Criminal Code of Procedure for Public and Revolutionary Courts

Approved on September 19, 1999 with amendments

Book Two – Criminal Affairs

Generalities

Article 1 – The Criminal Code of Procedure is a collection of principles and requirements that prescribe how to investigate and prosecute crimes, how to prosecute criminals, how to prosecute and issue the sentence, and how to review, execute, and assign tasks to judicial authorities.

Article 2 – All crimes have a divine aspect and are divided as follows:

One – Crimes for which the sentence is specified in Sharia' law, such as the punishment for serious crimes and corporal punishment.

Two – Crimes which are oppressive to society's rights or are intrusive to public discipline.

Three – Crimes which are oppressive to personal rights; this applies to either specific individuals or corporations.

Note 1 – Sharia's discretionary punishments are punishments that are specified in Islamic Sharia for committing an illegal act, or refusing an obligation without determining the type and quantity of the punishment; the order is written out in the Islamic Penal Code.

Note 2 – A crime that has two aspects can have two claims:

A- A public claim to maintain divine limitations, public rights, and discipline.
B- A personal claim to demand rights such as retribution, false accusation, individual losses or corporate losses.

Article 3 – Regarding the divine aspect and maintaining the public rights and Islamic limitations: it is the responsibility of the director of the District Court to pursue a charge and to prosecute a person based on legal criteria; and regarding the personal component of the claim, it will be initiated by the private plaintiff.

Article 4 – To perform and pursue a claim, crimes are divided into three of the following groups:

1- Crimes for which the prosecution is the responsibility of the director of the District Court, regardless of whether or not there is a complaint from a private plaintiff. The director of the District Court can designate this responsibility to one of his or her assistant directors.
2- Crimes which are prosecuted with a plaintiff's complaint and will not be suspended even if the plaintiff forgives the defendant.

3- Crimes which are prosecuted with a plaintiff's complaint and will be suspended if the plaintiff forgives the defendant.

Note – The differentiation and determination of whether a criminal act falls into its respective category is based on law.

Article 5 – One can only try a criminal act against the person who committed the crime, his or her partner, and assistant.

Article 6 – According to the law, pursuing a criminal act and performing a punishment which has already been started cannot be suspended unless in the following cases:

One – Death of the accused or charged person in cases of individual punishment.

Two – Forgiveness of the personal plaintiff or complainant in forgivable crimes.

Three – Those given amnesty.

Four – Abolishment of the legal punishment.

Five – Validity of the closed case.

Six – Time lapse in deterrent penalties.

Note – If the criminal falls subject to dementia before the definite sentence is issued, the investigation is suspended until his or her recovery.

Article 7 – If the prosecution of a criminal act is suspended or it is concluded that [the alleged perpetrator] is innocent according to a legal aspect, then the investigation will be performed from other aspects.

Article 8 – In cases when the criminal case is suspended due to forgiveness of the complainant or private plaintiff, if the complainant or private plaintiff forgives after the definite sentence is issued then the implementation of the sentence will be stopped. And if part of the sentence is performed, the rest will be suspended and the effects of the sentence will be cleared unless otherwise established in law.

Article 9 – A person is called a private claimant or plaintiff when they have incurred a loss due to a crime, or gained a right such as retribution or false accusation, and he or she claims this loss.

Losses that can be claimed include the following:

1- Financial losses occurring as a result of a crime.
2- Obtainable benefits that the private claimant is deprived of and granted as a result of the committed crime.

Article 10 – In financial affairs, a private claim remains active even if the accused dies before the definite sentence is issued. From a legal perspective, dismantling public rights does not result in dismantling individual rights.

Article 11 – When an accused is being tried, the claimant or complainant can provide the investigative officers with the original or copies of all proof and documents to be attached to the file and should provide them to the court before the end of trial is announced. Claims for losses should be handled in accordance with the Civil Code of Procedure.

Article 12 – Whenever the court finds an accused guilty, the verdict for the losses of the private plaintiff should be announced along with the issuance of the criminal verdict, according to the available evidence and documents, unless investigation of the losses requires more investigation. In that case, the court should issue the criminal sentence, then prosecute the petition for losses afterwards, and issue the appropriate sentence accordingly.

Article 13 – If anytime during the investigation, it is apparent that reaching a conclusion is subject to another matter, for which the investigation of is the responsibility of another court, or if the continuation of the investigation in the same court requires an application of different procedures, a sentence to suspend the trial should be issued and reported to both parties. The beneficiary is obligated to follow up the case in a valid court within a month, and present the testimony to the examining court, or prepare a petition for the same court; otherwise the court will continue its investigation and make the appropriate decision.

Article 14 – In cases when the investigation of a subject is not within the designated responsibilities of the examining magistrate, the sentence of refusal is issued and the director of the District Court is accordingly informed to nominate a judge or refer the case to another branch.

Chapter One – Uncovering a Crime and Initial Investigations

Part One – Judicial Officers and their Responsibilities

Article 15 – Judicial officers are those who act under the supervision and coaching of a judicial authority to identify a crime, to perform initial interrogations, to preserve the evidence and proof of the crime, to prevent the accused from absconding and hiding, to present the documents, and to execute judicial decisions according to the law. They are listed as follows:

1- Islamic Republic of Iran Disciplinary Forces
2- Directors and assistant directors of prisons regarding affairs related to prisoners
3- The officers of the Basiji Forces of the Islamic Republic Revolutionary Guards who are considered judiciary officers according to specific laws and within the designated responsibilities.

4- Other Armed Forces in issues where the Supreme National Security Council has designated all or part of the responsibilities of an officer to the Armed Forces.
5- Officers or agents who, according to particular laws, are considered to be judicial officers within designated responsibilities.
   Note – The officers' reports are only valid if deemed authentic and reliable by the judge.

Article 16 – Judicial officers are obliged to perform the commands of a judicial authority. In case of violation, they are sentenced to three to twelve months of suspension from Governmental Service and/or to one to six months of imprisonment.

Article 17 – Management and supervision of judicial officers with regard to their judicial tasks are the sole responsibility of the director of the District Court.

Article 18 – Once the judicial officers are informed that a crime has been committed, they shall, in the case of non-evident crimes, present the case to competent judicial authorities in order to receive orders and, in the case of evident crimes, they shall take all required precautions to maintain the equipment, instruments, proof and evidence of the crime, to prevent the criminal from absconding, or to prevent collusion, and to perform initial investigations and immediately inform the judicial authorities.

Article 19 – The initial investigations are sets of measurements taken to detect a crime and to preserve its proof and evidence, and to try the accused from the beginning of a case until it is submitted to the judicial authority. Judicial officers cannot grant a bail from the accused.

Article 20 – The judiciary officers are bound to perform the orders and complete the file as soon as possible and within the timeframe defined by the judicial authority. If for any reason, the order is not performed or completed, they must forward a report citing the reason why not to the Judicial Authority at the end of each month. An individual in violation of this law will be sentenced to the punishment stipulated in Article (16) of this code.

Article 21 – A crime is considered "evident" based on the following factors:

1- If a crime is committed in sight of judiciary officers, or the mentioned officers are immediately present at the crime's scene or observe the evidence of the crime right after it having been committed.
2- If two or more people have witnessed the crime or the victim identifies an individual as an offender immediately after the crime is committed.
3- If the obvious evidence of a committed crime or the equipment and proof for the crime are found in the possession of the accused, or they are found to be the belongings of the accused.
4- If the accused intends to abscond, is escaping, or is arrested immediately after the crime is committed.

5- If a resident asks for the presence of the officers in his or her home immediately after the crime is committed.
6- If the accused is a vagrant.

Article 22 – When the proof and evidence of a crime is dubious or the information by the judicial officers is not gathered from valid sources, a proper investigation must be conducted; however, there is no right to arrest or enter peoples' homes. They have to inform the mentioned authorities of the results accordingly.

Article 23 – With regard to evident crimes for which the investigation is beyond the responsibility of the District Court, the District Judicial Authority is obliged to take all necessary measures to prevent destruction of evidence and prevent the accused from absconding and to perform whatever prosecution is deemed appropriate to uncover the crime and promptly present the result of his estimations to the appropriate judicial authority.

Note – With regard to those cases that the Central Courts are authorized to investigate, the evidence and proof of the crime are exclusively collected while the case is being reported, and will be presented to the Central Courts immediately.

Article 24 – The judicial officers shall inform the appropriate judicial authority about the results of the inquiry taken, and if the mentioned authority finds the inquiry taken to be insufficient, they may request supplementary action. In this case, the officers are obliged to follow the orders of the judicial authority to investigate and take legal measures to identify the crime, but they cannot keep the accused in detention. And, if in evident crimes, detention of the accused is necessary in order to complete the investigation, the accused should be notified of the subject of accusation along with the reasons in writing. The accused can be kept under surveillance for a maximum of 24 hours, and the issue should be reported to a judicial authority to render a legal decision. The judicial authority will then decide on the continuation of detention or determine whether the accused should be released. Inspection of houses, premises, items, and arrest with regard to non-evident crimes should be performed with the special permission of a judicial authority, even if the general detection is assigned to the officer by the judicial authority.

Article 25 – The judicial officers will surrender all performed investigations to the judicial authority upon his admittance, and will no longer have the right to intervene unless otherwise ordered by the judicial authority or if a new assignment is referred by him.

Part Two – Responsibilities of the Court's Judge and the Examining Magistrate

Topic One – Starting the investigation and detention sentence

Article 26 – In districts where there are several branches of courts, files and complaints received by the director of the District Court are referred to respective branches. The director of the

District Court may wish to designate this responsibility to one of his assistants. In the absence of the director of the District Court and his Assistants, and in case of an urgent matter, directors of other branches shall take responsibility for referrals dependent on their order of superiority.

Article 27 – The director or judge of each branch is obliged to perform required investigations in person. This does not prevent him from ordering the examining magistrates or judicial officers to perform parts of the investigation and to make decisions according to Sharia's standards and legal arrangements under his direct supervision. Appointment of the examining magistrate is the responsibility of the director of District Court or his assistant.

Article 28 – The examining magistrate will perform his duties under the supervision of the judge and can assign the judiciary officers to take some of the measurements and investigations according to the regulations. In this case, the results will be presented to the examining magistrate.

Article 29 – Authorities and officials are bound to report to the director of the District Court or his assistant if and when they encounter a criminal act falling under their jurisdiction.

Article 30 – The court's judge can be present during the initial investigation and supervise the development of the investigation.

Article 31 – The examining magistrate performs the orders of the court during his investigation and will record the results in the minutes. In case there is a problem during the execution of the order in such a way that the performance is not possible, it should be reported to the court's judge to solve the problem, and it will be performed according to the court's recommendation.

Article 32 – In the following cases, whenever the existing evidence and affairs incriminates the accused, the issuance of a sentence for temporary detention is allowed in the following cases:

A. Crimes for which the legal punishment is execution, stoning, crucifixion and amputation of a body organ.
B. Intentional crimes for which the minimum legal punishment is a three-year imprisonment.
C. Crimes related to Chapter One of Book Five of the Islamic Penal Code.
D. In cases where the freed accused might destroy evidence, or the accused colludes with other accused, or with the witnesses and others who were aware of the incident; or if the accused can cause witnesses to refuse to testify. Also, when there is a fear that the accused might escape or hide, and there is no other way to prevent it.
E. Maximum of six days for murders when the parents of the murdered request evidence.

Note 1 – In crimes of unchaste behavior, if there is no personal element involved, the detention of the accused is allowed only if his or her freedom would result in depravity.

Note 2 – Observing the regulations stipulated in section (D) above is mandatory for sections (A), (B) and (C) as well.

Article 33 – A decision for temporary detention is made and issued by the court's judge and is approved by the director of the District Court or his assistant, and review [of that decision] can be requested in the Court of Appeal of that province within 10 days. The process of reconsideration by the Court of Appeal [can be immediate; the case need not be put in a queue]. In any case, the status of the accused shall be verified within a month, and if the respective judge considers the continuation of temporary detention necessary, it should be performed as explained.

Note – If the court order for detention is issued by the director of the District Court, or if there is no director or the assistant of the District Court in that jurisdiction, the case will be referred to the Court of Appeal upon objection of the accused. If the Court of Appeal considers the objection valid, it will cancel the decision for temporary detention, and the file will be returned to the court that issued the court order to determine a suitable bail.

Article 34 – The examining magistrate can issue the court order for detention or grant a bail or conversion of the bail at any time during the investigation process. In cases in which the detention or bail decision leads to the detention of the accused, he is bound to forward the file to the court's judge for comments. If the court agrees with the temporary detention and the objection of the accused, article (33) will be effectuated. In other decisions, if the court's judge does not agree, he will directly issue an appropriate sentence.

