

PENAL PROCEDURE CODE

In force from 29.04.2006

Prom. SG. 83/18 Oct 2005, amend. SG. 46/12 Jun 2007, amend. SG. 109/20 Dec 2007, amend. SG. 69/5 Aug 2008, amend. SG. 109/23 Dec 2008, amend. SG. 12/13 Feb 2009, amend. SG. 27/10 Apr 2009, amend. SG. 32/28 Apr 2009, amend. SG. 33/30 Apr 2009, amend. SG. 15/23 Feb 2010

Part one. GENERAL RULES

Chapter one. TASKS AND LIMITS OF EFFECT

Tasks of the Penal Procedure Code

- Art. 1. (1) The Penal Procedure Code shall determine the order under which the penal procedures shall be carried out with the purpose to provide detection of the crimes, revealing the culprits and proper application of the law.
(2) By performing the tasks under Para 1, the Penal Procedure Code shall ensure the defence against criminal encroachments aimed at the Republic of Bulgaria, at the life, freedom, honour, rights and legitimate interests of citizens, as well as at the rights and legitimate interests of legal persons, and shall help for the prevention of crimes and consolidation of legality.
- Effect by subject
- Art. 2. (1) The Penal Procedure Code shall apply to all criminal cases instituted by the authorities of the Republic of Bulgaria.
(2) The Penal Procedure Code shall also apply in the cases of performing court orders of another country, placed by virtue of an agreement or under the terms of reciprocity.
- Effect by time
- Art. 3. The provisions of the Penal Procedure Code, shall be also applied from they become effective to the procedural acts impeding on uncompleted penal proceedings.
- Effect by location
- Art. 4. (1) Penal proceeding instituted by a body of another country, or the effective sentence passed by a court of another country, and not recognized under the order of this code, shall not be an obstacle to the institution of penal proceedings by the authorities of the Republic of Bulgaria regarding the same crime and against the same person.
(2) (amend. – SG 15/10) The effective sentence passed by a court of another country and not recognised under the order of the Bulgarian legislation shall not be subject to execution by the authorities of the Republic of Bulgaria
(3) The provisions of Para 1 and Para 2 shall not apply, if stipulated otherwise in an international treaty to which the Republic of Bulgaria is a party, which has been ratified, promulgated and has entered into force.
- Effect with regard to persons enjoying immunity
- Art. 5. With regard to persons enjoying immunity concerning the criminal jurisdiction of the Republic of Bulgaria, the proceedings provided for in this Code shall be performed in accordance with the regulations of international law.

Chapter two.

FUNDAMENTAL PRINCIPLES

- Administration of justice on criminal cases solely by the courts
- Art. 6. (1) Justice on criminal cases may only be administered by the courts established by the Constitution of the Republic of Bulgaria.
(2) Courts of emergency jurisdiction on criminal cases shall not be allowed.
- Central place of the court procedure
- Art. 7. (1) The court procedure shall take central place in the penal procedure.
(2) Pre-trial procedure shall be of preparatory nature.
- Participation of court assessors in the court body
- Art. 8. (1) In the cases and under the order as provided in this code, in the court body court assessors shall take part.
(2) Court assessors shall enjoy the same rights as judges.
- Requirement for appointment
- Art. 9. In the penal procedure shall participate only judges, court assessors and investigating bodies, appointed under the established order.
- Independence of the bodies in the penal procedure
- Art. 10. In carrying out their functions, the judges, court assessors, the prosecutors and the investigating bodies shall be independent and shall be subservient only to the law.
- Equality of citizens in the penal procedure
- Art. 11. (1) All citizens who participate in the penal procedure shall be equal before the law. No privileges or restrictions based on race, nationality, ethnic belonging, sex, origin, religion, education, convictions, political belonging, personal and social or property status shall be allowed.
(2) The court, the prosecutor and the investigating bodies shall apply the laws precisely and equally to all citizens.
- Competitiveness. Equal rights of the parties
- Art. 12. (1) The court procedure shall be competitive.
(2) The parties in the court procedure shall have equal proceedings rights, except the cases as provided in this code.
- Detection of the objective truth
- Art. 13. (1) The courts and the investigating bodies shall, within the limits of their competence, be obligated to take all measures to ensure the detection of the objective truth.
(2) The objective truth shall be detected following the order and through the means provided by this Code.
- Taking decisions by inner conviction
- Art. 14. (1) The court and the investigating bodies shall take their decisions by inner conviction, based on objective, thorough and complete inspection of all circumstances of the case, under the guidance of the law.
(2) Evidence and the instruments of their finding shall not have preliminarily determined force.
- Right of defence
- Art. 15. (1) The accused shall be entitled to defence.
(2) The accused and the other persons participating in the penal procedure shall be provided with all procedural remedies necessary for the defence of their rights and legitimate interests.
(3) The court, the prosecutor and the investigating bodies shall make clear to the persons under Para 2 their procedural rights and shall provide them with the possibility to exercise those rights.
(4) The injured person shall be provided with the needed procedural remedies for the defence of his/her rights and legitimate interests.
- Presumption of innocence
- Art. 16. The accused shall be considered innocent until the conclusion of the penal proceedings with an effective sentence establishing the contrary.
- Inviolability of person
- Art. 17. (1) No measures of coercion shall be taken against the persons taking part in the penal proceedings, except in the cases and following the order stipulated in this Code.
(2) No person may be detained for more than 24 hours without the permission of the court. The prosecutor may direct detainment of the accused till he/she is brought before the court.

- (3) The respective body shall immediately notify a person, named by the detained, about the detention.
(4) If the detained is a foreign citizen, the Ministry of Foreign Affairs shall be informed immediately about the detention.
(5) The court, the prosecutor and the investigating bodies must release every person who has been unlawfully deprived of freedom.

Immediacy

Art. 18. The court and the investigating bodies shall base their decisions on evidencing materials, which they shall collect and examine in person, except in the cases provided for in this Code.

Oral carrying out of the penal procedure

Art. 19. The penal procedure shall carried out in oral, except in the cases provided for in this Code.

Publicity of court sessions

Art. 20. Court sessions shall be public, except in the cases provided for in this Code.

Language, in which the penal procedure shall be conducted

Art. 21. (1) The penal procedure shall be conducted in the Bulgarian language.

- (2) The persons, who do not speak Bulgarian language, may use either their native or another language. In such case, an interpreter shall be appointed.
Hearing and deciding the cases within a reasonable term.

Art. 22. (1) The court shall hear the cases within a reasonable term.

- (2) The prosecutor and the investigating bodies shall be obliged to provide the conduction of the pre-trial procedure within the stipulated by this code terms.
(3) The cases over which the accused has been arrested, shall be investigated, considered and decided with a priority before the rest of the cases.

Chapter three.

INSTITUTION, DISCONTINUATION AND SUSPENSION OF THE PENAL PROCEEDINGS

Obligation for institution of penal procedure

Art. 23. (1) Where the conditions provided for in this code are present, the competent state body shall be obligated to institute penal proceedings.

- (2) In the provided by this code cases, the penal procedure shall be considered instituted by the first action of initiation of the investigation.

Grounds Excluding the institution of penal proceedings and grounds for its discontinuation

Art. 24. (1) No penal procedure shall be instituted or the instituted procedure shall be discontinued, where:

1. The act does not constitute a criminal offence;
 2. The perpetrator is not liable to criminal proceedings because of amnesty;
 3. The criminal liability has been extinguished by elapse of time limitation;
 4. The perpetrator has died;
 5. After the perpetration of the offence, the perpetrator has fallen into continuous mental disorder, which excludes sanity;
6. Concerning the same person there are uncompleted penal procedure, an effective sentence, a decree or an effective court ruling for discontinuation of the case;
7. in the provided in the Special Part of the Penal Code cases of general nature a complaint from the injured person to the prosecutor is missing.
 8. (Amend., SG, No. 50/2003 – takes effect three days after May 30, 2003) in the cases provided for in the Special Part of the Penal Code, before commencement of the court proceedings, the injured person makes a motion that the penal proceedings are discontinued.
 8. the perpetrator is discharged from criminal liability through implementation of educational measures;
 9. in the cases provided in the Special Part of the Penal Code cases, before commencement of the court investigation, the injured person or the damaged legal person makes a motion for discontinuation of the penal procedure before the first-instance court.
 10. regarding the person a transfer of penal procedure from another state is admitted;
 11. the perpetrator is a person, who acted as an officer under cover within the frames of his/her ex-lege powers.
- (2) In the cases under Para 1, items 2, 3 and 9 the penal procedure shall not be discontinued if the accused or the defendant makes motion that it shall be continued. The amnesty or the time limitation shall not be obstacle for renewal of the penal case, if the sentenced makes motion about it or the prosecutor tables proposal for absolutory sentence.
- (3) The procedure on cases of general nature shall be also discontinued where the court approves agreement on deciding the case.
- (4) Except in the cases under Para 1, no penal procedure shall be instituted for an offence subject to prosecution on a complaint of the injured person, and the instituted procedure shall be discontinued also, where:

1. There is no complaint;
 2. The complaint does not satisfy the requirements referred to in Art. 57;
3. The injured person and the perpetrator have become reconciled with one another, except if the perpetrator has failed to fulfil the terms and conditions of the reconciliation without valid reasons;
4. The private complainant withdraws his /her complaint;
5. The private complainant was not found at the address stated by him/her or did not appear before the court without valid reasons; this provision shall not apply if instead the private complainant his/her attorney appears before the court.

Suspension of the penal procedure

Art. 25. The penal procedure shall be suspended:

1. Where, following the commitment of the offence, the accused person has fallen into a brief mental disorder, which excludes sanity or in case he/she suffers from another severe disease, which impedes the carrying out of the proceedings;
2. if the hearing of the case in the absence of the accused would impede the detection of the objective truth.
3. the perpetrator is a person enjoying immunity.

Suspension of the penal procedure for crimes committed in connivance

Art. 26. In case of crimes committed in connivance, where the requirements for splitting do not appear, the penal procedure may be suspended with regard to one or several accused persons, if that would not impede the detection of the objective truth.

Chapter four.

COURT

Section I.

Function and body of the court in the court procedure. Court Acts.

Function of the court in the court procedure

Art. 27. (1) After the prosecutor tables the indictment act or the injured by the crime person submits complaining, the court shall govern the procedure and shall decide all matters on the case.

- (2) In the pre-trial procedure the court shall carry out the powers as provided in the special part in this code.

Body of the court

Art. 28. (1) The court shall hear the penal cases as a first instance in a body of:

1. one judge, if for the crime a penalty to five years of imprisonment or other lighter punishment is provided;
2. (amend. – SG 109/08) one judge and two assessors, where for the crime a punishment more than five years of imprisonment is provided;
3. two judges and three court judges, where for the crime a punishment of not less than fifteen years of imprisonment or other heavier punishment is provided;

(2) In hearing of the cases as an instance of appeal, the court shall sit in a body of three judges;

(3) In hearing of the cases as an instance of cassation, the Supreme Cassation Court shall sit in a body of three judges.

(4) The Chairperson of the court, the reporting judge and the presiding the body shall pronounce in person in the cases as provided in this code.

Grounds for challenging the judges and the assessors

Art. 29. (1) In the body of the court may not participate a judge or an assessor, who:

1. has participated in the body of the court, pronounced:
 - a) a sentence or a decision in the first, appeal or cassation instance or in the renewal of the penal case;
 - b) definition of approval of the agreement on deciding the case ;
 - c) definition of suspension of the penal procedure;
- d) definition of taking, confirmation, change or cancellation of a restraining measure detention in custody in the pre-trial procedure;

2. who has carried out investigation on the case;
 3. who has been a prosecutor on the case;
 4. who has been accused, trustee or guardian of the accused, defender or attorney on the case;
 5. who has been or may join the penal procedure as a private prosecutor, private complainant, civil claimant or civil defendant;
 6. who has been witness, witness of procedural actions, translator, interpreter of information or an expert- technical assistant on the case;
 7. who is a spouse or a close relative of the persons under items 1 – 6;
 8. who is a spouse or a close relative of another member of the court body;
- (2) In the court body may not participate a judge or an assessor, who due to other circumstances may be considered prejudiced or interested directly or indirectly in the outcome of the case.

Grounds for challenging the court secretary

Art. 30. The persons under Art. 29 may not participate in a court session in the capacity of court secretaries.

Procedure of challenging the judges, assessors and the court secretary

Art. 31. (1) In the cases as provided in Art. 29 and Art. 30, the judges, court assessors and the court secretary shall be obliged to want to be struck from the list of the body on their own.

(2) The parties may make challenges until the commencement of the court investigation, except if the grounds thereof have occurred or have become known to them later.

(3) The motions for being struck off the list must be motivated.

(4) The court shall rule on the challenges and the motions for being struck off the list immediately, in a secret meeting, with the participation of all members of the court body.

Types of court acts:

Art. 32. (1) The court shall pronounce:

1. a sentence, where acting as a first or appeal instance decides the matters on the guilt and liability of the defendant;
2. a decision, where rules on the grounds of a complaining or a protest or a request for renewal of the penal case;
3. a definition - in the rest of the cases.

(2) The Chairperson of the court, the reporting judge and the presiding the court body judge shall pronounce injunctions.

Order of pronouncing the act

Art. 33. (1) The court shall pronounce the acts in a secret session.

(2) The judges and the assessors shall be obliged to keep the secret of the session.

(3) The assessors shall make statements and vote before the judges. The presiding the court body shall make statements and vote last.

(2) The court shall pronounce by a simple majority, and the members of the body shall have equal vote.

(5) Each member of the body shall have right to state a special opinion, which shall be motivated. Where the reporting judge states a special opinion, the motives shall be made out by another member of the body.

(6) In the court session the definitions and the injunctions of the Chairperson shall be pronounced in oral and shall be entered into the protocol.

Content of the acts

Art. 34. Each act of the court shall contain: data about the time and place of its issuance, the name of the court which issues it, the number of the case on which it is issued, the names of the members of the body, of the prosecutor and the court secretary, motives, disposition and the signatures of the members

of the body.

Section II.

Jurisdiction

Criminal cases under the jurisdiction of the regional court and the of district court acting as first instances

Art. 35. (1) Under the jurisdiction of the regional district court shall be all criminal cases, except those, which are under the jurisdiction of the district court.

(2) (amend. - SG 27/09, in force from 10.04.2009) Under the jurisdiction of the district court acting as first instance shall be the cases for criminal offences referred to in Articles 95 - 110, 115, 116, 118, 119, 123, 124, Art. 131, Para 2, items 1 and 2, Art. 142, Art. 149, Para 5, Art. 152, Para 4, Art. 196a, 199, 203, Art. 206, Para 4, Art. 212, Para 5, Art. 213a, Para 3 and 4, Art. 214, Para 2, Art. 219, 224, 225b, 225c, 242, 243 - 246, 248 - 250, 252 - 260, 277a - 278c, 282 - 283b, 287a, 301 - 307a, 319a - 319f, 321, 321a, Art. 330, Para 2 and 3, Art. 333, 334, 340 - 342, Art. 343, Para 1, letter "c", Para 3, letter "b" and Para 4, Art. 349, Para 2 and 3, Art. 350, Para 2, Art. 354a, Para 1 and 2, Art. 354b, Art. 354c, Para 2 - 4, Art. 356f - 356i, Art. 357 - 360 and Art. 407 - 419 of the Penal Code.

(3) Under the jurisdiction of the Sofia City Court as a first instance shall be the cases of criminal offences of general nature, committed by persons enjoying immunity or by members of the Council of Ministers.

(4) Where the criminal liability shall be reduced due to consequent circumstances, this shall not be taken in view at determination of the jurisdiction.

Jurisdiction per place of commitment of the criminal offence

Art. 36. (1) The case shall be under the jurisdiction of the court within the region of which the criminal offence has been committed.

(2) Where the criminal offence has begun in the region of one court and has continued in the region of another, the case shall be under the jurisdiction of the court in the region of which the criminal offence has been finalized.

(3) Where the place of commitment of the crime cannot be determined, or the indictment is for several criminal offences, committed in the region of different courts, the case shall be under the jurisdiction of the court, in the region of which the pre-trial procedure has been finalized.

Jurisdiction over crimes perpetrated abroad

Art. 37. (1) The cases for crimes perpetrated abroad shall be under the jurisdiction:

1. of the court by the place of residence of the person, if he/she is a Bulgarian citizen, and if he/she has no place of residence in this country - of the court, in the district of which the pre-trial proceedings have been finalized;

2. Of the Sofia courts, in case the person is a foreigner.

(2) Where the crime has been perpetrated on a Bulgarian ship or an aircraft beyond the confines of this country, the case shall be under the jurisdiction of the court, in the district of which is the port or the airport to which the ship or the aircraft belong.

(3) In the cases for crimes perpetrated by members of the armed forces or by officers serving with the Ministry of the Interior, who participate in international military or police missions abroad, shall be under the jurisdiction of the Sofia Court Martial.

Jurisdiction in case of several crimes perpetrated by the same person

Art. 38. Where an accusation has been brought against one and the same person for several crimes falling under the jurisdiction of courts of various ranks, the case for all crimes shall be under the jurisdiction of the higher ranking court, and where the courts are of the same rank - under the jurisdiction of the court, under the jurisdiction of which falls the case for the gravest crime.

Jurisdiction in case of determining an aggregate punishment under several sentences

Art. 39. (1) Where an aggregate punishment shall be determined for several crimes, for which there are effective sentences passed by different courts, competent shall be the court, which has passed the last sentence.

(2) Where under one or more of the sentences, the defendant has been acquitted from serving the sentence according to the procedure referred to in Art. 64, Para 1 or Art. 66 of the Penal Code, the court, which determines the aggregate punishment, shall also decide on the issue of serving the sentence.

(3) (suppl. - SG 27/09, in force from 01.06.2009) In the cases of the Para 1 and Para 2, the court shall also determine the initial regime and the type of imprisonment institution of serving the sentence.

Jurisdiction in case of connivance

Art. 31. Where several persons have been accused in having committed one or several crimes and one of the accomplices is subject to the jurisdiction of a higher court, the case shall fall under the jurisdiction of the higher court.

Jurisdiction in case of relation among various cases of various crimes against various Persons

Art. 41. Where two or more cases for various crimes against various persons have relation between themselves, they shall be joined, in case their proper clarification so necessitates.

(2) Where one of the cases falls under the jurisdiction of a higher court, that court shall hear the joint case and where the cases fall under the jurisdiction of courts of equal ranking - by the court under which jurisdiction falls the case of the gravest crime.

(3) The court may join two or more cases for several crimes against one and the same defendant until the court investigation has not started on either of them. If some of the cases falls under the jurisdiction of a higher court, the case shall be heard by that court.

Determining the jurisdiction and forwarding the penal case to the competent body

Art. 42. (1) The court shall rule on the matter of the jurisdiction, on the base of the circumstantial part of the indictment.

- (2) If the court finds that the case shall fall under the jurisdiction of a court of equal ranking, shall discontinue the court procedure and forward the case to this court, and where the court finds that the case shall fall under the jurisdiction of a higher or of a military court – shall discontinue the court procedure and forward the case to the respective prosecutor.
- (3) If the court finds that the case shall not be heard by a court but by another body, the court shall discontinue the procedure and forward the case to the respective body.

Hearing of penal cases by another court of equal ranking

Art. 43. The Supreme Cassation Court may decide that the case shall be heard by another court of equal ranking, if:

1. a lot of accused or of witnesses reside the region of the other court;
2. the defendant or the injured is a judge, prosecutor or investigator from the region of the court, which the case falls under the jurisdiction of;
3. the court where the case falls under the jurisdiction of, cannot form a body.

Disputes on jurisdiction

Art. 44. (1) Disputes on jurisdiction between the courts shall be decided by the Supreme Cassation Court.

- (2) Till the dispute on jurisdiction stays, the bodies before which the case is pending shall carry out the urgent actions only.

Jurisdiction under the appeal and cassation instance

Art. 45. (1) The penal cases, decided by the regional court, shall be heard by the district court as a court of appeal, and the decided by the district court acting as a first instance – by the appeal court acting as instance of appeal.

- (2) The penal cases shall be heard under cassation order by the Supreme Cassation Court..

Chapter five.

PROSECUTOR

Functions of the prosecutor in the penal procedure.

Art. 46. (1) The prosecutor shall bring and maintain the accusation in crimes of general nature.

(2) In execution of his/her tasks under Para 1, the prosecutor shall:

1. rule the investigation and carry out a permanent supervision of its lawful and due execution as a monitoring prosecutor;
2. may carry out investigation or separate actions of investigation and other procedural actions;
3. participate in the court procedure as a state prosecutor;
4. take measures for removal of the admitted breaches of the law, following the order as established by this code and shall exercise supervision of lawfulness upon execution of the compulsory measures.

(3) The prosecutor of the higher position and the prosecutor from the higher prosecution may cancel or amend in written the decrees of the directly subordinated prosecutors. His/her written instructions shall be obligatory for them. In these cases he/she may to execute by him/herself the needed actions of investigation and other procedural actions.

- (4) The Chief Prosecutor of the Republic of Bulgaria shall perform supervision of lawfulness and methodical ruling of the activity of all of the prosecutors.

Grounds and order of challenging the prosecutor

Art. 47. (1) The interested persons may challenge the prosecutor in the cases of Art. 29, Para 1, items 1, 4 - 8 and Para 2.

(2) In the cases under Para 1, the prosecutor shall be obliged to beg to be struck from the list by him/herself.

(3) The challenge and the begging to be struck from the list shall be motivated.

- (4) On the grounds of the challenge and of the begging to be struck from the list in the pre-trial procedure a prosecutor from the higher prosecution shall pronounce, and in the court procedure – the court which shall hear the case.

Joining the prosecutor to a procedure on cases of crimes, subject to prosecution on complaint of the injured person.

Art. 48. (1) Where the injured person due to helpless status or dependence on the perpetrator of the crime cannot defend his/her rights and legitimate interests, the prosecutor may join the procedure instituted by a complaint of the injured person in each stage of the case and to take on the accusation. In these cases the penal procedure may not be discontinued on the grounds of Art. 24, Para 4, items 3-5, but the injured person may maintain the accusation jointly with the prosecutor as a private prosecutor.

- (2) If the prosecutor withdraws his/her participation in the procedure, the injured may continue to maintain the accusation acting as a private prosecutor. Instituting penal procedure for crimes, prosecuted on a complaint of the injured person, by the prosecutor.

Art. 49. (1) In extraordinary cases, where the injured by a crime, prosecuted on a complaint of the injured person, is not able to defend his/her rights and legitimate interest due to a helpless status or dependence on the perpetrator of the crime, if the period under Art. 81, Para 3 has not elapsed and the some of the obstacles for instituting of penal procedure envisaged in Art. 24, Para 1, item 1-8, 10 and 11 do not occur.

- (2) The instituted penal procedure shall be proceeded under the general order and may not be discontinued on the grounds envisaged by Art. 24, Para 4.

(3) The injured person may participate in the penal procedure acting as a private prosecutor or a civil claimant.

- (4) If the prosecutor withdraws his/her participation in the procedure, the injured may continue to maintain the accusation acting as a private prosecutor.

Continuation of the procedure for crimes subject to prosecution on complaint of the injured person

Art. 50. Where the pre-trial procedure finds that the crime shall be a subject to prosecution on complaint of the injured person, the penal procedure shall not be discontinued, if the prosecutor finds that the grounds of Art. 49 appear.

Filing of a civil claim by the prosecutor

Art. 51. Where the injured person due to minor age or physical or psychological defects is not able to defend his/her rights and legitimate interests, the prosecutor may file a civil claim in his/her favour.

Chapter six.

BODIES OF INVESTIGATION

Bodies of investigation

Art. 52. (amend. – SG 109/08) (1) (amend. - SG 69/08; amend. – SG 109/08) Bodies of investigation shall be

1. the investigators;
 2. officers of the Ministry of Interior, appointed at the position of "investigating policeman".
- (2) (new - SG 33/09) When conducting the investigation the bodies of investigation under Para1, Item 1 shall have the rights under Art. 46, Para 2, Item 2.
- (2) (amend. – SG 69/08, amend. – SG 109/08; prev. text of Para 02 - SG 33/09) The bodies of investigation shall act under the ruling and supervision of a prosecutor.

Grounds and order of challenging the bodies of investigation

Art. 53. (1) The provisions of Art. 47, Para 1 -3 shall also apply respectively to the bodies of investigation.

(2) On the grounds of the challenge and the begging to be struck from the list the prosecutor shall rule.

- (3) Till the decision on the challenge, the body against which it is submitted, shall carry out emergent actions only.

Chapter seven.

ACCUSED

Section I.

General Provisions

Person who has capacity of accused

Art. 54. Accused person shall be the person who is involved in this capacity under the conditions and order as provided in this code.

Rights of the accused

Art. 55. (1) The accused shall have the following rights: to learn for which crime he/she is involved in this capacity and on the base of what evidence; to give or to refuse to give explanations about the accusation; to become acquaint with the case, including with the information obtained by usage of special intelligence devices and to make the necessary extracts; to submit evidence; to participate in the penal procedure; to make requests, notes and objections; to make statements last; to appeal the acts which harm his/her rights and legitimate interests; to have a defender. The accused shall have the right of participation of his/her defender in the performance of all of the actions of investigation and other procedural actions with his/her participation, except if he/she abandons explicitly this right.

- (2) The accused shall also have right of last plea.

Section II.

Restraining Measure and Other Measures of Procedural Compulsion

Restraining measure

Art. 56. (1) To the accused a restraining measure may be taken in case of general nature, where from the evidence on the case a reasoned assumption that he/she has committed the crime and a ground under Art. 57 appear.

