in an appellate complaint filed following court proceedings in accordance with the general procedure established by this Code.

Chapter 40. Criminal proceedings containing state secret

Article 517. Protecting state secrets during criminal proceedings

1. Pre-trial investigation and trial in criminal proceedings involving information that constitutes a state secret shall be conducted in accordance with the rules governing secrecy order.

2. Procedural decisions shall not contain information that constitutes state secret.

3. Criminal proceedings involving information that constitutes state secret shall be accessible to persons with an appropriate security clearance for state secret and with access to specific classified information (category of classified information) and physical media on which it is stored. A suspect or a defendant shall participate in the criminal proceedings without having a formal access to state secret after being explained the requirements of Article 28 of theLaw of Ukraine "On State Secret" and warned of the criminal liability for disclosure of information that constitutes state secret.

4. Access to records containing information which constitutes state secret shall be granted to defence counsels and legal representatives of the suspect, accused, victim and his/her representative, interpreter, expert, specialist, court clerk, court administrator who have been granted access to state secrets and who require such access in the discharge of their rights and duties as laid down in this Code, proceeding from circumstances established during the criminal proceedings. Decisions to grant access to particular secret information and media thereof shall be made in the form of orders or written instructions issued by the chief officer of pre-trial investigation agency, public prosecutor or court.

5. The victim and his/her representatives, interpreter, expert, specialist, court clerk and court administrator shall not be allowed to take notes from and copy records containing state secrets.

Defence counsels and legal representatives of a suspect or defendant shall not copy records containing state secrets.

The suspect or accused, his/her defence counsels and legal representatives may take notes from the records containing state secrets. The person who has taken such notes shall seal them in a manner precluding access to their contents. The notes shall be kept in compliance with the rules of secrecy at the pre-trial investigation or agency and released to the person who has taken such notes on his/her demand, in the premises of the pre-trial investigation agency pending pre-trial investigation or those of the court, pending court proceedings. No other person, but the one who has taken such notes, shall be allowed to read them.

6. Physical media containing secret information which have not been attached to the records of pre-trial investigation shall be transferred according to the procedure established by law for storage to the pre-trial investigation agency's unit in charge of secret documentation.

7. Conducting criminal proceedings which contain a state secret shall not be grounds for limiting the rights of its participants, except as provided for by law and where so warranted by the necessity to protect state secrecy.

Article 518. Specific aspects of conducting expert examination in the criminal proceedings containing state secret

1. Expert examination regarding the legality of classifying information in the area of defence, economy, science and technology, foreign relations, state security and law enforcement, as state secret, changing the level of confidentiality of such information and declassifying it, preparing opinions on the damage caused to Ukraine's national security in case of disclosure of secret information or loss of physical media containing such information shall be conducted by an official charged with functions of state expert on matters of secrecy as prescribed by the respective statute in the area of state secrets. In such a case, rights and duties prescribed by this Code for experts shall extend to the person concerned.

2. Whenever during expert examination, methods, technologies or information are used containing secrets protected by the state, descriptive part of findings of expert examination shall omit such information.

Chapter 41. Criminal proceedings in the territory of diplomatic missions, consular posts, on the air, sea, or river craft, which navigates outside the limits of Ukraine under the flag or with distinctive sign of Ukraine whenever the home port of such craft is located in Ukraine.

Article 519. Officials authorised to conduct procedural actions

1. Officials who are authorised to conduct procedural actions shall be:

1) head of the diplomatic mission or consular post of Ukraine or designated official, where a criminal offence has been committed in the territory of the diplomatic mission or consular post of Ukraine abroad;

{Clause 1, part 1 of Article 519 as revised by Law No. 2449-VIII of 7 June 2018}

2) captain of the Ukrainian ship, where a criminal offence has been committed on the air, sea, or river craft, which navigates outside the limits of Ukraine under the flag or with distinctive sign of Ukraine whenever the home port of such craft is located in Ukraine.

2. Head of the diplomatic mission or consular post of Ukraine, captain of the Ukrainian ship shall be required to appoint another official authorised to conduct procedural actions if he has been the victim as a result of the criminal offence concerned.

3. Officials who conducted procedural actions shall be involved as witnesses in the criminal proceedings after its continuation in the territory of Ukraine. They shall provide explanations to the investigator or public prosecutor in respect of the procedural actions conducted.

Article 520. Procedural actions during criminal proceedings in the territory of diplomatic missions, consular posts of Ukraine, on the air, sea, or river craft, which navigates outside the limits of Ukraine under the flag or with distinctive sign of Ukraine whenever the home port of such craft is located in Ukraine.

1. Officials referred to in part 1 of Article 519 of this Code shall immediately conduct necessary procedural actions after they have become aware, from an application, report, on their own detection or from any other source, of circumstances which are likely to show that a criminal offence has been committed in the territory of the diplomatic mission, consular post of Ukraine on the air, sea, or river craft, which navigates outside the limits of Ukraine under the flag or with distinctive sign of Ukraine whenever the home port of such craft is located in Ukraine.

2. Officials referred to in part 1 of Article 519 hereof, shall be authorised to:

1) take measures to ensure criminal proceedings in the form of temporary seizure of property, legal detention of the individual concerned as prescribed by this Code;

2) conduct of investigative (detective) actions in the form of search of the residence or any other possession of the individual concerned as well as personal search without court's ruling, of inspecting the scene of criminal offence as prescribed by this Code.

Procedural actions conducted over the course of criminal proceedings in accordance with this Article shall be documented in detail in the respective procedural records as well as recorded using the technical means for documenting criminal proceedings unless such documenting is impossible due to technical reasons.

Article 521. Time limit for filing a request for the arrest of temporarily seized property

1. Public prosecutor's request for the arrest of temporarily seized property shall be filed not later than on the working day following the day after the person detained in the diplomatic mission, consular post, ship of Ukraine has been brought in the territory of Ukraine, otherwise such property shall be immediately returned to the individual from whom it was seized.

Article 522. Time limit of lawful detention of a person

1. Head of a diplomatic mission or consular post of Ukraine shall have the right to detain an individual for a required period, but not in excess of forty eight hours, and shall ensure access of the person so detained to legal aid.

Captain of a Ukrainian ship shall have the right detain a person for a period which is required to bring such person in the territory of Ukraine.

2. Officials referred to in part 1 of this Article, shall ensure the delivery of the detained person to a unit of the government authority in the territory of Ukraine charged with keeping detained persons in custody, and to notify a pre-trial investigation agency in the place of conducting the pre-trial investigation in Ukraine, of the fact of lawful detention.

Article 523. Place of conducting the pre-trial investigation of criminal offences committed in the territory of diplomatic missions, consular posts, ships of Ukraine

1. Pre-trial investigation of a criminal offence committed in the territory of a diplomatic mission, consular post of Ukraine abroad shall be conducted by the investigator of the pre-trial

investigation agency whose jurisdiction extends to the territory where the central executive authority in the area of foreign affairs of Ukraine is located.

2. Pre-trial investigation of a criminal offence committed on the air, sea, or river craft which navigates outside the limits of Ukraine under the flag or with distinctive sign of Ukraine, whenever the home port of such craft is located in Ukraine, shall be conducted by the investigator of the pre-trial investigation agency whose jurisdiction extends to the territory where that home port is located.

{Chapter 41[1] has been deleted under Law No. 767-VII of 23 February 2014}

Section VII
RESTORING LOST RECORDS OF CRIMINAL PROCEEDINGS

Article 524. Conditions for restoring lost records of criminal proceedings

1. Subject to restoring shall be lost records in those criminal proceedings which ended with delivering a court judgment.

Article 525. Persons who shall have the right to file with the court an application for restoration of lost records of criminal proceedings

1. Lost records of the criminal proceedings may be restored upon the application of a participant to the court proceedings. Close relatives of the accused who died shall have the right to file the respective application where it is necessary for the rehabilitation of the accused person.

Article 526. Jurisdiction of the application for restoration of lost records of the criminal proceedings

1. The application for restoration of lost records of the criminal proceedings shall be filed with the court which delivered the judgment.

Article 527. Contents of the application for restoration of lost records of the criminal proceedings

1. The application shall state which exactly records are requested to be restored; whether a judgment was delivered; the legal status of the applicant; who exactly and in what capacity participated in the court proceedings; place of residence or whereabouts of these persons; what the applicant knows about circumstances under which the records of the criminal proceedings were lost, on whereabouts of the copies of documents of the criminal proceedings or information thereon; precisely what documents, in the applicant's opinion, it is necessary to restore; and for which purpose they need to be restored.

2. The application for restoration of lost records of the criminal proceedings shall be accompanied with the documents or copies thereof, even if they are not duly authenticated, which are in the applicant's possession.

Article 528. Effects of disregarding requirements for the application's contents, refusal to open proceedings or leaving the application without consideration

1. Where the application does not contain the purpose of restoring lost records of the criminal proceedings or information necessary for their restoring, the court shall pass a ruling to leave the application without moving, and fix the time limit for the rectification of such deficiencies.

2. Whenever the purpose of applying to the court as stated by the applicant is not related with the protection of his/her rights and interests, the court by its ruling shall refuse to open proceedings on the restoration of lost records of criminal proceedings or leave the application without consideration where proceedings have already been opened.

Article 529. Preparing application for consideration

1. Having received the application for restoration of lost records of criminal proceedings, the judge shall take measures to obtain from public prosecutor the information and copies of respective procedural documents which relate to the records to be restored.

Article 530. Court proceedings

1. During the trial, the court shall use the remaining part of the records of criminal proceedings, documents which had been issued to individuals or legal entities before the records of criminal proceedings were lost, the copies of these documents, other certificates, papers and data relating to the proceedings concerned.

2. The court shall have the right to examine as witnesses persons who were present during the conduct of procedural actions, persons (their representatives) who participated in trial and, where necessary, persons who made part of the court which held trial, as well as persons who enforced the court's decision.

Article 531. Court's decision

1. Based on collected and verified records, the court shall pass a ruling to restore records of the lost criminal proceedings fully or in a part which, in the court's opinion, are necessary to restore.

2. The court's decision on restoration of the records of lost criminal proceedings shall state on the basis of which specific evidences, submitted to the court and examined in the court hearing with involvement of all participants to the court proceedings, the court finds established the contents of the restored court decision; findings of court in respect of the extent to which examined evidence and conducted procedural actions were proved.

3. Where collected materials are insufficient to accurately restore records of the lost criminal proceedings, the court, by its ruling, shall close proceedings on the application for restoration of records of the lost criminal proceedings, and advise the participants to the court proceedings of their right to re-file the same application when necessary documents are available.

4. Retention periods for records of criminal proceedings shall not affect the consideration of the application for their restoration.

Section VIII
ENFORCEMENT OF COURT DECISIONS

Article 532. Entry of a court decision into legal force

1. A judgment or ruling of a court of first instance, a ruling of the investigating judge, unless this Code provides otherwise, shall enter into legal force after the expiry of the time limit for lodging an appeal complaint as specified by this Code, where such complaint has not been lodged.

2. Where an appeal complaint has been lodged, a court decision, if not reversed, shall enter into legal force after the court of appellate instance has delivered the judgment.

3. Where time limit for the appellate complaint was extended, the court's judgment or ruling shall be deemed as not entered into legal force.

4. Judicial decisions of the court of appeals and cassation shall take legal effect from the moment of their pronouncement.

{Part 4 of Article 532 as amended by Law No. 2147-VIII of 3 October 2017}

5. Rulings by an investigating judge and a court which may not be appealed shall enter into legal force upon their pronouncement.

Article 533. Effects of entering of a court decision into legal force

1. Court's judgment or ruling which has entered into legal force shall be binding on all the participants to the criminal proceedings, as well as on all individuals and legal entities, government authorities and local governments, their officials, and shall be subject to execution in all the territory of Ukraine.

Article 534. The order of execution of court decisions in the criminal proceedings

1. Where necessary, the way, time limits, and procedure for execution can be specified in the court decision itself.

2. A court decision that has entered into force or is to be executed immediately shall be unconditionally executed.

3. A judgment of acquittal or court decision to release the accused from custody shall be executed in this respect immediately after their pronouncement in the courtroom.

4. Where the court of appellate instance has extended time limit for appeal, the issue of suspending the execution of the judgment or ruling concerned shall be decided simultaneously. Execution of a judgment or ruling may be suspended also in other cases stipulated by Code.

5. Procedural issues related to the execution of court decisions in the criminal proceedings shall be decided by the judge of the court of first instance alone, unless this Code provides otherwise.

Article 535. Enforcement of court decision

1. A court decision which has entered into legal force, unless this Code provides otherwise, shall be enforced within three days after it has entered into legal force or after the records of the criminal proceedings have been returned to the court of first instance from the court of appeals or cassation.

{Part 1 of Article 535 as amended by Law No. 2147-VIII of 3 October 2017}

2. The court shall send the copy of the decision, together with its order to execute it, to the authority or institution which has been charged with the execution of the court decision.

2. The basis for the execution by the entity of state registration of legal entities, individual entrepreneurs and public organisations of the judgment that has come into legal force shall be its

duplicate in the electronic form sent to the entity of state registration of legal entities, individual entrepreneurs and public organisations within the framework of information interaction between the Unified State Register of Judgments and the Unified State Register of Legal Entities, Individual Entrepreneurs and Public Organisations, approved by the Ministry of Justice of Ukraine together with the State Judicial Administration of Ukraine.

{Part 2 of Article 535 has been supplemented with paragraph 2 under Law No. 835-VIII of 26 November 2015}

Where the court decision or part thereof is subject to execution by the state treasury, such execution shall be conducted by the procedure of indisputable write-off.

{Part 2 of Article 535 has been supplemented with paragraph 3 under Law No. 198-IX of 17 October 2019}

3. Whenever the court decision or part thereof is subject to execution by the bodies of the state executive service or a private executor, the court shall issue a writ of execution, which shall apply for execution in the manner prescribed by the law on enforcement proceedings.

{Part 3 of Article 535 as amended by Law No. 1404-VIII of 2 June 2016}

4. Authorities or persons which execute a court decision shall inform the court which has delivered the decision on execution thereof.

{Part 4 of Article 535 as amended by Law No. 1404-VIII of 2 June 2016}

5. Before a condemnatory judgment has entered into legal force, the accused in whose respect a measure of restraint in the form of detaining in custody was taken may not be transferred to a place of confinement in another area.

Article 536. Deferral of execution of sentence

1. Execution of a sentence to correctional works, arrest, restriction of freedom, keeping in military disciplinary unit of military servants, deprivation of freedom may be deferred in the following cases:

1) serious illness of the sentenced person, which prevents from serving the punishment – until his/her recovery;

2) pregnancy of sentenced woman or where the sentenced person has a minor child – for the period of pregnancy or until the child attains the age of three, unless the person was sentenced for the crime which was especially grave;

{Clause 2, part 1 of Article 536 as amended by Law No. 720-IX of 17 June 2020}

3) where immediate service of the sentence can entail exceptionally grave consequences for the sentenced person or his/her family because of special circumstances (fire, natural disaster, serious disease or death of the only family member who is able to work, etc.) – for the time prescribed by court but not exceeding one year after the judgment has entered into legal force

2. Deferral of execution of a sentence shall not be permitted in respect of persons sentenced (except as provided for by clause 2, part 1 of this Article) for grave crimes and special grave crimes, irrespective of the term of punishment.

Article 537. Issues to be decided by the court during execution of sentence

1. During the execution of sentences, the court specified in part 2 of Article539 of this Code shall have the right to decide on the following issues:

1) on deferral of execution of sentence;

2) on granting parole;

3) on replacing unserved part of sentence with milder sentence;

4) on releasing from serving their sentence pregnant women and women having children up to three years old;

5) on sending women who have been released from serving their sentences because of pregnancy or having children up to three years old, to serve their sentences;

6) on releasing from serving the sentence due to illness;

7) on imposing compulsory medical treatment on the sentenced person and terminating thereof;

8) on sending a person released on probation, to serve the sentence imposed;

9) on release from service of the sentence imposed with probation on expiry of the probation period;

10) on substituting punishment as provided for by part 5 of Article53, part 3 of Article57, part 1 of Article58, part 1 of Article62 of the Criminal Code of Ukraine;

11) on application of punishment in case of several sentences;

12) on temporary leaving the sentenced person in the pre-trial detention centre, or transferring him/her from the correctional centre, penal battalion or colony to pre-trial detention centre, for the conduction of appropriate procedural actions during the pre-trial investigation of the criminal offences committed by another person or by this person, for which he/she has not been sentenced, or where the case is brought to court;

13) on release from punishment and mitigation of punishment in cases provided for by parts 2 and 3 of Article74 of the Criminal Code of Ukraine;

13[1]) on challenging other decisions, acts or omissions of the administration of the penitentiary institution;

{Part 1 of Article 537 has been supplemented with clause 13[1] under Law No. 1491-VIII of 7 September 2016}

13[2]) on the application of a measure of restraint to the persons deprived of liberty in the form of transfer of a convict to a cell-type room (individual cell);

{Part 1 of Article 537 has been supplemented with clause 13[2] under Law No. 1491-VIII of 7 September 2016}

13[3]) on the change of duties assigned to a convicted person released from serving a probation sentence;

{Part 1 of Article 537 has been supplemented with clause 13[3] under Law No. 1492-VIII of 7 September 2016}

14) other issues related to various kinds of doubts and contradictions emerging in the process of execution of sentences.

2. Challenging decisions, acts or omissions of the administration of a pre-trial detention facility shall be made in accordance with clause 13[1], part 1 of this Article.

{Article 537 has been supplemented with part 2 under Law No. 1491-VIII of 7 September 2016}

Article 538. Issues to be decided by court after execution of sentence

1. After the sentence in the form of imprisonment or restriction of liberty has been served, the court shall have the right to consider clearance of record of conviction of the person, upon his/her motion.