Note – The conversion of the bail verdict mentioned in this article is a decision to be made directly by the examining magistrate.

Article 35 – In the following cases, while observing the bonds in article (32) of this code and its notes, whenever existing proof and evidence implicate the accused, issuance of the temporary detention verdict is mandatory and continues until the issuance of the initial sentence, provided that its duration does not exceed the minimum duration of the legal punishment for the committed crime.

A. Murder, kidnap, acid spray, battle, public corruption.
B. Crimes for which the legal punishment is execution or life imprisonment.
C. Crimes such as robbery, scams, embezzlement, bribery, malversation, forging and using a forged document provided that the accused has at least had a record of a definite condemnation and two or more records of indefinite condemnation due to having committed any of the above-mentioned crimes.
D. In cases when the freedom of the accused causes corruption.
E. All crimes specified within the special rules.

Article 36 – The permission for detention of the accused in the duties of a man towards human beings depends on the request of the complainant.

Article 37 – All orders for temporary detentions shall be reasonable and based on documents, stating in the order the reasons for the detention and the right for the detainee to object. In all cases, if required, the judge is bound to renew the court order for temporary detention after a month, stating the reasons and providing documentation; otherwise the accused shall be released with proper bail.

Article 38 – The court's judges and examining magistrates can only initiate the primary investigations when the law has given them this right.

Article 39 – The judges and examining magistrates shall perform the investigations with complete neutrality and observe full neutrality in finding out the circumstances which favor or harm the accused.

Article 40 – The judges and examining magistrates are bound to take immediate action to prevent the destruction of evidence any evidence from being destructed, and they shall not delay in collecting the tools and instruments of the crimes.

Article 41 – The judges and examining magistrates shall supervise the actions and investigations of the judicial officers. If completion of the investigation is necessary, they will make a proper decision accordingly.

Article 42 – The officials and judiciary officers are required to perform the orders of the judges and examining magistrates immediately, and on time. Those in violation of this article will be sentenced to the specified punishment in the Islamic Penal Code.

Article 43 – Except in the cases related to unchaste behavior, judges and examining magistrates can, with proper training, refer to the witnesses, or collection of information, or proof and evidence, or any other action necessary to investigate the crime. These actions are considered to be judicial circumstantial evidence.

Note – Investigation of crimes of unchaste behavior is forbidden, unless the crime is obvious or has a private plaintiff. In the latter, the investigation is performed by the judge.

Article 44 – Whenever there is resistance demonstrated towards the judge and the examining magistrate as they perform their duties, the judges and examining magistrates can call upon the armed and disciplinary Forces. The mentioned forces are bound to perform accordingly.

Article 45 – The judges, examining magistrates, and judicial officers cannot suspend their investigations with the excuse that the accused is either hidden, unknown, or that gaining access to the accused is difficult.

Topic Two – Disqualification of the Judges and Examining Magistrates

Article 46 – In the following cases, the judges and examining magistrates must recuse themselves from the examination and investigation, and the litigants can also reject them in the following instances:

A. When there is a relationship (up to the third degree) between the judge or the examining magistrate, or with any of the litigants, or others who are involved in the criminal act.
B. When the judge or examining magistrate is the guardian or the servant of one of the litigants, or if any of the litigants is the steward or manager of the judge or his spouse's affairs.
C. When the judge, examining magistrate, their spouses or children are heirs of any of those involved in the criminal act.
D. When the judge or examining magistrate has substantially commented on or has been a witness for one of the litigants.
E. When there is or has been a legal or criminal dispute between the judge or examining magistrate, and with one of the litigants or their spouses or children, and it is less than two years from the issuance of its definite sentence.
F. When the judge or examining magistrate or their spouses or children have a personal benefit in the subject.

Article 47 – In case of any of the above mentioned items in the last article, rejection of the judge or the examining magistrate shall happen before the court order is issued or before the investigation has been initiated, unless evidence is discovered that can negate the sentence after it has been announced, and the cause of for rejection is realized after the court order is issued, so that the case will be reviewed accordingly.

Article 48 – The statement of rejection is presented to the judge and if he accepts it, he will refuse an investigation and refer the case to an understudy judge or to another branch. In the absence of an understudy judge or another branch, the case will be forwarded to the nearest equivalent court.

Article 49 – If the judge does not accept the statement of rejection, he is bound to make his decision within three days and will continue the investigation. The request for a review of the decision can be presented to that province's Court of Appeal within 10 days of the notification. This request will be reviewed without appointment.

Article 50 – The complainant, private plaintiff, or the accused, can refuse to have the examining magistrate for any of the rejected cases and present their request to the judge in writing. If the request is accepted, the judge can either perform the investigation in person or inform the director of the first department to designate another examining magistrate.

Topic Three – The Competency of the Court

Article 51 – The courts can only perform their duties within their own area of jurisdiction and will start their research and investigations within the legal framework as follows:

A. If the crime is committed within their area of jurisdiction.
B. If the crime is committed in another area but was discovered in their jurisdiction, or if the accused was arrested in their jurisdiction.
C. If the crime is committed in the area of jurisdiction of another court, but the accused or suspect lives in their jurisdiction.

Article 52 – In cases where the crime is committed out of the area of jurisdiction of a court, but is discovered in its jurisdiction, or the perpetrator is arrested in the jurisdiction of that particular court, or in cases when the court that has jurisdiction over the scene where the crime was committed is not capable of performing the investigation, the court will perform the appropriate investigations and will send the file along with the accused (if arrested) to the right court.

Article 53 – If a crime is discovered in an area, but the location of where the crime was committed is unknown, the court will continue the initiated investigations until the investigations are concluded, or until the location of crime is determined. In cases where the location of the crime is not determined, the court will continue the investigations and will issue the sentence.

Article 54 – The accused will go on trial at the court that has jurisdiction. If there are several crimes committed in different locations, then the accused will go on trial at the court where the most serious crime took place. If the crimes all carry the same degree of punishment, the court with jurisdiction over the location where the perpetrator has been arrested will process the case. If the accused has committed crimes in different jurisdictions and has not yet been arrested, the court which initially started the investigation is qualified to examine all mentioned crimes.

Article 55 – If a person is accused of several crimes, some of which should be tried in a public court and some of which should be tried in Revolutionary or Military Courts, the accused will first go on trial at the court that has jurisdiction over the most serious crime. The accused will then proceed to the respective courts for adjudication of the rest of the crimes. In cases where the accusations warrant the same degree of punishment, the accused will go on trial at the Revolutionary, Military, and Public courts in that order.

Article 56 – The criminal's accomplices will also go on trial in the court where the crime of the main convict is being investigated.

Article 57 – If an Iranian commits a crime outside of the territory of the Islamic Republic of Iran and is arrested inside Iran, s/he will go to the court where s/he was arrested.

Article 58 – Any disagreements on competencies should be resolved in accordance with the articles stipulated in the Civil Code of Procedures.

Article 59 – If the investigation of the accused, or hearing the testimony of the witnesses, or examination of the scene, or inspection of the house, or collection of the tools and instruments of the crime's, and in general any action that is required to be taken out of the jurisdiction of a court, the Magistrate Court will request to hold the trial with granted legal representation mentioning the details. The court performs the initial requested investigation and returns the prepared and signed papers along with all collected documents to the requesting court.

Note – If confession from the accused, testimony of a witness, or testimony regarding the witness's testimonial is documented for the court's sentence, then the issuing judge must have a hearing.

Article 60 – When a court requests the examination of an accused from another court, it can either specify the type of bail or refer it to the requesting court. When the requesting court has not stated anything about the bail, or it has become evident to the requesting court that no bail has been collected, or it considers it inappropriate, it can collect an appropriate bail on its own accord.

Note – The Vice Executive Court can refer the requested action to the examining magistrate.

Article 61 – The initial investigations shall be performed immediately and public holidays shall not hinder the investigations.

Topic Four – Transfer

Article 62 – With criminal cases, the transfer of a case from one district court to another in one province is done upon the request of the director of the original court and the approval of the first department of the Court of Appeal in the same province. The transfer between provinces is done upon the request of the director of District Court and the approval of the Supreme Court.

Article 63 – Cases appropriate for transfer include when:

A. Most of the accused are residents of another court's area of jurisdiction.
B. The location of the crime is so far from the proper court such that another court would be better placed to review the case due to the shorter distance from the location of the crime.

Article 64 – In addition to the above mentioned cases in article 62 & 63, a case can be transferred to another Judicial Authority after being approved by the Supreme Court, whenever the head of the Judiciary or the Attorney General deem appropriate, in order to maintain discipline and security.

Topic Five – Inception and Quality of Investigations

Article 65 – Legal courses to initiate an investigation and examination are as follows:

A. A complaint from a complainant.

B. Announcement and reports of judicial officers or persons whose words could be trusted.
C. Crimes which are evident because the judge observed the crime being committed.
D. Statement or confession of the accused.

Note – the commencement of investigations and examinations is subject to a referral from the director of the District Court.

Article 66 – Whenever a person declares that s/he has seen a crime being committed and the crime has a public impact, this statement is sufficient to initiate the investigations, even if there are no other reasons to perform the investigations. But if the person has not witnessed the crime, the investigations cannot be initiated only on account of that statement, unless there are reasons in support of its accuracy.

Article 67 – Reports and letters, of which the identity of the writers and reporters are not known, will not be the basis to start the investigation, unless they imply a very important event which might disturb the public discipline and security. Also, the investigation can commence if there is enough evidence that the judge considers sufficient enough to begin the investigation.

Article 68 – A complaint is enough to start the investigation; the judge cannot refuse it.

Article 69 – A personal complainant or plaintiff can make a complaint on his or her own, or through a lawyer. The following should be stipulated in a complaint:

A. Name, last name, father's name and exact address of the complainant.
B. The subject of the complaint, date, and the crime's location.
C. The financial loss incurred, and the demand of the plaintiff.
D. The personal information and address of the respondent or suspect if possible.
E. Evidence, names and addresses of witnesses and those aware of the crime, if possible.

Note 1 – In District Courts where there are different branches, the complaint of the petition will be recorded in the registry, and will be referred to one of the branches by the director of the District Court.

Note 2 – If the petition is not complete or if it is verbal, it will be written in the minutes prepared by the Court's office and signed or fingerprinted by the complainant.

Article 70 – When the complainant cannot identify the accused or the evidence is not sufficient to proceed – or the complainant rescinds the complaint, but the crime cannot be forgiven – the court will perform the investigations accordingly.

Article 71 – The respective judges and judicial officers are bound to accept all written and verbal complaints at any time. The verbal complaints are recorded in the minutes and signed by the complainant. In case the complainant cannot sign or is illiterate, it will also be recorded in the minutes, and the conformity with the verbal complaint shall be certified.

Article 72 – In cases where the investigation of a criminal act is subject to a personal complaint and the affected is a minor or a mentally infirm or mentally ill individual, and the parents or guardians are not accessible, or the victim does not have parents or guardians, and appointing a guardian causes delay or more loss to the minor or mentally infirm/ill, then until the parents or guardians or appointed guardian is present, and also when the parents or guardians have committed a crime or have been engaged in one, the court will either appoint another person as a temporary guardian or will proceed with the suit, and will take necessary measurements to maintain and collect the evidence of the crime and prevent the accused from absconding.

Note – In the case of minors, the above-mentioned arrangements need to be followed only for non-financial claims.

Article 73 – During the investigation, the complainant has the right to introduce his or her witnesses, and present the evidence, and the complainant can also have a copy of the minutes of the initial examinations if the disclosure does not compromise secret investigations, and after having paid the fee.

Article 74 – The complainant can request the monetary compensation for his or her loss from the court, if the request is based on acceptable reasons, the court will issue the verdict for the bail, and the sentence will be definite and cannot be objected.

Article 75 – If the complainant's request is not identified or it is identified but it is not possible to take this amount into custody, the court will take other finances or possessions of the accused into custody equal in amount to the loss. If there is a request to change the person who has the possessions in custody, and transfer it to a guarantor, the court will proceed according to the Civil Code of Procedures. This verdict will be executed on time upon notification.

Article 76 – If it is proved that the complainant has intentionally made a false complaint then the complainant must pay the losses of the defendant according to the court's decision.

Article 77 – If during the investigations, the judge discovers another crime which is not related to the first one, the court will follow up with the second one as well, if that court is the only branch. If there are several branches, it will take the necessary measures to collect and preserve the evidence of the discovered crime and to prevent the accused from absconding, and will inform the director of the District Court accordingly.