- (2) Where the accusation is brought under the conditions of Art. 269, Para 3, items 2 and 3, a restraining measure shall be taken after the inquiry of the accused.
- (3) At determination of the restraining measures, the degree of social danger of the crime, the evidence against the accused, the health status, family status, the profession, the age and other data about the accused shall be taken in view.
- Purpose of the restraining measures
- Art. 57. The restraining measures shall be taken with the purpose to stop the accused to abscond, to commit a crime or to foil the execution of the entered in force sentence.
- Types of restraining measures:
- Art. 58. The restraining measures shall be:
1. subscription;
 2. guarantee;
 3. home arrest.
 4. detention in custody.
- Act of determination of the restraining measure
- Art. 59. (1) In the act, which determines the restraining measure, shall be stated: the time and the place of its issuance, the issuing body; the case on which it is issued; the three names of the accused; the crime for which he/she is involved as an accused, and the reasons for the determined measure.
- (2) The act shall be submitted to the accused, who shall be obliged not to change his/her residence without written notification to the respective body about his/her new address.
- Subscription
- Art. 60. Subscription shall present an accept of the obligation by the accused that he/she shall not leave the residence without the permit of the respective body.
- Guarantee
- Art. 61. (1) The guarantee may be in money or in securities.
- (2) At determination of the guarantee the property status of the accused shall be taken in view.
- (3) The taken by bodies of pre-trial procedure guarantee may be appealed by the accused or by his/her defender before the respective first-instance court within the term for its submission. The court shall immediately hear the case at a closed session and shall pronounce a definition which shall be final.
- (4) The guarantee may be submitted by the accused or by another person. Upon the initial taking of restraining measure guarantee or upon change of the restraining measure from subscription into a guarantee, the respective body shall determine a period for its submission, which may not be shorter than three days and not longer than fifteen days.
- (5) Where the guarantee cannot be submitted within the determined period, the court may take a graver restraining measure, and in the pre-trial procedure the prosecutor may make a request under Art. 62, Para 2 or Art. 64, Para 1.
- (6) In event of change of the restraining measure from graver into a guarantee, the accused shall be released after its deposition.
- (7) Withdrawal of the guarantee shall not be admitted.
- (8) Guarantee shall be released, when the accused is discharged from criminal liability or from serving the imposed punishment, absolved, sentenced to punishment without imprisonment or detained in custody for execution of the punishment.
- Home arrest
- Art. 62. (1) The home arrest shall be a prohibition for the accused to leave his or her dwelling house without permission of the respective body.
- (2) The restraining measure home arrest in the pre-trial proceeding shall be imposed and controlled by the court following the order of Art. 64 and 65.
- Detention in custody
- Art. 63. (1) The restraining measure detention in custody shall be taken when a grounded assumption that the accused has commuted a crime, which is punishable with imprisonment or other stricter punishment, and the evidence on the case indicate that a real danger that the accused may abscond or commit a crime exists.
- (2) Should the opposite not be found from the evidence under the case, the danger under Para 1 shall be there upon the initial disposition of detention in custody, when:
1. The charge is for an offence committed repeatedly or under the conditions of a dangerous recidivism;
 2. The charge is for a grave malicious crime and the accused has been convicted for another grave malicious crime of general nature to imprisonment of no less than one year or to another more severe punishment, the execution of which has not been delayed on the grounds of Art. 66 of the Penal Code;
 3. the person has been involved as accused in a crime for which a punishment of at least 10 years imprisonment or other more severe punishment is provided.
- (3) Where the danger that the accused may abscond or commit another crime is over, the detention in custody shall be replaced by a lighter restraining measure or shall be cancelled.
- (4) The detention in custody in the pre-trial proceeding shall not last for more than one year, if the charge is for a major malicious crime and for more than two years, if the charge is for a crime for which a punishment of not less than fifteen years of imprisonment or life imprisonment is provided. In all the rest of the cases, the detention in custody in the pre-trial proceeding shall not last for more than two months.
- (5) After the expiration of the terms referred to in Para 4, the detained shall be released without delay by order of the prosecutor.
- (6) Where in the pre-trial procedure is found that the grounds of Para 3 present, the prosecutor by his/her initiative shall change the restraining measure detainment in custody into a lighter or shall cancel it.
- (7) About the detainment in custody immediately shall be notified:
1. the family of the accused;
 2. the employer of the accused, except the accused declares that he/she does not want this;
 3. the Ministry of Foreign Affairs, if the detained is a foreign citizen.
- (8) The detainee's children, if they have no relatives to nurse them, shall be accommodated through the respective community or municipality in a nursery, a kindergarten or a boarding school.
- Detention in custody in the pre-trial procedure
- Art. 64. (1) (1) Detention in custody in the pre-trial procedure shall be ordered by the respective court of first instance on a motion of the prosecutor.
- (2) The appearance of the accused before the court shall be ensured without delay by the prosecutor, who where necessary, may order that the accused be detained up to 72 hours for bringing him/her before the court.
- (3) The court shall hear the case immediately in a sitting of a single judge with the participation of the prosecutor, the accused and his/her counsel.
- (4) The court shall take restraining measure detainment in custody, where the grounds of Art. 63, Para 1 appear, and if these grounds do not appear, the court is allowed not to take restraining measure or to take a lighter one.
- (5) The court shall rule a definition, by which shall be announced to the parties in the court hearing and shall be executed immediately. By ruling the definition the court shall set down the case for hearing before the appellate court within a period of not more than seven days, in case of an appeal or an objection
- (6) The definition shall be subject to appeal and objection before the appropriate appellate court within three-day time period
- (7) The appellate court shall try the case in a composition of three judges in open session with the participation of the prosecutor, the accused and his or her counsel. The non-appearance of the accused without good reasons shall not prevent the hearing of the case.
- (8) The appellate court shall rule a definition, which shall be announced to the parties in the court hearing. The definition shall not be a subject to appeal by private complaint or private objection.
- (9) Where guarantee has been imposed by virtue of the effective definition, the accused shall be detained after depositing it.
- Judicial control on detention in custody in the pre-trial procedure
- Art. 65. (1) The accused or his/her defender may at any time in the pre-trial procedure to require change of the imposed measure detainment in custody.
- (2) The motion of the accused or his/her defender shall be brought through the prosecutor who shall be obliged to forward immediately the case to the court.
- (3) The case shall be set down for hearing within three-days period following its receipt into the court and shall be heard in open session with the participation of the prosecutor, the accused and his/her defender. The case shall be tried in the absence of the accused, if he/she states that he/she does not want to appear or his/her bringing before the court is impossible for health reasons.
- (4) The court shall assess all circumstances relating to the legality of the detention and shall rule a definition, which shall be announced to the parties at the court session. With the announcement of the order the court shall set down the case for hearing before the appellate court in case of an appeal or an

objection within a period of not more than seven days

(5) The definition shall be executed immediately following the expiration of the term for appeal except if an objection, which is not in the accused's interest, has been filed.

(6) When the motion has been brought by the accused or by his/ her defender and the definition under Para 4 confirms the restraining measure, the court may set a time period in which a new motion by the same persons shall be inadmissible. Such period shall not exceed two months following the entry into force of the definition and shall not be applied when the motion is grounded on a sudden decline of the accused's state of health.

(7) The definition shall be subject to appeal by a private complaint and a private protest before the appropriate appellate court within three-days period

(8) The appellate court shall try the case in a body of three judges in open session with the participation of the prosecutor, the accused and his/her defender. The case shall be tried in the absence of the accused, where he/she states that he/she does not want to appear or his/ her bringing to court is impossible for health reasons

(9) The appellate court shall rule a definition, which shall announce to the parties in the court session. The definition shall not be a subject to appeal by a private complaint or private protest.

(10) Where by virtue of the effective definition a guarantee has been imposed, the accused shall be detained until depositing it.

(11) Para 1- 10 shall also apply in the cases, where the accused has been detained because of non-payment of the guarantee determined by the court
Consequences of failure to fulfil the obligations related to the restraining measures

Art. 66. (1) Where the accused fails to appear before the appropriate body without good reason, or changes his/her residence without notifying the body of this, or breaches the imposed measure, a restraining measure shall be imposed, or the latter shall be replaced by a stricter one, following the order provided by this code.

(2) If the restraining measure is a guarantee, the money or the securities shall be forfeited in favour of the state. In such cases also a guarantee in a larger amount can be fixed.

Prohibition to approach the injured

Art. 67. (1) Upon a proposal of the prosecutor with the consent of the injured or upon a request of the injured, the respective first-instance court may prohibit the accused to approach directly the injured.

(2) The court shall immediately hear the proposal or the request in opened session, hearing the prosecutor, the accused and the injured. The definition of the court shall be final.

(3) The prohibition shall be cancelled after closing the case with effective sentence or where the procedure is discontinued on another ground.

(4) The injured may at any time require from the court cancellation of the prohibition. The court shall rule following the order of Para 2.

Prohibition of Leaving the Territory of the Republic of Bulgaria

Art. 68. (1) (amend. – SG 109/08) In the pre-trial procedure upon a charge of malicious crime, the prosecutor may prohibit the accused to leave the territory of the Republic of Bulgaria, save with the prosecutor's sanction. The border checkpoints shall immediately be informed about the prohibition.

(2) The prosecutor shall rule on the accused's or his/her defender's request for permission under Para 1 within three-day period.

(3) The prosecutor's refusal shall be subject to appeal before the appropriate court of first instance.

(4) The court shall hear the appeal immediately in closed session and shall rule immediately definition with which it confirms the prosecutor's refusal or grants the accused permission to leave the territory of the Republic of Bulgaria. The definition shall be final.

(5) In the court proceedings, the powers under Para 1 and 5 shall be exercised by the court trying the case. The definition shall be subject to appeal by private complaint or private protest.

Removal of accused from office

Art. 69. (1) Where the charge is for a malicious crime of general nature committed in connection with the office and there are sufficient grounds to deem that the official position of the accused will put obstructions to objective, thorough and complete clarification of the circumstances under the case, the court may remove the accused from office.

(2) In the pre-trial procedure, the appropriate court of first instance shall rule in open session of a single judge with the participation of the prosecutor, the accused and his/ her defender.

(3) The order shall be subject to appeal and objection to the appropriate appellate court within three-day period.

(4) The appellate court shall rule in a body of three judges in open session with the participation of the prosecutor, of the accused and of his/her defender. The accused's non-appearance without good reasons shall not impede the trying of the case.

(5) When there is no more need of the taken measure, the removal from office in the pre-trial procedure shall be cancelled by the prosecutor or on a motion of accused by the court in accordance with the procedure under Para 1 and 2.

(6) In the court procedure the powers under Para 1 shall be exercised by the court, which shall hear the case.

Accommodation for examination in a mental diseases establishment

Art. 70. (1) In the pre-trial procedure the respective court of first instance in a body of one judge and two court assessors, on a motion of the prosecutor, and in the court proceeding – the court, which is trying the case, on a motion of the parties or on its own initiative, may accommodate the accused for examination in a mental disease establishment for a period not longer than thirty days.

(2) The court shall rule a definition in open session, in which it shall hear an expert-psychiatrist and the person, whose accommodation is sought. The participation of a prosecutor and a defender shall be mandatory.

(3) The definition ruled in the pre-trial procedure shall be subject to appeal by a private complaint or private protest before the respective appellate court in three-day period.

(4) The appellate court shall act in a body of three judges in open session with the participation of the prosecutor, the accused and his/her defender. The non-appearance of the accused without good reason shall not be an obstacle to trying the case.

(5) If the time for examination fixed by the court proves to be not sufficient, it may be extended only once with no more than thirty days under the procedure of Para 1-4.

(6) The time for which the person has been accommodated in a mental disease establishment shall be recognised as detention in custody.

Compulsory bringing

Art. 71. (1) Where the accused fails to appear for questioning without good reasons, he/she shall be brought compulsorily, if his/her appearance is mandatory or if the corresponding body deems it necessary.

(2) The accused may be brought compulsorily without a preliminary summoning, when he/she has absconded or do not have constant residence

(3) The compulsory bringing of the accused shall be executed during the day, except if it brooks no delay.

(4) (amend. - SG 69/08) The compulsory bringing shall be effected by the bodies of the Ministry of the Justice, and in the cases where it has been ruled by an investigating policeman as a body of investigation – by the bodies of the Ministry of Interior.

(5) For compulsory bringing of prisoners, a request shall be filed with the administration of the corresponding prison or correction institution.

(6) Military officers of the armed forces shall be brought by the respective military bodies.

(7) The ruling for compulsory bringing before the court shall be submitted to the person who must be brought.

Measures for securing fine and forfeiture and expropriation of devices in favour of the State

Art. 72. (1) On a request of the prosecutor, the respective court of first instance, in closed session of a single judge shall take measures for securing the fine, the forfeiture and expropriation of devices in favour of the state following the provisions of the Civil Procedure Code.

(2) In the court procedure, the court shall take the measures under Para 1 on a motion of the prosecutor.

Measures for securing the civil claim

Art. 73.(1) (1) The court and the bodies of the pre-trial procedure shall be obliged to explain the injured that he/she is entitled to file a civil claim for the damages caused by the crime.

(2) On the injured's demand in the pre-trial procedure, the respective court of first instance shall in closed sitting of a single judge take measures for securing the claim in accordance with the provisions of the Civil Procedure Code.

(3) In the cases under Art. 51, the measures referred to in Para 2 shall be taken on the prosecutor's request.

(4) In the court procedure, on the requests under Para 2 and 3 the court which shall hear the case shall rule.

Chapter eight.

INJURED

Section I.

General Provisions

Person who shall have the quality of injured

Art. 74. (1) Injured shall be the person, who has suffered property or personal damages from the crime.

- (2) In case of death of the person this right shall transit to his/her heirs.
(3) The accused may not exercise the rights of injured in one and the same procedure.

Rights of the injured

Art. 75. (amend. – SG 109/08) (1) In the pre-court procedure the injured shall have the following rights: to be notified of his/her rights in the penal procedure; to acquire defence of his/her safety and his/her close persons; to be informed about the outcome of the penal procedure; to participate in the procedure as per this code; to appeal the acts which lead to disclosure or suspension of the penal procedure; to have a trustee.

- (2) The injured's rights shall arise upon his/her explicit request to participate in the pre-court proceedings, indicating an address in the country.

Section II.

Private Prosecutor

Person who may participate as a private prosecutor

Art. 76. The injured, who has suffered property or personal damages from a crime, which is subject to prosecution under the general order, shall have the right to participate in the penal procedure as a private prosecutor. After the death of the person this right shall transit to his/her heirs.

Application to participate as a private prosecutor

- Art. 77. (1) The application to participate in the court procedure as a private prosecutor may be filed in oral or in written.
(2) The application shall contain data about the person who submits it and about the circumstances on which it is grounded.
(3) The application shall be filed till the initiation of the court investigation before the first instance court at latest.

Function of the private prosecutor

- Art. 78. (1) The private prosecutor shall maintain the indictment at the same time with the prosecutor.
(2) The private prosecutor may also maintain the indictment after the prosecutor declares that he/she does not maintain it.

Rights of the private prosecutor

Art. 79. The private prosecutor shall have the following rights: to become acquaint with the case and to make the necessary extracts; to submit evidence; to participate in the court procedure; to make requests, notes and objections and to appeal the acts of the court, where his/her rights and legitimate interests are harmed.

Section III.

Private Complainant

Person who may participate as a private complainant

Art. 80. The injured by a crime, which is subject to prosecution on a complaint of the injured, may bring and maintain indictment before the court as a private complainant. After the death of the person this right shall transit to his/her heirs.

Complaint

- Art. 81. (1) The complaint shall be in written and shall contain data about the complainant, about the person against who it is submitted and about the circumstances of the crime.
(2) The complaint shall be signed by the complainant.
(3) The complaint shall be submitted within six-month period from the day, when the injured learned about the commitment of the crime, or from the day, on which the injured has received a message about discontinuing of the pre-trial procedure on the ground that the crime shall be subject to prosecution on complaint of the injured.

Rights of the private complainant

Art. 82. (1) The private complainant shall have the following rights: to become acquaint with the case and to make the needed extracts; to submit evidence; to participate in the court procedure; to make requests, notes and objections and to appeal the acts of the court, where his/her rights and legitimate interests are harmed, to withdraw his/her complaint.
(2) The private complainant may also establish himself in the court procedure as a civil claimant in the cases and following the order as provided in this code.

Co-operation with the bodies of the Ministry of Interior

Art. 83. The injured and the defendant shall have the right to require assistance from the bodies of the Ministry of Interior for collection of data which they cannot collect on themselves.

Section IV.

Civil Claimant

Person who may participate as a civil claimant

Art. 84. (1) The injured and his/her heirs, as well as the legal persons who suffered damages from the crime, may file a civil claim for compensation of the damages and to establish themselves as civil claimants in the court procedure.

- (2) The civil claim cannot be filed in the court procedure, if is filed under the procedure of the Civil Procedure Code.

Application of submitting civil claim

- Art. 85. (1) In the application of filing civil claim shall be pointed: the three names of the applicant and of the person against who the claim is filed; the penal case on which it is filed; the crime by which the damages are caused and the nature and amount of the damages for which compensation is demanded.
(2) The application may be in oral or in written.
(3) The civil claim shall be filed at latest till the initiation of the court investigation before the first instance court.

Persons against whom the civil claim may be filed

Art. 86. The civil claim in the court procedure may be filed as against the defendant, as well as against other persons, who shall bear civil liability for the damages caused by the crime.

Rights of the civil claimant

Art. 87. (1) The civil claimant shall have the following rights: to participate in the court procedure; to require securitising of the civil claim; to become acquaint with the case and to make the needed extracts; to submit evidence; to participate in the court procedure; to make requests, notes and objections and to appeal the acts of the court, where his/her rights and legitimate interests are harmed.

- (2) The civil claimant shall exercise the rights under Para 1 within the limits needed to prove the ground and amount of the civil claim.

Order of hearing the civil claim

Art. 88. (1) The civil claim in the court procedure shall be heard under the rules of this code, and as far as there are no rules established, the Civil Procedure Code shall be applied.

- (2) Hearing of the civil claim may not become a reason for delay of the penal case.

- (3) In event the court procedure is discontinued, the civil claim shall be heard, but it may be filed before a civil court.

Chapter nine.

CIVIL DEFENDANT

Persons who participate as civil defenders

Art. 89. The persons against whom a civil claim is filed, except the defendant, shall participate in the court procedure as civil defendants.

Rights of the civil defendant

Art. 90. (1) The civil defendant shall have the following rights: to participate in the court procedure; to become acquaint with the case and to make the needed extracts; to submit evidence; to participate in the court procedure; to make requests, notes and objections and to appeal the acts of the court, where his/her rights and legitimate interests are harmed.
(2) The civil defendant shall exercise his/her rights under Para 1 within the limits needed to defend him/herself against the filed against him/her civil claim.

Chapter ten.

LEGAL ASSISTANCE

Section I.

Defender

Persons who may participate as defenders

Art. 91. (1) Defender of the defendant may be each person, who exercises the profession of attorney-at-law.

- (2) Defender may also be the spouse, a direct descendant of the accused.

(3) Defender may not be:

1. who has been or is a defender of another accused and the defence of the one contradicts the defence of the other;
2. who has been representing or giving advices to another accused, if the defence which is assigned to hem/her contradicts the defence of the other accused;

3. who has been representing or giving advices to the opposite party;
4. who has been participating in the procedure in another procedural capacity;
5. who is a spouse, direct descendent without limitation, collateral relative up to the fourth degree or relative – in law up to the third degree to a judge, assessor, prosecutor or a body of investigation on the case.

Challenging the defender

Art. 92. The persons who may not be defenders shall be obliged to beg to be struck by themselves. If they do not, the respective body shall remove them from participation in the penal procedure ex-officio or upon request of the interested person.

Authorisation of the defender

Art. 93. (1) The defender shall be selected and empowered by the accused, except in the cases as provided in this code.

(2) The power of attorney shall be made out in written form and shall be signed by the accused and by the defender.

(3) The defender may certify copies of the power of attorney and to re-empower with the consent of the accused another person to be a defender.

(4) The authorisation before a court may be also performed in oral in a court session. In this case the authorisation shall be entered into the protocol of the court session, which shall be signed by the accused.

(5) The authorisation shall be valid for the whole penal procedure, besides otherwise provided.

Obligatory participation of a defender

Art. 94. (1) The participation of a defender in the penal procedure shall be obligatory, if:

1. the accused is of minor age;
 2. the accused suffers physical or mental defects, which establish obstacle to defend him/herself;
 3. the case is for a crime, for which a punishment of imprisonment not less than 10 years or another more severe punishment is provided;
 4. the accused does not speak the Bulgarian language;
 5. the interests of the accused are contradictory and one of them has a defender;
 6. (amend. – SG 109/08) where a request under Art. 64 is made or the accused has been arrested;
 7. the procedure is before the Supreme Cassation Court;
 8. the case shall be heard in the absence of the accused;
 9. the accused is not able to pay attorney-fee, wants to have a defender and the interests of the jurisdiction demand so.
- (2) In the cases of Para 1, item 4 and 5 the participation of defender shall not be obligatory, if the accused declares that he/she does not want to have a defender.
- (3) Where the participation of a defender is obligatory, the respective body shall appoint as a defender an attorney-at-law.
- (4) The appointed defender shall be removed from the penal procedure if the accused empowers another defender.

Refusal by the defender of the accepted defence

Art. 95. The defender may not refuse the accepted defence, except it becomes impossible to execute his/her obligations due to not depending on him/her circumstances. In the latter case he/she shall be obliged to notify in written the accused and the respective body.

Refusal by the accused of defender and replacement of the defender

Art. 96. (1) The accused may at any time of the procedure to refuse to have a defender, except in the cases of Art. 94, Para 1, items 1-3 and 6.

(2) The replacement of one defender by another may be performed upon request or with the consent of the accused.

Joining of the defender in the penal procedure

Art. 97 (1) The defender may participate in the penal procedure from the moment of the detainment of the person or his/her involving in the capacity of accused.

(2) The body of the pre-trial procedure shall be obligated to clarify to the accused that he/she has right of defender, and shall provide opportunity immediately to connect with him/her. The body may not execute any actions of investigation and other procedural actions with the participation of the accused until does not perform this obligation.

Obligations of the defender

Art. 98 . (1) The defender shall be obliged to provide legal assistance to the accused and by whole his/her activity to assist the clarification of the all factual and legal aspects which are in favour of the accused, and shall be governed by his/her inner conviction, based on the evidence on the case and the law.

(2) The defender shall be obliged to coordinate with the defendant the basic lines of the defence. Where in the defender's opinion the basic lines of the defence as offered by the accused are incompatible with his obligations, he/she shall notify in time the accused, and shall continue the defence until he/she is removed from the penal procedure following the provided order.

(3) The defender may not refuse legal assistance to the accused on single matters of the indictment for the reason that the accused has another defender too.

Rights of the defender

Art. 99. (1) The defender shall have the following rights: to meet alone with the accused; to become acquainted with the case and to make the needed extracts; to submit evidence; to participate in the penal procedure; to make requests, notes and objections and appeal the acts of the court and of the pre-trial procedure which harm the rights and the legitimate interests of the accused. The defender shall have the right to participate in the all actions of investigation with the participation of the accused, but his/her absence shall not establish obstacle for their performance.

(2) The participation of the defender shall not be an obstacle for the accused to exercise his/her rights under Art. 55 by him/herself.

Section II.

Trustee and Special Representative

Trustee

Art. 100. (1) The private prosecutor, the private complainant, the civil claimant and the civil defendant may empower a trustee.

(2) Whereas the private prosecutor, the private complainant, the civil claimant or the civil defendant submits evidence, that he/she is not able to pay attorney's fee and wants to have a trustee and the interests of jurisdictions demand so, the court which shall hear the case as a first instance shall appoint a trustee for him/her.

(3) The provisions of Art. 91, 92 and 93 shall also be applied to the trustee accordingly.

Special Representative

Art. 101. (1) Whereas the interests of the juvenile or of the under-aged injured and of the his/her parent, guardian or trustee are in collision, the respective body shall appoint for him/her a special representative – attorney-at-law.

(2) A special representative – attorney-at-law shall be also appointed to the injured, if he/she is incapacitated or of limited capability and his/her interests are in contradiction with the interests of his/her guardian or trustee.

(3) The special representative shall participate in the penal procedure as a trustee.

(4) The provisions of Art. 91, Para 3 and Art. 92 shall also apply respectively to the special representative.

Part two.

EVIDENCING

Chapter eleven.

GENERAL PROVISIONS

Subject to evidencing

Art. 102. In the penal procedure subject to evidencing shall be:

1. the committed crime and the participation of the accused in the crime;
2. the nature and the amount of the damages caused by the perpetration;
3. the other circumstances which are of importance for the liability of the accused, including the circumstances of his/her family and property status.

Burden

Art. 103. (1) The burden to prove the indictment in cases of general nature shall fall onto the prosecutor and the bodies of investigation, and in cases instituted on a complaint of the injured – onto the private complainant.

(2) The accused shall not be obligated to prove innocence.

(3) Conclusions against the accused, due to he/she did not give or refuses to give explanations or did not prove his/her objections, shall not be made.

Evidence

Art. 104. Evidence in the penal procedure may be the factual data, which is connected with the circumstances of the case, contribute to their clarification and are instituted under the order as provided in this code.

Proofs

- Art. 105. (1) The proofs may serve for reproduction in the penal procedure of evidence or of other proofs.
(2) Proofs which are not collected or made out under the conditions and following the order as provided in this code.

Methods of evidencing

Art. 106. The evidencing in the penal procedure shall be performed by ways as provided in this code.

Collection and check of evidence

Art. 107. (1) The bodies of the pre-trial procedure shall collect evidence ex-officio

- (2) The court shall collect evidence on the made by the parties requests, and in own initiative – where necessary for the revealing the objective truth.
(3) The court and the bodies of the pre-trial procedure shall collect and check as the evidence, exposing the accused or aggravate his/her liability, as well as the evidence which acquit the accused or mitigate his/her liability.
(4) Collection of evinces may not be refused only because the request is not made within the definite period.

(5) All collected evidence shall be subject to a precise check.

Actions of investigation and court investigation actions under delegation or in another region.

- Art. 108. (1) The actions of investigation and court investigation actions under delegation shall be admitted, whereas they shall be performed outside the region of the body which shall hear the case and their performance by this body is collected with significant difficulties.
(2) Whereas pronounced by a court, the delegation shall be executed by the respective regional judge, and whereas is pronounced by a body of the pre-trial procedure – by the respective body of the pre-trial procedure.
(3) Whereas finds necessary, the body which shall hear the case, may also perform single actions under Art. 1 in the region of another court.

Chapter twelve.

MATERIAL EVIDENCE

Types of material evidence

Art. 109. As material evidence shall be collected and checked the objects, which have been meant or used for the commission of the offence or which have been an object of the offence, as well as any other objects, which may be used for making clear the circumstances under the case.

Listing, photographing and attaching material evidence to the case

- Art. 110. (1) The material evidence must be carefully checked, listed in detail in an appropriate record and, where possible, photographed.
(2) The material evidence shall be attached to the case file, taking measures to ensure that they are not damaged or modified.
(3) When the case is passed from one body to another, the material evidence shall be delivered together with the case file.
(4) Material evidence, which because of their dimensions or for other reasons cannot be attached to the file, must, where possible, be sealed and stored in the places specified by the respective authority.
(5) Cash and other valuables shall be delivered for safe-keeping to a commercial bank serving the state budget or to the Bulgarian National Bank.