Article 539. The procedure for solution by court of issues related to execution of sentence

1. Issues which arise at the time and after execution of a sentence shall be decided by court upon the motion (submission) of a public prosecutor, convicted person, his/her defence counsel, legal representative, penitentiary facility or body, as well as other persons, institutions or bodies where provided for by law.

A victim, civil plaintiff, civil defendant and other persons shall have the right to file motions with the court, seeking decisions concerning directly their rights, duties or legitimate interests.

2. A motion (request) for a decision on any issue related to the execution of a sentence shall be filed with:

1) a local court within whose territorial jurisdiction the convict is serving his/her sentence, where it is necessary to decide on the matters provided for byclauses 2–4,6, 7 (save for the motion for termination of compulsory treatment, which shall be filed with the local court within whose territorial jurisdiction the institution or facility where the convicted person is being treated is located), 13[1], 14 , part 1 of Article537hereof;

{Clause 1, part 2 of Article 539 as amended by Law No. 1491-VIII of 7 September 2016}

2) a local court within whose territorial jurisdiction the sentence is executed, where it is necessary to decide on the matters provided for by clauses 10 (concerning motions for commutation of punishment under part 3 of Article57, part 1 of Article58, part 1 of Article62 of the Criminal Code of Ukraine), 11, 13, 13[2], part 1 of Article537 of this Code;

{Clause 2, part 2 of Article 539 as amended by Law No. 1491-VIII of 7 September 2016}

3) a local court within whose territorial jurisdiction the convicted person is residing, where it is necessary to decide on the matters provided for by clauses 5, 8, 9, 13[3], part 1, Article537 hereof;

{Clause 3, part 2 of Article 539 as amended by Law No. 1492-VIII of 7 September 2016}

4) the court which has affirmed the conviction, where it is necessary to decide on the matters provided for by clauses 1, 10(concerning the motion for commutation of punishment under part 5

of Article53 of the Criminal Code of Ukraine), 12 (where the matter is to be decided in relation to a trial it shall be decided on by the trying court), 14, part 1 of Article 537, Article 538 of this Code.

3. A motion (request) for deciding on a matter related to execution of a conviction shall be considered within ten days of its filing by a sole judge, in accordance with the rules of court proceedings as provided for by Articles 318–380 hereof, with due account of the provisions of this Section.

4. Motions (requests) on the application of sanctions to persons deprived of their liberty in the form of transfer of a convict to a cell-type room (individual cell) and on forced feeding of a convict shall be considered within 24 hours from the receipt of the motion (request) by a sole judge.

{Article 539 has been supplemented with new part under Law No. 1491-VIII of 7 September 2016}

4. Summons to attend the court session shall be sent to the convict, his/her defence counsel, legal representative, and the public prosecutor. A notice of the time and venue of consideration of the motion (request) shall be served on the penal body or institution in charge of execution of punishment or monitoring the conduct of the convicted person; medical commission which issued the opinion related to the application or termination of compulsory treatment of the convicted person where relevant issues are to be considered; supervision board, children's services where a motion coordinated with them is to be considered; the civil plaintiff and civil defendant where the matter concerns the execution of the sentence related to the civil action, and other persons where necessary.

Failure of the persons who have been duly notified of the place and time of consideration of the motion (request) to appear shall not be to the prejudice of the hearing, unless their participation has been pronounced mandatory by the court or a person has notified a good cause for non-appearance.

6. Having considered a motion (request), the court shall deliver a ruling which may be challenged under appellate procedure. An appeal of the public prosecutor of a court's ruling on parole or commutation of a sentence shall terminate its execution.

7. Where a court's ruling to dismiss a motion for parole or commutation of a sentence becomes valid, a repeat motion on the same matter filed by persons sentenced to imprisonment of not less than five years for grave and special grave offences may be considered not earlier than one year or, in the case of persons convicted of other offences and underage persons, six months of the date of the ruling of dismissal.

Where a court's ruling to dismiss a motion for expungement becomes valid, a repeat motion on the same matter may be considered not earlier than one year of the date of the ruling of dismissal.

7. Where a motion for medical dispensation of a convicted person who fell ill with a mental disease during service of sentence is granted, the judge may apply compulsory medical measures under Articles 92–95 of the Criminal Code of Ukraine.

9. Consideration of cases on the issues specified by 13[1], part 1, Article537 hereof, shall be conducted under administrative proceedings.

{Article 539 has been supplemented with part 9 under Law No. 1491-VIII of 7 September 2016}

Article 540. Crediting time spent by a sentenced person in a medical institution to the service of sentence

1. Time spent by a sentenced person in a medical institution during his/her serving the sentence in the form of deprivation of liberty, shall be credited to the service of sentence.

Section IX
INTERNATIONAL CO-OPERATION IN CRIMINAL PROCEEDINGS

Chapter 42. General principles of international cooperation

Article 541. Definition of terms

1. The terms, used in this of Section of the Code, in the absence of specific remarks, shall mean:

1) international legal aid shall mean conducting procedural actions by competent authorities of one state, execution of which is required for pre-trial investigation, court proceedings or enforcement of sentence delivered by a court of another state or an international judicial institution;

2) extradition shall mean surrender of a person to a state the competent authorities of which search for this person for prosecuting or serving a sentence. Extradition includes: sending official request for establishing whereabouts of the person sought in the territory of the requested state and for surrender of such person; verification of circumstances which are likely to hinder the surrender; taking decision on the request; actual transfer of such person into jurisdiction of the requesting state;

3) takeover of criminal proceedings shall mean conducting investigation by competent authorities of one state with the purpose of prosecuting a person for crimes committed in the territory of the other state, upon its request;

4) requesting party shall mean a state whose competent authority applies with a request, or an international judicial institution;

5) requested party shall mean the state to whose competent authority the request is sent;

6) designated (central) authority shall mean an authority empowered to consider, on behalf of the state, the request of a competent authority of another state or international judicial institution, and take measures in order to execute the request, or to send to another state a request of a competent authority for providing international legal aid;

7) competent authority shall mean a body which conducts the proceedings and which applies with a request under this Section, or which ensures the execution of a request for providing international legal aid;

8) extradition examination shall mean activities of authorities designated by law aimed to establish and examine the circumstances that may prevent the surrender (extradition) of a person

who has committed a crime as stipulated by the international treaties of Ukraine and other acts of legislation of Ukraine;

9) extradition arrest shall mean application of a measure of restraint in the form of detention of a person to ensure his/her surrender (extradition);

10) temporary arrest shall mean detaining a person sought for committing a crime outside Ukraine for a time period established by this Code or an international treaty of Ukraine until a request for surrender (extradition) is received;

11) temporary extradition shall mean a surrender of a person serving a punishment in the territory of one state to another state for a certain time period to participate in the legal proceedings or be convicted of a criminal offence before the expiry of the statute of limitations or the loss of evidence in a criminal case.

Article 542. Scope of international co-operation in criminal proceedings

1. International cooperation in criminal proceedings shall consist in the taking of measures necessary in order to provide international legal assistance through serving documents, conducting certain procedural actions, extradition of individuals who have committed criminal offences, provisional transfer of persons, taking over of criminal prosecution, transfer of sentenced persons, and enforcement of sentences. An international treaty of Ukraine may provide for other forms of co-operation in criminal proceedings than those specified in this Code.

Article 543. Legislation which governs international co-operation in criminal proceedings

1. This Code and effective international treaties of Ukraine shall specify the way in which the designated (central) authority of Ukraine shall forward requests to another state, consider requests for legal aid from another state or an international judicial institution, and the way in which such requests should be executed.

Article 544. Providing and receiving international legal aid or other international co-operation without a treaty

1. In the absence of an international treaty of Ukraine, international legal aid or any other co-operation may be provided upon the request from another state, or requested on the basis of reciprocity.

2. Designated (central) authority of Ukraine, when forwarding a request to such state, shall guarantee in written form to the requested party that in future such state's request for international legal aid of the same type shall be considered.

3. Under provisions of part 1 of this Article, the designated (central) authority of Ukraine shall consider request of a foreign state only if the requesting state has guaranteed in written form to receive and consider in future the Ukraine's request on the basis of reciprocity.

4. Designated (central) authority of Ukraine, when requesting international legal aid from such state and providing international legal aid thereto, shall be guided by this Code.

5. In the absence of an international treaty with the state concerned, the designated (central) authority of Ukraine shall forward request for international legal aid to the Ministry of Foreign

Affairs of Ukraine, for subsequent transmitting it to the competent authority of the requested state via diplomatic channels.

Article 545. Central authority of Ukraine

1. The Prosecutor General's Office of Ukraine shall make requests for international legal aid in criminal proceedings during a pre-trial investigation and consider similar requests from foreign competent authorities, except pre-trial investigation of criminal offences referred to the investigative jurisdiction of Anti-Corruption Bureau of Ukraine that in such cases performs functions of central authority of Ukraine.

{Part 1 of Article 545 as amended by Law No. 1698-VII of 14 October 2014}

2. The Ministry of Justice of Ukraine shall refer requests from courts for international legal aid in the criminal proceedings during a court trial and consider similar requests from courts in foreign states.

3. The Office of the Prosecutor General and the Ministry of Justice of Ukraine shall send to the National Anti-Corruption Bureau of Ukraine within three days the records received (provided) in the framework of international legal aid concerning financial and corruption offences in the form of a certificate.

{Article 545 has been supplemented with new part under Law No. 198-VIII of 12 February 2015}

4. Where this Code or an effective international treaty of Ukraine prescribes a different procedure for relations, the powers specified in parts 1 and 2 of this Article shall extend to the body specified in those legislative acts.

Article 546. Information that contains state secret

1. Where as a result of execution in Ukraine of the request for international legal aid, information was obtained which under law is deemed state secret, such information may be transmitted to the requesting party exceptionally through the designated (central) authority of Ukraine, where such information will not harm the interests of Ukraine or such other state which has provided it to Ukraine, only where the treaty on mutual protection of information was concluded with such party, and in accordance with the rules and requirements set forth in such a treaty.

Article 547. Conducting procedural actions by diplomatic missions or consular posts

1. Consular posts or diplomatic missions of other states in Ukraine may obtain on voluntary basis explanations, objects, documents from nationals of the state they represent, as well as serve documents to such persons.

Article548. Request for international cooperation

1. A request (order, motion) for international cooperation shall be drawn up by an authority conducting criminal proceedings or an agency authorised by that authority in accordance with the requirements of this Code and the respective international treaty of Ukraine, or in accordance with this Code where no such treaty applies.

2. A request and documents attached thereto shall be drawn up in writing, certified by a signature of the authorised person, and the seal of a respective authority.

3. A request and documents attached thereto shall be accompanied by a translation certified in accordance with the established procedure in a language specified in the respective international treaty of Ukraine or, in the absence of such treaty, in an official language of the requested party, or any other language acceptable for that party.

4. A request shall be sent abroad by mail or, in case of emergency, may be sent by e-mail, fax, or any other means of communication. In such a case, the original request shall be sent by mail within three days after it has been sent by e-mail, fax or other means of communication.

5. An authorised (central) authority of Ukraine may accept for consideration a request submitted by the requesting party via e-mail, fax or other means of communication. Such request shall be executed upon the confirmation of mailing or submitting its original. The materials of the executed request may be sent to a foreign competent authority only after the Ukrainian counterpart receives the original of a request.

Article549. Keeping and transfer of physical evidence and documents

1. Physical and documents transferred by the requested Party pursuant to the request (letters rogatory, motions) of a Ukrainian competent authority within the procedure of international co-operation shall be kept under the rules established herein for the keeping of physical evidence and documents and shall be returned back to the requested party after completion of the criminal proceedings, unless otherwise agreed by the parties.

2. When transferring physical evidence and documents to the competent authority of the requesting party pursuant to the request (letters rogatory, motions) within the procedure of international co-operation, the competent authority of Ukraine may waive the requirement in respect of their returning back after the completion of the criminal proceedings in the requesting party where there is no need in the territory of Ukraine to use them for pre-trial investigation and trial in another criminal proceedings, or there are no lawful claims from third parties with regard to the title to the property concerned, or where the litigation with regard thereto is pending in court.

Article 550. Probative value of official documents

1. Documents which are forwarded in connection with the request for international assistance where they are drawn up and certified in the appropriate form by an official of the competent authority of the requesting party or requested party and sealed with the official stamp of the competent authority concerned shall be accepted in the territory of Ukraine without additional attestation (legalisation), if the respective international treaty of Ukraine so provides.

2. Information contained in the records obtained as a result of execution of actions stipulated in the request for international assistance by the authorities of foreign state in accordance with the procedure provided for by laws of the requested state shall not require legalisation and shall be admitted by court where in the course of their obtainment, principles of fair trial and human rights and fundamental freedoms were not infringed.

3. According to the rules of this Code, the legal status of the parties to the criminal proceedings in a foreign state does not need to be additionally established.

Chapter 43. International legal assistance in the conduct of procedural actions

Article 551. Request for international legal aid

1. The court, public prosecutor or investigator with approval of the public prosecutor shall send to the designated (central) authority of Ukraine a request for international legal aid in criminal proceedings they conduct.

2. Designated (central) authority of Ukraine shall consider whether the request is well-grounded and complies with the laws and international treaties of Ukraine.

3. In case of taking decision to forward a request, designated (central) authority of Ukraine within ten days shall send the request to the designated (central) authority of the requested party, directly or via diplomatic channels.

4. In case of refusal to forward the request, all records shall be returned within ten days to the appropriate authority of Ukraine, together with statement of deficiencies to be eliminated or explanations of reasons why the request cannot be sent.

Article 552. Contents and form of the request for international legal aid

1. Contents and form of the request for international legal aid shall comply with the requirements of this Code or the international treaty of Ukraine which is applied in particular case. The request may be drawn up in the form of a letter rogatory.

2. The request shall include:

1) names of the requesting authority and of the competent authority of the requested party;

2) reference to the respective international treaty or to compliance with the principles of reciprocity;

3) name of the criminal proceedings for which international legal aid is requested;

4) brief description of the criminal offence which is the subject of the criminal proceedings, and its legal assessment;

5) information on suspicion which was duly notified, charges brought with quoting full text of respective Articles of the Criminal Code of Ukraine;

6) information about the person concerned, particularly his/her full name, procedural status, place of residence or stay, nationality, other information that may help to fulfil the request, as well as the person's relation to the subject of the criminal proceedings;

7) a concise list of requested procedural actions and proof of their relation to the subject of criminal proceedings;

8) information on persons whose presence during procedural actions shall be required, and rationale for that requirement;

9) other information which may facilitate execution of the request or which is provided for by the international treaty, or is required by the competent authority of the requested party.

3. A certified extract from respective Articles of this Code shall be attached to the request for interrogation of a person as a witness, victim, expert, suspected or accused to advise the person concerned on his/her procedural rights and duties. The list of questions to be put to the person or information to be obtained from the person shall also be attached to the request.

4. Information on the evidence in the case which substantiates the need in appropriate actions shall be attached to the request for the conduct of search, crime scene inspection, seizure, arrest or confiscation of property or other procedural actions that require authorisation from the court under this Code.

5. Information referred to in clauses 4, 5, 8 of part 2 of this Article shall not be required to be attached to a request for serving on a person documents or summons to the court.

6. During a pre-trial investigation, a request for international legal aid shall be approved in writing by the public prosecutor monitoring compliance with the law during a pre-trial investigation.

Article 553. Effects of execution of the request in a foreign state

1. Evidence and information obtained from the requested party as a result of execution of the request for international legal aid, may be used only in the criminal proceedings to which the request was related, unless otherwise agreed with the requested party.

2. Information contained in the records obtained as a result of execution of a request for international legal aid, shall not be found by the court admissible where the request of the competent authority of Ukraine was transferred to the requested party in violation of the procedure established by this Code or the respective international treaty of Ukraine.

Article 554. Consideration of a request for international legal aid from a foreign competent authority

1. After receiving a request for international legal aid from a requesting party, an authorised (central) authority of Ukraine shall assess its relevance and compliance with the laws or international treaties of Ukraine.

2. Where a decision is made to grant the request, an authorised (central) authority of Ukraine shall refer the request to the competent authority of Ukraine for execution.

3. The Prosecutor General's Office of Ukraine shall have the right, within the scope of its powers, to issue orders to ensure proper, full, and timely execution of a request. Such orders shall be binding upon the competent authority of Ukraine concerned.

4. The following issues related to the request (order) for international legal aid shall be decided exclusively by a central authority of Ukraine for international legal aid:

1) the presence of a representative of a foreign competent authority during the international legal aid procedure. Where a request (order) for international legal aid provides that a representative shall be present and was submitted in accordance with part 3 of Article545 of this Code, a copy of a request shall be immediately sent to an authorised (central) authority to decide on the issue;

2) providing guarantees to the competent authorities of a foreign state regarding the execution of a request (order) as stipulated by part 2 of Article544 of this Code, and obtaining similar guarantees from other states;

3) temporary extradition of a person serving punishment to participate in an investigation (detective) and other procedural activities.

Article 555. Notifying of the results of the request consideration

1. Where the request is granted, the designated (central) authority of Ukraine shall ensure that records collected as a result of request execution are transferred to the designated (central) authority of the requesting party.

2. Where request is rejected, the designated (central) authority of Ukraine shall notify the requesting party of the reasons for rejection, as well as of conditions under which the request for international legal aid may be re-considered, and shall return the request.

3. Where there are grounds for rejecting the request or for its delay, the designated (central) authority of Ukraine may agree with the requesting party the procedure for executing the request under certain limitations. Where the requesting Party accepts such conditions, the request shall be executed after the requesting party has fulfilled these conditions.