Topic Six – Examining the Location and Local Investigation

Article 78 – The examination of the crime scene should be conducted by the judge of the respective court or the examining magistrate or their order to the judicial officers or their reliable agents. During the examination of the crime's scene, those involved in the crime can be present, but their absence does not prevent the examination.

Article 79 – The examination of the scene should be performed during the day, unless the [examination] is urgent.

Article 80 – During the examination of the scene, all effective clues and evidence, which are obvious and discovered, are recorded in the minutes.

Article 81 – To perform the scene examination and investigation, those who have knowledge of the crime are also invited in addition to the witnesses. In urgent cases, the judge can summon those [individuals] whose presence is essential to the scene.

Article 82 – In case of crimes against the public discipline and security, those who are called to be present during the local examination and investigation, and whose presence is essential, but whom do not appear and have no valid excuse, will be arrested in accordance with the order of the judge.

Article 83 - Experts are invited when there is a need for their scientific or technical comments or there is a need for special experts such as: physicians, pharmacists, engineers, auditors and other professionals. In cases of crimes against the public discipline and security, if the experts do not appear and lack a valid or sufficient excuse, they will be arrested by the order of the judge.

Article 84 – The judge is bound to ask the experts necessary questions in a written format or verbally, and this should be recorded in the minutes. If the judge believes that some aspects of the case need further investigation to discover the truth, but the experts believe that these aspects are not important, the experts are required to comment pursuant to the judge's request.

Article 85 – The judge can be present during the expert's investigation if he deems it appropriate.

Article 86 – If the investigation is based on the complaint of a plaintiff and the introduced witness, and the court accepts his or her testimony about the crime, or if adjudication is contingent on the court's acceptance of the witness testimony, or if the investigation is because of the connection of the crimes to public discipline and security, then the calling of a witness is allowed.

Article 87 – If there are discrepancies between the comments of the experts – or if the judge finds them suspicious – the judge can either invite the commentary of other experts or send the comments to other respective experts to seek their opinion.

Article 88 – Examination of the body, injuries, or signs and marks of injury and physical or mental harm, and/or other medical examinations and tests, necessitates the invitation of the judge to a reliable forensic doctor. If the forensic doctor cannot attend, or there is a lack of forensic doctors in a district, another reliable physician will be called.

Article 89 – If necessary, the judge can invite several physicians instead of just one. A therapeutic physician is not exempted.

Article 90 – Until the arrival of the physician, the judge will take necessary measures to, *inter alia*, maintain the deceased body, discover the identity of the deceased, and uncover the state of death.

Article 91 – Witnesses to the investigation and all those who are present can object to the comments of the experts. The objections are recorded in the minutes.

Article 92 – The physician shall provide the judge with his or her comments within three days, unless the physician needs additional time to comment.

Article 93 – In case of discrepancies between the comments of [different] physicians, or if the physician's comment contradicts the circumstances of the events, the judge will send comments to other specialists. The mentioned specialists will provide their comments in writing to the judge, after having discussed with the examining physician (if need be) or by direct examination.

Article 94 – If the identity of the deceased is unknown, the judge will stipulate the description of the body and fingerprints in the minutes with precision, and if possible, will order photographs to be taken, then take action to identify the deceased accordingly.

Article 95 – If the examining magistrate discovers that the accused was mentally ill at the time of commission of the crime, he will perform necessary inquiries of the family, friends and relatives [of the accused], and will take comments from the physician. The findings will be recorded in the minutes and the file will be sent back to the court. If the court finds the investigation of the examining magistrate and the experts sufficient, and the court assures its accuracy, he will issue a court order to pursue the case, and in cases of blood money or financial losses, will specify them accordingly. If the court does not trust the results of the investigations, it will continue the investigation and experts' comments until concluded. A mentally ill person will be transferred to special medical or accommodation services with their parent's permission or if otherwise required.

Part Three – Inspection and Detection of Homes, Places, and Finding the Tools of a Crime

Article 96 – Inspections and discovery of homes, places, and things are performed when it is based on reason, or if there is a strong suspicion that there is a possibility that the accused and/or the tools of crime can be found in that place.

Article 97 – If the inspection and search does not interfere with people's rights, it is allowed only if it is more important than the rights of the people.

Article 98 – The inspection and detection are performed in the presence of the legal resident [of the dwelling] and examining witnesses. In their absence, it is done in the presence of the most senior legal resident. The inspection of places should be, if possible, conducted in the presence of owners or operating staff of those locations.

Note – If there is no one available at the place that is being investigated, and if it is urgent, the judge can issue an order to open the place and should record this in the minutes.

Article 99 – Those involved in a criminal act can be present during the inspection and detection, but others are not allowed in unless the legal resident permits.

Article 100 – The inspection and detection of homes should be performed during the day in daylight unless exigency necessitates that the inspection be performed immediately in night time. The note of exigency shall be recorded by the judge in the minutes.

Article 101 – The judge can prohibit the entry into and exit from a location under investigation, and he can ask either the Disciplinary or Army Forces to perform this order.

Article 102 – If the legal occupants or operating staff of a place do not follow the order of the judge to open the closed locations, the judge can still order to have them open, but is bound to avoid any harm as much as possible.

Article 103 – Among the papers, documents, belongings, and other personal effects of the accused, only those related to the crime shall be secured and presented to the examining witness(es) if need be. The judge is bound to cautiously treat other documents and belongings, and he should not allow contents irrelevant to the crime to be revealed.

Article 104 – In cases where there is a need to inspect and detect mailing, telecom, audio and visual correspondences related to the accused, in connection with investigation of a crime, the judge will inform the respective officers to confiscate [these materials] and send them to him or her. Once they are received, they will be presented to the accused, noted in the minutes, and attached to the file after being signed by the accused. Refusal of the accused to sign will be noted in the minutes and in case the items are not of relative importance, and if the confiscation is not necessary, they will be returned to the owner obtaining an acknowledgment of receipt.

Note – Monitoring telephone calls are prohibited, unless it is deemed appropriate by the judge because the case is related to the country’s security or obtaining a right of a person.

Article 105 – Officers and authorities of the ministries, government and government affiliated organizations and institutes, municipalities and officials of public services, banks, notary offices, and offices in which inclusion of law requires name mentioning, are bound to present and disclose all crimes and information and those documents, papers and books, to which a referral is required to examine a criminal act upon request of the judge, except in the cases of confidential government documents for which the permission of the head of the judiciary is required. Violators of this law will be sentenced to between six to twelve months of suspension from governmental service and or duty.

Article 106 – If an accused has entrusted his or her notes which are essential to the identification of the crime to his or her lawyer or other persons, the judge can examine them in the presence of

the lawyer or the mentioned person, and in case of refusal to present the notes, the person who refuses will be sentenced to the legal punishment appointed for deliverance of the accused from trial.

Article 107- The tools and instruments of the crime such as weapons, fake documents, fake coins and whatever is obtained during the inspection, which can lead to identifying the crime or to the accused giving a confession to the crime, shall be confiscated and described in detail in the minutes.

Article 108 – The tools and instruments of the crime shall be numbered, stamped and kept. Whatever is acquired by the judge should have a named receipt for the owner.

Article 109 – If the crime's evidence cannot be separated or removed from the scene (like a blood stain), then the judge should do whatever needed to maintain the evidence, and if necessary lock down and seal the place and assign the disciplinary forces or specials guards to protect the place.

Article 110 – A sufficient amount of liquids which can be hydrolyzed shall be kept in a sealed jar to avoid being spoiled or wasted. There should at least be three jars of each liquid kept as samples.

Article 111 – The stolen items or whatever is collected as a result of the crime, or the money confiscated during the process should be returned to the person from whom money was taken from or otherwise robbed by the order of the judge, unless the presence of all or part of these items is essential during the investigation or trial. If so, [the items] will be returned upon the judge's order when it is no longer needed. Items which should be confiscated or destroyed according to the law are exempted from this rule.

Part Four – Interrogation and Obtaining the Bail

Topic One – Summons and Interrogation of the Accused

Article 112 - Summoning an accused is done via a summons letter. The summons letter is issued in two original copies. One is taken by the accused and the other one is signed by the accused and returned to the summons officer.

Article 113 – The name and last name of the summoned person, date, and the reason for the summons, the place to appear, and the consequence of not appearing, shall be mentioned in the summons letter.

Note – If deemed necessary, the reason for the summons and consequence of not appearing will not be mentioned for some crimes.

Article 114 – If the summoned person is illiterate, the content of the summons letter will [instead] be communicated to two witnesses. The order of issuing a summons shall follow the rules of the Civil Code of Procedures.

Article 115 – Whenever, [in respect to] a criminal act, it is not possible to notify the [individual to be] summoned due to their address of residency being unknown, and there are no other ways for summoning them, the investigation will be determined, and the accused will be called at once through one of the widely circulated newspapers or local newspapers, and if the accused does not show up, the examining magistrate will make his decision according to the articles (217) and (218) of this law. The date of publishing the summons letter in the newspaper should at least be one month before the date of the trial.

Article 116 – The accused is bound to be present on the due date and if s/he cannot attend, then they should have a valid reason for it.

The followings are considered valid excuses:

1. If the summons letter has not arrived or arrived so late that it was not possible to attend on time.
2. A sickness which prevents the person from moving.
3. Death of the spouse or one of the family members up to the third degree of the second category.
4. The incidence of fire or other disasters.
5. Inability to travel because of natural disasters such as river flooding, contagious epidemic diseases such as cholera and plague.
6. Being in custody.

Article 117 – Those who do not appear and do not present a certificate justifying their absence will be arrested upon order of the judge.

Article 118 – The judge can issue the order for arrest in the following situations, even if he has not sent the summons letter first:

A. For crimes in which the legal punishment is retribution, execution, and organ mutilation.
B. For an accused whose address of residency is not known and the measures taken by the judge to locate them has not been positively concluded.

Article 119 – Arresting the accused is done by warrant. The warrant, which is similar to the content of a summon letter, should be issued to the accused.

Article 120 – The warrant officer will invite the accused to go with him to the judge after the warrant is given to him. If the accused refuses to go, the officer will arrest him and will surrender him to the judicial authorities. The help of other officers can be requested if need be. Those who aid an accused to evading arrest will be legally culpable.

Article 121 – Arresting the accused shall be done during the day except in special cases.

Article 122 – If the accused is absent, the warrant will be given to judicial officers to arrest him wherever the accused is found for transfer to the judge.

Note – If necessary, the judge can give the warrant to the complainant and once the complainant introduces the accused, the judicial officials will arrest the accused and take him or her to the judge.

Article 123 – The accused will be monitored and protected from the time of the warrant until s/he is taken to the judge.

Note – The judicial officers are bound to take the arrested person to the judicial authority immediately and they can only detain him or her if there is a fear of collusion, absconding, or the destruction of evidence of the crime. In any case, they are not allowed to keep the arrestee for more than 24 hours without the permission of a judicial authority.

Article 124 – The judge should not summon or arrest a person, unless there are valid reasons for summon or arrest.

Article 125 – If a person who has received the notice of summons or arrest cannot be present in front of the judge due to illness, and if the criminal act is of a high level of gravity and exigency, the judge will go to him or her and perform the required interrogation or shall wait for the obstacle to be removed.

Article 126 –The judge can perform the investigations in person and in the location of those who should be investigated if deemed necessary.

Article 127 – The judge is bound to start the investigations immediately after the accused appears or is arrested. If this is not possible, the investigation should start no later than within 24 hours of this time. Otherwise the detention is considered illegal, and the arrestee is convicted of the specified legal punishment.

Article 128 – The accused can have one person as his or her lawyer. After the investigations are finished and without interfering with the investigations, the lawyer can present documents to the judge to help discover the truth and defend his or her client or to enforce the law. The statements of the lawyer shall be recorded in the minutes.

Note – In confidential cases, or if the presence of individuals not accused of the crime causes corruption according to the judge, and further, in cases of crimes against the security of the country; the court can only permit the presence of the lawyer in the examining stage. (Amendment dated 06-07-2003)

Article 129 – The judge should first ask the accused to state his or her identity and other personal information (Name, Father’s Name, Nickname, Last Name, Age, Occupation, Spouse, Children

and Nationality) as well as their address (City, County, Rural District, Village, Street, Alley and House Number) so as to ease the process of sending the summons and other related papers. He will also notify the accused to be cautious about his statements, and will explain the subject of the accusation and its reasons clearly. Then he will start the investigation. The questions shall be clear and useful. Empathic, deceptive, reluctant and compulsive questions are prohibited. If the accused refuses to respond, the refusal will be recorded in the minutes.