Safe-keeping of material evidence

Art. 111. (1) Material evidence shall be kept until the close of the penal procedure.

- (2) The objects, seized as material evidence, with the prosecutor's permission, may be returned to their owners before the close of the penal procedure only if this will not embarrass the clarification of the circumstances under the case or do not appear an object of administrative offence.
(3) The refusal of the prosecutor under Para 2 may be subject to appeal by the owner before the respective court of first instance. The court shall rule on the appeal in a closed sitting of a single judge by a definition which shall be final.
(4) The objects seized as material evidence, which are perishable and cannot be returned to their owners with the prosecutor's permission, shall be delivered to the respective establishments and legal persons to be used in accordance with their designation or shall be sold and the received sum shall be deposited in a commercial bank serving the state budget.
(5) Drugs, precursors and plants containing drugs may be destroyed before the close of the penal proceedings, in accordance with the procedure and under the conditions of the Drugs and Precursors Control Act. In such case, only the seized representative samples shall be kept until the close of the procedure.

Disposal of Material Evidence

- Art. 112. (1) Except in the cases provided in Art. 53 of the Penal Code, the objects seized as material evidence shall be taken away in favour of the state, where their owner has not been established and they have not been sought within one year period after the close of the penal procedure.
(2) Objects seized as material evidence, possession of which is prohibited, shall be delivered to the respective establishments or shall be destroyed.
(3) (new – SG 109/08) Out of the cases, provided for in Art. 53 of the Penal Code, the motor vehicles, seized as material evidences, shall be confiscated in state's favour, where it is not identified to whom they belong and within five years after their seizure they have not been searched for. In the pre-court proceedings the seizure shall be done by prosecutor's decree and in the court proceedings – by a court definition.
(4) (prev. par. 3 – SG 109/08) Letters, papers or other writings seized as material evidence shall be left with the case file or shall be delivered to the concerned establishments, juridical and physical persons.

Dispute of Title on Objects Seized as Material Evidence

Art. 113. Where a dispute of title on objects seized as material evidence arises, which is subject to consideration according to the provisions of the Civil Procedure Code, they shall be kept until the entry into force of the decision of the civil court.

Chapter thirteen.

PROOFS

Section I.

General Provisions

Types of proofs

Art. 114. The evidence shall be found by voice, material or written proofs.

Section II.

Voice Proofs

Explanations of the accused

- Art. 115. (1) The accused shall render his/ her explanations orally and directly before the respective body.
Reasons shall be rendered in the presence of a counsel, where the accused so requests. The request shall be entered in the record and the counsel shall be summoned for the interrogation.
(2) The accused shall not be interrogated on commission or by video-conference, except in the cases, where he/she is abroad and where this will not impede the revealing of the objective truth.
(3) The accused shall be entitled to give explanations at any time of the investigation and of the court investigation.
(4) The accused shall be entitled to refuse to give reasons.

Evidential force of the confession of the accused

- Art. 116. (1) The accusation and the sentence may not be grounded only on the confession of the accused.
(2) The confession of the accused shall not discharge the respective bodies from the obligation to collect also other evidence on the case.

Witness' testimonies

Art. 117. By testimonies of witnesses may be established all facts, which the witness has perceived and which contribute to the clarification of the objective truth.

Persons, who may not be witnesses

- Art. 118. (1) Persons, who have participated in the same penal proceeding in another procedural capacity, shall not be witnesses, except:
1. the accused against whom the procedure has been discontinued or has concluded with an effective sentence;
2. the injured, the private prosecutor, the civil claimant, the civil defendant;
3. the witnesses of procedural acts, as well as officers of the Ministry of Interior and of the military police, who presented the performance of inspection and related to it search and seizure.
(2) The persons who have performed actions of investigation and court investigation actions shall not be witnesses, including if the records of the performed by them actions have not been made out under the conditions and following the order as provided by this code.
(3) Witnesses shall not be also persons, who due to physical deficiencies are unable to properly perceive the facts significant to the case or to render trustworthy testimonies about them.

Persons, who may refuse to testify

Art. 119. The accused's spouse, ascendants, descendants, brothers and sisters and the person with whom the accused is in factual cohabitation may refuse to testify.

Witness' obligations

Art. 120. (1) The witness shall be obliged: to appear before the respective body, when subpoenaed; to expose everything he/she knows about the case and to answer the questions asked, as well as to remain at the disposal of the body, which has subpoenaed him/her, for as long as necessary.

(2) A witness, who is unable to appear owing to illness or disability, may be interrogated where he/she is.

(3) A witness who does not appear at the appointed place and in time to give testimony, shall be sanctioned with a fine to hundred BGN and shall be compulsory brought for interrogation following the order of Art. 71. If the witness points due reasons for his/her absence the fee and the compulsory bringing shall be cancelled.

(4) A witness who besides the cases under Art. 119 and Art. 121 refuses to give testimony shall be sanctioned with a fee to five hundred BGN.

Circumstances, which the witness shall not be obliged to testify on

Art. 121. The witness shall not be obliged to testify on questions, the answers to which would accuse him/her, or his/her ascendants, descendants, brothers or sisters or spouse, or the person with whom he/she is in a factual cohabitate in the commission of an offence.

(2) The witness shall not be examined with regard to the circumstances, which have been entrusted to him as a defender or as a trustee.

Witness' rights

Art. 122. (1) A witness shall enjoy the following rights: to make use of notes about figures, dates, etc., which are with him/her and refer to his or her testimonies; to be paid remuneration for the spent working day and to be reimbursed the costs incurred by him/her, as well as to demand reversal of the acts, which harm his or her rights and legitimate interests.

(2) The witness has the right to have consultation with attorney-at-law if he/ finds that answering a question shall harm his/her rights under Art. 121. In case of made request the body of investigation or the court shall provide this opportunity.

Protection of witness

Art. 123. (1) The prosecutor, the reporting judge or the court, on the witness' request or with the latter's consent shall take measures to protect him/her, where there are sufficient reasons to presume that, as a result of testifying, there has arisen or may arise a real danger for the life, health or property of the witness, of his or her ascendants, descendants, brothers, sisters, spouse or of persons that he/she is in particularly close relations with.

(2) The protection of the witness shall be temporary and shall be achieved through:

1. providing personal physical guarding by the bodies of the Ministry of Interior.

2. keeping secret his/her identity;

(3) The measure for personal physical guarding of ascendants, descendants, brother or sisters, spouse or persons, that the witness is in particularly close relations with, shall be taken with their consent or with the consent of their legal representatives.

(4) The act of the respective body for the protection of a witness shall state:

1. the issuing body;

2. the date, hour and place of issuance;

3. the circumstances which necessitate providing measures of protection of the witness;

4. the kind of the taken measures

5. the person's identification data

6. the identification number which shall be given to the person which identity shall be kept in secret

7. the signatures of the person and the issuing body.

(5) Direct access to the protected witness shall have the respective pre-trial bodies and the court, and the defender and the trustee- if they specified the witness.

(6) The measures to protect the witness shall be lifted on a request of the person with regard to whom they have been taken or where there is no more need to apply them, by an act of the body under Para 1.

(7) For the protection of live, health or property of the persons under Para 1 who have given consent for thereof, special intelligence means may be used.

(8) Within thirty days period from the taking of measure under Para 2 the prosecutor or the reporting judge may propose including of the witness and of his/her ascendants, descendants, brother or sisters, spouse or persons, that the witness is in particularly close relations with into the programme of protection under the conditions and following the order of the Law of the Protection of the Persons Threatened in Connection with Criminal Procedure.

Evidencing force of the testimony of a witness which personality is kept secret

Art. 124. The accusation and the sentence may not be grounded only on the testimony given by witnesses under the order of Art. 141.

Section III.

Material Proofs

Preparation and attachment to the case of material proofs

Art. 125. (1) Whereas the material proofs cannot be separated from the place where they have been found, as well as in other provided by this code cases, photo pictures, slides, cinematographic records, video records, audio records, records on a computer information data carrier, plans, schemes, casts or fingerprints shall be made out.

(2) The court and the bodies of the pre-trial procedure shall gather and check the material proofs made out by using special intelligence means in the provided in this code cases.

(3) The materials under Para 1 and 2 shall be attached to the case.

Persons, who shall prepare material proofs

Art. 126. (1) The material proofs shall be made out if possible by the persons who shall perform the actions of investigation and the actions of court investigation.

(2) If for this special knowledge and qualification are needed, an expert – technical assistant shall be appointed.

(3) Experts – technical assistants shall not be the persons enlisted in Art. 148, Para 1.

(4) The expert –technical assistant shall execute the assigned task under the direct supervision and guidance of the body which has appointed him/her.

(5) For failure to appear before the body or for as refusal to perform the assigned task without reason, the expert – technical assistant shall bear liability under Art. 149 as an expert.

Section IV.

Written proofs

Types of written proofs

Art. 127. Written proofs shall be the records of the actions of investigation, the court actions of investigation and the other procedural actions, the records of preparation of material proofs and other documents.

Preparation of a record

Art. 128. For each action of investigation and of court investigation, a record shall be prepared at the place where it has been performed.

Contents of the record

Art. 129. (1) In the record shall be stated: the place of the actions of investigation and the court actions of investigation; the place where they started and were finished; the persons who participated; the made requests, notes and objections, the performed actions, their sequence and the collected evidence.

(2) The record shall be signed by the body which has performed the action, as well as by other participants in the penal procedure in the cases as provided in this code.

Corrections, amendments and supplementations of the record

Art. 130. All the corrections, amendments and supplementations of the record shall be certified by the signature of the persons who have signed it.

The records as a proof

Art. 131. The records, made out under the conditions and following the order of this code, shall be proofs of performance of the respective actions, of the order under which they are performed and about the collected evidence.

Record of preparation of material proofs

Art. 132. (1) The preparation of material proofs shall be reflected into the record concerning the record, which shall be signed by the body which has performed the actions and by the expert – technical assistant.

(2) (amend. – SG 109/08) Preparation of material proofs, obtained by usage of special intelligence service shall be reflected in a record, signed by the head of the structure which has made out the proof, where shall be stated:

1. the time and the place of application of the special intelligence service and for the preparation of the respective material proofs;

2. the personality of the controlled person;

3. the used operational manners and technical means;

4. textual reproduction of the content of the material proof.

(3) (amend. – SG 109/08) To the record under Para 2 shall be applied: the request for usage of a special intelligence device, the written consent of the

persons under Art. 123, Para 7, the permit for its usage and the direction of the Minister of Interior or of an empowered by him/her deputy-minister or of the Chairman of the State Agency "National Security" or of an empowered by him/her deputy-chairman under the order of the Law of the Special Intelligence Devices

- (4) An integrate part of the record under Para 2 shall be the material proofs, which shall be attached to the case.
Providing with documents

Art. 133. (1) Upon request of the interested person the court or of the body of the pre-trial procedure shall issue, by virtue of which the state and the municipal bodies, the legal persons and the sole entrepreneurs shall be obliged to provide the person with the needed documents within their competence.

- (2) For failure to execute the obligation under Para 1 without reason, the respective official shall be sanctioned with a fine from one hundred to one thousand BGN.

Document in a foreign language

Art. 134. Whereas a document is in a foreign language, it shall be accompanied with a translation in the Bulgarian language, certified under the respective order, or a interpreter shall be appointed.

Paper carrier of computer information data

Art. 135. Computer information data shall be also recorded on a paper carrier under the order of Art. 163, Para 7.

Chapter fourteen.

METHODS OF EVIDENCING

Section I.

General Provisions

Types of methods of evidencing

Art. 136. (1) Methods of evidencing in the penal procedure shall be: interrogation, expert examination, inspection, search, inquisitorial experiment, recognition of persons and objects and special intelligence devices.

- (2) In event of application of the methods under Para 1 to attorneys-at-law and notaries, the Attorney Law and the Law of the Notaries and the Notary Activity shall be applied.

Witnesses of procedural actions

Art. 137. (1) In the pre-trial procedure the inspection, search, inquisitorial experiment, recognition of persons and objects shall be performed in the presence of witnesses of the procedural actions.

- (2) The witnesses of the procedural actions shall be selected by the body, which shall perform the respective action of investigation among the persons who have no other procedural capacity and are not interested of the outcome of the case.

(3) The witnesses of the procedural actions shall appear, after they have been invited to stay at disposal, till their presence is necessary. For failure to perform these obligations the witnesses of procedural actions shall bear liability as witnesses.

(4) The witnesses of procedural actions shall have the following rights: to make notes and objections on the admitted incompleteness and breaches of the law; to request corrections, amendments and supplementations of the records; to sign the record under special opinion, stating in written their reasons for this; to require cancellation of the acts, which harm their rights and legal interests; to obtain respective remuneration and coverage of the made expenses.

- (5) The body which shall perform the respective action of investigation shall make the witnesses of the procedural actions acquainted with their rights under

Para 4.

Section II.

Interrogation

Interrogation of the accused

Art. 138. (1) The interrogation of the accused shall be executed in a day-time, except it cannot be delayed.

(2) Before the interrogation the respective body shall find the identity of the accused.

- (3) The interrogation of the accused shall start by a question of he/she does understand the accusation and shall be invited, if he/she wishes, to state in a free-text all what he/she knows under the case.

(4) The accused may be questioned for supplementation of his/her explanations and for removal of incompleteness, ambiguity or contradiction.

- (5) The questions shall be clear, concrete and related to the circumstances under the case. They shall not suggest answers or to lead astray to a definite answer.

(6) Whereas several accused persons are involved, the body of investigation shall interrogate them separately.

- (7) The accused may not be questioned under a delegation or via video-conference, except in the cases he/she is outside the boundaries of the country and this shall not institute obstacle to revealing the objective truth.

Interrogation of a witness

Art. 139. (1) Before the interrogation, the identity of the witness and his or her relations with the accused and with the other participants in the procedure shall be established. In the cases under Art. 123, Para 2, item 2, the identification number of the witness shall be entered in the record instead of the identification data.

- (2) The body conducting the interrogation shall invite the witness to testify in good faith and shall warn him/her of the responsibility before the law in case he/she refuses to give testimony, gives false evidence or withholds some circumstances, and shall clarify the right under Art. 121.

(3) The witness shall make a promise that he/she will state in good faith and precisely everything he/she knows in connection with the case.

(4) The persons referred to in Art. 119 shall be informed of their right to refuse to give testimony.

(5) The witness shall state in the form of a free account everything that he/she knows in connection with the case

(6) The provisions of Art. 115, Para 1 and of Art. 138. Para 4 and 5 shall apply to the interrogation of the witness accordingly.

- (7) Interrogation of a witness out of the country can be implemented also by video-conference or telephone conference in compliance with the provisions of this code and under the conditions of international agreement, to which the Republic of Bulgaria is a party.

Interrogation of a juvenile witness

Art. 140. (1) A juvenile witness under the age of 14 years shall be interrogated in the presence of a pedagogue or a psychologist, and where necessary, in the presence of the parent or the guardian.

- (2) A juvenile witness above the of age of 14 years shall be interrogated in the presence of the persons under the Para 1, if the respective body deems so necessary.

(3) With the permission of the body conducting the interrogation, the persons under Para 1 may put questions to the witness.

- (4) The body conducting the interrogation shall explain the juvenile witness less than 14 years of age the necessity to give true testimony, without warning him/her liability.

- (5) (new – SG 109/08) Interrogation of a juvenile witness under and above the age of 14 in the country may take place if relevant also by videoconference.

Interrogation of a witness whose identity is kept secret

Art. 141. (1) The bodies of the pre-trial procedure and the court shall interrogate the witness whose identity is kept in secret and shall all possible precautions for keeping secret his/her identity, including whereas interrogation of a witness is performed abroad the country via video-conference or telephone conference.

- (2) Copies of the records of interrogation of the witness without his/her signature shall be submitted immediately to the accused and to his/her defender, and in the court procedure – to the parties, which shall have right to question the witness in written.

(3) Following the order of Para 1 and 2, interrogation of officer under cover shall be performed, as well as of the persons to which a protection measure under Art. 6, Para 1, items 3, 4 and 5 under the Law of Protection of Persons Threatened in Connection with a Criminal Procedure is imposed.

Interrogation with an Interpreter and Interpreter of Information

Art. 142. (1) Where the accused does not speak Bulgarian, an interpreter shall be appointed.

(2) Persons referred to in Art. 148, Para 1, items 1 – 3 shall not act as interpreters.

- (3) In case of non-appearance or refusal to perform the task assigned, the interpreter shall be liable as provided under Art. 149, Para 5.

(4) Where the accused is deaf or dumb, an interpreter of information shall be appointed.

(5) The provisions of Para 2 and 3 shall apply accordingly to the interpreters of information.

Cross- examination

Art. 143. (1) Where there is significant contradiction between explanations of the accused persons or between the explanations of the accused and the testimony of the witnesses, a cross –examination may be made, except in the cases referred to in Art. 123, Para 2, item 2.

- (2) The persons taking part in a confrontation shall be questioned before the interrogation whether they know each other and what their relationship is.

(3) With the permission of the respective body, the persons taking part in the confrontation may ask questions one another.

(4) Para 1-3 shall also be applied in event of significant contradiction between the statements of the witnesses, except the cases of Art. 123, Para 2, item 2. Section III.

Expert Examination

Cases in which expert examination shall be instituted

Art. 144. (1) Where the clarification of certain circumstances concerning the case requires special knowledge in the field of science, arts or techniques, the court or the body of the pre-trial procedures shall institute an expert examination.

(2) An expert examination shall be compulsory, where there is doubt about:

1. The cause of death;
 2. The nature of the bodily injury;
 3. The sanity of the accused or the suspect;
4. The ability of the accused or the suspect with regard to his or her physical or mental state to perceive properly the facts relevant to the case and to give reliable testimony thereof.
5. The ability of the accused or the suspect with regard to his or her physical or mental state to perceive properly the facts relevant to the case and to give reliable testimony thereof.

Contents of the act instituting the expert examination

Art. 145. (1) The act instituting an expert examination shall specify: the grounds which necessitate the performance of the examination; the object and the task of the expert examination; the materials presented to the expert; the expert's full name, education, specialty, scientific degree, scientific title and official position or the name of the establishment, where the expert works, the name of the medical establishment, where the stationary observations will be performed and the term of presentation of the opinion.

(2) Whereas the expertise is instituted in the pre-trial procedure, in the act under Para 1 the term for presenting the conclusion shall be specified.

Taking samples for comparative examination

Art. 146. (1) The body which institute the expert examination shall be entitled to require from the accused and the suspect samples of writing or other samples for comparative examination, if no possibility to obtain them does not exist.

(2) Para 1 shall also apply to witnesses where necessary to check whether they have left traces on the place of the crime or on the material evidence.

- (3) The persons of Para 1 and 2 shall be obliged to deliver the required samples for comparative examination and upon refusal they shall be seized compulsorily with the permit of the respective first-instance court.
- (4) Whereas the samples for comparative examination are connected with taking blood sample or other similar interventions with penetration in human body, the samples shall be taken by a person with medical capacity under the supervision of a physician observing the rules of medical practice and without threatening the health of the person.

Persons to whom an expert examination shall be entrusted

Art. 147. An expert examination shall be entrusted to experts from the appropriate field of the science, art or techniques.

Persons, who shall not be experts

Art. 148. (1) Experts shall not be:

1. The persons, who meet the requirements of Art. 29, Para 1, items 1 - 5 and 7 - 8 and Para 2;
 2. The witnesses on the case;
3. The persons, who are by virtue of their office or otherwise dependent on the accused or on his/her defender, on the injured, the private complainant, the civil claimant, the civil defendant or on their trustees;
4. The persons, who have performed the audit, the materials of which have been used as grounds for initiating the investigation;
5. The persons, who do not have the necessary professional capacity, if such capacity is required.
- (2) In the cases referred to in the preceding Para, the expert shall be obliged to beg to be struck off the list.
- (3) The persons concerned shall bring the challenge before the body, which has ruled the expert examination to be instituted.

Expert's obligations

Art. 149. (1) The expert shall be obliged to appear before the respective body whereas summoned and to give an opinion on the questions of the examination.

(2) The expert shall be entitled to refuse to give an opinion only in case the set questions go beyond the scope of his / her subject or the materials he/she has at disposal of are not sufficient for forming a well-grounded opinion.

(3) The expert shall submit the conclusion in the pre-trial procedure within a term as defined by the body of the pre-trial procedure, and in the court procedure - not later than five days before the date of the court session.

(4) The expert shall present his/her conclusion in the court accompanied with copies for the parties.

(5) In case of non-appearance or refusal to give an opinion without good reason, the expert shall be sanctioned with a fine of up to 200 BGN. If the expert states good reason, the fine shall be cancelled.

(6) Interrogation of expert who is out of the country may also be performed by video-conference or telephone conference when this is imposed by the circumstances of the case.

Expert's rights

Art. 150. (1) The expert shall have the following rights: to get acquainted with the materials on the cases, which refer to the issues of the expert examination; to demand additional materials; to take part in the carrying out of separate acts of the investigation and of the court investigation proceedings, when that is necessary for the performance of the set task; to receive remuneration for his/her work and to be paid for the incurred costs, as well as to demand the revocation of the acts, which harm his/her rights and legitimate interests.

(2) Where the expert are more than one they shall be entitled to consult one another before they give an opinion. In case of consensus, the experts may assign one of them to expose before the respective body the general opinion, and where there is a difference of opinions, each of them shall present a separate opinion.

Examination of the terms and conditions, which the expert must satisfy and handing in the act of his/her appointment

Art. 151. (1) The body, which has appointed the expert examination shall summon the experts, check their identity, skilled trade and competence, their relations with the accused the suspect and the injured, and the existence of causes for challenge.

(2) The act of appointment of the expert examination shall be handed to the expert after which he/she shall be explained his/her rights and obligations, and the responsibility in case he/she refuses to give an opinion or gives a wrong statement.

Expert's opinion

Art. 152. (1) After carrying out the necessary examinations, the expert shall draw a statement in writing, in which he/she shall state: his/ her name and the grounds on which the expert examination was carried out; the task set; the materials which have been used; the examinations which have been made and by what kind of scientific and technical means; the obtained results and the conclusions of the expert examination

(2) The statement shall be signed by the expert.

(3) In case of discovery in the course of the examination of new materials, which are important for the case but for which no task has been set, the expert shall be obliged to state them in his/her statement.

Complimentary and repeated expert examination

Art. 153. The complimentary expert examination, whereas the expert opinion is not sufficiently complete and clear, while a repeated expert examination shall be appointed where the expert's statement is not well grounded and there arises a doubt about its truthness.

Evidential force of the expert's statement

Art. 154. (1) The expert's statement shall not be compulsory for the court and for the bodies of the pre-trial procedure.

(2) Where it disagrees with the expert's opinion, the respective body shall be obliged to give its reasons

Section IV.

Inspection

Purpose of the inspection

Art. 155. (1) The court and the bodies of the pre-trial procedures shall inspect locations, premises, objects and persons with the purpose of detecting, examining directly and preserving, in accordance with the procedure laid down in this Code, traces of the crime and other data necessary for the clarification of the circumstances under the case.

(2) Until the inspection is performed, measures shall be taken that the traces of the crime are not removed.

Performance of the inspection

Art. 156. (1) The inspection shall be performed in the presence of witnesses of the procedural actions, except it is performed at a court session.

- (2) Where necessary, the inspection shall be performed in the presence of an expert or an expert technical assistant
(3) Upon performing the necessary everything shall be examined as it has been found and after that the necessary transpositions shall be made.
(4) The inspection shall be performed during the day, except if the case brooks no delay.

Inspection of a corps

- Art. 157. (1) Inspection of a corps shall be performed, where possible at the spot where it has been found in the presence of a forensic-medicine expert, and where there is no such expert, in the presence of another physician.
(2) The burial of the corps - subject of the inspection shall be made with the permission of the prosecutor.
(3) Exhumation shall be allowed on an order of the court or the prosecutor in the presence of a forensic-medicine expert.
(4) The interring of the corpse shall be allowed with the permission of the body, which has ordered the exhumation.

Survey

- Art. 158. (1) Upon inspection of a person shall not be allowed actions, which humiliate his/her dignity or are dangerous to his/her health.
(2) Where it is necessary that the certified person be undressed, the witnesses of proceedings must be of the same sex. If case the official, who must conduct the certification is of the opposite sex, a physician shall conduct the certification.
A person shall be certified in the pre-trial procedures with his/her consent in writing, and where there is no such consent, with the permission of a judge of the respective court of first instance, or of the court of first instance in the district of which the action shall be performed, upon a request of the prosecutor.
(4) In urgent cases, where this is the only possibility for the gathering and preservation of the evidence, the bodies of the pre-trial procedures may take a view without a preliminary permission, in which case the record shall be delivered for approval to the judge without delay but not later than 24 hours.

Section V.

Search and Seizure

Obligation for delivery of objects, papers, computer information data, data about the subscriber of a computer information service and data about the traffic
Art. 159. On a request of the court or of the bodies of the pre-trial procedures, all establishments, juridical persons, officials and citizens shall be obliged to preserve and deliver the objects, papers, computer information data, the carriers of such data and data about the subscriber, which are in their possession and may be of importance for the case.

Grounds and purpose of the search

- Art. 160. (1) Where there is sufficient grounds to presume that in a room or person there are objects, papers or computer information systems, containing computer information data, which may be of importance to the case, a search shall be made for finding and seizing them.
(2) A search may also be made with the purpose of tracing down a person or a dead body.

Bodies, which shall be entitled to order search and seizure

- Art. 161. (1) Search and seizure in the pre-trial procedures shall be carried out with the permission of a judge of the respective court of first instance or of a judge of the court of first instance where the action shall be performed, upon request of the prosecutor.
(2) In urgent cases, where this is the only possibility for the gathering and preservation of the evidence, the bodies of the pre-trial procedures may carry out a search and seizure even without a permission of a judge of the respective court of first instance or of a judge of the nearest court of equal rank. The record of the carried out investigation proceeding shall be presented for approval to the judge without delay but not later than 24 hours.
(3) Search and seizure in the pre-trial procedures shall be carried out on a decision of the court, which is trying the case.