Article 556. Confidentiality

1. Upon the request of the requesting party, the designated (central) authority of Ukraine shall have the right to take additional measures to ensure confidentiality of the fact of receipt of a request for international legal aid, of its contents and of the information obtained as a result of the execution of the request.

2. Where necessary, conditions and time limits for the retention of confidential information obtained as a result of the execution of the request shall be agreed.

Article 557. Refusal to execute request for international legal aid

1. Request of the requesting party for legal aid may be rejected in cases specified in the international treaty of Ukraine.

2. In the absence of a respective international treaty of Ukraine, the execution of the request may be refused where:

1) execution of the request will contradict the constitutional principles or may harm sovereignty, security, public order or any other essential interest of Ukraine;

2) the request concerns a criminal offence for which in respect of the same person a Ukrainian court rendered a decision which has entered into legal force;

3) the requesting party does not provide reciprocity in this area;

4) the request relates to the action which is not a criminal offence under Ukraine’s law on the criminal liability;

5) there are sufficient grounds to believe that the request aims at prosecuting, convicting or punishing a person on the ground of his/her race, colour, political, religious and other beliefs, sex, ethnic or social origin, property status, place of residence, language, and other grounds;

6) the request pertains to a criminal offence which is the subject of pre-trial investigation or court proceedings in Ukraine.

Article 558. Procedure for the execution of a request (order) for international legal aid in the territory of Ukraine

1. Based on the review of a request from a foreign competent authority for international legal aid, a central authority of Ukraine for international legal aid or an authority empowered to conduct relations in accordance with part 3 of Article545 of this Code shall decide on the following:

1) commissioning a pre-trial investigation agency, a prosecution office, or a court to execute a request while at the same time taking measures to ensure compliance with confidentiality requirements;

2) the possibility of executing a request by applying the laws of a foreign state;

3) postponing the execution where it may harm the legal proceedings in the territory of Ukraine, or negotiating the possibility of executing a request on certain terms with a competent foreign authority;

4) refusal to execute a request on the grounds stipulated by Article557 hereof;

5) the feasibility of executing a request where the costs of the execution clearly exceed the damage inflicted by the criminal offence, or where it is clearly inadequate considering the seriousness of the criminal offence, unless it is contrary to the international treaty of Ukraine;

6) taking other actions specified in the international treaty ratified by the Verkhovna Rada of Ukraine.

2. A request from a foreign competent authority for international legal aid shall be executed within one month of the date of its receipt by the actual executor. Where taking complex and large-scale procedural actions is required, particularly those subject to approval by the public prosecutor or those that may be conducted only on the grounds of the ruling by an investigating judge, the time period for its execution may be extended by a central authority of Ukraine or an authority empowered to conduct relations with competent foreign authorities in accordance with part 3 of Article545 hereof.

3. The documents drawn up by a pre-trial investigation agency, an investigator, a public prosecutor, or a judge to execute a request for international legal aid shall be signed by the officials concerned and sealed by the respective authority. The documents obtained from other departments, institutions or enterprises regardless of their ownership structure following the execution of a request shall be signed by their general managers and sealed by the respective department, institution or enterprise. A pre-trial investigation agency or an investigator shall refer the records of the executed request to a public prosecutor monitoring compliance with the law during a pre-trial investigation for the verification of the integrity and legitimacy of investigative (detective) and other procedural activities that have been performed.

4. The documents obtained over the course of the execution of a request for international legal aid shall be sent to a competent foreign authority in accordance with the procedure established by the respective international treaty, ratified by the Verkhovna Rada of Ukraine.

5. In the absence of an applicable international agreement between Ukraine and the corresponding foreign state, a request for international legal aid shall be executed in compliance with this Article, and all obtained documents shall be sent by a central authority of Ukraine for international legal aid through diplomatic channels.

6. When sending records to a competent foreign authority, a central authority of Ukraine for international legal aid or an authority empowered to conduct relations with competent foreign authorities in accordance with part 3 of Article545 hereof may in accordance with the law or an international treaty, ratified by the Verkhovna Rada of Ukraine, impose limitations on the use of such records.

7. Where a request for international legal aid cannot be executed, as well as in case of refusal to provide international legal aid on the grounds specified by Article557 hereof, a central authority of Ukraine for international legal aid or an authority empowered to conduct out relations in accordance with part 3 Article545 hereof shall return such a request to a competent foreign authority along with a statement of grounds for refusal.

Article 559. Postponing the provision of international legal aid

1. Provision of international legal aid may be fully or partly postponed where execution of the request would obstruct pre-trial investigation or judicial proceedings which is pending in Ukraine.

Article 560. Completing the procedure for the provision of international legal aid

1. Authority, which has been assigned execution of the request, after required procedural actions have been conducted shall send all obtained records to the designated (central) authority of Ukraine. Where the request is executed incorrectly or incompletely, the designated (central) authority shall have the right to request that additional measures be taken to execute the request.

2. Documents obtained as a result of the request execution, shall be sealed with official stamp of the competent authority which has conducted procedural actions, and sent to the designated (central) authority of Ukraine for transfer to the requesting party without translation, unless the international treaty provides otherwise.

3. The designated (central) authority of Ukraine shall send records obtained during request execution to the designated (central) authority of the requesting party within ten calendar days after it has received them from the competent authority of Ukraine concerned.

Article 561. Procedural actions which may be conducted within the framework of international legal aid

1. Any procedural actions as provided for by this Code or international treaty may be conducted in the territory of Ukraine to execute a request for international legal aid.

Article 562. Procedural actions that require special permission

1. Where the execution of a request from a competent foreign authority requires conducting a procedural action which in Ukraine may be carried out only upon a permission from a public prosecutor or a court, that action may be effected only provided that appropriate permission has been obtained in accordance with the procedure specified in this Code even where the laws of the requesting party do not provide for such procedure. Granting the permission shall be decided upon the records of a request from a competent foreign authority.

2. Where, when requesting legal aid in a foreign state it is necessary to perform a procedural action, which in Ukraine requires the permission of a public prosecutor or court, such procedural action shall have the respective permission of the public prosecutor or court in the manner prescribed by this Code, only where this is stipulated by an international treaty or is a mandatory condition for the provision of such assistance under the law of the requested party. The validity of such permission is not limited, and a duly certified copy of the permission shall be attached to the records of the request.

{Part 2 of Article 562 as revised by Law No. 187-IX of 4 October 2019}

Article 563. Presence of representatives of competent authorities of the requesting state

1. A representative of a foreign competent authority permitted to be present in accordance with the requirements of this Code shall not have the right to exercise discretion in conducting any procedural actions in the territory of Ukraine. When present during the execution of procedural actions, such representatives shall follow the laws of Ukraine.

2. Persons referred to in part 1 of this Article shall have the right to watch the execution of procedural actions and make comments and suggestions regarding the execution of procedural actions concerned, ask questions where allowed by an investigator, a public prosecutor, or a court, as well as take notes, particularly using the technical means.

Article 564. Service of documents

1. Upon a request from a foreign competent authority for international legal aid, the documents and statements attached to the request shall be served to the person specified in the request in accordance with the procedure established by this Article.

2. With a view to the execution of a request from a foreign competent authority for international legal aid, an investigator, a public prosecutor or a court may summon a person to serve documents to that person. Where a person fails to appear without valid excuse, the enforcement procedure specified by this Code may be applied.

3. A pre-trial investigation agency, an investigator, a public prosecutor or a court shall draw up a protocol on the delivery of documents to the person indicating the place and date of delivery. The protocol shall be signed by the person on whom the documents are being served, and that person's statements and comments shall be attached. In cases stipulated by the international treaty, ratified by the Verkhovna Rada of Ukraine, a special confirmation shall be drawn up and signed by the person on whom the documents are being served and the person serving them.

4. If a person refuses to accept the documents to be served, a corresponding entry shall be made in the protocol. In that case the documents to be served shall be deemed to have been served, with a corresponding entry made in the protocol.

5. Where the documents to be served do not include a Ukrainian translation and are drawn up in a language that is unknown to the person specified in a request, that person may refuse to accept the documents. In that case the documents shall be deemed to not have been served.

6. A protocol of service of documents along with other documents attached to a request shall be sent to a foreign competent authority in accordance with the procedure specified by Article558 hereof.

Article 565. Temporary surrender

1. Where for the purpose of conducting criminal proceedings it is required that a person who is detained or serves a punishment in the form of imprisonment in the territory of a foreign state and is not convicted of a criminal offence in those particular criminal proceedings is present to give testimony or participate in other procedural activities, a pre-trial investigation agency, a public prosecutor, a judge, or a court of Ukraine carrying out the criminal proceedings shall draw up a request for temporary surrender of that person to Ukraine.

2. A request for temporary surrender shall be drawn up and submitted in accordance with the procedure specified in Articles 548, 551, and 552 of this Code.

3. Where a foreign competent authority grants the request for temporary surrender of a person, that person shall be retaken after the completion of procedural activities in which he/she was to participate, in due time as agreed by the foreign state.

4. Where necessary, a pre-trial investigation agency, a public prosecutor, a judge, or a court of Ukraine carrying out the criminal proceedings shall draw up the documents for the extension of the time period of temporary surrender and submit them to a central authority for international legal aid no later than twenty days before the expiry of that time period.

5. A decision by a foreign competent authority to detain a person or impose a punishment in the form of imprisonment shall serve as the grounds for detention of a person temporarily surrendered to Ukraine during that person's time in Ukraine.

6. A person serving punishment in the territory of Ukraine may be temporarily surrendered to a foreign state at the request of a foreign competent authority subject to the requirements specified in parts 1 and 3 of this Article.

7. A person may be temporarily surrendered only provided that the written consent is given by that person.

Article566. Summoning a person staying outside Ukraine

1. A person staying outside Ukraine may be summoned upon a request (order) for international legal aid to participate in investigative and other procedural activities in the territory of Ukraine. A summoned person, unless he/she is a suspect or a defendant, shall be notified of the costs of appearing on summons and the reimbursement procedure. A request (order) for international legal aid in summoning a person staying outside Ukraine shall be sent to a foreign competent authority no later than sixty days before the person's report date or within a different time period specified by the international treaty ratified by the Verkhovna Rada of Ukraine.

2. A summoned person shall not be convicted of a criminal offence; arrested; be subjected to an imposed restraint measure in the form of detention; be subjected to other measures in support of criminal proceedings or restriction of personal freedom either for any criminal offence that is the subject of criminal proceedings or any other criminal offence committed before crossing the state border of Ukraine when entering Ukraine. A sentence passed on the person before that person has crossed the state border of Ukraine may not be executed. A suspect, defendant or convict may be arrested or subjected to a restraint measure or execution of a sentence only for an offence specified in the summons.

3. All guarantees specified in this Article shall be void where, being in a position to leave the territory of Ukraine, a summoned person fails to do so within fifteen days from the moment of receipt of a written notification from a pre-trial investigation agency, a public prosecutor's office or a court that his/her participation in any investigative or other procedural activities is no longer required, or within a different time period specified in the international treaty, ratified by the Verkhovna Rada of Ukraine.

Article567. Examination upon a request from a foreign competent authority by means of a video or telephone conference

1. An examination upon a request from a foreign competent authority shall be conducted in the presence of an investigating judge and at the location of a person by means of a video or telephone conference in the following cases:

1) impossibility for certain persons to appear before the foreign competent authority;

2) to ensure the persons' safety;

3) for other reasons specified by investigating judge (court).

2. Examination through video or telephone conference shall be conducted as prescribed in the procedural law of the requesting party as long as such procedure is not contrary to the principles of Ukrainian procedural law and generally recognised standards of ensuring human rights and fundamental freedoms.

3. The competent authority of the requesting party shall be required to ensure participation of an interpreter in the video or telephone conference.

4. Where during examination, investigating judge should notice that the examiner violates the procedure established by part 2 of this Article, he shall inform the participants to the procedural action thereon and stop the examination in order to take measures to eliminate such violation. Examination shall continue only after required changes in the procedure have been agreed with the competent authority of the requesting party.

5. Record of examination and media containing video or audio information shall be forwarded to the competent authority of the requesting party.

6. Rules laid down in this Article shall apply to the examinations conducted through video or telephone conference upon requests of the competent authority of Ukraine.

Article568. Search, arrest and confiscation of assets

1. Upon request for international legal aid, appropriate authorities of Ukraine shall conduct procedural actions as provided for by this Code, as well as other actions provided for by a special law, to detect and arrest assets, money and valuables corresponding to any of the elements provided for by part 1 of Article96[2] of the Criminal Code of Ukraine, as well as assets that belong to suspects, accused or sentenced persons.

{Part 1 of Article 568 as amended by Laws No. 772-VIII of 10 November 2015, No. 361-IX of 6 December 2019}

2. When arresting property specified in part 1 of this Article, the necessary measures shall be taken, in particular those provided for by clause 5, part 6of Article100 of this Code, in order to preserve it until the court decides on such assets, on which the requesting party shall be notified.

{Part 2 of Article 568 as amended by Law No. 772-VIII of 10 November 2015}

3. Upon request of the requesting party, the detected assets:

1) may be surrendered to the competent authority of the requesting party as evidence in criminal proceedings, in compliance with the requirements of Article562 of this Code, or for being returned to the owner thereof;

2) may be confiscated basing on a sentence or any other decision made by the court of the requesting party which has entered into legal force.

4. The assets referred to clause 1, part 3 of this Article shall not be surrendered to the requesting party, or surrender thereof may be postponed or provisional, where such assets are necessary for the purposes of civil or criminal proceedings in Ukraine or may not be taken abroad for other reasons specified by law.

5. Assets confiscated under clause 2, part 3 of this Article, shall be turned into revenue of the State Budget of Ukraine, except as provided for bypart 6 of this Article.

6. Upon a motion from a central authority of Ukraine, a court may rule to transfer the assets confiscated under clause 2, part 3 of this Article, as well as its monetary equivalent:

1) to the requesting party that ruled to seize the assets as a compensation for damage inflicted on the victims of the offence;

2) in accordance with the international treaties of Ukraine on the distribution of seized assets or their monetary equivalent.

7. Surrender of the arrested and confiscated assets may be postponed where it is necessary for pre-trial investigation and court proceedings in Ukraine or litigation in respect of the rights of other persons.

Article569. Controlled delivery

1. Investigator of the pre-trial investigation agency of Ukraine, where he has detected contraband delivery when conducting procedural actions, including actions upon request for international legal aid, shall have the right to refrain from removing it from the place of storage or transportation but instead, upon the agreement with the appropriate authorities of the state of destination, let it pass freely across the customs border of Ukraine, with the purpose of detecting, uncovering and documenting criminal activities of international criminal organisations.

2. Upon detection of contraband delivery, a report shall be drawn up as prescribed by this Code, which shall be sent to the competent authority of the state into the territory of which the controlled delivery passed, and whenever such records are received from appropriate authorities of another state, they shall be attached to the records of pre-trial proceedings.

Article570. Pursuit in border areas

1. When competent authorities of Ukraine prosecute in border areas a person who has committed illegal transfer across the state border of Ukraine, his/her illegal activities in the territory of Ukraine shall be investigated as prescribed by this Code.

2. Records of criminal proceedings documenting illegal activities of such person in the territory of Ukraine, in accordance with the provisions of international treaties on prosecution in border areas, shall be transferred to appropriate authorities of the state where this person has been prosecuted, and whenever such records are received from the appropriate authorities of another state, they shall be attached to the records of the pre-trial investigation concerned.

Article571. Establishment and activities of joint investigative groups

1. Joint investigative groups may be set up to conduct pre-trial investigation of circumstances of criminal offences committed in the territories of several states, or where the interests of such states were affected.

2. The Prosecutor-General's Office of Ukraine shall consider and decide the issue related to setting up joint investigative groups, upon request of Ukrainian pre-trial investigation agency's investigator, public prosecutor, and foreign competent authorities.

3. Members of a joint investigative group shall directly interact, agree between them the basic vectors of the pre-trial investigation, the conduct of procedural actions, and exchange information obtained. Activities of a joint investigative group shall be coordinated by the initiator of its establishment or by one of its members.

4. Investigative (detective) and other procedural actions shall be conducted by members of the joint investigative group from the state where such actions are conducted.

Article572. Appeal of decisions, acts or omissions by government authorities, their officials or officers; reparation of inflicted damages and expenses related to the provision of international legal aid in the territory of Ukraine

1. Persons who believe that decisions, acts, or omissions by government authorities of Ukraine or their officials or officers, in connection with the execution of a request for international legal aid, have compromised those persons' rights, freedoms or interests, shall have the right to appeal against such decisions, acts and omission in court.

2. Where unlawful acts or omissions by government authorities of Ukraine or their officials or officers, as well as the representatives of the requesting party who were present during the execution of the request, have inflicted damages on individuals or legal entities, those persons shall have the right to claim reparation of damages at the expense of the state.

3. Appeals of decisions, acts or omissions by government authorities of Ukraine or their officials or officers, and reparation of inflicted damages shall be decided in accordance with the procedure established by the laws of Ukraine.

4. Expenses related to the provision of international legal aid in the territory of Ukraine shall be paid using the state budget funds appropriated for maintenance of pre-trial investigation agencies, public prosecutor's offices, courts, and other institutions of Ukraine responsible for the execution of requests for international legal aid in the territory of Ukraine.

5. Unless otherwise provided for by the international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine, the following expenses related to the execution of a request for international legal aid shall be paid by a foreign competent authority:

1) summoning the parties to the criminal proceedings, witnesses and experts to the territory of a foreign state, particularly in cases of temporary extradition;

2) conducting expert examinations;

3) ensuring security of the parties to criminal proceedings.