Note 1 – The judge shall explain to the accused in the beginning of the investigation that the place s/he announces for his or her residency, is his or her legal residence and in case the accused moves, s/he is obliged to inform the court of the news in a way that the communications are possible; otherwise the communications will be sent to the previous address. Moving to a new place in order to postpone, avoid or delay the communication of the papers is not acceptable and all communications will be sent to the previous address. Understanding this fact is the responsibility of the examining authority. Following this rule is also applicable to the address of the complainant or personal defendant.

Note 2 – Breach of the summons officers' duties or the report of their breach of duties are subject to specified legal punishments.

Article 130 – The accused shall be interrogated individually and shall not have a face to face conversation with each other, unless the confrontation is necessary. Sharia' compliance is mandatory for female defendants.

Article 131 – Answers to the questions shall be recorded as they are expressed without any change, modification or distortion. Literate defendants can write the answers themselves.

Topic Two – Arrangement of Bail

Article 132 – If need be, in order to access the defendant and secure their on-time appearance, and to prevent him or her from absconding, hiding, or collusion with others, the judge is required to issue one of the following criminal grants of bail after the accusation is clearly explained:

1- Recognizance to appear on parole.
2- Recognizance with pledge to appear until the end of trial and implementation of the sentence and in case of refusal, it will be changed to recognizance with deposit.
3- Obtaining a bondsman with deposit.
4- Obtaining a bail such as cash, bank surety bond, moveable and immovable property.
5- Temporary detention subject to observance of the conditions stipulated in the law.

Note - The judge is bound to explain to the bondsman or surety (in cases that the surety is different from the accused) while issuing the grant of the bonds or pledge. If the accused is called, but does not appear – and s/he lacks a valid excuse or is not introduced by the bondsman or surety – the judge will act according to the law to obtain the deposit or confiscate the pledge.

Article 133 – Based on the importance and the evidence of the crime, the court can also arrange to prevent the accused from leaving the country. The validity of this arrangement is six months and if deemed necessary by the court, it can be extended every six months. This arrangement can be appealed for a review within 20 days from the date of issuance at the Province Court of Appeal.

Note – In case the issuing authority cancels the bail or the Court of Appeals disaffirms it, or the issuance of it is barred from prosecution, or suspension of pursuit, or if the accused is found innocent, the Trial Court is bound to inform the respective authorities immediately.

Article 134 – The arrangement of bail shall conform to the importance of the crime, intensity of the punishment, reasons and evidence of the crime, possibility of the accused absconding, destruction of evidence of the crime, background of the accused and health condition, the age and the prestige of the accused.

Article 135 – The bail is accepted from a person whose ability to pay the bail is not questioned by the issuing judge. In case of the accused absconding or inaccessibility, and when the presence of the accused is necessary, the bondsman is bound to pay the bail.

Article 136 – The amount of bail or deposit or pledge should not be less than the losses claimed by the private claimant.

Article 137 – The judge will issue the arrangement with regard to the acceptance of the pledge or bondsman, and will sign it after it is signed by the bondsman or the surety, and then will provide the bondsman or surety with a copy upon their request.

Article 138 – The accused, for whom an arrangement for surety or bond is issued, will be arrested if s/he is incapable of introducing a bondsman or the bail.

Article 139 – If the accused has appeared on all due dates and trials or after them, but could have presented a valid excuse [for not appearing] or if the case is closed, the pledge is returned, or the bondsman is free from any obligation.

Note 1 – The surety or bondsman can request the release of the bail or disclaimer at any stage of the prosecution when introducing and surrendering the accused.

Note 2 –The arrangement for bail is cancelled whenever the accused or defendant is present at all requested appearances, and once the criminal punishment begins, the suspension of the arrangement is confirmed.

Article 140 – Whenever an accused that has been given recognizance or bail does not appear when necessary without a valid excuse, the recognizance deposit will be obtained by the director of the District Court, and the pledge is confiscated. If a person bails the accused and puts up a bond, and the accused does not appear, the bondsman or surety will be warned to surrender the

accused within 20 days, if not and upon an actual notice of the director of District Court, the recognizance deposit will be obtained and the pledge confiscated.

Article 141 – If it is proven that the surety or the bondsman has not provided the real address to the bail authority or has changed his or her address in order to make the receipt of notices impossible, a legal notice to gain the recognizance or confiscation of the pledge is sufficient.

Article 142 – Requesting the surety or the bondsman to present the accused is prohibited, unless the presence of the accused is essential for the investigations, trial, or implementation of the punishment.

Article 143 – The accused, surety and the bondsman can submit a complaint to the Court of Appeal within 10 days of the notice of the director of the District Court regarding the payment of the recognizance or confiscation of the pledge in the following instances:

A- If they intend to prove that the accused has been present, they or a third party must have surrendered the accused at the time of the due date.
B- When they intend to prove that the accused could not attend or the surety could not surrender him or her due to one of the reasons stipulated in article 116 of this Code.
C- When they intend to prove that the accused has passed away.
D- If they intend to prove that they have become insolvent after accepting the bond or recognizance.

Note – The court will review the complaint in all of the above instances without prior appointment and without formality. While the executing actions have not been stopped or the court order has not been issued to the benefit of the surety, bondsman or the accused, the actions will be continued, and in case of issuance of a sentence to the benefit of the objector, the confiscated and obtained money and properties will be returned.

Article 144 – If the court order for the prohibition of prosecution or suspension of the prosecution, or the innocence of the accused is promulgated, or the case is closed for any reason, all the bail arrangements are cancelled. The respective judge is bound to remove the bail arrangement.

Article 145 – In cases where the accused has not been presented or is convicted, acquitted, or the loss of the private claimant will be gained from the bail, it will be paid, and the rest will be confiscated for the benefit of the government.

Article 146 – If the convicted person is charged a cash penalty or the amount of the loss of the private claimant, in addition to the imprisonment, and the total sentence is less than the obtained bail, then the total sentence is paid from the valedictory recognizance or the bond or the pledge, and the rest is returned; then the sentence is considered performed.

Article 147 – The arrangement of bail shall be communicated to the accused. If the order leads to his or her arrest, the type of arrangement is mentioned in the dispatch note. If the accused is detained to avoid collusion, that should also be mentioned in the dispatch note.

Note – If the issue for arrangement can be appealed, the issuer is bound to explain this to the accused and record it in the file.

Part Five – Witness, Testimony, Disqualify & Adapt

Topic One – Summon the Investigation's Witnesses and Those Knowledgeable

Articles 148 - The judge can summon those whose presence is deemed necessary by them, or by the complainant, or by the respective authorities or by the request of the accused to clarify the accusation.

Article 149 – The investigation's witnesses and those aware are summoned with the order of the judge by judiciary officers or summons officers, or in any other way that the judge deems appropriate while observing article (86) of this Code.

Article 150 – If one of the investigation's witnesses, or those with knowledge of the crime, is a subordinate of the Armed Forces, he should be called by his Commander or Chief at least 24 hours before the investigation or the trial. The Commander or the Chief is bound to send the summoned person on the due date upon receipt of the court order.

Article 151 – The judge will investigate each of the witnesses and those aware separately and without the presence of the accused. He will record their statements and have it signed or finger printed by them. Further investigations or encounters are permitted if necessary.

Article 152 – Examination and investigation of witnesses and those with knowledge shall be performed prior to the Open Session.

Article 153 – The investigation's witnesses and those with knowledge should give an oath as follows before disclosing information:

"I swear to Almighty God that the testimony I shall give will be the truth, the whole truth and nothing but the truth."

Note – In cases where adjudication of a right is subject to the testimony of an impartial witness, and the witness refuses to attest the oath, the testimony will be heard without the oath.

Article 154 – Prior to the investigation, the judge will ask the name, last name, father's name, occupation, resident address, level of education, type of relationship and whether or not the

individual is the servant or the master to either of the parties of the case and his or her criminal background and will record it all in the minutes.

Article 155 – In cases that the judge is referring to the witness due to a Sharia's reason, the witness shall have the following qualifications:

1- Maturity
2- Wisdom
3- Faith
4- Legitimacy
5- Fairness
6- Does not have a personal benefit at stake or eliminating the loss
7- Does not have a terrestrial enmity between the witness and any of the parties
8- Not being a beggar or vagrant

Note 1 - Terrestrial enmity is accepted if the testimony of the witness is to the benefit of the party.

Note 2 – In the case of public rights, testimony is accepted only if the court gives the order.

Note 3 – The testimony of a person who has a background of immorality or is infamous for being immoral is not accepted even if s/he repents in order to testify, and not until change in the behavior is confirmed and is found to be fair and righteous.

Article 156 – If the witness or those who possess knowledge of the crime are not qualified to testify, their statements are heard without any oath and just to collect more information.

Article 157 – Once the testimonies and all information are finished, the statements will be read and signed by the witness or one who is knowledgeable. If the witness or anyone with knowledge of the crime does not have a signature, s/he will be fingerprinted. If they refuse to sign or be fingerprinted, or if they are unable to do so, it will be recorded in the investigation papers. In this case, all investigation papers shall be signed by the judge and the secretary.

Article 158 – In the investigation papers, it is forbidden to write in between the lines and to split words in the text. If a few extra words are written, they should be stricken through with a thin line and the issue be recorded, signed by the judge and the person being investigated. And if there are one or more words missing, and it is written on the margins, the above-mentioned persons should sign below the text, otherwise those words are not considered valid.

Article 159 – All witnesses and those who have knowledge of the crime shall be present on the due date; in case they do not appear, they will be called in a second time, and in case they do not appear again, and do not possess a valid excuse, they will be arrested pursuant to court order. Observation of article (86) of this Code is mandatory.

Article 160 – In case witnesses or those who possess knowledge of crimes encounter a loss with regard to their profession due to attending a trial or request the cost of transportation, the court will determine the cost of loss and look at the person who has requested it; the witness will reimburse the money to the judiciary account. If the person who has requested for the witnesses is unable to pay the mentioned cost, or the summons was made upon the request of the investigating authority, the cost will be paid from the public funds.

Article 161 – If the witness or those who possess knowledge of crimes are sick and cannot be present, or those who have knowledge about the case are too many, and are all residents of the same area, such as factory workers, the judge will travel to their residence and conduct the investigation there.

Article 162 – If those people who are knowledgeable about the case reside in an area outside of the area of jurisdiction of the judge, the judge will assign the District Court of where they live to record their statements in the minutes and send the investigation papers back to the judge.

Article 163 – In cases when one court requests the judge of another district to conduct the investigation and examination, the director of that District Court or his assistant will refer the case to one of them. They will then send the results of their investigations back to the requesting court.

Article 164 – Local research is required in order to discover a crime or clarify the case and collect specific details about the job or the moral character(s) of the accused and his or her life background; and also in cases where the accused or complainant refers to information collected from the neighbors or the judge deems necessary the investigation from the neighbors.

Article 165 – When the presence of the accused is necessary at the investigation site, or the accused requests to be present, but s/he is in detention, s/he can be present by the order of the judge and under watch.

Article 166 – Once the judge enters the site, the judge will act according to the regulations stipulated in the respective chapter of local research of the Civil Code of Procedure.

Article 167 – With regard to those being investigated, it is mandatory to observe the regulations stipulated in article (153) of this Code.

Topic Two – Disqualify and Adapt

Article 168 – Adapting occurs when one of the parties to the case claims that the witness does not possess one of the legal requirements.

Article 169 – Adapting the witness should happen before testimony unless the causes to adapt are shown thereafter. In any case, the court is bound to review the adapted issue and make a proper decision.

Article 170 – To prove the reasons to adapt or disqualify the witness, stating the reasons is not necessary, rather absolute proof to disqualify or adapt is sufficient enough.

Note 1 – In testimony to adapt or modify, a lack of justice is necessary, while having a good demeanor is not sufficient, unless the discoverer is among the just.

Note 2 – If the testimony of witnesses that have been presented is contradictory it is not valid unless the background of the witness is found clear.

Article 171 – If the court finds the introduced witnesses legally qualified, their testimonies will be accepted, or otherwise, they will be rejected. If there is no information about them, the judge will cease the investigation until they are found eligible or their situations are cleared; this should not take more than 10 days. Afterwards, the court will make a proper decision.

Article 172 – If the witness is rejected by the court or by the defendant's claim for adapting, the claimant can bring reasons to prove the eligibility of the witness, and the court is bound to review the case accordingly.

Part Six – Time Lapse in Deterrent Penalties

Article 173 - In crimes for which the legal punishments are either penalties meant to deter or bail or educational measures, and there has been no request to prosecute from the time the crime was committed until the validity of the following cases, or there has been no verdict concluded since the beginning of the prosecution until the expiration of the mentioned issues, the prosecution of the case will have to cease.