Persons in whose presence the search and seizure shall be carried out

- Art. 162. (1) Search and seizure shall be conducted in the presence of witnesses of the act and of the person using the premises or of an adult member of his/her family
(2) Where the person using the premises or a member of his/her family is unable to attend, the search and seizure shall be conducted in the presence of the chief of the block of flats or a representative of the municipality or the town hall.
(3) The search and seizure in premises, which are used by state or public services, shall be conducted in the presence of a representative of the service.
(4) Search and seizure in premises used by a legal person, shall be carried out in the presence of its representative. Where a representative of the legal person is not able to present, the search and seizure shall be carried out of a representative of the municipality or of the town hall.
(5) Search and seizure in premises of foreign representations of international organisations and in houses of their employees, which enjoy immunity with regard to the criminal jurisdiction of the Republic of Bulgaria shall be conducted with the consent of the chief of the representation office and in the presence of a representative of the Ministry of Foreign Affairs.
(6) Whereas the search and seizure are related to computer information systems and software products, the actions shall be carried out in the presence of an expert- technical assistant.

Performance of search and seizure

- Art. 163. (1) Search and seizure shall be performed during the day, except if they brook no delay.
(2) Before commencement of search and seizure, the respective body shall submit the warrant thereof and shall propose to be shown the searched objects, papers and computer information systems, where are kept computer information data.
(3) The body conducting the search shall be entitled to prohibit the persons present to come into contact with other persons or between or among themselves and to leave the premises until the search is over.
(4) During search and seizure shall not be carried out any actions, which are not necessary for the purpose thereof. Premises and depositories shall be opened by force only in case of refusal to be opened avoiding unnecessary damages.
(5) When circumstances regarding the private life of the citizens have been disclosed during the search, the necessary measures shall be taken that they are not made public.
(6) The seized objects, papers and computer information systems which contain computer information data shall be submitted to the witnesses of the procedural actions and the other persons present. Whereas necessary, they shall be packed and sealed at the place of seizure.
(7) The seizure of computer information data shall be carried out by record on a paper carrier and another carrier. Whereas the carrier is a paper one, each of the pages shall be signed by the persons under Art. 132, Para 1. In the rest of the cases the carrier shall be sealed by a note, where shall be stated: the case, the body which has carried out the seizure, the place, the date and the names of all of the persons presented as per Art. 132, Para 1 and who shall sign it.
(8) Printing of the carrier, made out under the order of Para 7, shall be admitted for the necessities of the investigation only and with the permission of the prosecutor and shall be performed in the presence of witnesses of procedural actions and of an expert-technical assistant.

Search

- Art. 164. (1) Search of a person in the pre-trial procedure without a warrant by a judge of the respective court of first instance shall be admitted:
1. upon detention;
2. where there are sufficient grounds to consider that persons attending the search have screened objects or papers of significance for the case.
(2) The search shall be conducted by a person of the same sex in the presence of witnesses of the same sex.
(3) The record of the conducted investigation action shall be produced to the judge for approval without delay but not later than within 24 hours.

Interception and seizure of correspondence

- Art. 165. (1) Interception and seizure of correspondence shall be allowed only when it is necessary for the detection and prevention of serious crimes.
(2) Interception and seizure of correspondence in the pre-trial procedure shall be performed upon request of the prosecutor and with the permission of a judge of the respective court of first instance or of the first-instance court in the district where the action shall be performed.
(3) Interception and seizure of correspondence in the court proceeding shall be performed on a decision of the court trying the case.
(4) Interception and seizure of correspondence shall be performed under the order of Art. 162, Para 1- 4.
(5) The provisions of Para 1 – 4 shall be also applied to interception and seizure of electronic mail.

Section VI.

Investigation Experiment

Purpose of the investigation experiment

Art. 166. The court and the bodies of the pre-trial procedure may make an investigation experiment in order to check and specify data obtained from the examination of the accused, the suspect and the witnesses or from another investigation or court investigation action.

Terms for admitting an investigation experiment

Art. 167. An investigation experiment shall be allowed under the condition that it does not humiliate the human dignity of the persons participating in it and does not endanger their health.

Investigation experiment procedure

Art. 168. (1) An investigation experiment shall be conducted in the presence of witnesses of procedural actions, except if it is made in a court hearing.

(2) Whereas needed, an expert or a expert - technical assistant shall attend the performance the investigation experiment.

Section VII.

Recognition of Persons and Objects
Grounds and purpose of recognition

Art. 169. (1) Recognition shall be carried out, whereas for the clarification of the circumstances of the case is needed confirmation of the identity of persons and objects.

(2) The bodies of the pre-trial procedure, and in the court procedure – the court which shall hear the case, shall propose the accused, the suspect or the witness to recognise persons or objects

Interrogation before recognition

Art. 170. Directly before performing a recognition, the accused, the suspect and the witnesses shall be questioned whether they know the person or the object, which lies in store to be recognised by them, and of the peculiarities by which they can recognise them, of the circumstances under which they have observed the persons or the objects, as well as of the state in which they were at the time of perceiving the person or the object subject to recognition.

Recognition performance procedure

Art. 171. (1) The recognition shall be conducted in the presence of witnesses of procedural actions, save when performed in court session

(2) The person shall be introduced for recognition in the company of three or more persons, similar in appearance, and measures shall be taken to prevent direct contact between him/her and the recognising person.

(3) Upon assessment of the body which shall carry out the recognition, it may be performed in a manner, that the recognizing person does not meet directly the person – subject to recognition. A witness of a secret identity may participate in recognition only as a recognizing person.

(4) Where it is not possible to show the very person, a photograph of him/her, together with the photographs of three or more persons shall be shown.

(5) Objects shall be shown for recognition together with similar objects.

(6) Whereas several accused persons or witnesses shall perform recognition of persons and objects, they shall be introduced separately to each of the recognizing persons, and measures shall be taken the recognizing persons do not enter direct contact between each other. Simultaneous recognition of several persons shall not be admissible.

(7) The accused, the suspect or the witness shall be invited to show the person or the object whom or which the reasons or the testimonies given by him/her refer to, and to explain what he/she recognised them by.

Section VIII.

Special Intelligence Means

Material proofs, prepared by usage of special intelligence means

Art. 172. (1) The bodies of the pre-trial procedure may use special intelligence means: technical means – electronic and mechanical devices and substances, which serve to document the activity of the controlled persons and objects, and operative methods - surveillance, tapping, following, penetration, marking and inspection of the correspondence and the computerized information, controlled delivery, trust-transaction and investigation through officer under coverage .

(2) The special intelligence means shall be used, whereas this needed for the investigation of a serious malicious crimes under Chapter One, Chapter Two, Sections I, II, IV, VIII and IX, Chapter Five, Sections I – IV, Chapter Twelve, Chapter Thirteen and Chapter Fifteen as well as for the crimes under Art. 292, Para 4, sent. Two, Art. 220, Para 2, Art. 253, Art. 308, Para 2, 2 and 5 , sent. Two, Art. 321, Art. 321a, Art. 356k and Art. 393 of the Special Part of the Penal Code, if the respective circumstances cannot be found by another way or their finding is related with exclusive difficulties.

(3) The suppliers of computer-information services shall be obliged to assist the court and the bodies of the pre-trial procedures in gathering and recording computer information data through the application of special technical means only where this is necessary for detection of crimes under Para 2.

(4) The special intelligence means – controlled delivery and trust-transaction may serve collection of proofs and the officer under coverage shall be interrogated as a witness.

(5) The materials under Para 1- 4 shall be attached to the case.

Request for usage of special intelligence means

Art. 173. (1) (amend. – SG 109/08) For usage of special intelligence means in a pre-trial procedure a reasoned written request by the monitoring prosecutor shall be submitted to the court.

(2) The request shall contain:

1. information about the crime, for the investigation of which the usage of special intelligence service is needed;
2. description of the performed to the moment actions and the results of them;
3. data about the persons and the objects to which the special intelligence means shall be applied;
4. the operative methods which shall be applied;
5. the period of usage.

(3) Whereas the request is for investigation by officer under coverage, to it shall be attached a written affidavit by the officer that he/she is aware of his/hers obligations and tasks in the concrete investigation.

(4) (amend. – SG 109/08) In urgent cases, where this is the only possibility to carry out the investigation, an officer under coverage may also be applied under the permission of the monitoring prosecutor. The activity of the officer under coverage shall be discontinued, if within 24 hours a permit of the respective court is not granted, which shall also rule about the saving or destruction of the gathered information.

(5) In the cases of Art. 123, Para 7 to the request shall also be attached the written consent of the person to which the special intelligence means shall be applied.

Permission of usage of special intelligence means.

Art. 174. (1) The permission of usage of special intelligence means shall be granted in advance by the Chairperson of the District Court or by an explicitly empowered by hem/her deputy-chairperson.

(2) The permission for the use of special intelligence means in relation to military men, shall be given in advance by the Chairperson of the respective military court or by an expressly authorised by the latter deputy-chairperson.

(3) The body under Para 1 and 2 shall rule by reasoned disposition immediately after the receipt of the request.

(4) (amend. – SG 109/08) Following the order of Para 1 and 2 a permission of usage of special intelligence means shall grant the Chairperson of the respective Court of Appeal or an explicitly empowered by hem/her deputy- chairperson, where application of special intelligence means is requested with regard to a judge or to the administrative head or his/her deputies of the respective district court.

(5) The disposition about investigation by officer under coverage shall contain the crime for which the investigation is allowed, the data about the identity of the officer, the data of the covering identity and the identification number.

(6) A special register, which shall not be public, shall be kept by the respective court about the made requests and issued permissions.

Procedure and period of application of special intelligence means for the purposes of the penal procedure

Art. 175. (1) (amend. – SG 109/08) The special intelligence means shall be applied by the respective structures of the Ministry of Interior or of the State Agency "National Security" following the order of the Law for the special intelligence means.

(2) (amend. and suppl. – SG 109/08) The Minister of Interior or a deputy minister empowered by him/her in writing, respectively the Chairman of the State Agency "National Security" or a deputy chairman empowered by him/her in writing shall issue a written disposition of the use of special intelligence means by the structures in accordance with Para 1, on the grounds of the permission under Art. 174.

(3) The period of use of permission for the use of special intelligence means shall not exceed two months.

(4) Where necessary, the period under Para 3 may be extended, in accordance with the procedure under Art. 174, but not for more than four-month period.

(5) The use of special intelligence means shall be terminated, where:

1. The planned goal has been achieved;
2. Their use yields no results;
3. The term of the permission has expired;
4. (new – SG 109/08) there is danger of disclosing of the operative techniques;
5. (new – SG 109/08) their application becomes impossible;

6. (new – SG 109/08) danger arises threatening the life and health of the officer under cover or of his/her ancestors or descendants, brothers, sisters, spouse or persons, with whom he/she is in especially close relations, where the danger arises out of the assigned tasks.

(6) (amend. – SG 109/08) In case of termination of the use of special intelligence means, the body, which has granted the permission, shall be informed without delay in writing and stating the reasons thereof. In the cases where the collected information is not used to produce material evidences, the said body shall order its destruction.

Preparation of material proofs obtained upon usage of special intelligence means
Art. 176. (amend. – SG 109/08) Whereas special intelligence means are used, the material proofs shall be prepared in two copies and within 24-hours term shall be provided sealed to the prosecutor, who has requested the permission and of the court which has given the permit.

Evidential force of the data obtained upon usage of the special intelligence means
Art. 177. (1) The accusation and the sentence may not be grounded only on the data of the special intelligence means, as well as on them and on testimony of witnesses of secret identity only.

(2) In the penal procedure shall not be used results, obtained beyond the made request under Art. 173, except they contain data about another significant malicious crime under Art. 172, Para 2.

Chapter fifteen.

SERVICE OF SUMMONS, NOTICES AND PAPERS. PERIODS AND EXPENSES

Section I.

Service of Summons, Notices and Papers

Bodies and Persons, through whom the subpoenas, notices and papers shall be served

Art. 178. (1) The service of summons, notices and papers shall be done by an official of the corresponding court, a body of the pre-trial procedure, municipality or community.

(2) Where the service cannot be effected in accordance with the preceding Para, it shall be effected through the bodies of the Ministry of the Interior or the services of the Ministry of Justice.

(3) Service to members of the armed forces shall be effected through the corresponding detachment or establishment

(4) Service to employees and workers may be effected through the employer or an employee to which receive of papers is assigned.

(5) Service to juveniles shall be effected through their legal representatives.

(6) Service to imprisoned and detained in custody shall be effected through the corresponding establishments.

(7) Service to physical persons and to establishments, which are abroad shall be effected in accordance with the agreement on legal assistance with the corresponding state, and where there is no such agreement – through the Ministry of Foreign Affairs.

(8) In cases of emergency, service may be effected by telephone, telex and fax or by telegram. Service by telephone and by fax shall be certified in writing by the official, who has done it, service by telex – with the confirmation in writing for received notice. This order of summoning shall not be applied to the accused.

(9) The prosecutor shall secure attendance of witnesses under Art. 141.

Contents of subpoenas and notices

Art. 179. (1) (1) The subpoena shall state: the name of the establishment, which is sending it, the number of the case and the year of initiating it; the name and the address of the summoned person; the capacity in which he, she or it is summoned; the venue, the date and the hour of process and the consequences of non-appearance.

(2) The notice shall state the procedural action, which has been performed or which the person should perform

(3) In the subpoena which shall be sent to the private complainant and to the persons, who may institute themselves as a private complainant, civil claimant and civil defendant, their right of trustee shall be stated.

(4) In the notice the procedural action which has been performed and the person who shall perform it.

(5) Subpoenas and notices shall be signed by the respective official.

Service of subpoenas, notices and papers

Art. 180. (1) (1) Subpoenas, notices and papers shall be served against a receipt signed by the person for whom they are designated.

(2) Whereas the person is absent, they shall be served on an adult member of the family, and if there is no adult member of the family, to the house-manager or the door-keeper, as well as to a cotenant or a neighbour, in case he/she assumes the obligation to deliver it.

(3) Whereas the subpoenas, notices and the papers are addressed to an accused, private prosecutor or a private complainant, civil claimant and a civil defendant who is absent, and the service to the persons under Para 2 is impossible, they may be served to the defender or the trustee, if they agree to accept.

(4) If the addressee or the person under Para 2 and 3 cannot or refuses to sign, the serving person shall make a note thereof in the presence of at least one person, who signs.

(5) Service on an establishment or a legal person shall be effected against a signature of an official authorised to receive the papers.

(6) The person through whom the service is effected shall sign a receipt with the obligation to deliver the subpoena, the notice or the papers to the person for whom they are designated.

(7) The serving person shall note on the receipt also the address of the person, through whom the service is effected and his/her relation with the person on whom the subpoena, the notice or the papers must be served.

Receipt of Service

Art. 181. (1) (1) The official having effected the service shall return in due time the receipt, which shall be attached to the case file.

(2) The receipt shall state the date of service and the name and the position of the person having effected the service.

Liability for Failure of Performing the Obligations for Service

Art. 182. (1) An official, who breaches his/her obligations for service shall be punished with a fine of up to five hundred BGN.

(2) The same punishment shall be imposed to the person under Art. 180, Para 2, 3 and 5, who fails to fulfil his/her obligations regarding service.

Section II.

Periods

Calculation of periods

Art. 183. (1) Periods shall be calculated in days, weeks, months and years.

(2) The period calculated in days shall begin to accumulate on the following day and shall expire at the end of the final day.

(3) The period calculated in weeks and months shall expire on the respective day of the final week or on the corresponding day of the final month. Where the final month does not have the corresponding day, the period shall expire on the last day of the month.

(4) Where the last day of the period is non-working, the period shall expire on the following first working day.

Keeping the period

Art. 184. The period shall be deemed kept, if until its expiry the application, the complaint or the other papers have come in the respective body, in the post office, in another court, prosecutor's office or investigating body, in the establishment, where the person is sustaining conviction or is detained in custody, in the detachment where the member of the armed forces is serving or in the diplomatic or consular representation, when the person is abroad.

Prolongation of the period

Art. 185. (1) The time-limit fixed by the court or by the bodies of the pre-trial procedure may be extended, where there are good reasons therefore and the request is has been filed before its expiry.

(2) If the period under the preceding Para has expired for good reasons, the respective body may set a new period.

Revival of the period

Art. 186. (1) The period set by law may be revived if it has been let to expire for good reasons.

(2) The request for recovery of the term shall be submitted to the court or to the body of the pre-trial procedure within seven days following the day on which the reasons for failing to observe the time-term no longer exist.

(3) Simultaneously with the filing of the request for revival of the period the action, the period for which has been expired, shall be executed.

(4) On a request of the person concerned, the execution of the action for which the period has expired may be suspended.

(5) The request for revival of the period shall be considered within seven-day period following its entry.

(6) The court shall rule on the revival of the period in a court session with calling the parties.

Section III.

Expenses and Fees

Covering of expenses

Art. 187. (1) The expenses for the penal procedure shall be covered by the sums provided in the budget of the respective establishment, except in the cases referred to in the law.

(2) With regard to cases for offences prosecuted on a complaint of the injured, the expenses shall be paid in advance by the party concerned, and in case they have not been paid the party shall be given seven-day period to pay them

(3) (2) With regard to cases for offences prosecuted on a complaint of the injured, the expenses made on the made by the defendant evidencing requests

shall be covered by the budget of the court.

Assessment of expenses

Art. 188. (1) The amount of expenses shall be assessed by the court or by the body of pre-trial procedure.

(2) Witness's – workers or employees – fees shall be assessed by the court.

Decision on expenses

Art. 189. (1) The court shall decide on the question of expenses with the sentence or by a definition.

(2) The expenses for an interpreter in the pre-trial procedure shall be on account of the respective body, and the expenses for an interpreter in the court procedure shall be on account of the respective court.

(3) Where the defendant has been found guilty, the court shall sentence him/her to pay the expenses in the cause, including the counsel's fee and the other expenses for the ex-officio appointed counsel, as well as the expenses incurred by the private prosecutor and the indicter. Where the convicted persons are several, the court shall assess the portion that each of them must pay.

(4) Where the defendant has been acquitted on certain charges, the court shall sentence him/her to pay only the expenses incurred in connection with the charge on which he/she has been found guilty.

Imposition of expenses

Art. 190. (1) Where the defendant has been found guilty or the penal proceeding has been discontinued, the expenses on cases of common nature shall remain at the expense of the state, while the expenses on cases initiated on a complaint of the injured, shall be imposed on the private complainant.

(2) A writ of execution for the awarded expenses shall be issued by the court of first instance.

Part three.

PRE-TRIAL PROCEDURE

Chapter sixteen.

GENERAL PROVISIONS

Cases subject to pre-trial procedure

Art. 191. Pre-trial procedure shall be held on cases of general nature.

Stages of the pre-trial procedure

Art. 192. The pre-trial procedure shall include investigation and actions of the prosecutor after the finalization of the investigation.

Bodies of the pre-trial procedure

Art. 193. Bodies of the pre-trial procedure shall be the prosecutor and the bodies of investigation.

Distribution of the cases in the pre-trial procedure among the bodies of investigation

Art. 194. (1) The investigation shall be conducted by investigators in cases of:

1. crimes of general nature under Art. 95 – 110, Art. 357 – 360 and Art. 407 – 419 of the Penal Code.

2. (suppl. – SG 109/07, in force from 01.01.2008) crimes perpetrated by persons enjoying immunity, members of the Council of Ministers, judges, public prosecutors and investigators or by state officials of the Ministry of Interior or of the State Agency "National Security";

3. crimes committed abroad.

(2) (amend. - SG 69/08) Beyond the cases under Para 1 the investigation shall be conducted by investigating policemen.

Investigation based on information from the State Agency "National security"

Art. 194a. (new – SG 109/07, in force from 01.01.2008) (1) The investigation based on information, received from the State Agency "National Security" shall be carried out by a public prosecutor.

(2) (amend. – SG 109/08) In cases of par. 1 the public prosecutor may assign the investigation or individual operations also to an investigator.

District where the pre-trial procedure shall be conducted.

Art. 195. (1) The pre-trial procedure shall be conducted in the district which is relevant to the district of the competent to hear the case court.

(2) The pre-trial procedure may be carried out in the district where the offence was detected or where the domicile of the person charged with the commission of the offence is, or where the domicile of most of the persons charged with the commission of the offence or most of the witnesses are, if:

1. The charge is for several offences committed in the district of different courts;

2. Where that is necessary to ensure promptness, impartiality, thoroughness and completeness of the investigation.

3) The issues under Para 2 shall be decided by the prosecutor in the district, where the pre-trial procedure has been initiated. Until the ruling of the prosecutor, only those investigation actions, which brook no delay, shall be carried out

(4) Apart from the cases under Para 2, with the permission of the Chief Prosecutor the pre-trial procedure may also be carried out in another investigation district with the purpose of more complete investigation of the offence.

Direction and Supervision by the Prosecutor of the Investigation

Art. 196. (1) While exercising direction and supervision the prosecutor may:

1. control permanently the development of the investigation by examination and inspection of all of the materials on the case;

2. give instructions for the investigation;

3. participate in the execution or to execute actions of investigation;

4. remove the body of investigation, which has admitted offence of the law or cannot provide the correct conduction of the investigation;

5. take the case from one investigating body and assign it to another one;

6. (suppl. – SG 109/08) assign the appropriate bodies of the Ministry of the Interior or the State Agency "National Security" the performance of separate actions related to the detection of the crime;

7. repeal on his/her own initiative or on an appeal of the persons concerned the orders of the investigating body.

(2) Apart from the powers under Para 1, the supervising prosecutor shall directly monitor the lawful conduction of the investigation and its finalization with the determined term.

Obligatory instructions by the prosecutor

Art. 197. The instructions in written by the prosecutor to the body of investigation shall be obligatory and shall not be a subject to objection.

Disclosure of the Materials of the Investigation

Art. 198. (1) The materials of the investigation shall not be disclosed without the prosecutor's permission.

(2) Where need be, the body of the pre-trial procedure shall warn against signature the persons attending the carrying out of the investigation actions that they may not disclose without permission the materials under the case and in case of breach shall be liable under Art. 360 of the Penal Code.

Acts of the bodies of the pre-trial procedure

Art. 199. (1) In the pre-trial procedure the prosecutor and the investigating magistrate shall rule decrees.

(2) Each decree shall contain: data about the time and the place of issuing it, of the body issuing it, of the case under which it is issued; reasons; operative provisions and signature of the body issuing it.

Appeal of the decrees

Art. 200. The decrees of the body of investigation shall be subject to appeal before the prosecutor. The decrees of the prosecutor which shall not be subject to court control, shall be appealed before a prosecutor of the higher prosecution, the decree of which prosecutor shall not be a subject of appeal.

Complaint against the decrees

Art. 201. (1) The complaint against the decrees of the bodies of the pre-trial procedure may be in oral or in written. The written complaint shall be signed by the complainant, and about the complaint in oral a record shall be made, which shall be signed by the complainant and the person who receives it.

(2) The complaint shall be submitted through the body which has issued the decree or directly to the prosecutor, who is competent to hear it. In the first case it shall be forwarded immediately to the respective prosecutor with a written opinion.

Effect of the complaint and term of ruling on it

Art. 202. (1) The complaint shall not suspend the execution of the appealed decree, except the respective prosecutor rules otherwise.

(2) The prosecutor shall rule on the complaint within three-days term from its receiving.

Obligation to provide lawful and timely investigation

Art. 203. (1) The body of investigation shall take all measures to provide timely, lawful and successful conduction of the investigation.

(2) The investigation body shall be obliged in a shortest term to gather the needed evidence for detection of the objective truth, being guided by the law, the inner conviction and the instructions of the prosecutor and the instruction of the prosecutor.

(3) (new – SG 109/08) The body of investigation may undertake all or part of the investigating operations of another body of investigation as its, but shall be obliged to involve the accused, to submit to him/her the decree for involvement without delay, to question him/her and to submit the investigation.

(4) (prev. par. 3 – SG 109/08) The body of investigation shall from time to time report to the prosecutor on the progress of investigation, discussing with

- him/her the feasible versions and all other questions of significance for the lawful and successful finalization of the investigation.
- (5) (prev. par. 4 – SG 109/08) The body of investigation shall also perform actions of investigation and other procedural actions during the time, when the case has been sent in the court in connection with a measure of procedural compulsion.

Co-operation with the public

Art. 204. The bodies of the pre-trial procedure shall use the wide co-operation with the public for the detection of the crime and clarification of the circumstances on the case.

Obligations of the citizens and of the officials for notification

Art. 205. (1) Whereas become acquainted with a crime of general nature, the citizens shall be obligated to notify immediately a body of pre-trial procedure or another state body.

(2) Whereas they learn about committed crime of general nature, the officials shall notify immediately the body of the pre-trial procedure and to take the needed measures for saving the situation and the data about the crime.

(3) In the cases of Para 1 and 2, the body of the pre-trial procedure shall immediately execute its powers to institute penal procedure.

Investigation in the absence of an accused

Art. 206. Whereas this shall not establish obstacles to detect the objective truth, the investigation may be conducted in the absence of the accused, following the terms of Art. 269, Para 3.

Chapter seventeen.

INVESTIGATION

Section I.

Institution of Pre-trial Procedure and Conduction of Investigation

Terms for institution of pre-trial procedure

Art. 207. (1) Pre-trial procedure shall be instituted where there is a legal cause and sufficient data for a committed offence.

(2) In the cases stipulated by the Special Part of the Penal Code preliminary procedure shall be instituted upon complaint of the injured to the prosecutor and may not be terminated pursuant to art. 24, Para 1, item 9.

(3) The complaint shall contain data of the complainant and shall be signed by him/her.

(4) No fee shall be own when submitting the complaint.

Legal Causes

Art. 208. Legal Causes to initiate investigation shall be:

1. information to the bodies of pre-trial procedure about a committed crime;
2. information about a committed offence published in the mass media;
3. the appearance of the perpetrator in person before the bodies of the pre-trial procedure with a confession of a committed offence;
4. direct detection by the bodies of the pre-trial procedure of indices of a committed crime.

Information about a committed crime

Art. 209. (1) The information about a committed crime shall contain data about the person from which it comes. Anonymous information shall not be a legal cause for initiation of a preliminary proceeding.

(2) Information may be oral or in writing. Information in writing may be a legal cause for initiation of preliminary investigation only if it is signed. For oral information a record shall be drawn up, which shall be signed by the informant and the body receiving it.

Appearance of the perpetrator in person

Art. 210. In case of appearance of the perpetrator in person, the body of pre-trial procedure shall establish his/her identity and shall draw up a record, in which the made confession shall be exposed in detail. The appeared person and the body before which the confession was made shall sign the record.

Sufficient data for initiation of pre-trial procedure

Art. 211. (1) Sufficient data for initiation of pre-trial procedure shall be there, when a well-founded assumption can be made that a crime has been committed.

(2) Data from which can be drawn conclusions about the persons, who have committed the crime or about its legal qualification shall not be required for initiation of a preliminary investigation.