Chapter 44. Surrender of persons who have committed criminal offence (extradition)

Article573. Submitting a request for surrender (extradition)

1. A request for surrender (extradition) may be submitted only provided that at least one of the offences for which an extradition is requested may be punished with at least one year imprisonment or a person was sentenced to serve the punishment in the form of imprisonment and the unserved portion of the sentence is at least four months.

2. A request from a foreign competent authority for extradition may be considered only provided that all the requirements specified in part 1 of this Article are met.

3. Requests for temporary extradition and transit shall be submitted and considered in accordance with the same procedures that apply to requests for extradition. When considering requests from foreign competent authorities for transit, extradition examination shall apply only to the circumstances specified in part 1 and 2 of Article589 hereof.

4. A central authority of Ukraine shall have the right to refuse to send the request to a foreign state where circumstances referred to in this Code or the international treaty of Ukraine and which may preclude extradition, do exist. It shall also have the right to refuse to grant permission to the competent authority of Ukraine to apply to a foreign state, where the extradition would be obviously unjustified based on the correlation between the gravity of the criminal offence committed by the person, and the potential expenses required for the extradition.

Article574. Central authority of Ukraine for surrender (extradition)

1. Unless otherwise provided for by the international treaty of Ukraine, central authorities of Ukraine for extradition shall respectively be the Prosecutor General's Office and the Ministry of Justice of Ukraine.

2. The Prosecutor General's Office shall be the central authority responsible for extradition of suspects or the accused in criminal proceedings during the pre-trial investigation.

3. The Ministry of Justice of Ukraine shall be the central authority responsible for surrender (extradition) of defendants or the convicted in the criminal proceedings during the court proceedings or the execution of a sentence.

4. In accordance with this Code, central authorities of Ukraine for extradition shall:

1) make requests to foreign competent authorities for surrender (extradition), temporary extradition or transit of a person;

2) consider and decide on requests from foreign competent authorities for surrender (extradition), temporary extradition or transit of a person;

3) arrange extradition examinations;

4) arrange intake and referral of persons to be surrendered (extradited), temporarily extradited or transited;

5) exercise other powers established by this Article or an international treaty on surrender (extradition).

Article575. Procedure for preparation of documents and submission of requests

1. A request for extradition shall be drawn up by an investigator or a public prosecutor monitoring compliance with the law during a pre-trial investigation, or a court that is viewing the case or has passed a sentence, in compliance with the requirements established by this Code and the respective international treaty of Ukraine.

2. A request shall be drawn up in writing and contain information about a person whose extradition is requested, and the circumstances and the assessment of the offence committed by that person. The following documents shall be attached to the request:

1) a certified copy of a ruling by a judge or a court to detain a person where extradition is requested to convict a person for criminal offence;

2) a copy of the court judgment along with a confirmation of its entry into force where extradition is requested to execute a sentence;

3) an information indicating a likelihood of the criminal offence committed by a person or a certificate of evidence proving a sought person guilty of an offence;

4) a provision from the Article of the law of Ukraine on the criminal liability that applies to the criminal offence;

5) the findings of the competent authorities of Ukraine regarding the nationality of a person whose extradition is requested, drawn up in compliance with the law of Ukraine on nationality;

6) a certificate of a portion of unserved punishment where a person whose extradition is requested has already served a portion of punishment imposed by court;

7) the information on the expiry of statute of limitations;

8) other information specified by the international treaty of Ukraine if the latter also applies in the territory of the foreign state where a sought person has been located.

3. A request and documents specified in part 2 of this Article shall be signed by an investigator, a public prosecutor or a judge; sealed by a respective authority; and translated into a language specified by the international treaty of Ukraine.

4. A request for extradition shall be submitted to the respective central authority of Ukraine via respective oblast’s prosecutor's office within a 10 day period from the date of seizure of a person in the territory of a foreign state. Within the specified time period, the chief manager of a respective pre-trial investigation agency within the structure of the National Police, a central security authority, an authority monitoring compliance with tax legislation, or an authority under

the State Bureau of Investigations of Ukraine shall submit a request for surrender (extradition) directly to the Prosecutor General's Office of Ukraine.

{Part 4 of Article 575 as amended by Laws No. 1697-VII of 14 October 2014, No. 1698-VII of 14 October 2014, No. 901-VIII of 23 December 2015, No. 1798-VIII of 21 December 2016, No. 187-IX of 4 October 2019}

5. Where there are grounds specified by the international treaty of Ukraine, a central authority of Ukraine may submit a request to a foreign competent authority for extradition of a person to Ukraine. A request for extradition shall be submitted by the chief officer of a central authority of Ukraine or a duly authorised person within five days from the date of receipt of a request.

6. In case of notification by the competent authority of a foreign state of obtaining the consent of the detained person for his/her surrender (extradition) to Ukraine, drawing up of the request shall be conducted only at the request of the authorised (central) authority of Ukraine. Contents of the request and the list of documents attached thereto shall be specified by the authorised (central) authority of Ukraine in compliance with the requirements of this Code and international treaties of Ukraine.

{Article 575 has been supplemented with part 6 under Law No. 2577-VIII of 2 October 2018}

Article576. Limits of criminal responsibility of an extradited person

1. A person who has been extradited to Ukraine may be held criminally liable or a sentence can be enforced against this person only in respect to a criminal offence for which the surrender (extradition) was requested for.

2. Limitations, expressed by the competent authority of a foreign state when taking the decision to surrender a person to Ukraine, shall be mandatory for taking respective procedural decisions.

3. Should the reservation of the competent authority of a foreign state in respect of restrictions for extradition be related to enforcing a sentence, the court which has delivered the sentence shall dispose the issue of the enforcement of the judgment only for those criminal offences for which extradition was granted.

4. Should the person commit another crime, not specified in the request for extradition, before the surrender (extradition), the person can be held criminally liable or a sentence for this crime can be enforced only after obtaining the consent of the competent authority of the foreign state that extradited the person.

5. A request for such consent shall be prepared and sent according to the procedures set forth for requests for surrender (extradition).

6. Should the person be held criminally liable for a crime committed after the extradition, such consent is not necessary.

7. Provisions of this Article shall not be applied where the competent authority of a foreign state has informed that a person extradited to Ukraine has consented to his/her extradition and refused to have a special rule on the limits of criminal liability applied.

{Article 576 has been supplemented with part 7 under Law No. 2577-VIII of 2 October 2018}

Article577. Credit for time in custody

1. The time that the extradited person has spent in custody in the territory of the requested state while the decision on extradition was being made, as well as the time of transporting such person under guard shall be credited to the total term of serving the sentence imposed by the Ukrainian court.

Article578. Informing on the results of criminal proceedings against the extradited person

1. Public prosecutor shall send to the central authority of Ukraine a notice on the results of criminal proceedings against the extradited person, for further informing thereof the central authority of the requested state.

Article579. Provisional (temporary) extradition

1. Should it be necessary to prevent expiry of the statute of limitations for prosecution or loss of evidence in the criminal proceedings, a request for provisional extradition may be made as provided for by Article575 of this Code.

2. Where a provisional extradition request is granted, the person concerned shall be returned to the respective foreign state by the time agreed upon.

3. Where necessary, the competent authority of Ukraine conducting criminal proceedings shall prepare documents on extension of provisional extradition, which shall be sent to the respective central authority not later than twenty days before expiry of the time of provisional extradition.

Article580. Specific aspects of custody

1. The decision of the competent authority of a foreign state to take a person into custody or to issue a custodial sentence against this person shall serve as the basis for keeping persons in custody in the territory of Ukraine who:

1) are transited through the territory of Ukraine;

2) are provisionally extradited to Ukraine.

2. The time spent is custody in the territory of Ukraine based on the decision of a competent authority of a foreign state during provisional extradition shall not be credited to the total term of serving the sentence imposed by Ukrainian court.

Article581. Rights of the person whose surrender (extradition) is requested

{Title of Article581 as revised by Law No. 2577-VIII of 2 October 2018}

1. A person in whose respect the issue of surrender (extradition) to a foreign state is considered shall have the following rights:

{Paragraph 1, part 1 of Article581 as amended by Law No. 2577-VIII of 2 October 2018}

1) to know in connection with what criminal offence the request for surrender (extradition) has been made;

{Clause 1, part 1 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

2) to have a defence counsel and meet him/her under conditions which ensure confidentiality of consultation; to have the defence counsel present during interviews, interrogation;

3) when detained, to notify close relatives, family members, or other persons about his/her detention and whereabouts;

4) to participate in consideration by the court of issues related to his/her being kept in custody and the surrender (extradition) request;

{Clause 4, part 1 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

5) to familiarise with the request for surrender (extradition) or obtain a copy thereof;

{Clause 5, part 1 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

6) to appeal the decision on keeping him/her in custody and on satisfying the request for surrender (extradition);

{Clause 6, part 1 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

7) to express his/her opinion about the request for surrender (extradition) in the court session;

{Clause 7, part 1 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

8) at any time prior to the decision on its surrender (extradition) to consent to surrender (extradition) for the purpose of applying the surrender (extradition) procedure in a simplified manner;

{Clause 8, part 1 of Article 581 as revised by Law No. 2577-VIII of 2 October 2018}

9) simultaneously with the consent to surrender (extradition) to refuse to apply a special rule on the limits of criminal liability.

{Part 1 of Article 581 has been supplemented with clause 9 under Law No. 2577-VIII of 2 October 2018}

2. A person in whose respect the issue of surrender (extradition) is being considered and who has no knowledge of the state language shall be ensured the right to make statements, file pleas, familiarise with the records of criminal proceedings, speak in the court in the language the person knows, take advantage of translation services, as well as receive the court's decision and decision of the central authority of Ukraine translated into the language the person used during court proceedings.

{Part 2 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

3. Where the person in whose respect the issue of surrender (extradition) is being considered as a foreigner and is kept in custody, he/she shall have the right to meet representatives of the diplomatic mission or a consular post of his/her state.

{Part 3 of Article 581 as amended by Law No. 2577-VIII of 2 October 2018}

Article582. Specific aspects of detaining a person who has committed a criminal offence out of borders of Ukraine

1. Detention in the territory of Ukraine of a person wanted by a foreign state in relation to committing a criminal offence shall be made by an authorised officer.

2. A public prosecutor on whose territorial jurisdiction the detention has been made shall be informed immediately. The notice to the public prosecutor, with an attached protocol of detention, shall contain detailed information on the grounds and motives for detention.

3. Upon receipt of the notification, the public prosecutor shall verify the legality of the detention of a person wanted by the competent authorities of foreign states and shall immediately inform the respective oblast prosecutor's office.

{Part 3 of Article 582 as amended by Law No. 1697-VII of 14 October 2014}

4. Within sixty hours after detention, the oblast public prosecutor's office shall inform respective central authority of Ukraine, which shall inform the competent authority of a foreign state within three days.

{Part 4 of Article 582 as amended by Law No. 1697-VII of 14 October 2014}

5. Respective oblast prosecutor's office shall also notify the Ministry of Foreign Affairs of Ukraine of each case of detention of a citizen of a foreign state who has committed a crime outside Ukraine.

{Part 5 of Article 582 as amended by Law No. 1697-VII of 14 October 2014}

6. A detained person shall be released immediately where:

1) within sixty hours after detention the person was not taken to an investigating judge for entertaining a request for choosing a preventive measure against this person in the form of a provisional or extradition arrest;

2) circumstances have been established under which the surrender (extradition) is not performed.

7. The procedure for detention of such persons and the treatment of their complaints to being detained shall be exercised according to Articles 206 and 208 of this Code taking into account the peculiarities established by this Chapter.

Article583. Provisional arrest

1. A person that has committed a crime out of borders of Ukraine shall be held under provisional arrest for the term of up to forty days or another period of time as stipulated in the respective international treaty of Ukraine before the receipt of the request for extradition.

2. Where the maximum term of provisional arrest as stipulated in part 1 of this Article comes to an end before the request for extradition is received, the person shall be released immediately.

3. A public prosecutor shall file a request on imposing a provisional arrest to the investigating judge on whose territorial jurisdiction the detention has taken place.

4. The motion shall be attached with:

1) a protocol of detention of a person with a note explaining to the person his/her right to consent to surrender (extradition) for the application of surrender (extradition) procedure in a

simplified manner, as well as the right to refuse to apply a special rule on the criminal liability in case of consent on his/her surrender (extradition);

{Clause 1, part 4 of Article 583 as amended by Law No. 2577-VIII of 2 October 2018}

2) documents that contain information on committing a crime by this person in the territory of a foreign state and on the selection of a measure of restraint against this person by a competent authority of a foreign state;

3) documents that confirm the identity of the detained person.

4) a written request of the detained person on consent to his/her surrender (extradition), in which the person may indicate the refusal to apply a special rule on the limits of criminal liability (in the presence of such a written request).

{Part 4 of Article 583 has been supplemented with clause 4 under Law No. 2577-VIII of 2 October 2018}

5. The request shall be handled by an investigating judge within the shortest possible time, but not later than within seventy-two hours after the detention of the person.

6. During the examination of the request, the investigating judge shall establish the identity of the detained person, invite the person to make a statement, explain his/her right to consent to surrender (extradition) under the simplified extradition procedure, as well as the right to refuse to apply a special rule in respect of the limits of criminal liability in case of consent to his/her surrender (extradition), find out whether the person is willing to exercise these rights, check the voluntary nature of consent of the person to his/her surrender (extradition),

Where the detainee has consented to his/her surrender (extradition) or consented to his/her surrender (extradition) and refused to apply a special rule on the limits of criminal liability, the court shall decide on the approval of the person's surrender (extradition) and the application of extradition arrest or on refusal to approve a person's consent to his/her surrender (extradition) and the application of provisional arrest.

Based on the results of the examination, the investigating judge shall rule on:

1) the exercising a provisional arrest;

2) refusal to exercise a provisional arrest where there are no grounds for it;

3) approval of the person's consent to his/her surrender (extradition) and application of extradition arrest;

4) approval of the person's consent to his/her surrender (extradition), refusal of the person to apply a special rule on the limits of criminal liability and the application of extradition arrest;

5) exercise of provisional arrest and refusal to approve a person's consent to his/ her surrender (extradition).

A copy of the ruling of the investigating judge, issued on the basis of consideration of the issue of approval of the person's consent to his/her surrender (extradition), shall be immediately sent to the authorised (central) body of Ukraine through the respective oblast prosecutor's office together with a copy of the person's written consent.

{Part 6 of Article 583 as revised by Law No. 2577-VIII of 2 October 2018}

7. The person against whom provisional arrest is exercised, his/her defence council or a legal representative, and a public prosecutor may appeal against the ruling of the investigating judge.

{Part 7 of Article 583 as amended by Law No. 2577-VIII of 2 October 2018}

8. A person to whom temporary arrest has been applied shall have the right to submit a written request for consent to his/her surrender (extradition) with the investigating judge of the court within whose territorial jurisdiction the person is taken to custody, which may indicate the refusal to apply a special rule on the limits of criminal liability. Such a statement shall be subject to immediate consideration by the investigating judge in the manner prescribed by part 6 of this Article, with the participation of the public prosecutor, the person who has filed the request, his/her defence counsel and, where necessary, an interpreter.

{Article583 has been supplemented with new part under Law No. 2577-VIII of 2 October 2018}

9. Release of a person from provisional arrest due to the request of extradition arriving late to the central authority of Ukraine shall not prevent from exercising an extradition arrest against this person should such a request be received at a later date.

9. Where the request for extradition is received before the end of the term of provisional arrest, the ruling of the investigating judge on the exercising of provisional arrest shall lose legal effect at the moment when the investigating judge passes a ruling on exercising an extradition arrest against this person.

Article584. Enforcing a preventive measure as detention in custody in order to secure the extradition of a person (extradition arrest)

1. After a request for extradition from a competent authority of a foreign state is received, a public prosecutor, according to instructions or request of a central authority of Ukraine, shall make a request to the investigating judge of the jurisdiction where the person is being kept in custody on enforcing an extradition arrest against this person.

2. The following shall be submitted to the investigating judge together with the request:

1) a copy of a request for surrender (extradition) from a competent authority of a foreign state, attested by a central Ukrainian authority;

2) documents on the citizenship of the person;

3) available records of extradition examination.

3. The records submitted to the investigating judge shall be translated into the state language or into another language envisaged by the international treaty, ratified by the Verkhovna Rada of Ukraine.

4. When examining the issue of enforcing extradition arrest, the investigating judge shall be guided by the provisions of this Code and the international treaty, ratified by the Verkhovna Rada of Ukraine.

5. Should a person against whom the issue of detention is being examined not speak the state language, he/she shall be provided with an interpreter.

6. The terms of detention and the procedures for extending these terms shall be established by this Code.

7. During the consideration of the request, the investigating judge shall identify the person, explain his/her right to consent to surrender (extradition) for the application of the surrender (extradition) procedure in a simplified manner, as well as the right to refuse to apply a special rule on the limits of criminal liability in case of giving consent to surrender (extradition), find out whether the person is willing to exercise these rights, check the voluntary nature of consent of the person to his/he surrender (extradition), refusal to apply a special rule on the limits of criminal liability, awareness of the legal implications of such consent (refusal), check the request for extradition and available records of extradition inspection, hear the opinion of the public prosecutor, other participants and rule on:

1) exercising an extradition arrest;

2) approval of the person's consent to his/her surrender (extradition) and exercising of extradition arrest;

3) approval of the person's consent to his/her surrender (extradition), refusal of the person to apply a special rule on the limits of criminal liability and the exercise of extradition arrest;

4) exercise of extradition arrest and refusal to approve a person's consent to his/her surrender (extradition);

5) refusal to exercise extradition arrest where there are no grounds for it.