A- When the maximum penalty is more than three years of imprisonment or the fine is more than Rial 1,000,000 (about $100) with a validity of 10 years.
B- When the maximum penalty is less than three years of imprisonment or the fine is up to Rial 1,000,000 (about $100) with a validity of five years.
C- Any punishment except imprisonment or fine with a validity of three years.

Note – In cases for which the legal punishment is imprisonment or a fine or a lashing, or all of them, the duration of imprisonment is the criteria.

Article 174 – In all of the aforementioned cases, whenever the sentence is issued but not yet implemented, the implementation will be stopped after the expiration of the mentioned cases after the definite date of the sentence. In any case, the subdominant effects of the court order will remain effective.

Note – The sentences of the courts outside of the country towards Iranian nationals regarding legal regulations and agreements are subject to the regulations of this article.

Article 175 – Suspending the case and stopping the execution of a court order will not prevent a complainant or the private plaintiff from advocating for their rights.

Article 176 – If the judges, judicial officers and other officials who are legally bound to pursuit of the case, to investigate and execute the sentence, or to do something or fail to do something as a result of which the pursuit or execution of the sentence is not performed, they will be tried criminally, disciplinary, or officially, based on the case.

Chapter Two – Quality of the Trial

Part one – Judge's Proceedings after the Investigations are Completed

Article 177 – After a file is referred to a branch of a court and if there is no need for further investigation and measurement, the court will act as follows:

A- If there has been no accusation towards the accused or if the alleged act is not a criminal one, the court will issue a sentence of innocence or order the cessation of proceedings.
B- In cases except that of the above, if the parties to the claim are present and do not request a moratorium or the court does not consider the moratorium valid, or the case relates to public rights, or the plaintiff does not request to leave the trial, the court will investigate and issue the sentence through an official session.
C- In the absence of the parties to the claim or a request for moratorium in order to provide their defense or to present the request for losses, the court will determine an examination session and will inform the parties accordingly.

Note 1- If the plaintiff requests to leave the trial, the court will issue the arrangement to cease pursuit. This however does not prevent further complaints.

Note 2- There should be at least three days between the date of the summons and the date of call, and whenever there is an urgent matter, it is possible to summon the accused earlier.

Article 178 – In cases where the discharge of enmity or proof of the claim can be realized with a religious oath, it can be used by any of the parties to the claim.

Article 179 – If during the trial, the court discerns that the accused cannot be pursued due to the pardon of the private plaintiff (in forgivable cases) or any other reason, or if the court is not qualified, or the objection has been rejected by the prosecutor, the court will issue the sentence on the ban of pursuing the case, the incompetence, and accept or reject the objection accordingly.

Article 180 – When there is no access to the accused, or those persons summoned, and arrest is not possible due to an unknown address of residency, the date of trial mentioning the type of accusation (if deemed appropriate and no religious prohibition) will be printed once in one of the widely circulated newspapers or a local paper. There should at least be one month between the date of the ad in the paper and the date of trial. If the accused is absent on the day of trial, or has no defense, or a lawyer, the court will investigate in the absence of the accused in cases of public rights and will issue the sentence accordingly. The court order can be protested within 10 days of its issuance in the same court. With regard to religious rights, the investigation in the absence is

not allowed. If the court has a strong suspicion about the committed crime, the file shall be kept open until the accused is arrested.

Article 181 – Whenever the accused does not appear, and lacks a valid excuse, and does not even send a lawyer, and if the court deems the presence of the accused necessary, the accused will be arrested. If the presence of the accused is not necessary, and the case does not have a divine right, the case will be reviewed without the presence of the accused, and the sentence will be issued accordingly.

Article 182 – When the accused requests the Magistrates Court to alleviate or modify the bail, the court will review the request and make a decision accordingly. The sentence of the court in this case is definite. Having the file in the process at the Supreme Court does not prevent the court to review this request.

Article 183 – Multiple accusations against an accused shall all be reviewed at once; however if concurrent investigations causes delay, the court will decide on the accusations that are ready to be reviewed.

Article 184 – After the court order is issued, if it is discovered that there are several other definite charges against the convicted individual, which are subject to the respective laws on multiple crimes, and that they affect the executable charges, the following actions may be taken:

A- When the issued sentences from the Trial Courts are closed out due to the non-existence of any appeal, the file will be sent to the final branch of the Trial Court, which has issued a court order that states a single sentence observing the laws of multiple crimes, and thereafter disaffirming other issued sentences.
B- If there is at least one sentence issued in the Province Court of Appeal, the files will be sent to the Province Court of Appeal to issue a single sentence observing the laws of multiple crimes and after disaffirming other issued sentences.
C- If there is at least one sentence approved in the Supreme Court, all files regardless of being in the Province Court of Appeal or the Trial Court will be sent to the Supreme Court to have a single sentence issued, observing the laws of multiple crimes and after disaffirming other issued sentences.

Part Two – Representation of an Attorney in the Courts

Article 185 – In all criminal acts, parties to the claim can choose and introduce their own attorneys. The trial date will be communicated to the accused, complainant, private plaintiff and their attorneys. In the case of numerous attorneys, the presence of one attorney from each party is sufficient.

Article 186 – The accused can request that the court find an attorney for him or her. If the court assesses that the accused cannot afford one, an attorney will be assigned to the accused among the attorneys at the same District Court, and if there is no one available, then an attorney will be assigned from the closest district court. If the attorney requests a fee, the court will determine the fee according to the task and the fee should not exceed the legal tariffs in any case. The mentioned fee will be charged to the respective judiciary budget line.

Note 1- In crimes for which the legal punishment is retribution, execution, stoning or life sentence, and if the accused does not introduce his or her attorney, assigning a public defender is a must, except for an unchaste crime in which the accused refuses the presence or introduction of an attorney.

Note 2- In all criminal acts except those mentioned in Note 1 of this article, or in cases in which the sentence in absentia is not possible, if the accused has an attorney, communicating the date of trial to the attorney is sufficient, unless the court requires the presence of the accused.

Article 187 – The request to change a public defender by the accused is only accepted in the following cases:

A- When there is a relationship (up until the third degree) between the public defender and any of the parties to the claim.
B- The public defender is either a guardian of or servant to one of the parties, or any of the parties is a steward, manager, or the spouse of the defender.
C- The Public defender, his or her spouse, or children is/are a heir to one of the parties.
D- If the public defender has already testified in the same case as a magistrate, arbitrator, specialist or a witness.
E- If there is or has been a legal or criminal case between the public defender, and one of the parties, or their spouses, and less than two years has passed since the definite court order.
F- The public defender or his or her spouse or children have personal benefits in the raised case.

Part Three – Process of Investigation and Issuance of the Court Order

Article 188 – According to the court, the proceedings are open except in the following situations:

1- Unchaste acts and crimes against good morals.
2- Family disputes or private claims upon the requests of both parties.
3- Having an open session which disturbs security or religious feelings.

Note 1- An open session allows for people to be present at the trial. Media reporters can be present at the trials and prepare a written report of the proceedings. Reporters can publish them without disclosing the name or specifics which reveal the identity of an individual or social &

official position of either the plaintiff or defendant. Violating the last part of this note is considered libel. (Amendment dated 24- 03- 1385 [June 14, 2006])

Note 2- If the accused or any other person disturbs the trial, it does not prevent the session from being open and it should be managed appropriately. Someone who disturbs the trial can be detained by the judge for 1-5 days. The court order is definite and will be implemented immediately. The court should remind all those present of the contents of this clause before starting the session.

Note 3- In definite sentences regarding crimes such as: embezzlement, bribery, intervention, collusion, or receiving commission in government businesses, disturbing the country's economy, abuse of authority in order to obtain interest for oneself or others, custom crimes, tax crimes, goods, currency smuggling and in general crimes against government's financial rights, the court issuing the sentence should publish the summary of the sentence containing the identity, position or title, committed crime and the type and amount of the punishment of the convict at his or her own cost in one of the widely circulated newspapers or local newspaper if need be, and will provide it to other public media. That is, providing that the value of the revenue from the committed crime is equal or more than one hundred million Rials (about USD 100,000). (Amendment dated 24- 03- 1385 [June 14, 2006])

Note 4- The appeals reference is bound to review the files related to this article within six months maximum and issue the sentence. In case of delay without proper reasoning, the judges of the reviewing branch are sentenced to disciplinary punishment of grade four and above. (Amendment dated 24- 03- 1385 [June 14, 2006])

Note 5- Any one of the executive or judicial authorities violating the contents of this article, or preventing its execution in any way will be sentenced to the punishment articulated in the article 576 of the Islamic Penal Code. (Amendment dated 24- 03- 1385 [June 14, 2006])

Article 189 – People below the age of 15 are forbidden to be in the audience of a criminal trial.

Article 190 – When investigations are complete and there is a date fixed for the trial, the accused or his or her attorney can request the court office to provide them with the information in the file.

Article 191 – Whenever the accused or the private plaintiff requests an investigation of a person(s), whom although not summoned before, are present at the trial, the court will perform the necessary investigations.

Article 192 – If an accused is in detention, s/he will appear in court with the officers. The judge will first open the session with an official announcement and will inquire about the identity of the complainant or private plaintiff, and will listen to the complaint and the financial loss claim. The judge will then inquire about the identity of the accused according to Article 129 of this Code, and will warn the accused and the concerned individuals that they should not speak against truth, conscience, rules, courtesy and propriety. Afterwards, the court will explain the subject of

the crime to the accused, the petition of the plaintiff, all the evidence of the complaint and accusation, and will start the proceedings.

Article 193 – The proceedings are performed as follows:

1- Listen to the statements of the complainant and private plaintiff or their attorneys, and the witnesses and the specialists that are introduced by the complainant or the private plaintiff.
2- Investigate the accused to see if s/he accepts the charge. The answer of the accused will be precisely reflected in the minutes.
3- Listen to the statements of the accused, the witnesses, and specialists introduced by him or her or the attorney.
4- Examine the tools and instruments of the crime and listen to the statements of the attorney of the accused.
5- Verify the new evidence presented to the court by the accused or his or her attorney.

The court is bound to reflect the contents of statements of both parties and the exact statements of one party that is being used by the other, and also the exact statements of the witnesses and the specialists. Once all negotiations are done, the court will allow the accused or his or her attorney to speak as their last defense, and will conclude the proceedings by acquiring the signatures of both parties.

Article 194 – Whenever the accused confesses to a crime and his or her confession is clear with no suspicion and all signs and evidence confirm it, the court will issue the sentence. If the accused denies or keeps quiet or there is a suspicion in the confession or contradiction with the evidence, the court will start investigating the witnesses, those with knowledge of the crime, and the accused and will review other evidence accordingly.

Article 195 – In cases where there is a possibility that the parties can reconcile, the court will make all possible efforts to make peace between the two, and if this does not occur, the case will be investigated and the respective sentence issued accordingly.

Article 196 – The court is bound to investigate the witnesses individually, and take proper measures to avoid communication between the witnesses and the accused. After the individual investigations, the court can reinvestigate the witnesses individually or in groups upon the request of the accused, private plaintiff or the court itself. Before each investigation, the court shall inquire about the name, last name, father’s name, age, occupation, relationship and the servant or manager of the private plaintiff or the accused, pursuant to Article 153 of this Code.

Article 197 – The court should ask the respective questions to demystify and clarify the issue from the parties, witnesses and those with knowledge of the crime. If the accused does not respond to the questions, the court will continue the investigation without forcing the accused to answer.

Article 198 – When the court listens to the testimony of the witness from one party, it will inform the other party to ask questions.

Article 199 – Interruption of the witnesses' testimony during the proceedings is forbidden. Each party shall raise their questions through the court.

Article 200 – Witnesses cannot leave the trial after giving their testimony until the time set by the court, unless the court allows for this.

Article 201 – When the court requests that the witnesses or those with knowledge of the crimes testify or express what they know, and the testimony is later found to be untrue regardless of the benefit or loss of any party, they are sentenced to reimburse the loss, if any, in addition to the penalty of perjury.

Article 202 – If the complainant, private plaintiff, accused or the witnesses do not know Farsi, the court will assign two interpreters. The interpreter shall be reliable to the court and make a commitment that they will translate all statements correctly and without any change.

Article 203 – The accused and the private plaintiff can reject the interpreter, but the rejection of the interpreter shall have a valid reason. Acceptance or rejection of the interpreter is decided by the court and the decision is definite. The standard for rejecting the interpreter is the same as the standard for accepting witnesses.