Initiation of pre-trial procedure

Art. 212. (1) Pre-trial procedure shall be initiated by a decree of the prosecutor.

(2) The pre-trial procedure shall be considered initiated with the drawing up of the act of the first action of investigation, whereas inspection of the place of accident and the related to it search, seizure and interrogation of witnesses are carried out, if their immediate execution is the only opportunity to collect and save evidence.

(3) The body of investigation which has performed the action under Para 2 shall notify the prosecutor immediately, not later than 24 hours.

Refusal of the prosecutor to initiate pre-trial procedure

Art. 213. (1) The prosecutor may refuse to initiate pre-trial procedure, about which he/she shall inform the injured or his/her heirs, the damaged legal person and the person who gave the information.

(2) Upon his/her own initiative or upon an appeal of the persons under Para 1, a prosecutor from the higher prosecution may revoke the decree under Para 1 and to rule institution of a pre-trial procedure and initiation of investigation.

Content of the act of institution of a pre-trial procedure

Art. 214. (1) Whereas a pre-trial procedure is instituted by a decree of the prosecutor, in the decree shall be stated: the date and the place of its drawing up, the body which is drawing it up, the legal cause and the data on the base of which the pre-trial procedure is instituted, and the body has drawn it up.

(2) Whereas the pre-trial procedure is instituted under the order of Art. 212, Para 2, besides the circumstances under Art. 129, in the record of the first action of investigation the legal cause and the data of the committed crime shall be stated.

Actions against unknown perpetrator

Art. 215. (1) (1) Where the perpetrator of the crime is unknown, together with the investigation actions, the prosecutor shall assign to the respective bodies of the Ministry of Interior the identification and tracing of the perpetrator of the crime.

(2) In the cases under Para 1, when the respective bodies of the Ministry of Interior assess that sufficient data incriminating a certain person have been gathered, they shall deliver the gathered materials to respective body of investigation and shall notify the prosecutor immediately.

Splitting the case

Art. 216. (1) Whereas on the case evidence of participation of more than one person is gathered, the prosecutor may split the materials regarding the unidentified or untraced persons into a separate case.

(2) Whereas in the case evidence of several crimes is gathered, perpetrated by one person, the prosecutor may split the materials regarding some of the crimes into a separate case.

Merging of cases

Art. 217. (1) Whereas two or more cases of different crimes or against different persons are related to each other, the prosecutor may merge them, if this is needed for the detection of the objective truth.

(2) The prosecutor may merge two or more cases of different crimes against one and the same accused.

Assistance from other bodies

Art. 218. (1) Where needed, the body of investigation may request from another body of investigation to perform separate actions of investigations.

(2) Where the body of investigation requires so, the bodies of the Ministry of Interior shall be obliged to provide assistance at the performance of concrete actions of investigation.

Involving of accused and submission of the decree

Art. 219. (1) Where enough evidence of the guiltiness of a concrete person in commitment of a crime of general nature is gathered, and any of the grounds for discontinuation of the penal procedure do not appear, the body of investigation shall report before the prosecutor and shall involve the person as an accused by drawing up the relevant decree.

(2) The body of investigation may also involve the person as an accused together with the execution of the act of first action of investigation against him/her, which shall be reported to the prosecutor.

(3) In the decree of involving of an accused and in the record of the actions under Para 2 shall be stated:

1. the date and the place of its issuance;
2. the issuing body;
3. the three names of the person, which is involved as an accused, the deed for which he/she is involved, and the legal qualification;

4. the evidence on which the involving is grounded, if this shall not complicate the investigation;
5. measure of compulsion, if such is taken;
6. his/her rights under Art. 55, including his/her right to refuse and give explanations, as well as his/her right of defender under authorization or under appointment.
- (4) The body of investigation shall submit the decree of involving to the accused and to his/her defender, and shall give them opportunity to become acquainted with the complete contents of it, and in case of necessity shall give additional clarifications.
- (5) Where the accused has not empowered a defender and requires to arrange his/her defence, the body of investigation shall cancel the submission of the decree of involving and the interrogation for a period of 72 hours with a new summoning.
- (6) If the accused appear again without any defender, the body of investigation shall submit the decree of involving and in the cases of Art. 94, Para 1 shall appoint a defender of hem/her.
- (7) The body of investigation may not perform actions of investigation with the participation of the accused, until does not fulfil its obligations under Para 1 – 6.
- Actions with regard of a person enjoying immunity
- Art. 220. (1) A person enjoying immunity shall not be involved. The penal tracing of this person for the same crime shall be initiated after the immunity is deprived, except other obstacles for this appear.
- (2) Where the accused acquires immunity, the penal procedure shall be suspended, and the taken measures of procedural compulsion with regard of the person shall be cancelled. In this case the procedure may continue with regard of the rest of the accused persons, of this shall not establish an obstacle to detect the objective truth.
- Interrogation of the accused
- Art. 221. After the submission of the decree of involving, the body of the pretrial procedure shall immediately begin interrogation of the accused following the order of Art. 138.
- Interrogation of the accused before a judge
- Art. 222. (1) Under assessment of the body of the pre-trial procedure, the interrogation shall be performed before a judge of the respective court of first instance or of the court of first instance in the district of which the action is performed, with the participation of a defender if there is such.
- (2) For the interrogation under Para 1, the respective body shall provide the appearance of the accused and his/her defender.
- (3) As far as special rules are not established, the interrogation under Para 1 shall be performed following the rules of the court investigation.
- Interrogation of a witness before a judge
- Art. 223. (1) Where there is a danger that a witness may be unable to appear before the court because of serious illness, continuous absence from the country or for other reasons, which make impossible his/ her appearance in a court hearing, and where os necessary to fix the testimonies of a witness, which are of exclusive importance for the detection of the objective truth, the interrogation shall be carried out before a judge of the respective court of first instance or of the court of first instance where the action is performed. In this case, the case file shall not be submitted to the judge.
- (2) The body of investigation shall secure the appearance of the witness and the possibility for the witness and his/her attorney, if there is such, to take part in the carrying out of the interrogation.
- (3) So far as there are no special rules, the interrogation under Para 1 shall be conducted according to the rules of the court investigation.
- (4) The accused or his/her defender may require from body of investigation an interrogation of a witness in accordance with the procedure under Para 1. The refusal shall be reflected in a record, signed by the respective body, the accused and the defender.
- Attendance at the performance of actions of investigation
- Art. 224. Where the provisions of this Code do not provide for the presence of the accused, of his/her defender or of the injured and his/her trustee in the carrying out of the respective interrogation proceedings, the body of investigation may allow them to attend, if that will not embarrass the investigation.
- Secondary involving of the accused
- Art. 225. Where within the investigation new grounds for application of a law for crime of more severe punishment are found or the factual circumstances are changed, or is necessary to include new crimes or to be involved new persons, the body of investigation shall report to the prosecutor and shall execute a secondary involving of the accused.
- Actions before the submission of the investigation.
- Art. 226. (1) Where the body of investigation assesses that all needed for the detection of the objective truth actions are executed, shall report the case before the prosecutor.
- (2) The prosecutor shall examine if the investigation has been conducted lawfully, objectively, fully and completely.
- (3) Where the prosecutor finds that at the investigation a significant breach of the procedural rules had been admitted and the evidence needed for the detection of the objective truth is not gathered, or that a secondary involvement is needed, he/she shall by him/her self execute the needed actions or direct the body of investigation to execute them.
- Submission of the Investigation
- Art. 227. (1) After the performance of the actions under Art. 226, the body of investigation shall submit the investigation.
- (2) For the submission of the investigation the accused and his/her defender shall be summoned.
- (3) For the submission of the investigation the injured and his/her trustee shall also be summoned, if a request for this is made.
- (4) Where the accused or his/her defender do not appear, if participation of a defender is obligatory, or the accused did not succeed to empower a defender in time and wants to arrange his/her defence, a new submission shall be appointed within 72 hours period.
- (5) If the accused again does not appear with an empowered by him/her defender, the body of investigation shall submit to him/her the investigation and in the cases of Art. 94, Para 1 shall appoint a defender.
- (6) Absence of the injured and his/her trustee, if they are lawfully summoned, shall not be a ground for appointment of a new submission. The investigation shall not be submitted to the injured, if he/she is not found at the pointes by him/her legal address in the country.
- (7) Before the submission the investigating body shall clarify to the attending persons their rights.
- (8) The investigation shall be submitted by way of providing the persons appearing there all materials on the case for examination.
- (9) The prosecutor may submit the investigation, if he/she has performed by him/herself the actions under Art. 226, Para 3. In this case the prosecutor shall not draw up a conclusion.
- (10) (new – SG 109/08) Where the accusation is for a crime, for which Art. 78a of the Penal Code shall be applied and the accused and his/her defendant have been lawfully summoned, their appearing for submission of the investigation shall not be obligatory.
- Acquaintance with the materials
- Art. 228. (1) The body of investigation shall determine a time limit for examination of the materials depending on the nature of the accusation, the volume of the file and on other circumstances, which may be of importance for the duration of the examination
- (2) Where some of the appeared persons is unable to examine the materials, the investigating magistrate shall be obliged to explain them, and if need be, to read them to him/her.
- (3) Where a person refuses to read the materials, the refusal and the reason thereof shall be noted down in the record of presentment of the investigation.
- Requests, notes and objections
- Art. 229. (1) (1) After they examine the materials, the respective persons may make requests, notes and objections
- (2) The written requests, notes and objections shall be attached to the file, while the oral ones shall be entered in the record of submission of the investigation.
- (3) On the requests, notes and objections under Para 2 the supervising prosecutor shall rule.
- Additional actions of investigation
- Art. 230. (1) Where additional actions of investigation are carried out, the persons on whose request they have been undertaken shall also be present.
- (2) Following the completion of the additional actions, the body of investigation shall perform a secondary submission of the investigation.
- Conclusion of the body of investigation
- Art. 231. After the complete finalization of the investigation the body of investigation shall draw up a conclusion.
- Charge- conclusion
- Art. 232. (1) The body of investigation shall draw up a charge-conclusion, if finds, that the committed crime and the participation of the accused in it are proved in unquestionable manner.
- (2) In the circumstantial part of the charge-conclusion shall be stated shortly: the crime committed by the accused; the time, the place and the manner of commission; the injured person and the amount of the damages; data about the personality of the accused; the evidence from which the stated circumstances have been established; legal qualification.

- (3) In the concluding part of the charge-conclusion shall be stated: the prosecutor's office to which the case is forwarded, the date and the place of the drafting of the conclusion and the name and official position of the drafter.
- (4) To the charge-conclusion shall be attached: a list of the persons, who must be summoned to the court hearing; information about the taken measure of compulsion, in which shall be stated the date of detention of the accused in custody, if the measure is detention in custody; information about the documents and the tangible evidentiary materials; information about the incurred costs and information about the taken security measures; information about the measures for eliminating the causes and the conditions, which have contributed to the commission of the crime, as well as information about the accommodation of the children in the cases under Art. 63, Para 8.

Conclusion of discontinuation or suspension of the penal procedure.

Art. 233. (1) Where the body of investigation finds that there are reasons therefore, he/she shall draft a conclusion with opinion of discontinuation or suspension of the penal procedure.

- (2) The conclusion under Para 1 shall state: the crime for which the person is involved as an accused; the grounds on which the penal procedure shall be discontinued or suspended; the date and the place of the drafting of the conclusion and the name and the official position of the drafter.
Period to perform the investigation. Period of the measures of procedural compulsion.

Art. 234. (1) The investigation shall be performed and the case forwarded to the prosecutor within two months from the date of its institution.

- (2) The prosecutor may determine a longer period. If this period becomes to be insufficient, it may be prolonged by the prosecutor before the elapse of the period under Para 1;
- (3) (suppl. – SG 109/08) Upon request of the prosecutor, whereas the file constructs a factual and legal intricacy, a prosecutor from the higher prosecution may prolong the period under Para 1 with no more than four months. In extraordinary cases this period may be prolonged by the Chief Prosecutor or by prosecutors of the Supreme Prosecutor's Office of Cassation empowered by him/her.
- (4) The request for prolongation of the period shall be sent not later than 15 days before the elapse of the periods under Para 1 and 2. In it the reasons due to which the investigation cannot be finalized in time, the performed actions of investigation as well as these which shall be performed shall be stated.
- (5) The prosecutor from the higher prosecution, respectively the Chief Prosecutor, may determine a period shorter than the requested. In this case the prolongation shall be performed under the order of Para 2 and 3.
- (6) The prosecutor who prolongs the period of performance of the investigation shall rule on the measures of procedural compulsion.
- (7) Actions of investigation performed beyond the periods of Para 1 – 3 shall not generate legal consequences, and the gathered evidence may not be used before the court at the pronouncement of the sentence.
- (8) The taken with regard to the accused measures of procedural compulsion shall be cancelled by the prosecutor after the elapse of more than two years from the involvement in the cases of a serious crime and more than of one year – in the rest of the cases.
- (9) If the prosecutor does not fulfil his/her obligation under Para 8, the measures of procedural compulsion shall be cancelled upon request of the accused or of his/her defender by the first-instance court.
- (10) The court shall rule in a single person at a closed session, which shall be subject to appeal within three days before the court of appeal.
- (11) The court of appeal shall rule in a body of three judges at a closed session by a definition, which is final.

Forwarding the case to the prosecutor

Art. 235. After the drafting of the conclusion, the body of investigation shall immediately forward the case to the prosecutor.

Section II.

Records of Actions of Investigation. Audio-records and Video-records

Presenting and handing up records of actions of investigation

- Art. 236. (1) The body of the pre-trial procedure shall present the record of actions of investigation before the persons, who had taken participation in their performance, in order to become acquainted with it, or shall read it upon their request.
- (2) The body of pre-trial procedure shall explain to each person his/her right to demand corrections, amendments and supplementations of the record. The stated requests shall be entered in the record.
- (3) Where some of the persons, who have participated in the acts of investigation refuses or is unable to sign the record, the investigating magistrate shall note down this fact and shall also state the reasons therefore.
- (4) A copy of the record of search, seizure and certification shall be served to the person subject of such acts of investigation.

Record of Interrogation

Art. 237. (1) The record of interrogation shall specify the following data about the interrogated person: full name. Date and place of birth, citizenship, nationality, education, family status, occupation, place of work and official position, place of residence, conviction-status, etc., which are of importance for the case. In the cases of Art. 123, Para 2, item 2, the identification data shall not be entered in the record.

(2) The reasons and the evidence shall be recorded in the first person singular, possibly word for word.

(3) Where necessary, the questions and the answers shall be recorded separately.

- (4) The interrogated person shall certify with his/her signature that his/her evidence have been recorded correctly. In case the record is written down of several pages, the interrogated shall sign every page.
- (5) The interrogated may, if he/she wishes, state in his/her own hand the explanations or testimony, which he/she has given orally. In such case, the body of investigation may ask additional questions.

Audio-record

Art. 238. (1) On the request of the interrogated or on the initiative of the body of investigation audio-record may be made, which the interrogated shall be informed of before the commencement of the interrogation.

(2) The audio-record must contain the data specified in Art. 129, Para 1, and Art. 237.

(3) The audio-record of part of the interrogation or repetition especially for the audio-record of a part of the interrogation shall not be allowed.

- (4) After the completion of the interrogation, the audio-record shall be reproduced in full to the interrogated. The additional explanations and statements shall also be reflected in the audio-record.

(5) The audio-record shall finish with a declaration of the interrogated that it reflects correctly the given explanations and statements.

Record of interrogation upon making audio-record

Art. 239. (1) The body of investigation shall also draw up a record of interrogation where an audio-record is made.

Record of interrogation upon making out audio-record

- (2) The record shall contain: the basic circumstances of the interrogation, the ruling to make a audio-record; the notifying of the interrogated about the audio-record; notes of the interrogated in connection with the audio-record; the reproduction of the audio-record before the interrogated and the statements of the body of the pre-trial procedure and of the interrogated about the regularity of the audio-record.
- (3) The audio-record shall be attached to the record after it is sealed with a note specifying: the body, which has conducted the interrogation, the case, the name of the interrogated and the date of the interrogation. The note shall be signed by the body of investigation and the interrogated.
- (4) The unsealing of the audio-record for the needs of the investigation shall be allowed solely with the permission of the prosecutor and in the presence of the interrogated. During the hearing of the audio-record the interrogated shall also be present.
- (5) After the hearing of the audio-record, it shall be again sealed following the procedure of Para 3.

Video-record

Art. 240. The provisions of Articles 237-239 shall apply to videotaping accordingly.

Audio-record and video-record at other actions of the investigation

Art. 241. Audio-record and video-record may also be made during other investigation actions subject to the provisions of Articles 237-239.

Chapter eighteen.

ACTIONS OF THE PROSECUTOR AFTER FINALIZATION OF THE INVESTIGATION

Powers of the prosecutor

- Art. 242. (1) After the prosecutor receives the case, he/she shall discontinue, suspend the penal procedure, table proposal for relief from criminal liability or a proposal for agreement on the outcome of the case or shall bring accusation by an act of indictment, if grounds for such do appear.
- (2) Whereas at the submission of the investigation the body of investigation has admitted significant procedural breaches, the prosecutor shall direct to remove them or shall remove them by him/herself.
- (3) The prosecutor shall execute his/her powers under Para 1 and 2 in a shortest period, but not later than one month from the receipt of the case.

Discontinuation of the penal procedure by the prosecutor

Art. 243. (1) The prosecutor shall discontinue the penal procedure:

1. in the cases of Art. 24, Para 1;

2. if he/she finds, that the participation of the accused is not proved.
- (2) By the decree, the prosecutor shall also rule on the issue of the tangible material evidence and shall cancel the imposed to the accused measures of procedural compulsion, as well as on the measure of security of the civil claim, if the ground for its imposition has fallen.
- (3) A copy of the decree for discontinuation or suspending of the penal procedure shall be sent to the accused, the injured or his/her heirs or to the damaged legal person, who shall be entitled to appeal the decree before the respective first-instance court within seven-days period from the receipt of the copy.
- (4) The court shall hear the case in a sole-person session not later than seven days from the receipt of the case, and shall rule on the grounding and lawfulness of the decree of discontinuation of the penal procedure.
- (5) By the definition, the court may:
1. confirm the decree;
 2. amend the decree concerning the grounds of discontinuation of the penal procedure and the disposal of the material evidence;
 3. cancel the decree and return the case to the prosecutor together with obligatory instructions regarding the application of the law.
- (6) The definition under Para 5 may be protested by the prosecutor and appealed by the accused, his/her defender, the injured or his/her heirs, or by the damaged legal person before the respective court of appeal within seven-days period from its announcement.
- (7) The court of appeal shall pronounce in a body of three judges in a closed session by a definition, which shall be final.
- (8) Decree of partial discontinuation of the penal procedure shall not be drawn up in the cases of a secondary involving of the same person for the same deed.
- (9) Whereas the grounds of Para 1 have not appeared, the decree of discontinuation of the penal procedure, which has not been appealed by the accused or the injured or his/her heirs, or by the damaged legal person, may be revoked ex-officio by a prosecutor of the higher prosecution.
- (10) (new – SG 109/08) In case of cancellation of the decree for termination of the penal proceedings a new term for implementation of investigation under Art. 234 shall start elapsing.

Suspension of the penal procedure by the prosecutor

- Art. 244. (1) The prosecutor shall suspend the penal procedure:
1. in the cases of Art. 25 and 26;
 2. whereas the perpetrator of the crime has not been detected;
 3. in event of a durable absence of an only witness – eyewitness, abroad, where his/her interrogation is of exclusive importance for the detection of the objective truth, except he/she can be interrogated upon assignment, via telephone or video conference.
- (2) If in the cases under Para 1, item 2 there is an involved accused, the penal procedure with regard of him/her shall be discontinued.
- (3) Upon suspension of the penal procedure, the prosecutor shall send a copy of the decree to the accused, as well as to the injures or his/her heirs.
- (4) Upon a revival of a suspended penal procedure, the investigation shall be conducted within the terms of Art. 234.
- (5) The decree under Para 1 may be appealed by the accused, the injured or his/her heirs before the respective first-instance court within seven days period from the receipt of the copy. The court shall pronounce in a body of a single judge, in a closed session, not later than seven days from receipt of the case in the court, by a definition which shall be final.
- (6) (revoked – SG 109/08).
- (7) (new – SG 109/08) In case of cancellation of the decree for suspension of the penal procedure under the order of par. 5 a new term under Art. 234 for implementation of investigation shall start elapsing.
- (8) (prev. par. 7 – SG 109/08) In the cases of Para 1, item 3, the penal procedure shall be suspended for not more than one year.

Actions on a suspended procedure

- Art. 245. (1) (amend. – SG 109/08) Whereas the prosecutor suspends the penal procedure due to a non-detection of the perpetrator, the prosecutor shall forward the case to the respective bodies of the Ministry of Interior or of the State Agency “National Security” for continuation of the tracing. These bodies shall inform the prosecutor about the result of the tracing and shall provide the materials gathered.
- (2) The prosecutor shall revive the suspended penal procedure after the ground for suspension falls or a necessity of additional actions of investigation arises.
- (3) At revival of the suspended procedure the investigation shall be preformed within the periods under Art. 234. They shall not include the time, for which the penal procedure has been suspended.

Act of indictment

- Art. 246. (1) The prosecutor shall draw up an act of indictment, whereas he/she is convinced that the needed for the detection of the objective truth and for bringing indictment in the court, no ground for discontinuation or suspension of the penal procedure do not appear and a significant breach of the procedural rules has not been admitted, which is removable.
- (2) In the circumstantial part of the act of indictment shall be stated: the crime committed by the accused; the time, the place and the method of committing it; the injured person and the amount of the damage; complete information about the personality of the accused, are there the terms and conditions of applying Art. 53 of the Penal Code; the circumstances, which aggravate or attenuate the liability of the accused; the reasons and the conditions which have contributed to the commitment of the crime; the evidentiary materials establishing the stated circumstances
- (3) In the concluding part of the act of indictment shall be stated: data regarding the identity of the accused; legal qualification; the penal law, which shall be applied; are there grounds for the application of Art. 53, PC; the date and the place of drafting the act of indictment and the name and official position of the drafter
- (4) To the indictment shall be attached: a list of the persons, who must be summoned for the court hearing; information about the taken restraining measure, which shall state the date of the accused’s detention in custody, if the measure is detention in custody; information about the documents and the tangible materials; information about the incurred costs; information about the taken security measures; as well as information about the accommodation of the children in the cases of Art. 63, Para 8.

Part four.

COURT PROCEDURES

Chapter nineteen.

PREPARATIONAL ACTIONS FOR HEARING THE CASE IN COURT SESSION

Section 1.

Bringing to Court

Instituting the procedure before the first instance

- Art. 247. (1) The procedure before the first instance shall be instituted:
1. upon an act of indictment;
 2. upon a complaint of the injured by the crime – by a disposition of the Chairperson of the Court.
- (2) The disposition of the Chairman of the Court by which institution of the procedure under Para 1, item 2, shall be a subject to appeal under the order of Chapter Twenty Two.
- (3) The act of indictment and the complaint shall be submitted in the court in such number as is the number of the accused.

Issues – subject to discussion by the reporting judge

Art. 248. (1) After institution of the court the Chairperson shall appoint a reporting- judge.

(2) The reporting-judge shall check:

1. if the case is under the jurisdiction of the court;
2. if a ground for discontinuation or suspension of the penal procedure appears;
3. if a removable significant breach of procedural rules has been admitted in the pre-trial procedure, leading to limitation of the procedural rights of the defendant and his/her defender, of the injured and his/her heirs;
4. if grounds for hearing the case under Chapter Twenty Two, Twenty Four, Twenty Five, Twenty Seven, Twenty Eights and Twenty Nine do present.

Discontinuation of the court procedure by the reporting judge

Art. 249. (1) The reporting judge shall discontinue the court procedure in the cases of Art. 248, Para 2, items 1 and 3.

- (2) (suppl. – SG 109/08) Whereas the reporting judge discontinues the court procedure on the grounds of Art. 248, Para 2, item 3, he/she shall remand the case to the prosecutor for additional investigation and in the disposition shall state the admitted breaches. In these cases the prosecutor shall correct the existing procedural irregularities according to the provision of Art. 242, par. 2.