A copy of the ruling of the investigating judge, issued on the basis of consideration of the issue of approval of the person's consent to his/her surrender (extradition), shall be immediately sent to the authorised (central) body of Ukraine through the respective oblast prosecutor's office together with a copy of the person's written consent.

{Part 7 of Article 584 as revised by Law No. 2577-VIII of 2 October 2018}

8. When handling the request, the investigating judge shall not investigate the issue of guilt nor examine the legality of procedural decisions taken by competent authorities of a foreign state in connection with the case of the person that the request for extradition has been received for.

9. The ruling of the investigating judge may be appealed by the person subject to extradition arrest, his/her defence counsel or legal representative, the public prosecutor, except for the ruling of the investigating judge approving the consent of the person to his/her surrender (extradition) and extradition arrest, approving the consent of the person for its surrender (extradition), refusal of a person to apply a special rule on the limits of criminal liability and the application of extradition arrest, which are not subject to appeal.

{Part 9 of Article 584 as amended by Law No. 2577-VIII of 2 October 2018}

10. Extradition arrest shall be exercised until the issue of surrender (extradition) is settled and the transfer of the person actually takes place; however, it shall not last longer than twelve months.

11. Within this term the investigating judge of the court on whose territorial jurisdiction the person is kept in custody shall examine, upon the request of a public prosecutor, the basis for further confinement of the person under custody or for his/her release at least once every two months.

12. Based on the complaint of the person against whom extradition arrest is exercised, his/her defence council or a legal representative, the investigating judge of the court on whose territorial jurisdiction the person is kept in custody shall examine the availability of grounds for releasing the person, but no more than once a month.

13. The release of the person from extradition arrest by the investigating judge shall not prevent its repeated application in order to transfer the person to a foreign state in fulfilment of the request for extradition, unless otherwise provided for by the international treaty of Ukraine

14. A person to whom extradition arrest has been applied shall have the right to submit a written statement of consent to his/her surrender (extradition) to the investigating judge of the court within the territorial jurisdiction of which the person is kept in custody before deciding on his/her surrender which may indicate the refusal to apply a special rule on the limits of criminal liability. Such a request shall be subject to immediate consideration by the investigating judge in the manner prescribed by parts 7 and 8 of this Article, with the participation of the public prosecutor, the person who has filed the request, his/her defence counsel and, where necessary, an interpreter.

{Part 14 of Article 584 as revised by Law No. 2577-VIII of 2 October 2018}

Article585. Enforcing a measure of restraint other than detention in order to secure the extradition of a person based on a request for extradition from a foreign state

1. Where existing circumstances guarantee the prevention of an escape of a person and ensure his/her extradition, the investigating judge may apply to such a person a measure of restraint other than keeping in custody (extradition arrest).

2. When deciding on the possibility to apply a measure of restraint other than keeping in custody, the investigating judge shall have regard to the following:

1) information on the person's evading from justice in the requesting party and on how he/she complied with the terms on which he/she was released from custody during this or other criminal proceedings;

2) severity of punishment threatening the person if convicted, based on the circumstances established in respect of the incriminated criminal offence, provisions of Ukraine's law on criminal liability and case law;

3) age and state of health of the wanted person;

4) strength of the person's social ties, including whether he/she has a family and dependents.

3. Where the person in whose respect request for extradition is being considered disregards the terms of the measure of restraint applied, the investigating judge, upon public prosecutor's motion, shall have the right to pass a ruling to enforce the preventive measure in the form of custody, to ensure extradition of the person.

4. A person in respect of whom a measure of restraint other than to detention has been applied shall have the right to submit a written request for consent to his/her surrender (extradition) to the investigating judge before making a decision on his/her surrender (extradition), indicate the refusal to apply a special rule on the limits of criminal liability. Such request shall be subject to immediate consideration by the investigating judge in the manner prescribed by parts 7 and 8 of Article584 hereof, with the participation of the public prosecutor, the requestor, his/her defence counsel and, where necessary, an interpreter.

{Article 585 has been supplemented with part 4 under Law No. 2577-VIII of 2 October 2018}

Article586. Termination of provisional arrest or measure of restraint

1. Provisional arrest or measure of restraint shall be terminated where:

1) the central authority of Ukraine has not received a request for surrender (extradition) of this person within the period of time set forth in the international treaty of Ukraine;

2) the extradition examination reveals circumstances under which surrender (extradition) is not performed;

3) competent authority of a foreign state refuses to request the extradition of a person;

4) the central authority of Ukraine has passed a decision on refusing the surrender (extradition) of a person.

2. Cancellation of provisional arrest or measure of restraint shall be conducted by the chief officer of the respective oblast prosecutor's office, his first deputy or deputy on behalf of the central body of Ukraine, and in the case provided for by clause 2, part 1 of this Article, in agreement with the respective central body of Ukraine. A copy of the ruling on terminating provisional arrest or measure of restraint shall be sent to the authorised officer of the place of detention, to the investigating judge who has passed the ruling on imposing provisional arrest or measure of restraint, and to the person in relation to whom a measure of restraint other that detention was enforced.

{Part 2 of Article 586 as amended by Law No. 1697-VII of 14 October 2014}

Article587. Conducting extradition examination

1. Extradition verification of circumstances that may prevent the extradition of a person shall be conducted by the central authority of Ukraine or on its behalf or at the request of the respective oblast prosecutor's office.

{Part 1 of Article587 as amended by Law No. 1697-VII of 14 October 2014}

2. Extradition examination shall be conducted within sixty days. This term can be extended by a respective central authority of Ukraine

3. The records of the extradition examination, together with the conclusions based on this examination, shall be forwarded to a respective central authority of Ukraine.

Article588. Surrender (extradition) of persons under simplified procedure

1. The authorised (central) body of Ukraine may apply the procedure of surrender of a person (extradition) under simplified procedure only with the consent of such person to his/her surrender (extradition), approved by the investigating judge.

2. A person shall have the right at any time before deciding on his/her surrender (extradition) to submit to the investigating judge a written request for consent to his/her surrender (extradition), which may state the refusal to apply a special rule on the limits of criminal liability. The person's consent to his/her surrender (extradition), the person's refusal to apply a special rule on the limits of criminal liability may be revoked by the person before their approval by the investigating judge.

3. The chief officer of a pre-trial detention centre, having received a written request of a person for consent to his/her surrender (extradition), shall immediately send the request to the court within whose territorial jurisdiction the person is kept in custody and notify the chief prosecutor of the respective oblast prosecutor's office.

4. The oblast prosecutor's office concerned shall immediately send to the authorised (central) body of Ukraine a copy of the decision of the investigating judge issued following the consideration of the person's written request for consent to surrender (extradition), together with a copy of the person's written request for extradition, necessary for the decision of the authorised (central) body of Ukraine in accordance with part 8 of this Article.

5. The authorised (central) body of Ukraine shall immediately inform the competent body of the foreign state, which has the person on the wanted list to be prosecuted or sentenced, about the approval by the investigating judge of the person's consent to his/her surrender (extradition), refusal of the person to apply a special rule on the limits of criminal liability. The authorised (central) body of Ukraine shall in parallel request for the intention of the foreign state to request the surrender (extradition) of the person in the future (unless the competent authority of a foreign state has received a request for surrender (extradition) of the person) and request the information necessary to decide on the surrender (extradition) of the specified person under simplified procedure.

6. The authorised (central) body of Ukraine shall consider the issue of surrender (extradition) of a person under simplified procedure where there is information on:

1) adoption by the competent authority of a foreign state of decision on the person’s detention or a sentence that has entered into force, as well as confirmation that the person is wanted by the competent authority of a foreign state to be prosecuted or sentenced;

2) the nature and legal qualification of the criminal offence committed by the person, in particular the maximum limit of punishment or punishment imposed in accordance with the sentence that has entered into force, as well as the part of the sentence already served by the person;

3) data on the person wanted by the competent authority of a foreign state for criminal prosecution or execution of a sentence, in particular on his/her citizenship;

4) the circumstances of the commission of a criminal offence by a person, in particular the time, place, degree of participation of the person, other circumstances of the commission of a criminal offence;

5) the implications of a criminal offence committed by a person (where possible);

6) the statute of limitations for bringing to criminal responsibility for the commission of a respective criminal offence in accordance with the legislation of the foreign state the person is wanted by.

Where the person is wanted by the competent authority of a foreign state for the purpose of enforcing a sentence that has entered into force, information on whether the sentence was passed in the absence of the accused (in absentia) is also required to consider surrender (extradition).

Where necessary, in order to make a decision on surrender (extradition) under simplified procedure, the authorised (central) body of Ukraine may request additional information or documents from the competent authority of a foreign state.

7. The decision on surrender of a person (extradition) under simplified simplified may be made by the authorised (central) body of Ukraine before the request of the competent authority of a foreign state for surrender of a person (extradition) without mandatory extradition inspection in full.

8. The authorised (central) body of Ukraine shall make a decision on surrender (extradition) under simplified procedure or on refusal to surrender a person (extradite) under simplified procedure within five working days from the date of receipt of the decision of the investigating judge approving the person's consent to surrender (extradition), and information of the competent authority of a foreign state provided for by part 6 of this Article. The decision shall be made by the chief officer of the authorised (central) body of Ukraine or a person authorised by him and shall be final and not subject to appeal.

9. The authorised (central) body of Ukraine shall refuse to surrender a person (extradite) under simplified procedure in the following cases:

1) in case of bringing a person to criminal responsibility or serving a sentence in the territory of Ukraine;

2) where there are reasonable grounds to believe that the person in respect of whom the issue of surrender (extradition) is being considered is a citizen of Ukraine;

3) where there are reasonable grounds to believe that the surrender (extradition) of the said person may be contrary to the essential interests of national security of Ukraine;

4) where the competent authority of a foreign state has not provided at the request of the authorised (central) authority of Ukraine the information specified in part 6 of this Article.

10. The authorised (central) body of Ukraine shall notify of it’s decision the competent body of the foreign state and the person in respect of whom the decision was made, without undue delay and in any case within twenty days from the date of the investigating judge’s decision approving the person's consent to surrender (extradition).

11. The transfer of a person in respect of whom a decision on surrender (extradition) has been made under simplified procedure shall be made within ten working days from the date of notification of the said decision to the competent authority of the foreign state. This term may be extended by the authorised (central) body of Ukraine up to thirty days. Postponement of the actual transfer of a person on the grounds provided for by Article592 hereof shall not be allowed.

12. Where the authorised (central) body of Ukraine decides to refuse to surrender (extradite) a person in a simplified manner, the surrender (extradition) of a person shall be conducted according to the general rules on extradition of persons who have committed a criminal offence under this Chapter.

13. Surrender (extradition) of a person to Ukraine under simplified procedure shall be conducted in accordance with the procedure provided for by this Code and international treaties of Ukraine.

{Article588 as revised by Law No. 2577-VIII of 2 October 2018}

Article589. Refusal of surrender (extradition)

1. Extradition of a person to a foreign state shall be refused where:

1) the person in whose respect a request for extradition has been received is, under the laws of Ukraine in effect at the time of the decision on surrender (extradition), a citizen of Ukraine;

2) the offence for which extradition is requested is not punishable by deprivation of liberty by the Ukrainian law;

3) the statute of limitations of the criminal prosecution or execution of a sentence established by the Ukrainian law for the offence for which extradition is requested has expired;

4) the competent authority of the foreign state has failed to provide, upon request of the central authority of Ukraine, the additional materials or information without which a decision on a request for surrender (extradition) may not be made;

5) the person's surrender (extradition) contradicts Ukraine's obligations under international treaties of Ukraine;

5[1]) there are reasonable grounds to believe that the surrender of a person (extradition) is contrary to the essential interests of the national security of Ukraine;

{Part 1 of Article 589 has been supplemented with clause 5[1] under Law No. 2577-VIII of 02 October 2018}

6) there are other grounds provided for by an international treaty of Ukraine.

2. A person who has been recognised a refugee or a person requiring subsidiary protection, or who has been granted temporary protection in Ukraine may not be extradited to the state from which he has been recognised to have taken refuge or to a foreign state where his/her health, life or liberty may be in jeopardy on the grounds of race, denomination (religion), ethnicity, citizenship (nationality), affiliation with a particular social group or political conviction, except as otherwise provided for by an international treaty of Ukraine.

3. Where extradition is refused on the grounds of citizenship and status of a refugee or other grounds not precluding criminal proceedings, the Prosecutor General's Office of Ukraine, upon request of the competent authority of the foreign state, shall instruct to carry out pre-trial investigation in respect of such person as prescribed by this Code.

{As for amendments to part 3 of Article 589 refer to the Law No. 361-IX of 6 December 2019}

Article590. Decision on a request for a person's surrender (extradition)

1. Upon consideration of the findings of the extradition examination, the central authority of Ukraine shall decide to surrender (extradite), or refuse surrender (extradition) of, the person to the foreign state. Such decision is to be made by head of the central authority of Ukraine or a person he/she has authorised to do so.

2. The central authority of Ukraine shall inform of its decision the competent authority of the foreign state and, also the person in whose respect such decision has been made.

3. Where a decision is made to surrender (extradite) a copy thereof shall be served upon the above person. Where the above decision is not appealed to the court within ten days, the person shall be actually surrendered to the competent authorities of the foreign state.

4. A decision to grant a request for extradition of a person shall not be passed if such person has filed an application for the status of a refugee or person requiring subsidiary protection, or has exercised the right under the effective legislation to appeal decision as to the said statuses, until final determination of the application under the rules established by the legislation of Ukraine. Information as to whether a person has filed said applications or appealed said decision shall not be divulged to the requesting foreign state.

Article591. Appeal of a decision to surrender (extradite) a person

1. A decision to surrender (extradite) a person may be appealed by the person in whose respect it has been made, his/her defence counsel or legal representative, to the investigating judge within whose jurisdiction the above person is held in custody, unless otherwise provided for by Article588 hereof. Where a non-custodial restraint has been chosen, an appeal of a decision to surrender (extradite) such person may be lodged to the investigating judge within whose jurisdiction the respective central authority of Ukraine is located.

{Part 1 of Article 591 as amended by Law No. 2577-VIII of 02 October 2018}

2. Where a complaint against a decision on extradition is lodged by a person in custody, the authorised official of the detention centre shall immediately send the complaint to the investigating judge and notify the respective oblast prosecutor's office.

{Part 2 of Article 591 as amended by Law No. 1697-VII of 14 October 2014}

3. The investigating judge shall consider the appeal within five days of its receipt by the court. The hearing shall be held with the participation of the public prosecutor who has performed extradition examination, the person regarding whom the decision to extradite has been taken, his/her defence counsel or legal representative where the latter takes part in the proceedings.

4. When hearing the appeal, the investigating judge shall not examine the issue of guilt or review lawfulness of the procedural decisions taken by the competent authorities of the foreign state in the case of the person requested for surrender (extradition).

5. Based on the findings of such hearing, the investigating judge shall rule to:

1) dismiss the appeal;

2) grant appeal and revoke the decision to surrender (extradite).

6. The investigating judge’s ruling may be appealed by the public prosecutor, the person in whose respect the decision has been made, his/her defence counsel or legal representative. Filing

an appeal against such ruling of an investigating judge shall suspend its effect and arrest its execution.

7. A decision of an appellate court may be appealed on cassation only by a public prosecutor on the grounds of the wrong application of the rules to international treaties of Ukraine by the court where reversal of the decision to surrender (extradite) obstructs further proceedings in respect of a person requested for extradition by a foreign state.

Article592. Stay of extradition

1. After a decision to surrender (extradite) a person has been made, the central authority of Ukraine may stay surrender of the person to the foreign state as a matter of fact where:

1) the person in whose respect a decision to surrender (extradite) has been made is prosecuted or serves a punishment of deprivation or restraint of liberty in Ukraine for commission of another offence in the territory of Ukraine, – until completion of the pre-trial investigation or court proceedings, service of sentence or release from punishment on any lawful grounds;

2) the person requested for surrender (extradition) is seriously ill and may not for reasons of health be surrendered without harm to his/her health, – until recovery.

2. After the decision to postpone the transfer has been made, the respective oblast prosecutor's office shall, on behalf of the central body of Ukraine, supervise the process of serving the sentence or monitor the course of his/her treatment.

{Part 2 of Article 592 as amended by Law No. 1697-VII of 14 October 2014}

3. In the absence of grounds for postponement of the actual transfer of a person provided for by part 1 of this Article, the respective oblast prosecutor's office shall ensure the exercise of extradition arrest in accordance with the procedure established by this Code.

{Part 3 of Article 592 as amended by Law No. 1697-VII of 14 October 2014}

4. Where any circumstance precluding extradition arise during such stay, the central authority of Ukraine shall have the right revise its decision to surrender (extradite).

Article593. Actual surrender of a person

1. In order to actually surrender a person in whose respect a decision to surrender (extradite) has been made, the central authority of Ukraine shall give appropriate instructions (make requests before) competent authorities of Ukraine after such decision has come into effect.

2. Extradition of a person shall be conducted within fifteen days of the date determined for his/her extradition, except otherwise provided for by Article599 hereof. The above term may be extended by the central authority of Ukraine for up to thirty days, after which the person shall be subject to release from custody.

{Part 2 of Article 593 as amended by Law No. 2577-VIII of 02 October 2018}

3. Where the competent authority of a foreign state cannot for reasons beyond its control accept such person, the central authority of Ukraine shall within the time provided under part 2 above determine a new date for surrender.

4. At the time of an actual surrender of a person, the competent authority of a foreign state shall be informed of the duration of such person's detention in Ukraine.

5. A person extradited to Ukraine by decision of the competent authority of a foreign state shall be delivered to the penal institution by the competent authority of Ukraine as instructed (requested) by the central authority of Ukraine.