Article 204 – If the private plaintiff, the accused or those with knowledge of the crime are deaf or mentally handicapped, the court will arrange to investigate them through specialists.

Article 205 – If a party to the claim correctly objects to the accuracy of the officers' investigation, the court will verify either directly through the examining magistrate, or as deemed appropriate.

Article 206 – If during the investigations, the court discovers another crime, it will notify the director of the District Court in writing and once referred, will follow up within the court's authority.

Article 207 – In cases that involve a loss for one party, the court will perform any investigation necessary to find the truth in addition to the evidence of the parties. When it is clear for the court that the documents or the request of one of the parties is not enough to prove the allegation, the judge can avoid considering the case after providing the reasons.

Article 208 – When a case has a main plaintiff, an assistant and a partner, and they are all present in court, the investigations will start beginning with the plaintiff.

Article 209 – Whenever there are several plaintiffs in a case or they have assistants and partners, and if there is no access to one or some of them, the court will process the case regarding those

who are present. In cases where there is a possibility of absentia proceedings, it will be done for those who are absent. Otherwise the case will remain open.

Article 210 – The judge shall not publicly express any opinion about the accused being guilty or innocent before the investigations are complete and the sentence is reached.

Article 211 – In cases where there is a need for further investigation, in order to issue the sentence, the trial will start right after the investigation, and will not stop until the court order is issued. If the trial is lengthy, there should be enough breaks as necessary.

Article 212 – The court will issue the court order during the same session once the investigations are finished, and with the help of God, relying on honor and conscience, and according to the contents of the file, and the present evidence. Unless determination of the sentence requires some preliminary preparations, the court order will be issued within a week at the very maximum.

Article 213 – If the court order is based on the innocence of the accused or the suspension of the sentence, and the accused is in detention, s/he will be immediately freed, unless the accused is being arrested for other issues.

Note – Once the sentence is formed, the letter shall be edited starting with the name of God and will be imparted to both parties after the following notes are clarified in:

A- The reference number of the letter with the date and the file number.
B- Specification of the examining court and the Magistrate.
C- Specification of the parties to the case.
D- Evidence and the documentation of the sentence.
E- The nature of the sentence and those articles of law to which the sentence is referred.

Article 214 – The court order shall be reasonable and valid based on the article of codes and principles to which the sentence is issued. The court is bound to find the sentence of any issue within the codified rules and if there is no code for a subject, the court will issue a valid sentence based on the reliable sources of jurisprudence or reliable fatwa. The courts cannot avoid addressing the complaints and claims or issuing the sentence because there is lack of, or deficiency, or brevity, or contradiction or ambiguity in the codified rules.

Article 215 – The copy of a sentence cannot be handed over before the original copy is signed. Violators of this rule will be sentenced to between three to twelve months dismissal from Governmental service.

Article 216 – The court order will be recorded in the minutes as well as a specific book. If the judge pronounces and hands over the sentence in person to both parties involved in the claim, a copy can be given to them.

Part Four – Warrant in Absentia

Article 217 - All crimes regarding public rights and public order that do not have a divine component, and if the accused or his or her attorney do not appear in any of the trial sessions nor have they submitted any bill, the court will issue a warrant in absentia. This sentence can be protested within 10 days in the issuing court, and once it expires, it can be reviewed as per the codes of the Appeal Court.

Note 1- The warrants in absentia that are not protested within the deadline, will be executed after the expiration of the protest date. If the issued sentence is legally communicated, the convicted person can nonetheless protest to the issuing court within 10 days from the date it was communicated. In this case, the court will suspend the execution of the sentence temporarily and can consider a bail or review of the existing bail if deemed appropriate.

Note 2 – In crimes that have a divine aspect and the contents of the file do not prove that the accused is guilty, and it is not necessary to investigate the accused, the court can issue an acquittal warrant in absentia.

Article 218 – The court will review the case immediately after receiving the protest and will review the reasons and defenses of the convicted person. If the reasons do not affect the sentence, the court will approve it and if they affect the sentence or if there is a need for further investigation of the documents and the defense, the court will set a date to call the parties for a review. In that case, the absence of the complainant or the private plaintiff does not prevent the investigation.

Part Five – The Order of Processing Children's Crimes

Article 219 - In every District Court, and if required, one or more branches of public courts are assigned to process all children's crimes.

Note 1- The term "child" refers to a person who has not reached religious maturity.

Note 2- When there is no court assigned for children in a District, the public court is responsible to process children's crimes according to the rules stipulated in this part.

Article 220 – While processing children's crimes, the court is bound to inform the parents or legal guardians that the child has to report to the court in person or hire an attorney for him or her. If the parents or legal guardians of the child neither appear in court nor hire an attorney, the court will assign a public defender for the child.

Note – All crimes committed by people younger than 18 years old are also processed in the children's court, according to the general rules.

Article 221 – In children's crimes cases, the initial processes such as the pursuit of the case and investigation will be conducted by the judge or the examining magistrate upon the request of the

judge, while observing the contents of the note to Article 43. The court will perform all the actions which by law are the responsibilities of the judicial officers by itself.

Article 222 – When there is a need to investigate the mental condition of the child, his or her parents or legal guardians, or the family conditions and living atmosphere, the court can conduct the investigation by any means deemed appropriate and/or can call for a specialist's opinion.

Article 223 – To perform the primary investigations and processes, the child will be summoned through his or her parents or legal guardians and in case of absence, the parents or guardians will be arrested according to the rules of this Code. This will not prevent the summons or arrest of the child by the court.

Article 224 – If there is no need to hold the child throughout the investigation; one of the following decisions will be made in order to maintain accessibility to the child and prevent him or her from escaping or hiding based on the type and importance of the crime, and its evidence according to the rules stipulated in Chapter One, Part Four, Topic Two of this code:

A- Requiring the parent or legal guardian of the child or any other person to present the child to the court when necessary. The credibility of the mentioned persons shall be established by defining a pledge.
B- The parent or legal guardian of the child or any other person makes a suitable (according to the court) assurance to release the child.

Note 1 – If it is deemed necessary to keep the child in order to process the investigation and prevent collusion due to the importance of the crime, or if the child does not have a parent or guardian, or the parent or guardian does not accept a recognizance or makes an assurance, and no other person would do it either, the accused child will be accommodated temporarily in a detention home.

Note 2 – If there is no detention home in the jurisdiction of that District Court, the court will decide where to accommodate the child.

Article 225 – Trying children's cases are not done in open sessions, rather only the parents, legal guardians, attorneys, witnesses and those who have knowledge of the crime, as well as a representative from the detention home can be present if deemed necessary by the court. Publishing the trial through group media, filming, photography, as well as disclosing the identity and specification of the accused child is forbidden. The violator to this rule will be sentenced to the legal punishment stipulated in article (648) of the Islamic Penal Code.

Article 226 – In the interest of the child, some part of the process can be performed in the absence of the accused and regardless, the sentence of the court will be considered as if it were given in the child's presence.

Article 227 – The court will process the petition of a private plaintiff according to the regulations, and will issue the sentence accordingly. There is no need for the child to be present at the trial.

Article 228 – If there has been one or more child that committed a crime with the assistance or partnership of others, the crimes that the children committed are processed in the children's court.

Article 229 – Children's Court can review its previously made decisions to decrease the duration of detention to one fourth based on the reports received from the detention home, which is based on the child's condition and his or her manner and behavior.

Article 230 – The sentences issued by the Children's Court can be appealed according to the law.

Article 231 – Assigning some branches of the public courts to children's crimes does not prevent the referral of other cases.

Chapter Three – Revision of Sentences

Part One – Generalities

Article 232 – The sentences issued by Public and Revolutionary Courts on Criminal Affairs are definite and can be appealed only in the following cases:

A- Crimes for which the legal punishment is execution or stoning.
B- Crimes subject to a fixed penalty or retribution and similar instances.
C- Confiscation of properties valued more than Rials 1,000,000 (about US$ 1,000).
D- Crimes for which the sentence is to pay blood money in an amount more than one fifth of complete blood money.
E- Crimes for which the maximum legal punishment is more than three months, imprisonment or whipping or fines more than Rials 500,000 (about US$ 500).
F- Sentences of dismissal from service.

Note – Regarding the above mentioned items, the sentence can be appealed including conviction, acquittal, prohibition of pursuit, or suspension of pursuit.

Article 233 – The appeals reference for the sentences of Public and Revolutionary Courts of each jurisdiction is the Court of Appeal in the same province, except for the following cases for which the appeal reference is the Supreme Court:

A- Crimes for which the legal punishment is either execution or stoning.
B- Crimes for which the legal punishment is amputation, retribution or similar.
C- Crimes for which the legal punishment is more than 10 years of imprisonment.

D- Property confiscation.

Article 234 – In cases that the sentence is issued together for the criminal and loss claims, and if one of them can be appealed, then the other sentence can consequently be appealed. The Court of Appeal should act on the same basis.

Article 235 - Has been voided. (Amendment dated 28-07-1381 [October 10, 2002] Article 39 of the attachment to the Code of Establishing Public and Revolutionary Courts)

Article 236 – The deadline for requesting an appeal for people residing in Iran is 20 days, and for people residing out of the country, they have 2 months after the date of notification or the running of the time in which s/he can appeal. Except for the cases mentioned above in item (A), (B) and (C) of Article (235) and item (D) of Article (240) of this Code.

Article 237 – If the petition or an appeal has not been presented to the issuing court within the time limit, the requester shall present his or her request to the court citing the excuse and the reason. The court is bound to review the excuse that prevented the appeal, within the time frame. Once the excuse is accepted, the court will take the appeal into consideration.

Article 238 – The following are considered acceptable excuses:

A- A sickness which causes inability to move.
B- Being arrested during travel.
C- Impossibility of traffic and communication due to unexpected and natural disasters.

Note – If the convicted person claims that s/he could not appeal within the timeframe because s/he was not aware of the context of the sentence, the appeal can be presented to the issuing court within one week, and once the claim is proven, it will be considered an acceptable excuse.

Article 239 – The following people have the right to appeal:

A- The convicted person or his or her legal attorney or representative.
B- The private plaintiff or his or her legal attorney or representative.
C- The director of District Court with regard to crimes in his personal jurisdiction.

Article 240 – An appeal can be requested in the following instances:

A- Claiming that the documents referred to by the court were invalid, or the lack of legality in the testimonies of the witnesses, or there were false statements made by the witnesses.
B- Claiming that the sentence is against the law.
C- Claiming that the judge did not pay attention to the expressed reasons.
D- Claiming the judge or issuing court is incompetent.

Note – If the appeal is made based upon one of the above-mentioned items in this article, and there are no other components involved, then the Court of Appeal can take everything into consideration.

Article 241 – The Court of Appeal can only review what is claimed in the appeal and what was initially stipulated in the sentence.

Article 242 – The parties' appeal regarding the penalty will be considered based on a written request and once the cost of trial is paid.

Note 1- A request for an appeal by the private plaintiff on the issued sentence regarding the losses caused by a crime must follow the rules of the Civil Code of Procedures.

Note 2- When the convict appeals his or her sentence and the losses caused by the crime, then s/he is not required to pay for the cost of the trial regarding the legal issue.

Article 243 – If the appellant claims insolvency to pay for the appeal, the issuing court will have to review this claim according to regulations.

Note 1- If the appellant is a prisoner, s/he is exempted from paying the cost of the appeal for the crime that s/he was arrested for.

Note 2 – The director of District Court or his deputy can waive the cost of the appeal proceedings regarding criminal cases for the appellant, taking consideration his or her situation.

Article 244 – The appellant should present his or her appeal to the office of the issuing court or the detention center where s/he is imprisoned. The court office or the detention center shall register the appeal immediately and provide the presenter with a receipt, stating: the name of the appellate, the litigant, the date of the request and the registry reference number. The same reference number and date shall be recorded on the petition or appeal letter. The office of the detention center is bound to send the appeal letter to the issuing court after registration.

Note – If the petition or appeal is presented directly to the Court of Appeal or the Supreme Court, the respective office will send the request stating the reference number and the date of receipt to the issuing court.

Article 245 – If the petition or the appeal lacks one of the legal terms and conditions, the office manager will inform the appellate of the defects within two days, enabling them to fix the defects within ten days of the notice. The court will make its appropriate decision if the defect is not fixed within the deadline of the petition and the appeal is presented to the offices of the court, or the detention center after the set legal date.

Article 246 – If the parties to the claim void their request for appeal through a written agreement, their appeal is not considered.

Article 247 – If any of the parties to the claim rescind his or her appeal, the Court of Appeal should issue the order for rejection or void the appeal accordingly.