Discontinuation of the court procedure by the reporting judge

Art. 250. (1) The reporting judge shall discontinue the penal procedure:

1. in the cases referred to in Art. 24, Para 1, items 2, 3, 4, 6, 7, 8, 9 and 10;
 2. whereas the deed, as described in the act of indictment, does not constitute a crime.
- (2) Whereas the reporting judge discontinues the penal procedure, he/she shall rule on the issue of the material evidence and shall cancel the imposed to the accused measures of procedural compulsion, as well as on the measure of securitizing the civil claim, if the ground for its imposing has fallen.
- (3) A copy of the disposition of discontinuation of the penal procedure shall be handed to the prosecutor and to the accused, as well as to the injured, if found at the pointed by him/her address.
- (4) The disposition shall be subject to appeal and protest under the order of chapter Twenty One.
 Suspension of the penal procedure by the reporting judge
- Art. 251. (1) The reporting judge shall suspend the penal procedure in the cases of Art. 25 and 26.
- (2) The reporting judge shall rule on the restraining measure, the prohibition to leave the borders of the Republic of Bulgaria and the removal of the accused from position.
- (3) The reporting judge shall cancel the measure of securitizing the civil claim, of the ground of its imposing is fallen out.
- (4) The disposition shall be subject to appeal and protest under the order of Chapter Twenty Two.
 Setting the case for trial
- Art. 252. (1) Whereas the grounds to hear the case in a court session do present, the reporting judge shall set the case within two-months period from its receipt.
- (2) Whereas the case appear to be a factual or legal intricacy, as well as in other extraordinary cases, the Chairperson of the court may in written allow to set the court session within a determined by him/her longer period, but not longer than three months.
 Parties to the court procedure.
- Art. 253. Parties to the court procedure shall be:
1. the prosecutor;
 2. the defendant and his/her defender;
 3. the private complainant and the private prosecutor;
 4. the civil claimant and the civil defendant.
- Section II.
 Preparatory Actions to Hear the Case in Court Session
 Handing a copy of the act of indictment or of the complaint to the defendant
- Art. 254. (1) Upon disposition of the reporting judge a copy of the act of indictment shall be handed to the defendant.
- (2) Whereas the court procedure is instituted upon a complaint of the injured, to the defendant shall be handed a copy of it and of the disposition by which the proceedings with the case start.
- (3) Besides the cases under chapters Twenty Four, Twenty Five and Twenty Eight, within the seven-days from the handing of the papers under Para 1 and 2, the defendant may give a response, in which he/she may state his/her objections and make new requests.
- (4) (new – SG 109/08) By handing of the act of indictment or of the complaint the defendant gets notified about the setting of the court session, and also that the case may be heard and decided in his/her absence according to the provisions of Art. 269.
 Notifications of setting the court session
- Art. 255. (1) The injured or his/her heirs, as well as the damaged legal person shall be informed of the setting of the court session.
- (2) Besides the cases of Chapters Twenty Four, Twenty Five and Twenty Eight, within a seven- days period from the handing of the note, the injured or his/her heirs may make request to be constituted as private prosecutor or civil claimant, and the damaged legal person – as a civil claimant.
 Preparation of the court session
- Art. 256. (1) With regard to the preparation of the court session the reporting judge shall rule concerning:
1. hearing the case behind closed doors, involving of a reserve judge or court assessor, appointment of a defender, expert, interpreter or interpreter of information and performance of actions upon assignment;
 2. the restraining measure, without consideration of the matter of appearance of grounded assumption of committed crime;
 3. the measure of securitizing the civil claim, the confiscation, the fee and seizure of items in favour of the State;
 4. the order under which the case shall be tried;
 5. the persons who shall be summoned.
- (2) The disposition of the reporting judge under Para 1, item 2 and 3 shall be subject to appeal under the Chapter Twenty Two.
- (3) Regarding requests concerning the restraining measure detention in custody the reporting judge shall table the case in a closed session with the participation of the prosecutor, the defendant and his/her defender. When pronouncing the definition, the court shall consider if the grounds of amendment or cancellation of the restraining measure do appear, without consideration of the matter of appearance of a grounded assumption of committed crime.
- (4) The definition under Para 3 shall be subject of appeal under the order of Chapter Twenty Two.
 Obligations of the reporting judge
- Art. 257. The reporting judge shall rule to summon for the court session the persons stated in the list and shall take the needed measures to provide the defendant and his/her defender, the injured or his/her heirs and the damaged legal person opportunity to become acquainted with the materials to the case and make the needed extracts.
 Chapter twenty .
 COURT SESSION
 Section I.
 General Provisions
 Constancy of the body
- Art. 258. (1) The case shall be tried by one and the same body of the court from the beginning to the finalization of the court session.
- (2) In event some of the members of the body cannot continue to participate in the hearing of the case and is needed to be replaced, the court session shall start from the beginning.
 Uninterruptedness of the court session
- Art. 259. After hearing of the court statements of the parties and the defendant's last plea, the members of the court body shall not hear another case before rendering the sentence.
 Reserve Judges and Court Assessors
- Art. 260. (1) (1) Where the trying of the case requires continuous time, a reserve judge or court assessor may be enrolled.
- (2) The reserve judge or court assessor shall attend the court hearing from the beginning of the court proceedings with the rights of a member of the panel, save for the right to take part in the meetings and in the decision on the issues of the case.
- (3) Where a member of the court body is unable to continue his or her participation in the hearing of the case, the reserve judge shall replace him/her all the rights of a member of the body and the hearing of the case shall proceed.
 Measures to provide instructive effect of the court session
- Art. 261. The court shall take the needed measures to provide instructive effect of the court session.
 Setting Down of Court Session Outside the Court Premises
- Art. 262. Where necessary, the court session or separate court actions shall be conducted outside the court premises.
 Hearing the case behind closed doors
- Art. 263. (1) The hearing of the case or performance of concrete court procedural actions shall be performed behind closed doors, if is needed for the keeping the state secret and morality, as well as in the cases of Art. 123 Para 2, item 2.
- (2) The provision of the preceding Para may also be applied where necessary in order to prevent the disclosure of facts of the intimate relations of citizens.
- (3) (new – SG 109/08) A witness of minor age or a juvenile witness having suffered from a crime, may be questioned in camera.
- (4) (new – SG 109/08) In all cases, the sentence shall be announced in public.
 Persons who may attend the court session behind closed doors
- Art. 264. (1) A court session, held behind closed doors may be attended by the persons to whom the chairperson permits this, and by one person pointed by each of the defendants.
- (2) The provision of Para 1 shall not be applied, whereas a danger to announce state or another protected by a law secret exists, as well as in the cases of Art. 123, Para 2, item 2.
 Persons, who may not attend a court session

Art. 265. Court session may not be attended by:

1. persons who are under the age of eighteen, except they are summoned to the case or are witnesses;
2. armed persons, except the security persons.

Function of the chairperson of the body

Art. 266. (1) The Chairperson of the body shall govern the court session in such manner, that to provide the objective, fully and complete clarification of the circumstances on the case, as well as a precise observation of the law.

(2) The Chairperson of the body shall maintain the order in the court hall, and for gross offences may impose fee up to five hundred BGN to each of the persons attending.

(3) The rulings of the Chairperson shall be obligatory for everybody who is in the court hall.

(4) The dispositions of the Chairperson may be cancelled by the court body.

Removal from the court hall

Art. 267. (1) Where the defendant, the private prosecutor, the private complainant, the civil claimant or the civil defendant do not observe the rules of the court hearing, the Chairperson shall warn him/her that he/she shall be removed from the court room in case of committing a second violation. Should he/she continue to violate the rules, the court may remove him/her from the court hall for a definite period.

(2) After the removed returns to the court hall, the chairperson shall inform him/ her about the acts, which have been performed in his/her absence, by reading the court record.

(3) Where the prosecutor, the defender or the trustee, even after the warning of the Chairperson, continues to violate the order in the court hall, the court may defer the hearing of the case, if he/she cannot be replaced by another person in accordance with the relevant procedure, without prejudice to the case. The Chairperson shall inform the appropriate body about the breach.

(4) Where other persons violate the order, the Chairperson may remove them from the court hall.

Obligatory participation of the prosecutor

Art. 268. The participation of the prosecutor in the court session in cases of general nature shall be obligatory.

Defendant's attendance in the court session

Art. 269. (1) In cases of indictment in a grave crime, the defendant's attendance in the court session shall be obligatory.

(2) The court may also order the defendant to appear in cases in which his/her attendance is not obligatory, where this needed be for the detection of the objective truth.

(3) Where this shall not establish obstacle for the detection of the objective truth, the case may be tried in the absence of the defendant, if:

1. has not been found at the pointed by him/her address or has changed the latter, without notifying the respective body of this;

2. his/her residence in the country is not known and after a precise searching has not been found;

3. is outside the borders of the Republic of Bulgaria, and:

a) his/her residence is not known;

b) summoning for other reasons is impossible;

c) is regularly summoned and has not stated good reasons for his/her absence.

Ruling on the restraining measure and the other measures of procedural compulsion in the court procedure.

Art. 270. (1) The issue of amendment of the restraining measure may be tables in any time during the court procedure. A new request on the restraining measure before the respective instance may be done in event of change of the circumstances.

(2) The court shall rule by a definition in open session, without consideration of the existence of a grounded assumption of committed crime.

(3) Following the order of Para 1 and 2, the court shall also rule on the request concerning the prohibition to leave the borders of the Republic of Bulgaria and removal of the defendant from position.

(4) The definition under Para 2 and 3 shall be subject to appeal and protesting under the order of Chapter Twenty Two.

Section II.

Actions of Starting the Proceedings over the Case in Court Session

Deciding to start proceedings over the case

Art. 271. (1) After opening of the court session over the case, the Chairperson shall check of all the summoned persons do appear and some of them do not present – for what reasons.

(2) The court session shall be delayed, if do not present:

1. the prosecutor;

2. the defendant of his presence is obligatory, except the cases under Art. 269, Para 3;

3. the defender, if his/her replacement by another is impossible, without injuring the right of defence of the defendant.

(3) If the defenders are more than one, the absence of one of them shall not be a ground to cancel the case.

(4) If without good reasons the private complainant does not appear, the court shall apply Art. 24, Para 4, item 5.

(5) The court session shall not be cancelled, if the injured or his/her heirs have not been found at the pointed by them address of summoning in the country.

(6) The court shall rule on the made requests for constituting of new parties in the procedure. The definition by which admission of a private complainant is refused shall be subject of appeal under the order of Chapter Twenty Two.

(7) Whereas the private prosecutor or his/her trustee, the civil claimant or his/her trustee, the civil defendant or his/her trustee does not appear for good reasons, the court shall hear the case in his/her absence, and if he/she does not appear due to good reasons, the court session shall be cancelled, except it's continuation has been explicitly requested.

(8) The absence of a witness or of an expert shall not be a ground for cancellation of the court session and if the court finds that without them the circumstances of the case may be clarified.

(9) In all cases of absence of summoned persons the court shall hear the parties on the matter if the proceedings over the case shall start.

(10) In all cases of cancellation of the case it shall be set again within a reasonable period, but not later than three months.

(11) Whereas the case shall be cancelled due absence without good reason of a party, witness or expert, the court shall impose to them a fee up to five hundred BGN.

Check of the identity of the attending persons

Art. 272.(1) The Chairperson shall check the identity of the defendant asking him his/her three names, the date and place of birth, his/her nationality, citizenship, residence, education, marital status and unification civil number, as well as if he/she has been sentenced.

(2) In event of doubt about the identity of the defendant, the identification may be performed by photo-pictures or by testimony of citizens of detected identification, who know the person.

(3) Afterwards the Chairperson shall check the identity of the other persons present, as well as in the cases of Art. 123, Para 2, item 2 this shall be performed in a manner not admitting revealing the identity of he witness.

(4) The Chairperson shall check if the copies of the notes under Art, 254 and 255 have been handed.

Removal of witnesses from the court hall

Art. 273. (1) The witnesses shall be removed from the court hall before their interrogation, except these who participate in the procedure as private prosecutors, civil claimants or civil defendants.

(2) In the cases of Art. 123, Para 2, item 2 the witnesses shall not attend in the court hall.

Challenging

Art. 274. (1) The Chairperson shall clarify to the parties their right to challenge the members of the body, the prosecutor, the defenders and the court secretary, the experts, the interpreter and the interpreter of information, as well as the right to object against interrogation of some of the witnesses.

(2) After the court rules on the challenges and objections, the Chairperson shall clarify before the parties their rights as provided in this Code.

New requests

Art. 275. (1) The parties may make new requests regarding the evidence and the order of the court investigation.

(2) The court shall rule on the made requests, after it has heard the parties.

Section III.

Court Investigation

Guidance of court investigation

Art. 276. (1) The court investigation shall be governed by the Chairperson of the body by way of reading the act of indictment by the prosecutor in cases of general nature or by way of reading the private complaint by the private complainant in cases of private nature.

(2) Where a civil claim has been submitted, it shall be read by the civil claimant.

(3) The Chairperson shall ask the defendant if he/she understands what he/she is accused of.

Interrogation of the defendant

Art. 277. (1) The Chairperson shall invite the defendant to give explanations regarding the indictment.

(2) The defendant may give explanations at the each moment of the court investigation.

(3) The defendant shall be questioned firstly by the prosecutor or by the private complainant, the private prosecutor and his/her trustee, the other defendants and their defenders and by the defender of the defendant.

(4) The Chairperson and the other members of the court body may raise questions to the defendant after the questions of the parties are finished.

Interrogation of the defendant in the presence of other defendants

Art. 278. (1) Interrogation of the defendant may be conducted in the presence of other defendants where this is needed for the detection of the objective truth.

(2) After defender's return in the court hall, the Chairperson shall make him/her acquainted with the explanations given in his/her absence, by way of reading the court record.

Reading the explanations of the accused or of the defendant

Art. 279. (1) The explanations of an accused or of a defendant, given in the same case in the pre-trial procedure before a judge or before another court body, shall be read if:

1. the person had died and the proceedings are started regarding the other defendants;

2. the case is tried in the absence of the defendant;

3. between the explanations given in the pre-trial procedure and in the court investigation a significant contradiction exists;

4. the defendant refuses to give explanations or states that he/she does not remember something.

(2) Usage of audio-record or video-record shall not be admitted before the explanations of the defendant have been read.

Interrogation of witnesses

Art. 280. (1) Firstly the witnesses demanded by the indictment shall be interrogated and afterwards – other witnesses. Where needed, the court may change this order.

(2) Witnesses shall be questioned following the order of Art. 277, Para 3 and 4. The party, who has demanded the witness, shall put questions before the other parties.

(3) The interrogated witnesses may not leave the court hall before the closure of the court investigation, except with the permission of the court, taken after hearing the parties. In the cases of Art. 123, Para 2, item 2 the witness shall stay at disposal of the court in an appropriate room outside the court hall.

(4) After the witnesses of minor age give their testimony, they shall be dismissed from the court room, except court rules otherwise.

(5) In the cases of Art. 123, Para 2, item 2 the interrogation of the witnesses shall be conducted in a manner not allowing detection of their identity.

Reading the testimony of a witness

Art. 281. (1) The testimony of a witness, given under the same case before a judge on the pre-trial procedure or before another court body shall be read, where:

1. between them and the testimony given in the court investigation exists a significant contradiction;

2. the witness refuses to give testimony or states that he/she does not remember something;

3. the regularly summoned witness cannot appear before the court for a continuous or unlimited period and is needed or is impossible to interrogate him/her under assignment.

4. the witness cannot be found to be summoned or has died;

5. the witness do not appear and the parties agree on this.

(2) Under the order of Para 1 the explanations of an accused given under the same case, who is interrogated on the grounds of Art. 119, Para 1, item 1.

(3) Under the conditions of Para 1 the testimony of a witness, given before a body of the pre-trial procedure may be read with the consent of the defendant and his/her defender, the civil claimant, the private prosecutor and their trustees. For this court investigation action, upon a request of the defendant, the court shall appoint for him a defender if he/she has not such and shall clarify that the read testimony may be used in rendering the sentence.

(4) Upon the terms of Para 1, items 1-5 the testimony of a witness given before a body of the pre-trial procedure may be read upon request of the defendant or his/her defender, if their request under Art. 223, Para 4 has been rejected.

(5) Usage of audio-record and video-record shall not be admitted, before the testimony of the witness has not been read.

(6) Whereas the witness has been interrogated under assignment, the record of interrogation shall be read.

Interrogation of an expert

Art. 282. (1) The expert shall be questioned after his/her conclusion has been read.

(2) The questions shall be asked following the order as established in Art. 277, Para 3 and 4.

(3) Interrogation of an expert may be not conducted if he/she is not present and the parties agree on this.

Reading the records and other documents

Art. 283. The court shall read the records of the records of view and certification, of search and seizure, of investigation experiment, of identification and recognition of people and things, and the rest of the instruments attached to the case file, if they contain facts, which are important for the clarification of the circumstances under the case.

Submission of the material evidence

Art. 284. The material evidence shall be produced to the parties and, where necessary, to the expert or to the witnesses either.

Inspection

Art. 285. The inspection shall be taken by the entire court body and, where necessary, in the presence of the expert and witnesses.

Concluding the court investigation

Art. 286. (1) When all investigation proceedings have been done, the Chairperson shall ask the parties whether they have any requests for carrying out further investigation proceedings necessary for objective, comprehensive and thorough clarification of the circumstances under the case.

(2) Should the parties lay no claims or should the requests they have laid be unfounded, the presiding judge shall adjudge the court investigating concluded.

Amendment of the indictment

Art. 287. (1) The prosecutor shall lay a new indictment, where during the court investigation he/she has found grounds for material amendment of the circumstantial part of the indictment or for applying a law for an offence of more severe punishment.

(2) The court shall discontinue the court proceedings and shall forward the case to the respective prosecutor, if the new indictment is for an offence, falling within the jurisdiction of a higher or of a military court.

(3) Except the cases under Para 2, the court shall cancel the court session if the parties require to prepare a new indictment.

(4) Where the circumstantial part of the indictment has been significantly amended, the provisions of Art. 279 shall not apply to explanations given before the bringing of the new indictment.

(5) Where during the court investigation the prosecutor or the private prosecutor finds that it pertains to an offence, which is prosecuted on a complaint of the injured, and the penal proceedings have been instituted before the elapse of the period under Art. 81, Para 3, the prosecutor or the private prosecutor may require pursuant to Art. 48 that the court rules together with the sentence also on the offence, which is prosecuted on a complaint of the injured.

(6) Where the penal proceedings have been instituted on a complaint of the injured and during the court investigation is established significant amendment of the circumstantial part of the indictment, the private complainant may bring a new indictment, if the period under Art. 81, Para 3 has not expired. In such case, the court shall defer the court hearing, if the defendant or his or her counsel demands to prepare for the new charge.

(7) Where the penal procedure has been instituted on a complaint of the injured and during the court investigation it is established that the crime is of general nature, the court shall discontinue the penal proceedings and shall forward the case to the respective prosecutor.

Discontinuation of the court procedure and forwarding the case to the respective prosecutor

Art. 288. The court shall discontinue the court procedure and forward the case to the respective prosecutor, if:

1. a removable significant breach of the procedural rules has been admitted, and latter leads to limitation of the procedural rights of the accused or his/her defender;

2. the court investigation finds, that the crime is subject to consideration by a higher or a military court.

Discontinuation of the penal procedure in a court session

Art. 289. (1) The court shall discontinue the penal procedure in the cases of Art. 24, Para 1, items 2-10 and Para 4.

(2) Whereas the grounds of Art. 24, Para 1, item 2 and 3 are detected in a court session and the defendant makes a request to continue the procedure, the court shall pronounce a sentence.

(3) Whereas discontinuing the penal procedure, the court shall rule on the material evidence, shall cancel the imposed to the defendant measures of

procedural compulsion, and on the measure of securitizing the civil claim if the ground for its imposition has fallen out.

(4) The definition shall be subject to appeal and protest under the order of Chapter Twenty One.

Suspension of the penal procedure in a court session

Art. 290. (1) The court shall suspend the penal procedure in the cases of Art. 25 and 26.

(2) The definition shall be subject to appeal and protest under the order of Chapter Twenty Two.

Section IV.

Court Debates

Order of court debates

Art. 291. (1) After the finalization of the court investigation the court shall start hearing the court debates.

(2) The court debates shall start with a statement of the prosecutor, respectively of the private complainant. Afterwards the word shall be given consequently to the private prosecutor and his/her trustee, to the civil claimant and his/her trustee, to the civil defendant and his/her trustee, to the defender and to the defendant.

Data which may be referred to at the court debates

Art. 292. The parties who participate in the court debates may refer only to the evidence which has been collected and checked in the court investigation, under the order as established by this Code.

Statement of the prosecutor that he/she does not maintain the indictment

Art. 293. The statement of the prosecutor that the penal procedure shall be discontinued or an acquittal sentence shall be pronounced, does not discharge the court from the obligation to pronounce under inner conviction.

Revival of the court investigation

Art. 294. (1) The parties may require the performance of new court investigation actions.

(2) Where the court finds that the request is grounded, shall discontinue the court debates, renew the court investigation and after the performance of the new court investigation actions again start hearing the court debates.

Right of counterstatement

Art. 295. (1) Each of the parties shall have the right to make a counterstatement in connection with the statements and arguments of the other parties.

(2) The defender and the defendant shall have the right of final counterstatement.

Prohibition of time limitation of the court debates

Art. 296. (1) The court may not limit the time of the court debates.

(2) The Chairperson of the body may interrupt the parties only if they obviously depart to issues which are irrelevant to the case.

Section V.

Last plea of the Defendant

Providing the defendant with last plea

Art. 297. (1) After the closure of the court debates the Chairperson shall give last plea to the defendant.

(2) The court shall provide the defendant with the complete opportunity to express in his/her last plea his/her final attitude to the indictment.

(3) During the last plea the defendant may not be a subject to interrogation.

Prohibition of time limitation of the last plea

Art. 298. (1) The court may not limit the time of the last plea of the defendant.

(2) The Chairperson may interrupt the defendant only if he/she obviously departs to issues which are irrelevant to the case.

Renewal of the court investigation

Art. 299. If in his/her last plea the defendant states new data of importance for the case, the court shall renew the court investigation and again hear the debates of the parties and the last plea of the defendant.

Section VI.

Pronouncing the Sentence

Adjourning of the court for deliberation

Art. 300. After the court hears the last plea of the defendant, the court shall adjourn for a confidential deliberation in order to pronounce the sentence.

Issues which the court shall decide when pronouncing the sentence

Art. 301. (1) When pronouncing the sentence, the court shall consider and decide the following issues:

1. if a perpetrated deed exists, if it is perpetrated by the defendant and if it is committed guiltily;

2. if the deed constitutes a crime and its legal qualification;

3. if the defendant is a subject to punishment, what punishment shall be determined, and in the cases of Art. 23 – 25 and 27 of the Penal Code what total punishment shall be imposed;

4. if the grounds of discharging from penal liability under Art. 61, Para 1 and Art. 78a, Para 1 of the Penal Code appear;

5. if the defendant shall be discharged from serving the punishment, what shall be the probation period in event of suspended sentencing, and in the cases of Art. 64, Para 1 of the Penal Code – what instructive measure shall be imposed;

6. (suppl. - SG 27/09, in force from 01.06.2009) what initial regime and type of imprisonment institution for serving the punishment imprisonment shall be determined;

7. whom the instructive work with the defendant shall be assigned to, in the cases of suspended sentence;

8. (amend. – SG 109/08) if the conditions under Art. 68 – 69a and Art. 70, par. 7 of the Penal Code appear and what punishment the defendant shall serve;

9. if the terms of Art. 53 of the Penal Code appear;

10. if the civil claim shall be recognized and in what amount;

12. what shall happen with the material evidence;

12. whom the expenditures for the case shall be assigned.

(2) Where the defendant is accused in several crimes and several persons have participated in the commitment of one or several crimes, the court shall also consider the issues under Para 1 for each person and for each crime separately.

(3) If the court omits to pronounce on the civil claim, the court shall pronounce on it by an additional sentence within the period of appeal.

Renewal of the court investigation

Art. 302. Whereas at the deliberation court finds that the circumstances under the case are not enough clear, the court shall renew the court investigation.

Acknowledging the defendant guilty

Art. 303. (1) The sentence may not stay on assumptions.

(2) The court shall acknowledge the defendant guilty if the indictment is proved in a doubtless manner.

Acknowledging the defendant not guilty

Art. 304. The court shall acknowledge the defendant not guilty if it is not found that the deed is perpetrated, that is perpetrated by the defendant or is perpetrated by him/her guilty, as well as if the deed does not construct a crime.

Contents of the sentence

Art. 305. (1) The sentence shall be pronounced in the name of the people.

(2) In the introducing part of the sentence shall be stated: the date of its issuance, the court and the names of the members of the body; of the court secretary and of the prosecutor; the case under which the sentence is pronounced; the name of the defendant and the crime for which the indictment is brought.

(3) In the reasons shall be stated the detected circumstances, on the base of which evidence materials and which are the juridical reasons of the taken decision. In event of contradiction in the evidence materials reasons why one of them are recognized and other are rejected shall be stated;

(4) In the operative part data about the identity of the defendant and the decision of the court on the issues as enlisted in Art. 301 shall be stated. In it shall also be stated the court, before the sentence may be appealed and within what period.

(5) In the cases of Art. 24, Para 1, item 2 and 3 in connection with Art. 289, Para 2, the court shall acknowledge the defendant guilty and apply the respective law of amnesty or the limitation period rules, and in the cases of Art. 61, Para 2, sent. One of the Penal Code – shall acknowledge the defendant guilty, discharge him/her from penal liability and shall impose an instructive measure, and in the cases of Art. 78a of the Penal Code – shall acknowledge the defendant guilty, discharge him/her from penal liability and impose an administrative punishment.

(6) The acquittal sentence may not contain expressions, which put under doubt the innocence of the acquitted.

Issues on which the court may also rule by a definition

Art. 306. (1) The court may rule by a definition also on the issues regarding:

1. determination of a total punishment on the grounds of Art. 25, 27 and the application of Art. 53 of the Penal Code.
2. (suppl. - SG 27/09, in force from 01.06.2009) the initial regime and type of imprisonment institution for serving the punishment imprisonment, if omitted this in the sentence;
3. of the terms under Art. 68, 69, 69a and Art. 70, Para 7 of the Penal Code present and what punishment the defendant shall serve;
4. the material evidence and the expenditures for the case.

(2) In the cases under Para 1, items 1-3 the court shall pronounce in a court session with summoning of the sentenced.

- (3) The definition under Para 1, item 1-3 may be appealed and protested under the order of Chapter Twenty One, and under Para 1 item 4 – under the order of Chapter Twenty Two

Pronouncing on the civil claim

Art. 307. The court shall pronounce on the civil claim also if acknowledges that the defendant not guilty, the penal liability is lapsed or the defendant shall be discharged from penal liability.

Period of stating the reasons of the sentence

Art. 308. (1) The reasons may also be made out after the announcement of the sentence, but not later than fifteen days.

- (2) Under cases constituting factual or juridical intricacy, the reasons may also be made out after the announcement of the sentence, but not later than 30 days.

Pronouncing on the restraining measure and on the measure of securitizing the civil claim, the fee and the confiscation.

Art. 309. (1) After the sentences is pronounced, the court shall also pronounce on the restraining measure.

- (2) If the defendant is discharged from penal liability, is sentenced by a suspended sentence, is sentenced to a punishment lighter than imprisonment, or is acquitted, the restraining measure shall be cancelled or replaced by the lightest stipulated by the law. In this case the detained defendant shall be set free until in the court hall.

- (3) Where the defendant is acquitted, the court shall pronounce also on the measure of securitizing the civil claim, the fee and the confiscation.

- (4) The definition under Para 2 and 3 shall be subject to appeal and protest under the order of Chapter Twenty Two.

Signing and announcement of the sentence

Art. 310. (1) The sentence shall be announced by the Chairman immediately, after it is signed by all of the members of the court body.

- (2) Where the making out the reasons has been delayed, the chairperson shall announce only the operational part, signed by all of the members of the court body. The signing of the reasons by the court assessors shall be obligatory where the sentence is signed under dissenting opinion.
- (3) The dissenting opinion shall be marked at the signing of the sentence, respectively the operational part, and shall be stated in written form within the period under Art. 308.

- (4) Where a punishment imprisonment is imposed to a citizen of another state, with which the Republic of Bulgaria has an agreement of transfer of sentenced persons, the court shall notify the sentenced about the opportunity to require service of the imposed punishment in the state which he/she is a citizen of.

Section VII.