Article594. Expenses related to deciding on the extradition of a person to a foreign state

1. Expenses incurred in the territory of Ukraine in connection with deciding on extradition of a person, as well as expenses incurred in connection with transit of a person extradited to Ukraine via the territory of another state, shall be deemed procedural expenses under this Code.

Chapter 45. Takeover of criminal proceedings

Article595. Procedure and conditions for takeover of criminal proceedings from foreign states

1. A request of competent authorities of foreign states for taking over of criminal proceedings by Ukraine shall be considered by the central authority of Ukraine for international legal aid or the authority authorised to maintain relations under part 3 of Article545 of this Code, within twenty days of its receipt.

2. Criminal proceedings, in which judicial authorities of a foreign state have not rendered a sentence, may be taken over by Ukraine under the following conditions:

1) the person who is prosecuted is a national of Ukraine and stays in its territory;

2) the person who is prosecuted is a foreigner or stateless person and stays in the territory of Ukraine, and his/her extradition under this Code or the appropriate international treaty of Ukraine is impossible, or his/her extradition was refused;

3) the requesting state has given guarantees that, if a sentence is passed in Ukraine in respect of the prosecuted person, the latter will not be prosecuted on behalf of the state in the requesting state for the same criminal offence;

4) the action to which request is related, is a criminal offence under Ukraine's law on criminal liability.

3. Where criminal proceedings are taken over, the Prosecutor General's Office of Ukraine shall assign as prescribed in this Code the conduct of pre-trial investigation to an appropriate public prosecutor, and shall inform the requesting state thereon.

4. If taking over criminal proceedings is refused, the Prosecutor General's Office of Ukraine shall return materials to the appropriate foreign authorities, with reasons for the refusal.

Article596. Impossibility to take over criminal proceedings

1. Criminal proceedings may not be taken over if:

1) provisions of part 2 of Article595 of this Code or of the international treaty, ratified by the Verkhovna Rada of Ukraine, are not complied with;

2) a judgment of acquittal was delivered in Ukraine in respect of the same person and in connection with the same criminal offence;

3) a condemnatory sentence was delivered in Ukraine in respect of the same person and in connection with the same criminal offence, the punishment of which already served or being served;

4) a decision to close criminal proceedings or to release from serving punishment in connection with pardon or amnesty was taken in respect of the same person and in connection with the same criminal offence;

5) proceedings in respect of the criminal offence concerned may not be conducted because of expiry of the statute of limitations.

Article597. Keeping a person in custody before the receipt of the request to take over criminal proceedings

1. Upon request of another state's competent authority, the person in whose respect a request to take over criminal proceedings will be sent may be kept in custody in the territory of Ukraine for a period not exceeding forty days.

2. Keeping in custody shall be applied under procedure and according to the rules stipulated by Article583 of this Code.

3. If after the expiry of the time limit referred to in part 1 of this Article, the request to take over criminal proceedings is not submitted, the person concerned shall be released from custody.

Article598. The procedure of criminal proceedings which have been taken over from another state

1. Criminal proceedings which have been taken over from a foreign competent authority, shall begin with the stage of pre-trial investigation, and shall be conducted as prescribed by this Code.

2. Information contained in materials obtained by appropriate competent authorities of another state in its territory and in accordance with laws of the latter before criminal proceedings have been taken over, may be found admissible during trial in Ukraine unless this breaches the principles of judicial proceedings laid down in the Constitution of Ukraine and this Code, and unless such materials has been obtained with violations of human rights and fundamental freedoms. Information recognised by court admissible shall not require any legalisation.

3. After criminal proceedings have been taken over, investigator or public prosecutor of Ukraine may conduct any procedural actions specified in this Code.

4. Where sufficient grounds for notifying of suspicion are present, a notice of suspicion shall be served in accordance with Ukraine's law on criminal liability and as prescribed by this Code.

5. Punishment imposed by court shall not be more severe than punishment provided for by law of the requesting state for the same criminal offence.

6. A copy of the final procedural decision which has entered into legal force shall be sent to the competent authority of the requesting state.

Article599 Procedure and conditions for takeover of criminal proceedings by a competent authority of a foreign state

1. The designated (central) authority of Ukraine shall consider a request of investigator as approved by the public prosecutor, that of a public prosecutor or court, to transfer criminal proceedings to a competent authority of another state, within twenty days after such request has been received.

2. Unfinished criminal proceedings may be transferred to another state on condition that extradition of the person subject to prosecution is impossible, or where extradition of such person to Ukraine was refused.

3. The investigator, public prosecutor or court, upon request of the competent (central) authority of Ukraine, shall resume criminal proceedings, extend, where prescribed by this Code, time limits for investigation or keeping in custody, taking into account the time needed for the competent authority of the foreign state to take over criminal proceedings.

Article600. Contents and form of the request to transfer criminal proceedings to another state

1. Contents and form of the requests to transfer criminal proceedings to another state shall comply with provisions of this Code and the respective international treaties of Ukraine, ratified by the Verkhovna Rada of Ukraine.

2. A request to transfer criminal proceedings to another state shall contain the following:

1) name of the authority which conducts criminal proceedings;

2) reference to the appropriate international treaty on provision of legal aid;

3) name of the criminal proceedings to be transferred;

4) description of the criminal offence which is the subject of criminal proceedings and legal qualification of such criminal offence;

5) last name, first name and patronymic of the individual in whose respect criminal proceedings are conducted, date and place of his/her birth, place of residence or whereabouts, and other information thereon.

3. The following documents shall be attached to the request:

1) records of criminal proceedings;

2) text of the Article of Ukraine's law on criminal liability under which the criminal offence is qualified, and criminal proceedings are conducted;

3) information on the person's nationality.

4. Available physical evidence shall be transferred with the request and the documents specified in part 3 of this Article.

5. Copies of materials shall be retained in the agency which conducted criminal proceedings in Ukraine.

Article601. Consequences of the transfer of criminal proceedings to the competent authority of another state

1. From the moment the competent authority of another state has taken over criminal proceedings, the appropriate Ukrainian authorities shall not have the right to conduct any

procedural action with regard to the person, in connection with the criminal offence the criminal proceedings in which respect has been taken over, other than on the grounds of a request for international legal aid from the state which has taken over criminal proceedings.

2. Where criminal proceedings transferred from Ukraine are closed by the competent authority of a foreign state at the stage of pre-trial investigation, it shall preclude resumption of proceedings in Ukraine and further investigation under the rules of this Code unless otherwise provided for by an international treaty, ratified by the Verkhovna Rada of Ukraine.

Chapter 46. Recognition and execution of judgments of courts of foreign states and transfer of sentenced persons

Article602. Grounds and procedure for enforcement of judgments of courts of foreign states

1. A sentence delivered by a court of a foreign state may be recognised and enforced in the territory of Ukraine in cases and in the scope prescribed by the international treaty, ratified by the Verkhovna Rada of Ukraine.

2. In absence of an international treaty, provisions of this Chapter may be applied in deciding on an issue of the transfer of a sentenced person for further serving of punishment

3. Request on execution of foreign state's court sentence, except for a request to transfer a sentenced person shall be considered by the Ministry of Justice of Ukraine within thirty days after receipt of the request. Where the request and additional materials has been received in a foreign language, this time limit shall be extended to three months.

4. When considering a request for the enforcement of a sentence delivered by a foreign court in accordance with part 3 of this Article, the Ministry of Justice of Ukraine shall determine whether grounds for granting request for the enforcement of a sentence exist under the appropriate international treaty of Ukraine. For this purpose, the Ministry of Justice of Ukraine may demand and obtain the necessary materials and information in Ukraine or from the competent authority of the foreign state concerned.

5. Having established that the request for recognition and enforcement is consistent with the provisions of the international treaty of Ukraine, the Ministry of Justice of Ukraine shall forward the request for recognition and enforcement of the sentence of the court of foreign state to a court and transfer the obtained materials thereto.

6. Where the request is refused, the Ministry of justice of Ukraine shall inform the requesting foreign authority thereon, with explanation of reasons for refusal.

7. Sentences delivered in absentia, that is without participation of the person concerned in criminal proceedings, by courts of foreign states, except when the sentenced person was served a copy of the sentence and given the possibility to challenge the sentence, shall not be enforced in Ukraine. A request for execution of a sentence imposed by a foreign court may be refused where such execution contradicts any obligations of Ukraine under its international treaties.

8. The issue of recognition and enforcement of a sentence delivered by a court of foreign state in part of a civil action shall be disposed as prescribed by the Civil Procedure Code of Ukraine.

9. In cases provided for by the international treaty, ratified by the Verkhovna Rada of Ukraine, if a sentence of foreign court decreed a punishment in the form of imprisonment, the Ministry of

Justice of Ukraine shall send a certified copy of the request as specified in this Article, to a public prosecutor to request an investigating judge to impose a restraint measure until the execution of the sentence of a foreign court is decided.

Article603. Consideration by court of the issue of enforcement of a sentence of foreign state's court

1. The Ministry of Justice of Ukraine's application for execution of a sentence of foreign state's court shall be considered within one month of the day of its receipt by a court of first instance within whose territorial jurisdiction has the place of residence, or the last known place of residence of the convicted person, or in the place where the property of such person is located or, where none of the above is present, the location of the Ministry of Justice of Ukraine.

2. The person in whose respect the sentence was delivered shall be informed on the date of court hearing, if such person stays in the territory of Ukraine. Such person shall have the right to benefit from a defence counsel. The hearing shall be held with the participation of a public prosecutor.

3. When considering the application of the Ministry of Justice of Ukraine for enforcement of a sentence of foreign state's court, the court shall verify whether requirements of the international treat, ratified by the Verkhovna Rada of Ukraine, were complied with. The court shall not verify the actual circumstances established in the sentence of foreign state's court, and shall not decide on the issue of the person's guilt.

4. Based on the results of the court proceedings, the court shall deliver a ruling to:

1) enforce the sentence of the foreign state's court in full or in part. In this respect, the court shall determine what part of the punishment may be enforced in Ukraine, guided by provisions of the Criminal Code of Ukraine that establish criminal liability for the crime in connection with which the sentence was delivered, and shall decide on the issue of applying a measure of restraint until the ruling enters into legal force;

2) refuse the enforcement of the judgment sentence of the foreign state's court.

5. Where an additional verification is necessary, the court may deliver a ruling to postpone the trial and to obtain supplementary materials.

6. The period spent by the person in custody in Ukraine in connection with the consideration of the request to enforce a sentence of the foreign state's court, shall be credited to the total term of punishment as determined in accordance with clause 1, part 4 of this Article.

7. When taking a decision to enforce the foreign sentence, the court may simultaneously take a decision on measure of restraint as to the person concerned.

8. A copy of the ruling shall be sent by the court to the Ministry of Justice of Ukraine and served on the person convicted by the sentence of the foreign state's court.

9. A court decision on the enforcement of a sentence of foreign state's court may be challenged under appellate procedure by the requesting body, the person in whose respect the respective issue has been decided, or by the public prosecutor.

Article604. Enforcement of the sentence of a foreign state's court

1. A ruling to enforce a sentence of a foreign state's court shall be enforced as prescribed by this Code.

2. The Ministry of Justice of Ukraine shall inform the requesting party on the results of enforcement of the sentence of the foreign state's court.

Article605. Grounds for considering the issue of the transferring and taking over of sentenced persons for serving their sentences

1. Request of the designated authority of the foreign state, application of the sentenced person, his/her legal representative or close relatives or family members, as well as other circumstances specified by Ukrainian law or international treaty, ratified by the Verkhovna Rada of Ukraine, may be a ground for considering the issue of adopting a decision to transfer the sentenced person concerned.

2. The provisions of Articles 605–612 of this Code may apply in deciding the issue of transferring a person who is subject to compulsory medical measure by court decision.

Article606. Conditions for transfer of sentenced persons and taking over thereof for serving their sentences

1. A person sentenced by a court of Ukraine may be transferred to another state for serving the sentence imposed, while a national of Ukraine sentenced by foreign court, may be taken over for serving the sentence imposed, only provided that:

1) the person concerned is a national of the administering state;

2) the sentence has entered into legal force;

3) at the time of receipt of the request for transfer, the sentenced person has at least six months of the punishment left to serve, or where the person concerned was sentenced to imprisonment for uncertain term;

4) the sentenced person or, accounting for his/her age or physical or mental state, his/her legal representative gives consent to the transfer;

5) the criminal offence, as a result of commission of which the sentence was delivered, is a crime under law of the administering state, or would have been a crime where committed in its territory, the commission of which is punishable by imprisonment;

6) pecuniary damage caused by the criminal offence has been repaired, as well as procedural expenses, if any;

7) the sentencing state and the administering state agree to the transfer of the sentenced person.

2. Before deciding on the issue of transferring a sentenced person for serving the sentence imposed on him/her, from Ukraine to a foreign state, the latter shall provide guarantees that the sentenced person will not be subjected to torture or another inhuman or degrading treatment or punishment.

3. Consent of the sentenced person or of his/her legal representative shall be given in written form, with full understanding of all legal consequences of such consent. The sentenced person or his/her legal representative shall have the right to obtain legal aid in the form of legal advice with

regard to the consequences of their consent. Consent of the sentenced person shall not be required where, at the time the issue is disposed under the provisions of this Chapter, he/she stays in the territory of the state of his/her nationality.

4. Whenever even a single condition out of those specified in parts 1–3 of this Article is not met, the Ministry of Justice of Ukraine may refuse to transfer or admit the sentenced person, unless this Code or the respective international treaty of Ukraine provide otherwise.

5. Where in deciding on the issue of transferring a national of a foreign state sentenced in Ukraine, it was established that the laws of the administering state are in compliance with the conditions of clause 5, part 1 of this Article, but the maximum envisaged term of punishment in the form of imprisonment for this type of action is shorter than the term of punishment imposed in the sentence, the transfer of the sentenced person shall be possible only after actual serving by the sentenced of a part of sentence determined in accordance with part 3 of Article81 of the Criminal Code of Ukraine. The same rule may be applied if the legislation of the administering state is not in compliance with the conditions of clause 5, part 1 of this Article as regards the type of punishment.

6. If a decision is adopted to refuse the transfer of a sentenced person for further serving of punishment, grounded reasons for such decision shall be stated.

7. A sentenced person who consented to the transfer to the foreign state for further service of punishment may refuse to be transferred at any time before he/she has crossed Ukrainian border, as prescribed by Article607 hereof. Having received information on such refusal, the Ministry of Justice of Ukraine shall immediately discontinue the consideration of the issue of the transfer or, as the case may be, take measures to discontinue the transfer.

8. In cases provided for by clauses 4 and 7 of this Article, a new consideration of the issue of transferring a sentenced person shall not be possible before the lapse of three years after the refusal to transfer, or the sentenced person’s refusal to be transferred.

Article607. Procedure and time limits for deciding the issue of the transfer of persons sentenced by Ukrainian courts, for serving their sentences in foreign state

1. The issue of the transfer of persons sentenced by Ukrainian courts to imprisonment, for serving the sentence in the state of their nationality, shall be decided on by the Ministry of Justice of Ukraine.

2. Whenever the sentenced person is a national of a foreign state that is a party to the international treaty on the transfer of persons sentenced to imprisonment, for serving the sentence in the state of his/her nationality, the authority in charge of execution of sentences, shall advise the sentenced person of his/her right to apply to the Ministry of Justice of Ukraine or the competent authority of the state of his/her nationality, with a request to be transferred to this state for serving the sentence there, on the grounds and according to the procedure prescribed by this Code. Provisions of this part do not preclude sentenced nationals of other states from applying for the transfer to the state of their nationality to continue serving their sentence.

3. Having studied and examined materials, the Ministry of Justice of Ukraine, where such materials are duly drawn up and if grounds specified by this Code or by the respective international treaty exist, shall take a decision to transfer the person sentenced by the Ukrainian court to imprisonment, for him/her to continue serving the sentence in the state of his/her nationality, and

shall send information thereon to the appropriate foreign authority and to the person upon whose initiative the issue of such transfer of the sentenced person was considered.

4. Upon receiving from the competent authority of the foreign state of information on the consent to admit the sentenced person for serving his/her punishment, the Ministry of Justice of Ukraine shall send to the Ministry of Internal Affairs of Ukraine and the National Police the assignment to make arrangements regarding the place, time, and procedure for the transfer, and to organise the transfer of the person concerned from the respective institution of the Ukrainian penitentiary system to the foreign state.

{Part 4 of Article607 as amended by Law No. 901-VIII of 23 December 2015}

5. Transfer of a sentenced national of a foreign state for further serving of punishment as prescribed by this Article, shall not deprive him/her of the right to raise the issue of his/her release on parole, commutation of the remaining part of the sentence to a less severe one, within time limits specified in the Criminal Code of Ukraine, as well as of pardon, in a procedure established by Ukrainian law. Any documents or information required for consideration of the issue in Ukraine shall be required to be demanded and obtained from the competent authorities of the administering state through the Ministry of Justice of Ukraine.

6. The Ministry of Justice of Ukraine shall inform the sentencing court of the decision to transfer the sentenced person, as well as shall ensure that the court is informed on how the sentence has been executed in the foreign state concerned.

7. Whenever an amnesty is declared in Ukraine, the court which received information on the decision to transfer a sentenced person as provided for in this Article, shall consider the issue of applying amnesty to such sentenced person. Where necessary, the court may apply to the Ministry of Justice of Ukraine seeking to receive from the competent authorities of the administering state the information necessary for the consideration of the issue of applying amnesty.

8. The authority which has adopted the decision as prescribed by parts 5 and 7 of this Article, based on the results of consideration of parole, commutation of the remaining part of the sentence to a less severe one, pardon or amnesty issues, shall forward a copy of the respective decision to the Ministry of Justice of Ukraine, for providing the appropriate information to the administering state.