Article 248 - The sentence issued in the appeals process cannot be appealed again unless the vote is insisted.[1]

Note – If there is a claim regarding the incompetency of the judge, the claim will be reviewed in the Supreme Court according to regulations.

Article 249 – If the sentence has been issued in a court that has not had the essential competency, the appeal authority will refer the case to the proper court. If the sentence is issued by a court that does not have authority, any of the parties to the claim can state this in their appeal, and the appeal authority will refer it to the proper court.

Note 1 – In cases for which the examination is only within the jurisdiction of the courts in Tehran, but it was reviewed and the sentence was issued in another court, the appeal authority will refer the case to the proper court.

Note 2 – The qualification of Judicial Courts to the Non-Judicial authorities, and the qualification of Public Courts to the Revolutionary and Military Courts, and the qualification of a Trial Court to a Court of Appeal are amongst their essential qualifications.

Article 250 – If the sentence of an appellant includes a mistake with regard to the conviction, loss, specification of the parties or the type and quantity of the punishment, and adjustment of the act with the law or other similar errors, which do not harm the foundation of the sentence, the Appeal Authority will review it as an appeal and will correct it while confirming it.

Part Two – Quality of Investigations at the Provincial Courts of Appeal

Article 251 – Once a file reaches a Province Court of Appeal and in the existence of numerous branches, the file will be initially referred to one of the branches by the head of the first branch. The branch that receives the file will review it in turn, unless otherwise advised either by law or by the head of the first branch of the Court of Appeal.

Article 252 – If the court finds the initial investigation incomplete or finds it necessary to call the parties of the claim in order to review their statements, defenses and other expressed reasons, the court will summon them with an appointment. Both parties to the claim can either appear in person or introduce an attorney. Either way, the absence of the person or failure to introduce an attorney does not prevent the investigation.

[1] The "vote is insisted" comes from the "insist vote", or "Ra'ye Esrari" in Farsi, which is a term of art in the Iranian legal system. When the Supreme Court of the Islamic Republic of Iran quashes a sentence issued by a lower court, remands it for re-trial, and the second court confirms the first court's decision, it is called an "insist vote".

Article 253 – Summons, arrest and review of the statements in a Court of Appeal is processed according to the regulations applied to the Trial Courts.

Article 254 – The investigation and examination of the venue is done by the head of the Court of Appeal or by one of the assistants following his order. If the venue is located in another city within the same province, the Court of Appeal can request that District Court to implement it. In case the venue is located in the jurisdiction of another province, the Court of Appeal will provide the court of that province with a legal representation to perform the task. Application of the note for Article 59 of this act is obligatory.

Article 255 – Whenever the Province Court of Appeal deems necessary the presence of an accused while s/he is in prison, he will issue the order to the head of the prison or detention to deliver the accused. If the prison or the detention center is located in another jurisdiction, the accused will be temporarily transferred to the closest prison by the order of the court.

Article 256 – If there is an appeal on an issued sentence, while there has been no bail obtained from the accused or the bail does not conform to the losses of the private plaintiff, the Court of Appeal may collect a sufficient bail based on the reasons the plaintiff adduces to convince the court to increased the bail of the accused.

Article 257 – The Court of Appeal will decide on the appealed sentences as follows:

A- If the sentence is established based on the laws and the evidence within the file, the case will be returned to the issuing court.

B- If the sentence is breached by the Court of Appeal, or if the sentence is issued by an incompetent court, or it is issued without following legal procedures, regardless of the reasons and the defense of the parties, in such a way that failure to meet the above mentioned items is so important that the issued sentence is considered either illegal, against Sharia or in contradiction with laws. In this case, the Court will proceed as follows:

1- The Court of Appeal will void the initial sentence and will issue an appropriate sentence if the act for which the accused has been condemned, if proven, is not a crime or cannot be tried following public amnesty or other legalities; or the Court of Appeal can prove acquittal of the accused for any reason even if the condemned person has never requested for an appeal. If the condemned person is in detention, he will be immediately freed.

2- If the issued sentence is a writ and is voided for any reason, it will be returned to the issuing court for further investigation and the court is bound to review it.

3- If the sentence is voided because of the incompetency of the issuing court, the Court of Appeal will refer the case to the proper court.

4- If a Court of Appeal recognizes the tribunal sentence against the Sharia' or legal frameworks, it will void the sentence while mentioning the reasons and legal principles. Once the essentials are reviewed, the Court of Appeal intends to compose

the sentence. The issued sentence is definite, except for the cases mentioned in Article 235.

Article 258 – The Court of Appeal cannot increase a suspended sentence of a tribunal sentence, except in cases for which the established punishment is less than the legal punishment, and that is the reason why either the appellate or the mentioned authorities in Article 235 have protested. In this case, the Court of Appeal will correct the tribunal sentence according to the punishment stipulated in the law.

Article 259 – The Court of Appeal is bound to establish the sentence once the review is complete, unless composing the sentence is subject to some initial arrangement for which there is only one week to prepare.

Article 260 – If the Court of Appeal condemns the accused, and the accused or his or her attorney were never present at the trials, and have never defended or objected to the bill, the sentence established by the Court of Appeal can be requested for an appeal and review in the same Court within 20 days of notifying the accused or his or her attorney; the issued sentence is definite.

Part Three – Supreme Court and the General Staff

Article 261 – Once a file reaches the Supreme Court, the director or one of his or her deputies will refer the case to one of the branches of the Supreme Court with respect to the turn and chronological order of receipt. The receiving branches will process the files in turn, unless there is an urgency to review the case due to a specific law or to the determination of the director of Supreme Court or the Head of Branch.

Article 262 – Once a file is referred to a branch it cannot be referred to a third branch unless otherwise admitted by law.

Note – Observing this rule applies to all investigations in other courts.

Article 263 – The head of the branch shall review the referral cases in person and prepare the report or designate it in turn to the other branch members. The mentioned member shall prepare the file report containing the process and will conduct a thorough review of the appeal and the respective legal aspects (in a reasonable way), and present it to the head of branch.

Note – While preparing the report, the head or member of the branch is bound to reasonably mention in detail any violation of law, specific intention or unawareness of judiciary principles observed from the judges who were involved in the file. A copy of this report will be forwarded to the Supreme Disciplinary Court with the order of the head of branch.

Article 264 - While a file is being reviewed in the Supreme Court, the parties to the claim and their attorneys are not summoned unless the reviewing branch deems their presence necessary. However, their absence will not delay the review and conclusion of the decision.

Article 265 – In the process of review, the auditing member will recite the file report and the necessary items of the documents. If the parties to the claim or their attorneys are present, they can express their statements with the permission of the head of branch. The representative for the Attorney General will express his opinion regarding the legal aspects of the review. Then members of the branch will make a decision with the majority of their votes, taking into consideration the contents of the file, the report, the statements of the respective people, and the Attorney General's representative. Decision making is done as follows:

A- The file will be approved and returned to the issuing court if the sentence was in accordance with the law and in line with the existing evidence in the file.
B- In cases where the verdict is issued by an incompetent court, or it is issued without a legal procedure, or with no consideration of the testimonies and the defense of the parties, and if the mentioned issues are so important that the verdict is not legally valid or it is against Sharia or law, the issued verdict is voided and processed as follows:
1- If the act for which the person is convicted of, even if it was proven that the act was not a crime or cannot be pursued due to public amnesty or other legal rationales, then the verdict is voided with no further referral.
2- If the issued verdict is in the form of a warrant, or if the verdict is voided due to lack of an investigation, it will be referred to the issuing court for further review.
3- If the verdict is voided due to the incompetency of the court, the case will be forwarded to a competent court determined by the Supreme Court and the designated court is bound to review it.
4- In other instances, the case will be referred to a parallel court after being voided.

Note – Whenever the Supreme Court voids a verdict due to lack of an investigation, it must detail the deficiencies.

Article 266 – The investigating body within the Supreme Court will act as follows after having voided the verdict:

A- If the warrant is voided in the Supreme Court, it should be essentially considered compatible with the Supreme Court.
B- If the verdict is voided because of the lack of an investigation, the verdict will be sent down once all mentioned items are performed according to the Supreme Court.

C- In cases apart from the above mentioned items, the court can issue an insisted verdict.[2] If this sentence can be further appealed and the justifications expressed by the court are accepted, a branch will confirm the sentence. Otherwise, the case will be discussed in the General Board of the Criminal branches and if the opinion of that branch of the Supreme Court is approved, the sentence will be voided, and therefore the case will be referred to another branch. The receiving court will issue the verdict according to the justifications of the General Board of the Supreme Court. This verdict is definite except in cases mentioned in Article 235 of this code.

Article 267 – If the Attorney General following the regulations requests an appeal, he can assign one of his assistants from the prosecution office of the Supreme Court to be present as his representative in the branch of the Supreme Court and express his opinion on the subject.

Article 268 – Has been voided. (Amendment dated 28-07-1381[October 10, 2002] Article 39 of the attachment to the Code of Establishing Public and Revolutionary Courts)

Article 269 – The General Prosecution Office will receive the request for void according to the previous article, and will register according to the regulations if the file is complete with all the attachments, documentation and the court fee. The file will be presented to the Attorney General, and he will review it to see whether the claim is accurate while considering the contradiction between the sentence and Sharia law and legal standards. If it is accurate, he will mention the reasoning and request the Supreme Court to void the sentence. If the Supreme Court voids the sentence, the case will be referred to a parallel court.

Note 1 – If the presented request is incomplete, the General Prosecution Office will inform the presenter to improve the deficiencies within 10 days. There will be no further action taken if required measurements are not taken within the deadline.

Note 2 – Once the Attorney general requests the Supreme Court to void a sentence, the implementation of the sentence is postponed until the end of the investigation by the Supreme Court.

Note 3- The issued verdicts of the two above-mentioned articles cannot be objected or appealed except for cases mentioned in article (235) of this Code.

Article 270 – If there are different verdicts issued by any of the branches of the Supreme Court or any other courts for similar cases including legal, criminal or non-litigious matters based on the regulations, and if the director of Supreme Court or the Attorney General are informed about this, then they are bound to request the opinion of the General Board in order

[2] The “insisted verdict” comes from the “insist vote”, or “Ra’ye Esrari” in Farsi, which is a term of art in the Iranian legal system. When the Supreme Court of the Islamic Republic of Iran quashes a sentence issued by a lower court, remands it for re-trial, and the second court confirms the first court’s decision, it is called an “insist vote”.

to establish consistency. Any of the judges from branches of the Supreme Court or other courts can also request the opinion of the General Board through the director of the Supreme Court of the Attorney general, stating all the arguments. The General Board of the Supreme Court will be formed with the following groups to review and make a proper decision: director of the Supreme Court or his deputy as the head, presence of the Attorney General or his representative, and at least three fourths of the directors, Advisors and Deputies of all branches. The majority of the opinions/votes based on Sharia's standards are the criteria. The opinion of the General Board of the Supreme Court is not effective on the definite sentences. However, it is necessary to be followed by the branches of the Supreme Court and other courts in similar circumstances.

Article 271 – The verdicts of the General Board of the Supreme Court cannot be appealed but will be ineffective according to law.

Chapter Four – Amendment of Judgments

Article 272 – Amendment of judgment regarding a court's definite sentences can be restored regardless of whether the sentence was implemented, in the following cases:

1- If a person is convicted of murder, but it is found that the murdered person was alive at that time or is still alive.
2- When several persons are convicted of committing a crime, but the crime is a type that cannot have more than one perpetrator.
3- If a person has been sentenced for a crime and that crime is the same as the crime another person has been convicted of by another Judiciary Court, such that the conflict and contradiction between the two issued sentences must prove the innocence of one of the convicted persons.
4- If the documents and the testimonies of the witnesses, on which the sentence was based, are found to be forged and untrue.
5- If other incidents happen or are discovered, or new reasons are presented after the definite sentence is issued, which proves the innocence of the accused.
6- In cases where the issued sentence is not proportionate with the committed crime due to the judge's mistake.
7- If the subsequent law determines a lesser punishment than the previous law. In this case, the new sentence after the initial trial shall not be more than the previous one.

Note – With regard to unforgivable crimes, the pardon of the complainant or the private plaintiff after the definite sentence is issued cannot lead to a hearing restoration.

Article 273 – The following persons are allowed to request an amendment of judgment:

1- The convicted person, his or her attorney, or legal deputy and in case of death or absence of the convicted person, his or her spouse, heir or executor.
2- The Attorney General.
3- Director of the District Court.