Record of the Court Session

Content of the record

Art. 311. (1) In the record of court session, apart from the data under Art. 129, Para 1, stated shall be:

1. persons who did not appear before the court and reasons of absence;
 2. data of the personality of the defendant, the date on which a copy of the act of indictment or of the complaint with the disposition;
 3. explanations of the defendant, the testimony of the witnesses and the answers of the experts;
 4. all rulings of the chairperson and definitions of the court;
 5. the read documents and records, as well as the used cinema-records, audio-records and video-records;
 6. brief content of the court debates and the last plea of the defendant;
 7. the announcement of the sentence under the respective order and the clarifications by the Chairperson concerning the order and period to appeal it.
- (2) The record of the court session shall be signed by the Chairperson and by the court secretary.
- (3) The court may rule also to prepare audio-record and video-record of the court session upon observation of the provisions of Art. 237- 239.

Corrections and supplementations to the record

Art. 312. (1) The parties shall have the right to make in written requests for corrections and supplementations.

- (2) The requests shall be considered by the Chairperson, and in case of refusal to accept them from the Chairperson – by the court body in a closed session.

Chapter twenty one.

APPELLATE PROCEDURE

Section I.

General Provisions

Subject to appellate check

Art. 313. The appellate instance shall check the correctness of the sentence not entered into effect.

Limits of the appellate check

- Art. 314. (1) The appellate instance shall check completely the correctness of the sentence, not depending on the grounds as stated by the parties.
- (2) The appellate instance shall also revoke or amend the sentence in its not appealed part, as well as regarding the persons who did not submit appeal, if grounds for this appear.

Admissible evidence before the appellate instance

Art. 315. Before the appellate instance all and every evidence, which may be collected following the stipulated by the procedure of this Code, shall be admissible.

Finding of new factual situations

Art. 316. The appellate court may find new factual situations.

Application of the rules of the first instance

Art. 317. As far as in this chapter no special rules are established, the rules of the procedure before the first instance shall be applied.

Section II.

Instituting the Procedure before the Appellate Instance

Right of appeal and of protest

Art. 318. (1) The procedure before the appellate instance shall be instituted upon a protest of the prosecutor or upon an appeal of the parties.

(2) The prosecutor shall submit a protest, if finds that the pronounced sentence is not correct.

- (3) The defendant may appeal the sentence against all its parts. He/she may also appeal only against the reasons and grounds for his/her acquittal.
- (4) The private complainant and the private prosecutor may appeal the sentence if their rights and legitimate interests have been injured. They cannot appeal the sentence if it has been pronounced in accordance with the requests made by them.
- (5) The civil claimant and the civil defendant may appeal the sentence only against the civil claim, if their rights and legitimate interests have been injured.
- (6) Appeals may be also submitted by the defenders and the trustees.

Terms and procedure of submitting the appeal and the protest

Art. 319. (1) The appeal and the protest may be submitted within fifteen-days period from the announcement of the sentence.

(2) The appeal and the protest shall be submitted through the court which pronounced the sentence.

Form and contents of the appeal and the protest

Art. 320. (1) The appeal and the protest shall be in written. In them shall be stated: the court to which they are submitted and the request made. In the appeal and the protest shall be stated the unexplained circumstances and evidence, which shall be collected and checked by the court of appeal.

(2) The appeal and the protest shall be signed by the sender.

- (3) Before the initiation of the proceeding on the case in a court session, the parties may make additional written statements for supplementation of the arguments, as stated in the appeal or the protest.
- (4) To the appeal and the protest copies of them shall be attached in accordance with the number of the interested parties.
- (5) Whereas are involved to bear the liability several defendants as accessories to the crime, each of them may join the already submitted appeal and make orally or in written a request for this before the initiation of the proceedings on the case.

Notification of submitted appeal or protest

Art. 321. The court through which the appeal or the protest have been submitted, shall immediately notify of this the interested parties by way of sending

copies of them.

Written objections of the parties

Art. 322. The parties may submit written objections against the submitted appeal or protest before initiation of the proceedings on the case before the appellate instance.

Remand of the appeal or the protest

Art. 323. A judge of the first instance court shall remand the appeal or the protest, where:

1. They do not meet the requirements under Art. 320, Para 1 and 2, if within seven-day period from the invitation, the omission or the discrepancy has not been removed;
2. They were not lodged within the term under Art. 319, Para 1;
3. They were not lodged by a person entitled to appeal or protest;

(2) The referring back of the appeal and protest is subject to appeal according to the procedure of this Chapter.

Withdrawal of the appeal and the protest

Art. 324. (1) The appeal and the protest may be withdrawn by the appellant and by the prosecutor, who takes part in the appellate instance hearing until the commencement of the court investigation, and where there is no court investigation, until the commencement of the court debates. The protest may also be withdrawn by the prosecutor, who has lodged it until the institution of the proceedings before the appellate instance.

(2) The defender may not withdraw his/her appeal without the defendant's consent, and the trustees – without the their principals' consent.

Forwarding the case to the appellate instance

Art. 325. The case, together with the submitted appeals, protests and objections shall be forwarded to the appellate instance after the elapse of the period under Art. 319, Para 1.

Ruling of the appellate court on the withdrawal of the appeal and the protest

Art. 326. In the cases of Art. 324 the appellate court shall rule in a closed session.

Admission of evidence

Art. 327. (1) Admission of the requested evidence shall be decided in a closed session by the court body which shall hear the case.

(2) The court shall rule on the need of interrogation of the defendant.

(3) The witnesses and the experts questioned in the court of first instance shall be admitted to the appellate instance, if the court assumes that their second questioning is necessary or where their evidence or opinions will be related to newly discovered circumstances.

(4) New witnesses and experts shall be admitted, where the court deems that their evidence or opinions will be of importance for the correct settlement of the case.

(5) The parties may produce new written and material evidence until initiation of the proceedings on the case.

Section III.

Rendering a Decision

Summoning

Art. 328. The parties and the rest of the persons, which shall take part in the appellate proceedings, shall be subpoenaed in accordance with the procedure according to Articles 178 – 182, except if the date of the court hearing has been announced to them by the first instance.

Participation of parties in court session

Art. 329. (1) Participation of the prosecutor in the cases of general nature shall be obligatory.

(2) The non-appearance of the rest of the parties without valid reasons shall not be an obstacle to the hearing of the case.

Actions on starting proceeding over the case

Art. 330. Following the opening of the court session, the court shall hear the parties concerning the start of the proceedings with the case and shall rule on the made requests, remarks and objections.

Report of the reporting judge

Art. 331. (1) The appeal and the protest shall be heard in a court session.

(2) The hearing of the case shall start with a report of the reporting judge.

(3) In the report the essence of the sentence and the content of the appeals, protests and objections, as well as of the admitted evidence shall be stated.

Court investigation

Art. 332. During the court investigation the court may use all methods of gathering and examination of evidence.

Court debates and last plea of the defendant

Art. 333. (1) The court debates shall state reasons in relation to the pronounced sentence and about the essence of the indictment in accordance with the procedure under Art. 291, Para 2.

(2) After the conclusion of the court pleadings, the chairperson- judge shall call upon the defendant to say his/her last plea.

Powers of the appellate court

Art. 334. The appellate court may:

1. to cancel the sentence and to remand the case for a new hearing to the prosecutor or to the first instance court.

2. to cancel the first-instance sentence and to render a new sentence;

3. to amend the first-instance sentence;

4. to cancel the sentence and to discontinue the penal procedure in the cases of Art. 224, Para 1, item 2-8 and 10 and Para 4, as well as if the first-instance court did not exercise its power under Art. 369, Para 4;

5. to suspend the penal procedure in the cases of Art. 25;

6. to confirm the first-instance sentence.

Cancellation of the sentence and remand of the case for a new hearing

Art. 335. (1) The appellate court shall cancel the sentence and remand the case for a new consideration by the prosecutor, where:

1. in the pre-trial procedure a significant procedural breach has been admitted, which led to limitation of the procedural rights of the defendant and his/her defender;

2. is found that the crime for which has been instituted a procedure upon complaint of the private complainant is of general nature.

(2) The appellate court shall cancel the sentence and remand the case to the first-instance in the cases of Art. 348, Para 3, except if the court on his own may remove the admitted breaches or they are irremovable at the new hearing of the case.

(3) The appellate court may not cancel the sentence under Para 1, item 2 or to cancel the acquittal sentence under Para 1 and Para 2, if there is no relevant protest by the prosecutor, respective appeal by the private complainant or the private prosecutor.

Cancellation of the sentence and rendering of a new sentence

Art. 336. (1) The appellate court shall cancel the sentence and render a new sentence, where it is necessary to:

1. apply a law of more severe punishable crime, of an indictment in such crime existed before the first instance;

2. to convict an acquitted defendant, if the relevant indictment existed before the first instance;

3. acquit a defendant, convicted by the first-instance court.

(2) The powers under Para 1, item 1 and 2 shall be exercised, if a relevant protest by the prosecutor, respective complaint by the private complainant or the private prosecutor exist.

Amendment of the first-instance sentence

Art. 337. (1) The appellate court may:

1. mitigate the punishment;

2. apply a law for same, equal or for a crime of lighter punishment;

3. dismiss the defendant from serving of the punishment in accordance to Art. 64, Para 1 or Art. 66 of the Penal Code;

4. discharge the defendant from criminal liability in accordance to Art. 78 and 78a of the Penal Code.

(2) Where there is a relevant protest by the prosecutor, respective complaint by the private complainant or the private prosecutor, the appellate court may:

1. increase the punishment;

2. cancel the dismissal from serving the punishment under Art. 64, Para 1 or Art. 66 of the Penal Code.

(3) The appellate instance may also render only concerning the reasons and the grounds of the acquittal of the defendant or on the civil claim.

Confirmation of the sentence

Art. 338. The appellate court shall confirm the sentence, where finds, that there is no grounds for its cancellation or amendment.

Contents of the decision of the appellate instance

Art. 339. (1) In its decision, the appellate instance shall state: upon whose appeal or protest the instance is pronouncing, the main content of the sentence, appeal and the protest, a brief content of the arguments as stated by the parties at the court session and the decision on the appeal or the protest.

(2) Whereas it confirms the sentence, the appellate instance shall point the grounds, on which it does not accept the arguments stated to support the appeal or the protest.

(3) Whereas the appellate instance renders a new sentence, the requirements of Art. 305 shall be applied.

Period to prepare and announce the decision

Art. 340. (1) The decision of the appellate instance together with the reasons shall be made out not later than thirty days from the court session, at which the case has been announced for settlement.

(2) The decision together with the reasons shall be announced in a court session with summoning of the parties or they shall be notified in written that it has been made out.

Chapter twenty two.

CHECK OF THE DEFINITIONS AND DISPOSITIONS PROCEDURE BEFORE THE APPELLATE INSTANCE

Acts which shall be subject to check

Art. 341. (1) The definitions and the dispositions by which the penal prosecution is discontinued, as well as the definitions under Art. 306, Para 1, items 1 - 3, Art. 431, 436 and 457, Para 2 shall be checked under the order of the Chapter Twenty One.

(2) Under the order of this chapter shall be checked the decisions and dispositions for which it is explicitly provided for in this Code.

(3) All other definitions and dispositions shall not be subject to a separate from the sentence check by the appellate instance.

Term of submission of private appeal and private protest and objections against them

Art. 342. (1) The private appeal and the private protest against an act under Art. 341, Para 2 shall be submitted within a seven –days period from it's rendering, and if it has been rendered in a closed session – within seven days period from the handing of the copy.

(2) The defendant shall be notified of the submitted private protest, and he/she may within seven days period from the notification make an objection.

Effect of the private complaint and of the private protest

Art. 343. The private appeal and the private protest shall not suspend the procedure on the case and the execution of the definition, except the first or the appellate instance rules otherwise.

Cancellation of the definition by the court which has rendered it

Art. 344. The court which has rendered the definition may by itself cancel it or amend it in a closed session. Otherwise the court shall forward the case together with the submitted private appeal or private protest to the appellate instance.

Procedure of consideration of the private appeal or the private protest

Art. 345. (1) The appellate instance shall consider the private appeal and the private protest in a closed session within a seven days period, and where finds necessary – in a session with summoning the parties, which session shall be scheduled within a judicious period, but not more than one month.

(2) Where the appellate instance cancels the definition, it shall rule on the issues of the private appeal and of the private protest.

(3) As far as no special rules are established in this chapter, the rules of the procedure of Chapter Twenty One shall be applied.

Chapter twenty three.

CASSATION PROCEDURE

Subject of the cassation appeal

Art. 346. Under the cassation procedure may be appealed:

1. the decisions and the new sentences of the appellate instance, except these by which the perpetrator has been discharged from criminal liability by imposing administrative punishment on the grounds of Art. 78 of the Penal Code and these under Art. 341, item 1;
2. the new sentences, rendered by the district court as an appellate instance, except these by which the perpetrator has been discharged from penal liability by imposing administrative punishment on the grounds of Art. 78a of the Penal Code;
3. the definitions of the district court and of the appellate court under Art. 306, Para 1, rendered in the cases of a new sentence;
4. the decisions of the district or the appellate court, rendered for the first time at the appellate procedure, by which the penal procedure is discontinued, suspended or its running is blocked.

Limitations of the cassation check

Art. 347. (1) The cassation instance shall check the sentence or the decision only at the appealed part and also with regard to the appellants, and shall pronounce within two months period.

(2) The cassation instance shall cancel the sentence with regard to the defendants, who have not lodged an appeal either, should the grounds therefore are in their favour.

Cassation grounds

Art. 348. (1) The sentence and the definition shall be subject to cancellation or amendment under cassation procedure:

1. whereas the law is offended;
2. whereas a significant procedural breach has been admitted;
3. whereas the imposed penalty is obviously unjust.

(2) Offence of the law appears where it has been applied incorrectly or the law which shall be applied has not been applied.

(3) The breach of procedural rules shall be significant if:

1. has led to limitation of the procedural rights of the accused or of the other parties if has not been removed;
2. there is no reasons or a record of a court session of the first instance or the appellate instance;
3. the sentence or the decision have been rendered by a non-lawful body;
4. the confidentiality of the deliberation has been broken during the rendering of the sentence or the decision.

(4) The procedural breach which cannot be removed does not establish ground for cancellation of the sentence.

(5) The punishment is obviously unjust, if:

1. obviously is not relevant to the social danger of the deed and the perpetrator, to the extenuating and the aggravating the liability circumstances, as well as to the purposes of Art. 36 of the Penal Code;
2. incorrectly has been applied or incorrectly has been refused to apply suspended conviction.

Right of cassation appeal or of protest

Art. 349. (1) The procedure before the cassation instance shall be instituted upon protest of the prosecutor or upon appeal of the other parties.

(2) The prosecutor may submit cassation protest as in favour of the indictment as in favour of the defendant.

(3) The rest of the parties may submit cassation appeal where their rights and legitimate interest have been injured.

Term and order of submission of the cassation appeal and the protest

Art. 350. (1) The appeal and the protest against the sentence of the appellate court shall be submitted within the terms of Art. 319, Para 1.

(2) The appeal and the protest against the decision of the appellate court shall be submitted within fifteen-days period from its announcement under the order of Art. 340, Para 2.

(3) The appeal and the protest shall be submitted through the court which has rendered the appealed sentence of decision.

(4) To the appeal and the protest copies of it shall be attached in accordance to the number of the interested parties.

Contents of the cassation appeal and protest.

Art. 351. (1) In the cassation appeal and in the protest shall be stated: the submitting person; the sentence, the decision and the appealed part, the essence of the cassation grounds and the data which supports it; the request made.

(2) The appeal and the protest shall be signed by the submitting person.

(3) An objection against the submitted appeal and protest, as well as a supplementation to them may be done in written before the start of the proceedings on the case.

(4) The appeal and the protest shall be returned back by a judge of the appellate court through which they are submitted, if:

1. they do not meet the requirements under Para 1 and 2, if within the granted by the judge of the appellate court seven-days period the omission or the discrepancy are not removed;
2. they are not submitted within the term, or are submitted by a person who has no right of appeal or protest;
3. they shall not be subject to review under cassation procedure.

(5) The return of the appeal and the protest shall be subject to appeal before the Supreme Cassation Court, which shall render judgment in closed session.

Withdrawal of the appeal and the protest

Art. 352. (1) Until the start of the proceedings on the case with the court session, the appeal and the protest for review may be withdrawn by the parties

having lodged them.

(2) The defender may withdraw the appeal only with the consent of the sentences, and the trustee – with the consent of his/her principal.

Procedure of consideration of the cassation appeal and the protest

Art. 353. (1) The cassation appeal and the protest shall be considered in a court session with summoning the parties.

(2) Participation of a prosecutor shall be obligatory

(3) Non-appearance of the other parties without good reasons shall not establish obstacle to try the case. The case shall be tried in the absence of the party, if the party has not been found at the pointed address.

(4) In the report of the reporting judge the circumstances under the case, the content appealed sentence or decision and the complaints against them of he shall be stated.

(5) Court investigation shall not be conducted.

(6) The parties shall be heard following an order as established by the court.

Powers of the cassation instance at rendering a decision

Art. 354. (1) After trying the submitted appeal or protest, the cassation instance may:

1. remain the sentence or the decision;
2. cancel the sentence or the decision and to discontinue or suspend the penal procedure in the stipulated by the law cases, and in the case of Art. 24, Para 1, item 1 – to acquit the defendant;
3. to amend the sentence or the decision;
4. to cancel the sentence or the decision - as whole or partially, and to remand the case for a new trying.

(2) The cassation instance shall amend the sentence, where it is indispensable:

1. To mitigate the punishment;
2. To apply a law for the same or more lightly punishable offence;
3. To apply Art. 64, Para 1 or Art. 66 of the Penal Code;
4. To apply a law for more heavily punishable offence, which does not require aggravation of the punishment, in case there had been an accusation of such offence in the first instance.
5. to recognise or dismiss the civil claim, where there is an offence of the law, to increase or reduce the granted compensation for general damages or to discontinue the proceedings with regard to the civil claim.

(3) The cassation instance shall cancel the sentence entirely or partially and shall remand the case back for new trial, where it is indispensable:

1. to impose a heavier punishment;
 2. to remove caused material procedural breaches;
 3. to remove violations of the material law caused upon pronouncement of the of acquittal sentence.
- (4) The decision of the cassation instance shall be drafted in accordance with the rules of Art. 339, Para 1 and 2 and shall be pronounced within not later than thirty days from the court hearing. This decision shall not be subject to appeal.

Mandatory instructions of the cassation instance and terms under which the status of the defendant may be aggravated

Art. 355. (1) Upon the review of the case, the instructions of the cassation instance shall be mandatory with regard to:

1. the stage from which the review of the case must proceed;
 2. the application of the law, save in the cases where other states of facts have been established;
 3. removal of the admitted significant breaches of procedural rules.
- (2) The court, to which the case has been remanded for a new hearing, may impose a heavier punishment or apply an act for a more heavily punishable offence, where the sentence has been revoked on a protest of the prosecutor, an appeal of the private complainant or of the private prosecutor on a request for aggravating the defendant's condition.
- (3) The court, to which the case has been remanded for a review, may convict the found "not guilty" defendant, in case the sentence had been cancelled on a protest of the prosecutor, a complain of the private complainant or a request of the private prosecutor owing to a demand for conviction.

Part five.

SPECIAL RULES

Chapter twenty four.

FAST PROCEDURE

Cases under which the fast procedure shall be performed

Art. 356. (1) Fast procedure shall be conducted, if:

1. the person has been detained at or directly after the commitment of the crime;
 2. there are, on the body or on the clothes of the person, obvious vestiges of the crime
 3. the person appeared before the respective bodies of the Ministry of Interior, the investigating body or the prosecutor with a confession of the committed crime;
 4. a witness points the person who has perpetrated the crime.
- (2) The investigating body shall notify the prosecutor immediately.

(3) The fast procedure shall be considered instituted with the drafting of the act of the first action of investigation.

(4) The person about who a grounded assumption exists that has perpetrated the crime, shall be considered accused from the moment of the drafting of the act of the first action of investigation against him/her.

(5) The investigating body shall finish the investigation within a period of seven days from the establishment of the respective ground under Para 1, and upon the submission of the investigation the accused shall not be summoned.

Actions of the prosecutor

Art. 357. (1) The supervising prosecutor shall rule within three days period from the finalization of the investigation and shall:

1. discontinue the penal procedure on the grounds of Art. 24, Para 1;
2. suspend the penal procedure under the conditions of Art. 25 and 26;
3. bring indictment by act of indictment and shall table the case for trial at the court;
4. shall table the case with a decree of discharging from penal liability with imposition of administrative penalty or with a proposal for agreement on the settlement of the case;
5. render additional investigation to collect new evidence or to remove admitted significant breaches of procedural rules and shall determine a period not longer than seven days.

(2) Where the case constructs factual or legal intricacy, the supervising prosecutor shall rule to conduct investigation under the general order.

(3) In the cases of Para 1, item 5, the supervising prosecutor may by hin/herself perform additional actions of investigation within a shortest term, but not later than seven days.

Actions of the reporting judge

Art. 358. (1) In the cases of Art. 357, Para 1, item 3, the reporting judge shall:

1. discontinue the penal procedure in the cases and following the order of Art. 250;
2. suspend the penal procedure in the cases and following the order of Art 251;
3. discontinue the court procedure and remand the case to the supervising prosecutor, if a significant breach of the procedural rights has been admitted;
4. fix the date of hearing the case within seven days period from its receipt.

(2) (amend. – SG 109/08) In the cases of Para 1, item 4 the reporting judge shall rule to the supervising prosecutor to hand immediately a copy of the act of indictment to the defendant and to summon the defendant, the witnesses and the experts for the court session. In this case the supervising prosecutor may use the assistance of relevant bodies of the Ministry of Justice or of the Ministry of Interior.

(3) Within three days period from the handing of the copy of the act of indictment the accused shall be entitled to give answer where to state his/her objections and to make new requests.

Trying the case before the first instance

Art. 359. (1) Whereas the grounds of Art. 359, Para 1, items 1-3 appear, the court shall try the case and render the sentence together with the reasons, and if the case constructs factual and legal intricacy, the reasons may also be drafted after the announcement of the sentence, but not later than seven days.

(2) In this procedure civil claim shall not be admitted.

(3) In this cases private prosecutor shall not participate.

Term of submission of appeal or protest

Art. 360. In the cases of Art. 359, Para 1 the appeal and the protest shall be submitted in seven days period from the announcement of the sentence, and where the drafting of the reasons is delayed – within fifteen- days term.

Application of the general rules

Art. 361. As far as the procedure under this chapter does not establish special rules, the general rules shall be applied.

Chapter twenty five.

IMMEDIATE PROCEDURE

Actions of the investigating body

Art. 362. (1) Immediate procedure shall be performed, whereas the person has been detained immediately after the commitment of the crime and has been pointed out by a witness as a perpetrator of the crime.

(2) The investigating body shall immediately notify the prosecutor.

(3) The immediate procedure shall be considered instituted by the drafting of the act of the first action of investigation.

(4) The person of who a grounded assumption exists that has perpetrated the crime, shall be considered accused from the moment of the drafting of the act of the first action of investigation against him/her.

(5) The investigating body shall finish the investigation within a period of seven days from the establishment of the respective ground under Para 1, and upon the submission of the investigation the injured shall not be summoned.

Actions of the prosecutor

Art. 363. (1) The supervising prosecutor shall rule within three days period from the finalization of the investigation and shall:

1. discontinue the penal procedure on the grounds of Art. 24, Para 1;

2. suspend the penal procedure under the conditions of Art. 25 and 26;

3. bring indictment by act of indictment and shall table the case for trial at the court;

4. shall table the case with a decree of discharging from penal liability with imposition of administrative penalty or with a proposal for agreement on the settlement of the case;

5. render additional investigation to collect new evidence or to remove admitted significant breaches of procedural rules and shall determine a period not longer than five days.

(2) Where the case constructs factual or legal intricacy, the supervising prosecutor shall rule to conduct investigation under the general order.

(3) In the cases of Para 1, item 5, the supervising prosecutor may by him/herself perform additional actions of investigation within a shortest term, but not later than five days.

Bringing the case in the court

Art. 364. In the cases of Art. 362, Para 1, item 3 the prosecutor shall immediately draft act of indictment, hand it to the accused and bring the case for trial at the court.

Trying the case before the first instance

Art. 365. (1) Whereas the grounds of Art. 358, Para 1, items 1-3 appear, the court shall try the case on the same day of receipt. The supervising prosecutor shall provide the appearance of the defendant, the witnesses and the experts.

(2) The court shall try the case and render the sentence together with the reasons, and if the case constructs factual and legal intricacy, the reasons may also be drafted after the announcement of the sentence, but not later than seven days.

(2) In this procedure civil claim shall not be admitted.

(3) In such cases private prosecutor shall not participate.

Term of submission of appeal or protest

Art. 366. In the cases of Art. 365 the appeal and the protest shall be submitted in seven days period from the announcement of the sentence, and where the drafting of the reasons is delayed – within fifteen- days term.

Application of the general rules

Art. 367. As far as the procedure under this chapter does not establish special rules, the general rules shall be applied.

Chapter twenty six.

TRIAL OF THE CASE IN THE COURT UPON REQUEST OF THE DEFENDANT

Request of the defendant to the court

Art. 368. (1) (suppl. – SG 109/08) If at the pre-trial procedure from the involving of a definite person as accused in a serious crime more than two years have elapsed and more than one year in the rest of the cases, the accused may demand from the court to try the case. These terms shall not include the time, while the case was in the court.

(2) In the cases of Art. 1 the accused shall submit request to the respective first-instance court, which shall immediately demand the case.

Trial of the case

Art. 369. (1) The court shall judge on the request by personal decision within seven days period and finds the grounds of Art. 368, Para 1 shall remand the case to the prosecutor and shall give him/her the opportunity to bring it for consideration by an act of indictment, by proposal for discharging the accused from criminal liability with imposition of administrative penalty or by agreement on settlement of the case at the court within two months period, or to discontinue the penal procedure and notify of this the court.

(2) (suppl. – SG 109/08) If before the elapse of the two-months period the prosecutor does not perform his/her powers under Para 1 or the court does not approve the agreement on settlement of the case, the court shall demand the case and shall discontinue the penal procedure against the accused by personal decision in closed session, by a definition. After rendering the definition, the penal procedure shall continue with regard to the accessories, as well as to the other crimes for which the person is involved as accused.

(3) Whereas the prosecutor performs the his/her powers under Para 1, but at the pre-trial procedure significant breaches of the procedural rules have been admitted, he court shall discontinue by one-person ruling in closed session the court procedure and shall remand the case to the prosecutor for removal or the breaches and for bringing the case at the court within one month period.

(4) (suppl. – SG 109/08) If within the period under Para 3 the prosecutor does not bring the case for trial at the court, the court shall by one-person ruling in closed session discontinue the penal procedure against the accused by a definition.