Article608. Notifying on alteration or reversal of a sentence imposed by Ukrainian court on a national of foreign state

1. If the sentence imposed by Ukrainian court of in respect of a sentenced person who has been transferred to serve his/her sentence to another state is altered or reversed, as well as if an act of amnesty or pardon issued in Ukraine applies to such person, the Ministry of Justice of Ukraine shall send to the designated (central) authority of the foreign state concerned a copy of the court ruling on alteration or reversal of the sentence, or a copy of the decision taken by appropriate Ukrainian authorities to apply amnesty or pardon to the sentenced person.

2. Where the sentence has been reversed and a new trial fixed, other documents required for this shall also be sent.

Article609. Procedure for consideration of request (motion) for the transfer of a Ukrainian national sentenced by a foreign court, for serving the sentences in Ukraine

1. A request of a competent authority of a foreign state to transfer a Ukrainian national sentenced by a court of that state to imprisonment, for serving their sentences in Ukraine, as well as a request for the transfer of such convict or his/her legal representative or relative shall be considered by the Ministry of Justice of Ukraine within a reasonable time period.

2. After filing with the Ministry of Justice of Ukraine of the motion or request on a taking over of a Ukrainian national sentenced by a court of the foreign state to imprisonment, for continued service of the punishment in Ukraine, and ascertaining of this person's nationality, the Ministry of Justice of Ukraine shall request from the respective authority of the foreign state the documents required for disposing the issue on its merits.

3. After necessary documents have been obtained, the Ministry of Justice of Ukraine shall consider them within one month and where the decision made to take over of a Ukrainian national who has been sentenced by a foreign court to imprisonment, for him/her to continue serving his/her sentence in Ukraine, the Ministry of Justice of Ukraine shall apply to a court to bring a sentence of foreign state's court into accordance with the Ukrainian law. Where the request and additional materials has been received in a foreign language, the time limit shall be extended to three months.

4. In case of the Ministry of Justice of Ukraine's refusal to grant the request (petition) for transfer of the sentenced person to Ukraine, the appropriate information shall be sent to the sentencing state, as well as to the person upon whose initiative the issue of transferring the sentenced person was considered, with explanation of reasons for such refusal.

5. If the request for transfer is granted, the Ministry of Justice of Ukraine shall send to the sentencing state the information thereon, together with a copy of the court ruling passed as a result of consideration of the request under part 3 of this Article.

Article610. Consideration of the issue of bringing a sentence of a foreign state's court in line with the laws of Ukraine

1. The Ministry of Justice of Ukraine's application to bring a sentence of foreign state's court in line with Ukrainian law, as prescribed by part 3 of Article609 of this Code, shall be considered by a court of first instance in the place of residence of the sentenced person in Ukraine or in the place where the Ministry of Justice of Ukraine is located, within one month after such application has been received. The hearing shall be held with the participation of a public prosecutor.

2. Together with the application, the Ministry of Justice of Ukraine shall submit to the court the following documents:

1) a copy of the sentence together with a document which confirms that the sentence has entered into legal force;

2) text of Articles of criminal law of the foreign state on which the sentence was based;

3) a document confirming the length of the served part of the sentence, including information on any preliminary detention, release from punishment, and any other circumstances relevant to the enforcement of the sentence;

4) sentenced person's statement of consent to the transfer in Ukraine to serve his/her sentence and, in cases provided for in the international treaty, ratified by the Verkhovna Rada of Ukraine, the statement of the sentenced person's respective representative;

5) information on the state of health and behaviour of the sentenced person.

3. When considering the motion of the Ministry of Justice of Ukraine, the court shall determine Articles (parts of Articles) of the law of Ukraine on criminal liability which establish liability for the criminal offence committed by the sentenced Ukrainian national, and the length of the term of imprisonment imposed based on the sentence of the foreign court.

4. When deciding on the length of a prison sentence to be served based on the foreign state's court sentence, the court shall be consistent with the term of punishment imposed in such sentence, except in the following cases:

1) if, under the Ukraine's law on criminal liability, the maximum length of imprisonment for the criminal offence is shorter than that imposed in the sentence of a foreign state's court, the court shall impose the maximum term of imprisonment prescribed in the Ukraine's law on criminal liability;

2) if the length of sentence imposed in the sentence of a foreign state's court is shorter than the minimum length sanctioned by the Article of the Criminal Code of Ukraine for the same criminal offence, the court shall impose the length of the punishment imposed by the foreign state's court sentence.

5. In accordance with the motion of the Ministry of Justice of Ukraine, the court may also consider the issue of enforcing execution the additional punishment imposed by the sentence of a foreign state's court. Unexecuted additional punishment imposed by the sentence of a foreign state's court shall be enforced if Ukrainian law establishes such punishment for the commission of the given criminal offence. It shall be executed within the scope and according to the procedure prescribed by Ukrainian law.

6. When considering the issue of enforcing the sentence, the court may in the meantime decide on the issue of executing the sentence of the foreign state's court in terms of civil claim and in terms of procedural expenses, where an appropriate request exists.

7. The ruling passed under this Article may be challenged under appellate procedure by the requesting body, the person in whose respect a decision has been made on bringing the foreign sentence in line with the legislation of Ukraine, or the public prosecutor.

8. A copy of the ruling shall be forwarded to the Ministry of Justice of Ukraine and to the central executive authority in the area of execution of sentences in Ukraine.

Article611. Arranging execution of sentence in respect of a transferred sentenced person

1. After the request to transfer a sentenced person to Ukraine has been granted and the consent of the foreign state's competent authority to such transfer received, the Ministry of Justice of Ukraine shall send to the competent authority an assignment to agree on the place, time, and procedure for the transfer and to arrange the transfer of the person concerned to an institution of the Ukrainian penitentiary system.

2. The sentence in respect of a transferred person sentenced by a foreign state's court shall be executed in Ukraine in accordance with laws of Ukraine governing execution of criminal sentences. Legal consequences for the convict transferred to Ukraine for serving his/her sentence

shall be the same as for the persons sentenced in Ukraine for the commission of similar criminal offence.

3. A person transferred to Ukraine for continued serving of punishment may be subject to parole, amnesty or pardon in accordance with the procedure established by the legislation.

4. The Ministry of Justice of Ukraine shall inform the designated (central) authority of the sentencing state on the progress or results of execution of the sentence in the following cases:

1) the sentence has been served in full in accordance with Ukrainian law;

2) death of the sentenced person;

3) escape of the sentenced person.

Article612. Notification of alteration or reversal of the sentence imposed by a foreign state's court

1. Any issues related to reviewing the sentence imposed by a foreign state's court shall be disposed by a court of the sentencing state.

2. If a court of a foreign state alters the sentence imposed, the issue of executing such decision shall be considered as prescribed by this Code.

3. Where a court of a foreign state reverses the sentence imposed and closes criminal proceedings or where an act of pardon, amnesty is applied to the sentenced person or if his/her sentence imposed by a foreign court is commuted, the Ministry of Justice of Ukraine shall inform the central executive authority in the area of execution of sentences in Ukraine on the necessity to release the person concerned.

4. Where the sentence has been reversed by a court of the foreign state and a new pre-trial investigation or a new trial assigned, the issue of continuing criminal proceedings shall be decided by the Prosecutor General's Office of Ukraine as prescribed by this Code.

Article613. Expenses related to the transfer of a sentenced person

1. Expenses related to the transfer of a foreigner convicted in Ukraine, to the state of his/her nationality for continued serving of his/her sentence, except expenses incurred in the territory of Ukraine, shall be borne by the state of which the sentenced person is a national.

2. Expenses related to the transfer of a Ukrainian national who has been convicted in a foreign state, shall be borne by the authority which ensures his/her transportation, at the expense of the State Budget of Ukraine.

Article614. Recognition and enforcement of sentences imposed by international judicial institutions

1. Recognition and enforcement on the territory of Ukraine sentences, imposed by international judicial institutions, as well as admission of persons, sentenced by such courts to imprisonment shall be admitted in accordance with the rules laid down in this Code based on the international treaty, ratified by the Verkhovna Rada of Ukraine.

of Section IX[1]
SPECIAL RULES OF PRE-TRIAL INVESTIGATION DURING MARTIAL LAW, EMERGENCY OR IN THE AREA OF ANTI-TERRORIST OPERATION

Article615. Special rules of pre-trial investigation during martial law, emergency or in the area of the anti-terrorist operation

1. Within the territory (administrative area) where martial law or an emergency is in effect or an anti-terrorist operation conducted, where an investigating judge is not able to exercise his/her powers within the time provided for by Articles 163, 164, 234, 247, and 248 of this Code, as well as the powers as to imposing the measure of restraint in the form of 30 days of custody on persons who are suspected of having committed any of the offences under Articles 109–114[1], 258–258[5], 260–263[1], 294, 348, 349, 377–379, 437–444 of the Criminal Code of Ukraine, such powers are exercised by a respective public prosecutor.

{The Law has been supplemented with of Section IX[1] under Law No. 1631-VII of 12 July 2014}

Section X
FINAL PROVISIONS

1. This Code shall enter into force after six months from the date of its promulgation except for:

{Paragraph 2, clause 1 of Section X has been deleted under Law No. 2617-VIII of 22 November 2018}

part 4 of Article216 of this Code, which shall enter into effect from the first date of operation of the State Bureau of Investigation of Ukraine, but not later than five years from the date of entry into force of this Code;

{Paragraph 3, clause 1 of Section X as amended by Law No. 771-VIII of 10 November 2015}

Part 5 of Article216 of this Code, which shall enter into force upon the first day when the activity of the National Anti-Corruption Bureau begins, but no later than three years after the entry into force of this Code;

{Clause 1 of Section X has been supplemented with new paragraph No. 1698-VII of 14 October 2014}

part 4 of Article213 of this Code, which shall enter into force upon entry into force of the legal provisions regulating provision of the free legal aid, which contemplate provision of the respective type of the free legal aid;

{Paragraph, clause 1, Section X "Final Provisions" has been deleted under Law No. 406-VII of 4 July 2013}

part 2 of Article45 of this Code, which shall enter into force one year after the Register of Lawyers and Bar Associations has been created;

part 5 of Article181 (as far as the possibility to use the electronic monitoring devices is concerned), clause 9 of part 5 of Article194, Article195, which shall enter into force from the day of entry into force of the Regulations on the procedure of use thereof approved by the Ministry of Internal Affairs of Ukraine;

clauses 18, 19, 20, 21, 22, 23, 24, 25, 26 of Section XI"Transitional Provisions" which shall enter into force from the date of promulgation of this Code.

2. From the day on which this Code enters into force, the following legislation shall lose its effect:

1) The Criminal Procedure Code of Ukraine as amended;

The Law of the Ukrainian SSR "On Approval of the Criminal Procedure Code of the Ukrainian SSR" (The Official Bulletin of the Verkhovna Rada of the UkrSSR, 1961, No. 2, Article15);

Section XI
TRANSITIONAL PROVISIONS

1. Before the day of entry into force of provisions of part 4of Article216 hereof powers for pre-trial investigation are exercised by the investigators of the prosecutor's office, who use the powers of the investigators defined by this Code in respect of crimes under part four of Article216 hereof.

Where it is impossible to complete the pre-trial investigation in such proceedings before the expiration of two years, as well as in the presence of other grounds provided for by law, the issue of entrusting its implementation to other pre-trial investigation bodies shall be resolved in accordance with this Code. The transfer of criminal proceedings to the State Bureau of Investigations shall be conducted with due account of the aspects defined by the Law Of Ukraine "On the State Bureau of Investigations".

{Paragraph 2, clause 1 of Section XI as revised by Law No. 1355-VIII of 12 May 2016, as revised by Law No. 113-IX of 19 September 2019 as amended by Law No. 187-IX of 4 October 2019}

Before the effective date of part five of Article216 hereof, the powers of pre-trial investigation of crimes committed by it shall be exercised by the investigators of the prosecutor's office, who exercise the powers of investigators defined by this Code.

Before the effective date of part 5 of Article216 hereof, powers of pre-trial investigation of the criminal offences specified herein shall be exercised by the investigators of prosecutor's offices, which exercise the powers of the investigators as established by this Code, until the end of the pre-trial investigation, but not later than the day of the beginning of the operation of the Prosecutor General's Office and oblast prosecutor's offices.

{Paragraph 4, clause 1, Section XI as revised by Law No. 916-VIII of 24 December 2015; as amended by Laws No. 2147-VIII of 3 October 2017, No. 113-IX of 19 September 2019 as amended by Law No. 187-IX of 4 October 2019}

{Clause 1 of Section XI as amended by Law No. 1698-VII of 14 October 2014; as revised by Law No. 771-VIII of 10 November 2015}

2. Before the day of entry into force of the legal provisions regulating provision of the free legal aid, which contemplate activities of the bodies (institutions) empowered by the law to provide free legal aid, functions of such bodies (institutions) shall be performed by the bar associations or by the lawyers' self-governance bodies.

3. Statements and notifications about crimes submitted to the bodies of inquiry, investigators, public prosecutors before this Code has entered into force, and on which a decision on initiation or refusal to initiate the criminal proceedings has not been made shall be transferred to the pre-trial investigation bodies according to this Code, in order to start pre-trial investigation under the procedure established by this Code.

4. Criminal intelligence cases that on the effective date of this Code are undergoing proceedings by the units which conduct criminal intelligence operations, shall be continued. Where appropriate grounds exist, such criminal intelligence cases shall be transferred to the pre-trial investigation bodies in order to start pre-trial investigation under the procedure established by this Code with consideration of the investigative jurisdiction of these cases.

5. Criminal cases that, on the day when this Code enters into force, are undergoing proceedings by the inquiry agencies shall be transferred, within ten days from the day when this Code enters into force, to appropriate pre-trial investigation bodies with consideration of the investigative jurisdiction of these cases for purposes of the pre-trial investigation.

6. Criminal cases that, on the day when this Code enters into force, are undergoing proceedings by the pre-trial investigation bodies shall remain under proceedings of these bodies until the investigation is completed regardless of change of their investigative jurisdiction according to this Code.

7. Detective and search operations, investigative and procedural actions initiated before this Code has entered into force, shall be completed under the procedure, which was valid before this Code has entered into force. After this Code has entered into force, the criminal intelligence operations, investigative and procedural actions shall be exercised according to the Law of Ukraine "On Criminal Intelligence Operations" and the provisions of this Code.

8. Admissibility of the evidence obtained before the effective date of this Code shall be determined under the procedure, which was valid before the effective date of this Code.

9. Measures of restraint, arrest of assets, and removal from office applied during the inquiry and pre-trial investigation before this Code has entered into force shall remain valid until they are changed, cancelled or terminated under the procedure, which was valid before the effective date of this Code.

10. Criminal cases, which, as of the effective date of this Code, have not been referred to the court with an indictment, determination on application of compulsory measures of medical or reformatory nature, determination to refer the case to the court for deciding of the matter of release of the person from criminal liability, shall be investigated, referred to court and tried at the first, appellate and cassation instances in accordance with provisions of this Code.

{Clause 10 of Section XI as amended by Law No. 2147-VIII of 3 October 2017}

11. Criminal cases, which, as of the effective date of this Code, have been referred by the public prosecutors to the court with an indictment, a determination on application of compulsory

measures of medical or reformatory nature, a determination on referral of the case to the court in order to decide the issue of release of the persons from the criminal liability, shall be considered by the courts of first instance, appeals and cassation under procedure which was valid before this Code has entered into force, with due account of the provisions of § 3, Section 4of the Law of Ukraine "On Amendments to the Economic Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Administrative Procedure Code of Ukraine and Other Legislative Acts".

{Clause 11 of Section XI as revised by Law No. 2147-VIII of 3 October 2017}

12. Investigation of criminal cases provided for by clause 11 of this Section in the event where such cases are remanded by the court to the public prosecutor for additional investigation shall be conducted under the procedure established by this Code.

13. Judgments, which were delivered by the courts of first instance and did not enter into legal force as of the day when this Code entered into force, may be challenged in the course of the appeal proceedings within the time limits, which were valid before the effective date of this Code.

14. Non-appealed judgments, which were delivered by the courts of first instance and did not enter into legal force as of the day when this Code entered into force, shall enter into legal force under the procedure, which was valid before this Code has entered into force.

15. Appellate and cassation complaints, applications for review of the judgments in the cases which were considered before this Code has entered into force, or those which refer to the cases, where the judicial consideration was not completed by the day when this Code has entered into force shall be submitted and considered under the procedure, which was valid before this Code has entered into force, with due accounts of the provisions of § 3, Section 4 of the Law of Ukraine "On Amendments to the Commercial Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Administrative Procedure Code of Ukraine and Other Legislative Acts".

{Clause 15 of Section XI as revised by Law No. 2147-VIII of 3 October 2017}

16. Applications for review of the judgments on the basis of newly discovered circumstances submitted to the respective public prosecutors before this Code has entered into force shall be considered and submitted by them to a court under the procedure, which was valid before this Code has entered into force.

Applications for review of the judgments on the basis of newly discovered circumstances submitted to a court before this Code has entered into force, as well as applications submitted by prosecutors according to paragraph 1 of this clause after this Code has entered into force shall be considered by the respective courts under procedure which was valid before this Code has entered into force in the court composition provided for by Article35 hereof.

{Paragraph 2, clause 16 of Section XI as amended by Law No. 2147-VIII of 3 October 2017}

17. Persons who, as of the day when this Code enters into force, participate in criminal proceedings as defence councils and do not have the status of a lawyer, shall continue to execute powers of defence councils in such criminal proceedings during the pre-trial investigation as well as during the court proceedings at the courts of first instance, appellate courts, and courts of cassation.