Article 274 – The request for amendment of judgment is presented to the Supreme Court. The Supreme Court will refer the review of the case to a parallel court of the issuing court after having adopted the request with one of the items stipulated in Article (272).

Article 275 – If the Supreme Court accepts the request for amendment of judgment, the implementation of the sentence, if not implemented, will be postponed until the hearing is restored and the new sentence is issued. However, if there has been no adequate bail obtained or if the bail received is no longer effective, a proper bail will be obtained to prevent the accused from absconding.

Note – The court that is going to review the case after the approval of the amendment of judgment is the one to determine the bail.

Article 276 – Once the secondary trial has started, whenever the convict presents strong documents and an argument, effects and consequences of the initial sentence are stopped immediately and subsequent alleviation is executed. However the alleviation shall not cause the escape of the convict from trial or his or her hiding.

Article 277 – Regarding unforgivable crimes, whenever a complainant or private plaintiff withdraws his or her complaint after a definite sentence, the convict can request an appeal of the amount of the punishment. In this case, the court will review the request of the convicted person in extra time and will alleviate the punishment if legally appropriate. This sentence is definite.

Chapter Five – Implementation of the Sentences

Part One – Binding Sentences

Article 278 - Binding sentences are:

A- A definite sentence by the Magistrate Court.
B- A sentence issued by the Magistrate Court to which there have been no objections or request for an appeal within the legal deadline, or the objection or request for appeal is denied.
C- The sentence issued by the Magistrate Court which is approved by the Court of Appeal.
D- The sentence issued by the Court of Appeal after the initial sentence is voided.

Article 279 – Whenever the issued sentence is for a number of people and some of them object or request an appeal within the legal timeframe, the sentence is binding, and for the others, it is once the deadline for objection or appeal is over.

Article 280 – Objection or request for an appeal to one part of a sentence does not prevent the rest of the sentence to be implemented.

Part Two – Order of sentence implementation

Article 281 –The sentence is implemented by the issuing Magistrate Court or its successor as stated herein:

Article 282 - In cases where the sentence shall be implemented by governmental public officials or organizations, the court will send a copy of the sentence, issue the instructions for implementation, conduct proper trainings, and thoroughly monitor the implementation.

Article 283 – The implementation of the sentence is started right after the order is issued and will not be halted, unless the issuing court orders the cessation within the set rules and regulations.

Articles 284 – All judicial officers, disciplinary and military forces, directors of governmental and governmental affiliated organizations, or public institutes are bound to perform the orders of the courts regarding the implementation of sentences within their areas of responsibilities.

Article 285 – It is the responsibility of the issuing court to remove ambiguity and brevity from a sentence, but the court under which the implementation of the sentence is being performed is the one to correct the problems and mistakes of the implementation.

Article 286 – Implementation of the rulings for judgment cost, payment of damages and losses of the private plaintiffs are done according to the regulations stipulated in the Implementation Chapter of the Civil Code.

Article 287 – If the ruling states the innocence of the accused, or bans or halts the pursuit of the accused, the ruling should immediately be implemented by the court, and the accused will no longer be detained unless kept detained for another reason.

Article 288 – Suspended lashing sentences are not performed until the removal of obstacles in the following cases:

A- A woman who is pregnant or is bleeding after child delivery, and is bleeding before or after menstrual age.
B- A woman who is breastfeeding a baby who is still an infant – up until a maximum age of two years old.
C- A sick person whom, according to the forensic physician or the reliable physician of the court, might get worse or the recovery might be delayed due to the implementation of the sentence. In this case, if there is no hope that the patient might recover or if the court

deems it appropriate, a whip is made out of the number of lashes mentioned in the sentence and the convicted person will receive one lash with it.

D- In cases where it is necessary to change a punishment to another punishment according to the law, the first punishment will not be implemented until the decision is made by the court.

Article 289 – Insanity of the convicted person after the sentence is issued and his or her escape while the sentence is being implemented will not halt the suspended penalty.

Article 290 – The sentence will state where and how the lashing sentence shall be implemented according to the court, while keeping public discipline and observing Sharia and other regulations.

Article 291 – If the convicted person falls ill, it will not cease the implementation of the imprisonment sentence unless otherwise determined by the court that the implementation of the sentence will worsen the disease or delay the recovery. In this case, the court will issue permission for his or her treatment outside the prison according to the forensic physician or a reliable physician of the court, and s/he must obtain adequate bail. If the convict does not pay the bail based on the physician's advice and the court order, s/he will be treated in the prison's hospital or another hospital under the supervision of judicial officers.

Note – In cases of insanity, the convicted person will be kept in a mental hospital until recovery. The period staying in the hospital are counted within his or her sentence.

Article 292 – How and when to pay the blood money will be in accordance with what is stipulated in the Islamic Penal Code and the law for implementation of financial convictions.

Article 293 – Before implementing the sentence of execution, retribution, stoning or hangings, there are religious ceremonies performed for the convicted person by qualified people. The following people must be present when an execution is being performed: the director of the issuing court or his representative, head of the District Disciplinary Force or his representative, director of the prison, forensic physician or a reliable physician, and the court secretary. The convicted person's attorney can also be present. Once the convicted person is present, the director of the court or his representative will issue the order for the implementation of the sentence, the secretary will read the sentence out loud, then the sentence will be implemented and the minutes will be signed by all of those who are present.

Note – The implementation procedure of this article and the modalities of performing the lashing sentence will be prepared by the Minister of Justice within three months, to be further approved by the head of Judiciary.

Article 294 – Those who are sentenced to imprisonment will be introduced to the prison, and their crime and the length of their sentence are announced to the prison.

Article 295 – Duration of all imprisonment sentences starts from the day the convicted person is imprisoned according to the definite sentence to be implemented.

Note – If the convicted person has been already detained because of one or more accusations mentioned in the case, the period of detention will be deducted from his imprisonment.

Article 296 – A breast fed infant shall not be separated from a mother who is sentenced to imprisonment or exile, unless the mother willingly gives the child to the father or other relatives.

Article 297 – Those persons sentenced to exile shall be transferred to that place, and the court and Disciplinary Forces should be informed immediately.

Note - The implementation procedure of this article will be prepared by the Ministries of Justice and interior within three months to be further approved by the Council of Ministers.

Implementation Procedure of Note for Article (297) of Criminal Code of Procedure for Public and Revolutionary Courts – 14/06/1380 (September 06, 2001)

Iranian Official Journal – edition # 16482 – 07/07/1380 (September 29, 2001)

The Council of Ministers has approved the implementation Procedure of Note for Article (297) of Criminal Code of Procedure for Public and Revolutionary Courts – Approved in 1378 (1999) following the submission on 24/11/1278 (February 13, 2000) by the Ministries of Justice and Interior as follow:

Implementation Procedure of Note for Article (297) of Criminal Code of Procedure for Public and Revolutionary Courts.

Article 1 – The Islamic Republic of Iran's Disciplinary Forces will be notified of the exile sentence once it has been finalized, and they will have to be in compliance with the arrangements of the implementation of the sentence. The officers of the Disciplinary Forces are bound to timely perform the contents of the sentences as soon as they are notified.

Article 2 – Those sentenced to exile are sent to the place of exile under the supervision of the officers of the Disciplinary Forces.

Note 1 – If the convicted person requests to go to the place of exile on his or her own, then s/he must be present in the place agreed upon by the issuing court and s/he is bound to report to the District (Local) Disciplinary Forces upon arrival and in person.

Note 2 – If deployment of the criminals to the place of exile is not possible due to a valid excuse, such as natural disasters or compulsion, then once the excuse has been resolved, the deployment will be arranged under the supervision of the court.

Note 3 – The duration of the exile starts from the day the convicted person reports his or her arrival, as mentioned above in Note 1, or according to his or her deployment.

Article 3 – Convicted persons whom have escaped or are in hiding, or are avoiding exile, will be arrested by any means necessary and transferred to the place of exile under the supervision and protection of the Disciplinary Forces.

Article 4 – Once the convicted persons arrive at the place of exile, the District Disciplinary Forces is bound to register their names in the specific registry and take all necessary surveillance during the period.

Note – The Disciplinary forces are bound to inform the local Judiciary and Intelligence Office as well as the Governor's office in the presence of the convicted person.

Article 5 – It is the responsibility of the Disciplinary Forces to monitor the presence and activities of the convicted persons in exile and the convicted persons have to report to the local Disciplinary Forces Offices everyday to sign in.

Article 6 – In all Provincial Judiciary Offices, there is a registry specifically for recording the information about the convicted persons to exile in their area of jurisdiction. Once the exile sentence is issued, the issuing court will provide the mentioned office with a copy of the verdict.

Article 7 - The Provincial Judiciary Office will inform the judiciary office of the city of exile once all the information is registered.

Article 8 – The Disciplinary Forces of the place of exile is bound to inform the Judiciary Office related to the sentence issuing court if they find out that the criminal has illegally left the area to where he was exiled.

Article 9 – Those who are sentenced to exile and leave the place of exile before their sentence is finished will be dealt with by the issuing court and in accordance to the law.

Article 10 – In order to keep the balance of the number of people in exile in different cities, there must be proper coordination between the Ministries of Justice, Intelligence (information) and Interior.

Note – The Security Council of the country will announce the list of those cities not qualified to be used as an area of exile.

Article 11 – An appropriate implementation procedure for the duties and responsibilities of the Islamic Republic of Iran Disciplinary Forces will be prepared by them, and all the respective offices in the provinces will be informed accordingly so that they can perform their duties consistently.

Article 12 – The security forces will cooperate with the disciplinary forces in this regard. They will provide the detailed activities of the convicted persons to the Disciplinary Forces.

Article 13 – The Disciplinary Forces should inform the Security Council Office of that city about the problems and difficulties with the exiled convicted persons for further review and proper decision making. The mentioned council office will inform the Security Council Office of the Province as deemed necessary, and if necessary, to the Country Security Council.

Article 14 – People in exile are permitted to work in specific jobs in their area of residence and according to the rules and regulations.

Article 15 – The issuing court can permit the person in exile to go on leave upon his or her request, within the legal framework, and based on its discretion.

Article 16 – The costs of deploying and implementing the sentences issued by the courts are taken from the budget lines of the judiciary and paid to the Disciplinary Forces according to the rules and regulations.

First Assistant to the President – Mohammad Reza Aaref

Article 298 – The verdict of acquittal for an accused can be published in widely circulated papers upon his or her request and at his or her own cost.

Article 299 – To implement the fine sentences, the convict shall pay the amount to the Government Treasury and the receipt should be attached to the file.

Article 300 – Implementation of the Sharia limit will be according to the laws stipulated in the Islamic Penal Code.

Chapter Six – Cost of Trial

Article 301 – The complainant is responsible to pay the cost of the criminal complaint according to the regulations and upon making the complaint. A private plaintiff, who is requesting a loss due to a criminal act, shall also pay the trial cost according to civil regulations. If the plaintiff cannot afford to pay the cost of trial, and s/he requests the court to waive the charge, the court can waive the cost of the trial on the specific subject temporarily upon receiving approval from the director of the District Court or his Assistant. The trial process should not be delayed because the private plaintiff has not paid the charge for trial; the court is responsible to determine the potential for financial ability.

Note – Once the sentence is issued and is being implemented, the body responsible for implementing the sentence is required to secure the [monetary] cost of the trial from the convicted person.

Article 302 – The accused and the private plaintiff shall not pay the transportation cost of the witnesses, experts, translators, physicians and others called by the judicial authorities; however if the accused or the private plaintiff requests their presence or comments, the one who makes the request shall pay for the respective expenses.

Note – The tariff of the respective expenses are defined by the Minister of Justice and approved by the director of Judiciary. Each court shall determine the involved costs based on the tariffs and state them in the sentence.

Article 303 – The cost of preparing and conforming the copies to original documents will be determined according to the regulations.

Article 304 – The trial cost will be divided among all the convicted persons in a case. The court shall consider the share of each person in the crime and divide the costs proportionately.

Article 305 – The complainant or private plaintiff can claim whatever expenses are paid by him from the convicted person at any stage of the trial. Once the court finds for the plaintiff, the court is bound to issue the order of payment along with the sentence.

Article 306 – The body responsible for paying the trial cost shall be stated in the verdict; there should also be a detailed expenses list attached to the verdict.

Article 307 – If the convicted person dies during the implementation of the sentence, the trial cost should be obtained from his or her remaining family members.

Article 308 – Upon the effective date of this law, all Public and Revolutionary Courts are bound to perform according to this procedure and the Criminal Code of Procedure approved in year 1290 (1911) and its subsequent amendments, and any other contradictory rule and regulation with regard to Public and Revolutionary Courts are voided.

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