{Clause 17 of Section XI as amended by Law No. 2147-VIII of 3 October 2017}

18. Not later than three months from the day of promulgation of this Code, the local general courts shall hold meetings of their judges in order to elect investigating judges under procedure established by the Law of Ukraine "On the Judicial System and Status of Judges".

In case if an investigating judge has not been elected within the above term, powers of the investigating judge specified in this Code shall be executed by the oldest judge of this court until the day when such investigating judge has been elected.

19. Not later than within three months after publication of this Code, the local general courts, courts of appeals of the oblasts, of the cities of Kyiv and Sevastopol, Court of Appeals of Autonomous Republic of Crimea and the High Specialised Court of Ukraine for consideration of civil and criminal cases shall hold the meetings of their judges in order to elect the judges empowered to conduct criminal proceedings with regard to the underage persons specified by the Law of Ukraine "On Judicial System and Status of Judges".

In the event if the judge empowered to conduct criminal proceedings with regard to the underage persons has not been elected within the aforementioned term, such powers shall be exercised by the judge having seniority of work with judiciary and experience of consideration of criminal cases.

20. Not later than three months after publication of this Code, the chief officers of the pre-trial investigation bodies shall define the investigators, who have special powers to conduct pre-trial investigations with regard to underage persons.

20[1]. Temporarily, but not later than the day of the beginning of the activity of the State Bureau of Investigations (publication in the Uryadovy Kuryer (Governmental Courier) newspaper of the relevant notice by its chief officer):

{Paragraph 1, clause 20[1] of Section XI as revised by Law No. 1950-VIII of 16 March 2017}

special pre-trial investigation shall be conducted on the basis of the ruling of the investigating judge in the criminal proceedings concerning the crimes provided for by Article109, 110, 110[2], 111, 112, 113, 114, 114[1], 115, parts 2–5 of Article191(in case of abuse of official position by an official), Articles 209, 255–258, 258[1], 258[2], 258[3], 258[4], 258[5], 348, 364, 365, 368, 368[2], 379, 400, 436, 436[1], 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine, in respect of a suspect, other than a minor, who is hiding from the investigating authorities and the court for the purpose of evading criminal liability and is on the interstate and/or international wanted list, or who is hiding from the investigating authorities and the court for the purpose of evading criminal liability for more than six months and/or in respect of which there is factual data that he/she stays outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??the anti-terrorist operation. Special pre-trial investigation of other crimes shall not be allowed, except in cases when crimes are committed by persons hiding from the investigation and court for the purpose of evading criminal liability and are listed in the interstate and/or international wanted list, or hiding from the investigation for more than six months and the court for the purpose of evading criminal liability and/or in respect of which there are factual data that they stay outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??the anti-terrorist operation, and they are investigated in the same criminal proceedings as the offences referred to in this paragraph, and the disjoining of records concerning them may adversely affect the completeness of the pre-trial investigation and court proceedings.

{Paragraph 2, clause 20[1] of Section XI as amended by Law No. 1950-VIII of 16 March 2017}

Provisions of part 5of Article139 hereof, in the case of committing the crimes specified in paragraph 2 of this clause, shall also apply to persons who have been hiding for more than six months from the investigative bodies and courts for the purpose of evading criminal liability and/or in respect of which there is factual data that they stay outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??the anti-terrorist operation.

The request of the investigator or public prosecutor to conduct a special pre-trial investigation shall also indicate the actual data on the person's stay outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??the anti-terrorist operation. The investigating judge may refuse such a request if the investigator or public prosecutor does not prove that the suspect is hiding from the investigation and court in order to avoid criminal liability and there are facts confirming his/her stay outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of the conduct of the anti-terrorist operation. Re-application for a special pre-trial investigation to the investigating judge in one criminal proceeding shall not be allowed, except for the presence of new circumstances that confirm that the suspect is hiding from the investigation and court in order to avoid criminal liability and there are facts about his/her stay outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??the anti-terrorist operation.

Criminal proceedings in respect of the offences set forth in part 2 of Article297 [1] hereof, as well as in this clause, may be conducted in the absence of the accused (in absentia), except for a minor who is hiding from the investigation and court in order to avoid criminal liability (special court proceedings) and is on the interstate and/or international wanted list, or who has been hiding from investigators and courts for more than six months in order to evade criminal liability and/or in respect of whom there is factual evidence that he/she temporarily stays outside Ukraine, in the occupied territory of Ukraine or in the area of ??the anti-terrorist operation.

Consideration of motions for special pre-trial investigation, special court proceedings in respect of crimes referred to in part 2of Article297[1] of this Code, as well as in this clause, shall be governed by the rules of jurisdiction established by Article32 of this Code.

*{Clause 20[1] of Section XI has been supplemented with paragraph 6 under Law No. 1950-VIII of 16 March 2017}*297-1

Requirements for application of Chapter 24[1] of this Code, provided for by this clause, shall apply to the criminal proceedings in which the suspect, other than a minor, at the time of applying to the court for a special pre-trial investigation or indictment is in the interstate and/or international wanted list, or he/she has been hiding from the investigation and court for more than six months in order to evade criminal liability and/or in respect of which there is factual information that he/she stays outside Ukraine, in the temporarily occupied territory of Ukraine or in the area of ??anti-terrorist operation.

{Clause 20[1] of Section XI has been supplemented with paragraph 7 under Law No. 1950-VIII of 16 March 2017}

Criminal proceedings in which a special pre-trial investigation of the crimes provided for by this clause and indictments have been sent to court before the expiration of the period provided for by paragraph 1 of this clause, as well as criminal cases pending before that court shall be

considered taking into account the rules of special court proceedings and the specific aspects stipulated by this clause.

{Clause 20[1] of Section XI has been supplemented with paragraph 8 under Law No. 1950-VIII of 16 March 2017}

{Section XI has been supplemented with clause 20[1] under Law No. 1355-VIII of 12 May 2016}

20[2]. The jurisdiction of the High Anti-Corruption Court provided for by this Code as a court of first instance, a court of appeals and investigating judges shall apply to criminal proceedings, information on which criminal offences are entered in the Unified Register of Pre-Trial Investigations:

1) from the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the Work of the High Anti-Corruption Court";

2) before the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the Work of the High Anti-Corruption Court", where the pre-trial investigation is or has been carried out by the National Anti-Corruption Bureau of Ukraine and completed by public prosecutors of the Specialised Anti-Corruption Prosecutor's Office.

From the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the High Anti-Corruption Court" in criminal proceedings, pre-trial investigation of which is carried out by the National Anti-Corruption Bureau of Ukraine or pre-trial investigation of which was conducted by the National Anti-Corruption Bureau of Ukraine and completed by public prosecutors of the Specialised Anti-Corruption Prosecutor's Office:

1) investigative judges (except for investigating judges of the High Anti-Corruption Court) shall cease to consider motions and complaints in the criminal proceedings, and courts of first instance (except for the High Anti-Corruption Court) shall cease to consider indictments, requests for compulsory medical measures and exemption from criminal liability in such criminal proceedings. Such motions and indictments shall be filed under established procedure in accordance with the investigating judges of the High Anti-Corruption Court or the High Anti-Corruption Court;

2) the courts of appeals (except for the Appellate Chamber of the High Anti-Corruption Court) shall cease to consider appellate complaints;

3) motions and complaints received by the investigating judges and not considered before the effective date of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the High Anti-Corruption Court" shall be submitted to the High Anti-Corruption Court for consideration in accordance with the established procedure by investigative judges of this court;

4) where the trial in the courts of first and appellate instances is not completed by the date of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the High Anti-Corruption Court", such criminal proceedings

shall be referred to the High Anti-Corruption Court for consideration in accordance with the procedure established by this Code;

5) appeals against court decisions adopted before the day of entry into force of the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the High Anti-Corruption Court" shall be carried out in accordance with the rules of jurisdiction provided for by this Code;

6) requests to review under newly discovered circumstances court decisions adopted by the courts of first and appellate instances before the date of entry into force the Law of Ukraine "On Amendments to Certain Legislative Acts of Ukraine Concerning the Commencement of the High Anti-Corruption Court" shall be submitted to the Supreme Anti-Corruption Court and considered by it in accordance with the established procedure.

In case of joining in one proceeding records of pre-trial investigations against several persons suspected of committing one criminal offence, or with respect to one person suspected of committing several criminal offences, including criminal proceedings under the jurisdiction of the High Anti-Corruption Court, judicial proceedings shall be conducted by the High Anti-Corruption Court if the disjoinment of the records of criminal proceedings, which are not within the jurisdiction of this court, may adversely affect the completeness of the court proceedings.

In the event of a change in the charges in court during the consideration of the case by the High Anti-Corruption Court, such criminal proceedings shall continue to be considered by the High Anti-Corruption Court. Whenever the High Anti-Corruption Court goes beyond the charges specified in the indictment, in the manner and in the cases specified in part 3 of Article337 of this Code, the respective criminal proceedings shall continue to be considered by the High Anti-Corruption Court. In the cases provided for by this paragraph, criminal proceedings in the appellate instance shall be conducted by the Appellate Chamber of the High Anti-Corruption Court.

{Section XI has been supplemented with clause 20[2] under Law No. 2447-VIII of 7 June 2018 as amended by Law No. 2509-VIII of 12 July 2018; as revised by Law No. 100-IX of 18 September 2019}

20[3]. Procedural actions within the framework of international co-operation in accordance with the Agreement between Ukraine and the Kingdom of the Netherlands on international legal co-operation in connection with the crimes related to the downing of Malaysia Airlines flight MH17 on 17 July 2014, concluded on 7 July 2017 in the city of Tallinn, shall be held in the manner prescribed by this Code, with due account of specific features established by the Law of Ukraine "On the implementation of the Agreement between Ukraine and the Kingdom of the Netherlands on international legal co-operation in connection with the crimes related to the downing of flight MH17 of Malaysia Airlines on 17 July 2014."

Criminal proceedings for the crimes listed in clause "b" of the Agreement between Ukraine and the Kingdom of the Netherlands on international legal co-operation in connection with crimes related to the downing of Malaysia Airlines flight MH17 on 17 July 2014, concluded on 7 July 2017 in the city of Tallinn, shall be conducted in accordance with the provisions of this Code, with due regard to the provisions of clause 4, §2 "Final Provisions" of Section 4 of the "Law of Ukraine On Amendments to the Economic Procedure Code of Ukraine, the Civil Procedure Code of Ukraine, the Administrative Procedure Code of Ukraine and other legislative acts".

{Section XI has been supplemented with clause 20[3] under Law No. 2507-VIII of 12 July 2018}

20[4]. After the beginning of the activity of the Prosecutor General's Office, oblast prosecutor's offices, district prosecutor's offices, the assignment of powers to public prosecutors of these prosecutor's offices in criminal proceedings shall be conducted in compliance with the law and features specified by the Prosecutor General.

{Section XI has been supplemented with clause 20[4] under Law No. 113-IX of 19 September 2019 as amended by Law No. 187-IX of 4 October 2019}

20[5]. Temporarily, for the period of lockdown introduced by the Cabinet of Ministers of Ukraine in order to prevent the spread of coronavirus disease in Ukraine (COVID-19), to establish such specific features of judicial control over the rights, freedoms and interests of persons in the criminal proceedings and consideration of certain issues during court proceedings.

Consideration of issues that fall within the powers of the investigating judge (except for request for permission to conduct covert investigative (detective) actions and complaints against decisions, acts or omissions of the investigator or public prosecutor during the pre-trial investigation), and certain issues during the court proceedings taking into account the specific aspects defined by this clause.

Where it is impossible to appoint an investigating judge in the respective court (except for the High Anti-Corruption Court), the local court shall submit a reasoned request to transfer the motion, which is to be considered by the investigating judge, to another court within the jurisdiction of one appellate court or to another court within different jurisdictions of different courts of appeals.

Immediately, but not later than 24 hours from the receipt of such a motion, the presiding judge of the respective appellate court (presiding judge of the Court of Cassation of the Supreme Court in case of transfer between courts within the jurisdiction of different courts of appeals) shall dispose the issue of transfer of the motion to another court, with the respective ruling passed. Jurisdictional disputes between courts shall not be allowed in this case.

Where it is impossible for a judge (panel of judges) to consider a motion for selection or extension of a measure of restraint in the form of detention within the period specified by this Code, except for a motion submitted to the High Anti-Corruption Court, it may be referred to another judge, determined in accordance with the procedure established by part 3 of Article35 of this Code, or considered by the presiding judge, and in his absence it may be considered by another judge from the panel of judges, where the case is considered collectively, or may be transferred for consideration to another court within the jurisdiction of one court of appeals or to a court within the jurisdiction of different courts of appeals in the manner provided for by paragraph 6 of this clause.

The issue of transfer on the basis of paragraph 5 of this clause of the motion for selection or extension of a measure of restraint in the form of detention to another court shall be decided by the presiding judge of the respective appellate court (presiding judge of the Criminal Court of Cassation in the case of transfer between courts within the jurisdiction of different courts of appeals) upon a reasoned motion of the local court (court of appeals) immediately, but not later than 24 hours from the date of receipt of such motion, which shall be supported by the respective ruling. Jurisdictional disputes between courts shall not be allowed in this case.

Consideration of issues related to the powers of the investigating judge or court (except for the request for a measure of restraint in the form of detention) upon its decision taken on its own initiative or at the request of a party to the criminal proceedings, may be conducted via video conference of which the parties to the criminal proceedings shall be duly notified in the manner prescribed by Article135 of this Code. Investigating judge or court shall have no right to decide to hold a court hearing to consider the request for extension of detention via video conference, in which the suspect (accused) is out of the premises of the court, if he/she does not object to it.

The court hearing shall be held by video conference, including during the court proceedings, under the conditions specified in paragraph 7 of this clause, in compliance with the rules provided for by parts 3–9 of Article336 hereof.

Participation of a defence counsel in a court hearing shall be ensured in accordance with the requirements of this Code.

During the pre-trial investigation and during the court proceedings, the request for extension of the detention period shall be submitted no later than ten days before the expiration of the ruling on the previous detention.

{Paragraph of clause 20[5] shall take legal effect in ten days after the effective date of the Law No. 558-IX of 13 April 2020}

{Section XI has been supplemented with clause 20[5] under Law No. 540-IX of 30 March 2020; as revised by Law No. 558-IX of 13 April 2020}

21. The Cabinet of Ministers of Ukraine:

1) within three months from the date of promulgation of this Code, shall:

bring its regulatory acts in line with this Code;

ensure conformity of regulatory acts of ministries and other central executive authorities of Ukraine to this Code;

ensure preparation and implementation of new training programmes for learning of the new law of criminal procedure at the universities;

2) within one month from the date of promulgation of this Code, submit for consideration by the Verkhovna Rada of Ukraine proposals concerning bringing of the legislative acts in line with this Code, including with the purpose of providing funding for:

equipping of pre-trial investigation agencies with electronic monitoring devices;

creation and keeping of the Unified Register of Pre-Trial Investigations;

equipping of the pre-trial investigation agencies with means of recording of criminal proceedings and technical means for remote proceedings using video conference mode;

replacement of the metal screen cages in the common court rooms, which separate defendants from the panel of judges and the public with glass or organic glass screens;

furnishing courtrooms with the required quantities of the equipment intended for recording of criminal proceedings and technical means for the conduct of remote proceedings in the video conference mode: at least two courtrooms in every local court, at least four courtrooms in each

appellate court, at least five courtrooms for the Criminal Court of Cassation, at least five courtrooms for the Grand Chamber of the Supreme Court;

{Paragraph 6, subclause 2, clause 21 of Section XI as amended by Law No. 2147-VIII of 3 October 2017}

furnishing pre-trial detention facilities and penal institutions with technical means for remote proceedings in the video conference mode in the quantity sufficient to equip at least two rooms in each of such institutions;

increasing the number of judges and staff of local common courts in view of the need to ensure functions of the investigating judge.

22. Recommend to the Prosecutor General's Office of Ukraine to provide for the following within three months from the promulgation of this Code:

1) create the Unified Register of Pre-Trial Investigations, develop and adopt the regulation on procedure of keeping thereof in coordination with the Ministry of Internal Affairs of Ukraine, Security Service of Ukraine and the body exercising control over the compliance with tax legislation, provision for the procedure of its maintaining.

2) bring its regulatory acts in compliance with this Code.

23. Recommend to the Ministry of Internal Affairs of Ukraine, within three months from the promulgation of this Code to develop and approve the provision on procedure for using electronic monitoring equipment according to the requirements of this Code.

24. Recommend to the Security Service of Ukraine, within three months from the promulgation of this Code, to bring its regulatory acts in compliance with this Code.

25. Cabinet of Ministers of Ukraine, with participation of the Prosecutor General's Office of Ukraine, High Qualification Commission of Judges of Ukraine and the laywers' self-governance bodies shall prepare and provide execution of the programmes of retraining of the criminal justice system officers and defence attorneys on the matters of application of new provisions of the criminal procedure law.

26. Recommend to the State Court Administration of Ukraine:

1) Within one month from the day of promulgation of this Code, to ensure that its respective territorial departments submit to the respective local councils proposals concerning preparation and approval by such councils of the lists of jurors according to the Law of Ukraine "On Judicial System and Status of Judges";

2) within three months from promulgation of this Code, to bring its regulatory acts in compliance with this Code.

President of Ukraine **VIKTOR YANUKOVYCH**

The city of Kyiv
13 April 2012
No. 4651-VI

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- **Голос України** on May 19, 2012 — / № 90-91 /
- **Офіційний вісник України** on May 25, 2012 — 2012, № 37, page 11, article 1370, код акта 61601/2012
- **Урядовий кур'єр** on June 6, 2012 — № 99
- **Відомості Верховної Ради України** on March 8, 2013 — 2013, / № 9-10 /, page 474, article 88