(5) The acts of the court under Para 2 and 4 shall be final.

Art. 369a. (new - SG 27/09) Summarily court investigation shall not be admitted in case of deliberate murder or severe bodily injury, or where the offender was under alcoholic influence.

Chapter twenty seven.

SUMMARILY COURT INVESTIGATION IN THE PROCEDURE BEFORE THE FIRST INSTANCE

Decision for a preliminary hearing of the parties

Art. 370. (1) A decision for preliminary hearing the parties shall be taken by the court ex-officio or upon request of the defendant.

(2) (new – SG 109/08) The court may not reject defendant's request for preliminary hearing, where the terms and conditions referred to in this Chapter are present.

(3) (new – SG 109/08) Where the defendants are more than one, summarily court investigation shall be allowed only provided that the terms and conditions of this Chapter are present for all defendants.

(4) (prev. par. 2 – SG 109/08) The court shall render preliminary hearing of the parties without summoning the witnesses and the experts.

Issues which shall be decided on the preliminary hearing of the parties

Art. 371. At the preliminary hearing the parties:

1. the defendant and his defender, the civil claimant, the private prosecutor and their trustees may grant a consent not to conduct interrogation of the all or of some of the witnesses or experts, and upon the rendering the sentence to use directly the contents of the respective records and expert conclusions of the pre-trial procedure;

2. the defendant may recognize fully the facts as stated in the circumstantial part of the act of indictment by granting consent not to collect evidence of these facts.

Order of conducting preliminary hearing of the parties

Art. 372. (1) The court shall clarify to the defendant his/her rights under Art. 371 and shall notify him/her that the respective evidence from the pre-trial procedure and the made by him/her confession under Art. 371, item 1 shall be used in the rendering of the sentence.

(2) The court shall appoint a defender for the defendant if he/she has no such.

(3) In the cases of Art. 371, item 1 the court shall by a definition approve the explicit consent, if the respective actions of the investigation have been performed under the conditions and the order as provided in this code.

(4) In the cases under Art. 371, item 2, where finds that the confession is supported by the collected at the pre-trial procedure evidence, the court shall by a definition announce that in the rendering the sentence they shall use the confession, without collecting evidence of the facts stated in the circumstantial part of the act of indictment.

Consequences of the preliminary hearing of the parties

Art. 373. (1) In the cases of Art. 372, Para 3 at the conduction of the court investigation by the first instance, interrogation of the witnesses and of the experts, which the approved by the court consent refers to, shall not be conducted, and the respective records of interrogation and expert conclusions shall be read under the procedure of Art. 283.

(2) (amend. - SG 27/09) In the cases of Art. 372, Para 4 at the conduction of the court investigation interrogation of the defendant, the witnesses and the experts concerning the stated in the circumstantial part of the act of indictment facts shall not be performed and the court, if renders a conviction sentence shall determine the punishment under the terms of Art. 58a of the Penal Code.

(3) In the cases of Art. 372, Para 4 the court in the reasons of the sentence shall assume as found the stated in the act of indictment circumstances and shall refer to the made confession and to the supporting it evidence collected at the pre-trial procedure.

Application of the general rules

Art. 374. As far as there is no special rules with regard to the procedure under this chapter established , the general rules shall be applied.

Chapter twenty eight.

DISCHARGE FROM CRIMINAL LIABILITY WITH IMPOSITION OF ADMINISTRATIVE PENALTY

Proposal of the prosecutor for discharging the accused from criminal liability with imposition of administrative punishment

Art. 375. Where the prosecutor finds that the grounds of Art. 78a of the Penal Code are there, he/ she shall bring the case before the respective court of first instance with a reasoned decree making a proposal that the accused shall be released from criminal liability and administrative penalty be imposed.

Setting the case for trial

Art. 376. (1) Where the court finds that the conditions for trying the case are there, it shall set it down for hearing within one-month period.

(2) A copy of the decree shall be submitted to the accused, who may within seven days period from service thereof reply stating his/her objections and lay new requests.

(3) No civil claim shall be admitted in this proceeding.

(4) In this cases private prosecutor shall not participate.

Discontinuing the court procedure and remanding the case to the prosecutor

Art. 377. Whereas the grounds of Art. 78a of the Penal Code appear, the court shall discontinue the court procedure and remand the case to the prosecutor.

Trying of the case by the first instance

Art. 378. (1) The court shall try the case in an open sitting of a single judge, for which the prosecutor and the accused shall be summoned. The non-appearance of the parties, who have been regularly subpoenaed, shall not be an obstacle to hearing the case.

(2) During hearing, the evidence gathered in the criminal proceedings may be accessed and new evidence may be gathered.

(3) The court shall hear the case within the limits of the states of facts as stated in the decree. Where it establishes new states of facts, the court shall discontinue the court proceedings and shall remand the case to the prosecutor.

(4) The court shall pronounce a decision, by which it shall:

1. Discharge the accused from criminal liability and impose administrative penalty on him/her;

2. Acquit the accused;

3. Discontinue the criminal proceedings in the cases provided by the law.

(5) The court decision shall be subject to appeal and protest under the procedure of Chapter Twenty One.

Application of the provisions of the Law of the Administrative Offences and Sanctions

Art. 379. Upon settlement of the case, the applications of Art. 17 – 21 of the Law of the Administrative Offences and Sanctions shall be applied.

Revival of the case

Art. 380. (1) The proposal for revival of the case under this chapter shall be made by the appellate, respectively by the military-appellate prosecutor and shall be considered by the appellate, respectively by the military-appellate court following the procedure and within the periods laid down in the Law of the Administrative Offences and Sanctions.

(2) Whereas the proposal is grounded, the court shall also pronounce on the essence and shall collect evidence if needed.

Chapter twenty nine.

SETTLEMENT OF THE CASE BY AGREEMENT

Agreement on the settlement of the case at the pre-trial procedure

Art. 381. (1) After the finalization of the investigation, upon a proposal of the prosecutor or of the defender an agreement may be drafted between them on the settlement of the case. If the accused has not empowered a defender, upon a request of the prosecutor a judge of the respective first-instance court shall appoint to him/her a defender with whom the prosecutor shall discuss the agreement.

(2) Agreement shall not be admitted for serious malicious crimes under Chapter One, Chapter Two, Sections I and VIII, Chapter Eight, Section IV, Chapter Eleven, Section V, Chapter Twelve, Chapter Thirteen, Section VI and VII and under Chapter Fourteen of the Special Part of the Penal Code.

(3) Where material damages have been caused as a result of the crime, the agreement shall be admitted after their restitution or securing.

(4) By the agreement, a punishment under the provisions of Art. 55 of the Penal Code may be determined even in the absence of exclusive and multiple attenuating circumstances.

(5) The agreement shall be made in writing and shall contain consent on the following issues:

1. is there a committed deed, was it committed by the accused and was it committed guiltily, does the deed constitute a crime and its legal qualification;

2. what shall the kind and the scale of the punishment be;

3. (suppl. - SG 27/09, in force from 01.06.2009) what shall the initial regime and type of imprisonment institution for serving a term of imprisonment be, in the case where Art. 66 of the Penal Code is not applied;

4. whom shall the instructive work be assigned to in the cases of probationary sentence;

5. what instructive measure shall be imposed on the under age accused in the cases under Art. 64, Para 1 of the Penal Code;

6. what should be done with the material evidence, where they are not necessary for the needs of a criminal procedure in respect of other persons or other crimes and whom shall the costs in the cause be imposed on.

(6) The agreement shall be signed by the prosecutor and the defender. The accused shall sign the agreement, if he/she agrees therewith, after he/she declares that he/ she waives the court jurisdiction with regard to the case by order of the general procedure.

(7) Where the proceedings are against several persons or for several crimes an agreement may be reached on some of the persons or some of the crimes.

(8) If by one act the accused has committed several crimes, or if one accused has committed several separate crimes, Art. 23 and 25 of the Penal Code shall be applied with the agreement.

Pronouncement on the agreement by the court

Art. 382. (1) The agreement shall be brought by the prosecutor at the respective first-instance court immediately after it is drafted, together with the case.

(2) The court shall set the hearing within seven-day period after the introduction of the case and shall hear it in a sitting of a single judge.

(3) In the court session the prosecutor, the defender and the accused shall participate.

(4) The court shall question the accused if he/she understands the accusation, does he/she plead guilty, does he/she understand the consequences of the agreement, does he/ she agree with them and did he/she sign the agreement of his/her own will.

(5) The court may propose amendments to the agreement, which shall be discussed with the prosecutor and the defender. Last shall be heard the accused.

(6) In the court record shall be entered the contents of the final agreement, which shall be signed by the prosecutor, the defender and the accused.

(7) The court shall approve the agreement where it does not contravene the law or morality.

(8) Where the court does not approve the agreement, it shall remand the case to the prosecutor. In such case, the confession of the accused made before the court according to Para 4, shall bear no evidentiary value.

(9) The definition by the court shall be final.

(10) About the definition under Para 7 the injured and his/her heirs shall be notified by an instruction that they may submit a civil claim for non-material damages before the civil court.

Consequences of a settlement of the case by an agreement.

Art. 383. The approved by the court agreement on settlement of the case shall have the consequences of a sentence entered into force.

(2) (2) Where the agreement concerns an act committed under the provisions of Art. 68, Para 1 of the Penal Code, the court shall also rule in respect of serving the suspended punishment according to the procedure of Art. 306, Para 1, item 3.

(3) Where the agreement concerns an act committed under the provisions of Art. 68, Para 2 of the Penal Code, the suspended punishment shall not be served.

Agreement on settlement of the case in the court procedure

Art. 384. (1) Under the conditions and in accordance with the procedure of this chapter, the court of first instance may approve an agreement on the settlement of the case, reached after the institution of the court proceedings but before the conclusion of the court investigation.

(2) The court shall appoint a defender for the defendant, where he/she has not authorised one himself/herself.

(3) In such case, the agreement shall be approved only with the consent of all parties.

Chapter thirty .

SPECIAL RULES FOR TRYING CASES OF CRIMES PERPETRATED BY MINOR AGE PERSONS

Pre-trial procedure

Art. 385. In cases of crimes perpetrated by minor age persons, the pre-trial procedure shall be carried out by determined investigating authorities with special training.

Restraining measures

Art. 386. (1) As regards minor age persons, the following restraining measures may be taken:

1. surveillance by parents or trustee;

2. surveillance by the administration of the education establishment where the minor age person is accommodated;

3. surveillance by the inspector with the children's educational unit or by a member of the local board for combating antisocial manifestations of underage or minor age persons;

4. detention in custody

(2) The restraining measure detention in custody shall be taken in exceptional cases.

(3) Handing over minor age persons under surveillance to the persons and authorities under Paragraph 1, Items 1 – 3 shall be carried out against signature whereby they shall be obliged to exercise education surveillance on the minor age person, to monitor his/her behaviour and ensure his/her appearance before the investigating authority and the court. In the event of guilty failure to execute the undertaken obligations, fines of up to five hundred BGN may be imposed on these persons.

(4) In cases of detention, the minor age persons shall be accommodated in suitable premises separate from the persons of age, whereas their parents or trustees and the principal of the educational establishment, when the detained person is a student, shall immediately be notified.

Collection of data of the minor age person

Art. 387. In the investigation and the judicial inquiry, evidence shall be collected about the day, month and year of birth of the minor age person, about the education, the environment and conditions in which he/she has lived, and evidence of whether the crime was not due to the influence of persons of age.

Participation of a pedagogue or psychologist in the interrogation of minor age persons

Art. 388. Whenever necessary, a pedagogue or psychologist shall participate in the interrogation of a minor age defendant, who may ask him/her questions with the permission of the investigating authority. The pedagogue or psychologist shall have the right to become acquainted with the transcript from the interrogation and to address remarks on the accuracy and fullness of its contents.

Submission of the investigation

Art. 389. (1) The parents or trustees of a minor age defendant shall mandatory be notified about the submission of the investigation.

(2) The parents or trustee of a minor age defendant shall attend the submission, if they wish to.

Court composition and transfer of a case to another court

Art. 390. (1) In the cases under Art. 28, Paragraph 1, Items 1 и 2, the cases against minor age persons as first instance shall be tried by one judge and two jurors, and in the cases under Art. 28, Paragraph 1, Item 3 – by two judges and three jurors.

(2) The jurors shall be teachers or educators.

(3) When the minor age person is a serviceman/woman, the case shall be tried under the procedure of Chapter Thirty-One.

Court Session

Art. 391. (1) The court session in cases against minor age persons shall be held behind closed doors unless the court finds that it is in the public interest to try the case in a public session.

(2) At the discretion of the court, inspectors with the children's education unit and representatives of the education establishment where the minor age person studies, may be invited to the court session.

Persons participating in trying the cases

Art. 392. (1) In trying cases against minor age persons, their parents or trustees shall mandatorily be summoned. They shall have the right to participate in collecting and verifying the evidence materials and to address requests, remarks and objections.

(2) The failure of parents or trustee to appear shall not be an obstacle for trying the case, unless the court finds their participation to be necessary.

(3) In cases against minor age persons, the participation of a prosecutor shall be mandatory.

(4) A private prosecutor shall not participate in such cases.

Provisional removal of a minor age person from the courtroom

Art. 393. When it is necessary to elucidate facts, which could affect negatively the minor age defendant, the court may remove him/her provisionally from the courtroom, after hearing the defence, the parents or trustee and the prosecutor.

Trying under general procedure cases for crimes perpetrated by minor age persons

Art. 394. (1) When a person of age is prosecuted for a crime perpetrated by him/her before he/she turned of age, the case shall be tried under general procedure.

(2) When a minor age person is prosecuted for an act perpetrated in complicity with a person of age, the cases shall not be separated and the proceedings shall be tried under general procedure.

Execution of sentence

Art. 395. (1) When the court revives the execution of the punishment as regards a minor age person, it shall notify the respective local board for combating antisocial manifestations of underage and minor age persons in view of organising the necessary education care.

(2) When the court rules an education measure, it shall send a copy of the sentence to the respective local board.

(3) The proposal of the prosecutor or the local board for combating antisocial manifestations of underage and minor age persons under Art. 64, Paragraph 2 of the Penal Code for substituting the accommodation at an education boarding school with another education measure shall be considered in a court session after enacting the sentence while summoning the minor age person and his/her defender.

Chapter thirty one.

SPECIAL RULES FOR TRYING CASES UNDER THE JURISDICTION OF MILITARY COURTS

Cases under the jurisdiction of military courts

Art. 396. (1) The military courts shall have jurisdiction over cases for crimes perpetrated by:

1. servicemen/women under the Defence and Armed Forces of the Republic of Bulgaria Act;

2. (new – SG 109/07, in force from 01.01.2008; revoked – SG 109/08);

3. (prev. item 2 – SG 109/07, in force from 01.01.2008) generals, officers and persons from the sergeant and rank-and-file corps from other ministries and administrations;

4. (prev. item 3 – SG 109/07, in force from 01.01.2008) reservists participating in training-mobilisation events or in execution of active service in the permanent reserve;

5. (prev. item 4 – SG 109/07, in force from 01.01.2008; revoked – SG 109/08);

6. (prev. item 5, amend. and suppl. – SG 109/07, in force from 01.01.2008; amend. – SG 109/08) civilians employed at the Ministry of Defence, in the Bulgarian Army and in the structures subordinated to the minister of Defence, at the National Security Service, in the National Intelligence Service during or on the occasion of carrying out their service.

(2) The military courts shall also have jurisdiction over cases for crimes in perpetrating which civilians also took part.

Jurisdiction to appeal and cassation instances

Art. 397. The cases tried by the military courts, shall be heard as appeal instance by the Military Court of Appeal, and as cassation instance – by the Supreme Cassation Court, which shall also consider the proposals for reviving penal cases tried by the military courts.

Jurisdiction disputes

Art. 398. Disputes about jurisdiction between first-instance military courts shall be decided by the Military Court of Appeal.

Authorities of military pre-trial procedure

- Art. 399. (1) The authorities of the military pre-trial procedure shall be the military prosecutor and the military investigating authorities.
 (2) (amend. - SG 69/08) Military investigating authorities shall be the military investigators and the military investigating policemen.
 (3) (amend. - SG 69/08) The military investigating policemen shall be appointed by order of the minister of Defence.
 Powers of the military police authorities
- Art. 400. The authorities of the military police shall have the powers of the respective authorities of the Ministry of the Interior under Art. 196, Paragraph 1, Item 6, Art. 212, Paragraph 2, Art. 215, Art. 218, Art. 245, Paragraph 1 and Art. 356, Paragraph 1, Item 3.
 Restraining measures
- Art. 401. (1) (amend. - SG 46/07, in force from 01.01.2008; amend. - SG 109/07, in force from 01.01.2008) With regard to the persons under Art. 396, Paragraph 1, Item 4, one of the following restraining measures shall be taken:
 1. placement under the closest surveillance at their outfit;
 2. detention in custody in premises of the barracks or at the common places of imprisonment.
- (2) As regards regular-duty servicemen/women and civilians at the Ministry of Defence, in the Bulgarian Army and in the structures subordinated to the minister of Defence, one of the restraining measures under Art. 58 shall be taken.
 Procedure for taking procedural compulsion measures in military pre-trial proceedings
- Art. 402. (1) Procedural compulsion measures shall be taken under the procedure of Chapter Seven, Section II, except for the provisional removal from office under Art. 403.
 (2) Placement under the closest surveillance at the outfit shall be taken by the investigating authority or by the respective military prosecutor.
 (3) The respective minister shall be notified immediately about detention in custody of officers and civilians.
 Provisional removal from office
- Art. 403. (1) When the restraining measures detention in custody or house arrest are taken as regards the defendant, he/she shall be provisionally removed from office until these restraining measures are overturned or substituted with lighter ones.
 (2) When the taken restraining measure is lighter than those specified in Paragraph 1, the defendant may be provisionally removed from office by definition of the military court at a grounded request from the chief, the military prosecutor or the military investigating authority.
 Cooperation for executing the taken restraining measure
- Art. 404. The investigating authority or the prosecutor shall notify about the taken restraining measure the respective chief who shall be obliged to cooperate for its execution.
 Distribution of cases in military pre-trial procedure among the investigating authorities
- Art. 405. (1) The investigation shall be carried out by military investigators in cases for crimes:
 1. specified in Art. 194, Paragraph 1, Item 1;
 2. perpetrated by officers.
 (2) (amend. - SG 69/08) Except for the cases under Art. 1, the investigation shall be carried out by military investigating policemen.
 (3) The respective chief shall be immediately notified about instituted pre-trial procedure.
 Acceptance of investigation actions carried out by a non-military authority
 Art. 406. (revoked - SG 109/08)
 Inspection and certification
- Art. 407. Inspection and certification in the area of the military outfit or the site shall be carried out in the presence of the closest situated commander or chief or a person authorised by him/her. In this case servicemen/women shall be invited as witnesses.
 Splitting cases
- Art. 408. (1) When several crimes have been perpetrated and an investigation has been carried out of the gravest of them, while more time is needed for investigating the lighter ones, the military investigating authority shall conclude the investigation of the gravest crime and shall send the case to the military prosecutor while continuing the investigation of the lighter crimes in a separate case.
 (2) Paragraph 1 shall also be applied when the crime has been perpetrated by several persons. If so, the case shall be split provided that this will not impede revealing the objective truth.
 Restricting the publicity of a court session
- Art. 409. (1) The court may ask the defenders and the clients, the witnesses and other persons present in the courtroom to declare that they will not make public the circumstances, which will be disclosed in the court session, if these constitute classified information.
 (2) In trying cases against officers, sergeants and soldiers shall not be admitted to the courtroom as audiences.
 Assuring the execution of the sentences
- Art. 410. The execution of the sentences against persons from the officer, sergeant and soldier corps who have not been discharged, shall be assisted by the respective commander or chief.
 Application of the general rules
- Art. 411. Insofar as there are no special rules in this section, the general rules shall be applied.
 Part six.
 EXECUTION OF EFFECTIVE COURT ACTS. REVIVAL OF PENAL CASES
 Chapter thirty two.
 EXECUTION OF EFFECTIVE COURT ACTS
 Court acts subject to execution
- Art. 412. (1) The sentences, decisions, definitions and dispositions shall be executed after they become effective.
 (2) The sentences, decisions, definitions and dispositions shall become effective from:
 1. the time of enacting them, when they are not subject to verification under an appeal or protest;
 2. the time of enacting the decision of the cassation instance, when the appeals and protests are left without consideration or ungranted, or the sentence is changed;
 3. the expiry of the period for appealing them, when no appeal or protest has been filed.
 Obligatory force of court acts
- Art. 413. (1) The effective sentences, decisions, definitions and dispositions shall be obligatory for all administrations, legal entities, officials and citizens.
 (2) The effective sentences and decisions shall be obligatory for the civil courts on the following matters:
 1. has the act been perpetrated;
 2. is the perpetrator guilty;
 3. is the act indictable.
 (3) The provisions of Paragraph 2 shall also be applied to the acts of the regional court under Chapters Twenty-Eight and Twenty-Nine.
 Court decision in connection with execution of sentences and definitions
- Art. 414. (1) The court, which has enacted the effective sentence or definition shall pronounce itself on:
 1. all difficulties and doubts relating to their interpretation;
 2. the substitution of probation with imprisonment and the overturning of the application of Art. 66 of the Penal Code;
 3. the release from serving a punishment imposed for a crime, which is prosecuted under a plea from the victim, when prior to starting its execution, the private plaintiff has asked for this.
- (2) The matters specified in Paragraph 1, shall be considered in a court session while summoning the convicted person, and in the cases under Paragraph 1, Item 3 – the plaintiff as well.
 (3) The participation of the prosecutor shall be mandatory.
 Deferral of the execution of punishments
- Art. 415. The district prosecutor or the regional prosecutor may, with a decree, defer the execution of the punishments imprisonment and probation:
 1. in the event of a grave illness impeding the serving of the punishment – up to six months; after the expiry of this period, the execution of the punishment may be deferred for the same period on the grounds of a new medical certification;
 2. in the event of pregnancy of the convicted person or giving birth – up to six months prior and one year after giving birth;
 3. when due to special circumstances such as fire, elemental calamity, grave illness, death of the only member of the family capable of work, and others, the immediate execution of the sentence may lead to grave consequences for the convicted person or his/her family – up to three months;
 4. as regards particularly needed specialists in enterprises, administrations or organisations – up to three months;
 5. for completing a current academic year or a started qualification course – up to two months.

Actions for execution of sentences and definitions

Art. 416. (1) A copy of the sentence whereby the defendant has been acquitted or released from penal liability or from serving the punishment as well as a copy of the definition for terminating the penal procedure, shall be sent to the respective authorities for returning seized documents, valuables and other objects as well as for lifting police registration. When a guarantee measure has been overturned, a copy of the sentence or definition shall be sent to the respective authorities.

(2) A copy of the sentence whereby the defendant has been sentenced to serve the respective punishment shall be sent to the prosecutor for execution.

(3) (amend. – SG 12/09, in force from 01.05.2009) When the confiscation of certain properties or the seizure of properties pursuant to Art. 53 of the Penal Code have been ruled with the sentence, the court shall send a copy of the sentence to the National Revenue Agency for execution. The National Revenue Agency shall notify the court about the takeover of the seized and confiscated properties within seven days.

(4) When a fine has been imposed with the sentence or indemnifications in favour of the state, court expenses and fees have been adjudicated with the sentence, the court shall issue a writ of execution and shall send it to the respective authority for execution.

(5) The actions under Paragraphs 1 - 4 shall be carried out within seven days from the effectiveness of the sentence.

Deduction of the time of detention and divesting of rights

Art. 417. When Art. 59 of the Penal Code has not been applied by the court, it shall be applied by the prosecutor with a decree.

Authorities detaining the convicted person

Art. 418. (suppl. – SG 109/08) The detention of the convicted person and taking him/her away to the place of execution of the punishment shall be carried out by the services of the Ministry of Justice, which may use the assistance of the respective bodies of the Ministry of Interior.

Chapter thirty three.

REVIVAL OF PENAL CASES

Acts which shall be subject to check

Art. 419. (1) (suppl. – SG 109/08) Subject to check under this chapter shall be the entered in force sentences and decisions. Subject to check under this chapter shall also be the definitions under Art. 112, par. 3, Art. 243, Para 5, items 1 and 2, Art. 382, Para 7, as well as the definitions and rulings under Art. 341, Para 1.

(2) The definitions of the court under Art. 369, Para 5 shall be subject to check under this chapter on the grounds of Art. 422, Para 1, items 1-3, as well as in event of admitted significant breaches of the procedural rules.

Persons who shall be entitled to make request for revival

Art. 420. (1) A request for revival of a penal case under Art. 422, Para 1, items 1-3 may be done by the district, respectively by the military prosecutor, and under Art. 422, Para 1, items 4-6 by the Chief Prosecutor.

(2) The convicted for a crime of general nature, who has not been discharged from penal liability with imposing of administrative penalty on the ground of Art. 78a of the Penal Code, may file by him/herself a request for revival of the penal case in the cases of Art. 422, Para 1, item 5.

(3) The request for revival shall not suspend the execution of the sentence, except the prosecutor or the Supreme Cassation Court rules otherwise.

(4) In the cases of Art. 422, Para 1, item 4, where the decision of the European Court of Human Rights is in favour of the convicted, as well as in the cases of Art. 422, Para 1, item 6, the suspension of the execution shall be obligatory.

Period of request

Art. 421. (1) The request of revival of the penal case, finalized by an acquittal sentence or by a definition or a ruling for discontinuation, as well as a request by which increasing of the punishment or to apply a law for more heavily punishable crime, may be filed not later than six months from the respective act under Art. 422, Para 1, item 5 or Para 2 enters into force or from the detection of the new circumstances.

(2) The Chief Prosecutor shall make the request under Art. 422, Para 1, item 4 within one month period from the learning about the decision, and under Art. 422, Para 1, item 6 – within one- week period from the learning of the admitted extradition.

(3) (suppl. – SG 109/08) The convicted may file the request under Art. 422, Para 1, item 5 within six- month period from the respective act enters into force. For the convicted person by default the term shall start elapsing from the date, on which he/she learnt, that the sentence has been enforced.

(4) The penal case may also be revived after the death of the convicted.

Ground for revival

Art. 422. (1) The penal case shall be revived, where:

1. Some of the circumstances, on which the sentence, the decision or the definition is based, turn out to be unauthentic;
 2. (amend. - SG 69/08) a judge, a court assessor, a prosecutor, an investigator, or an investigating policeman has committed a crime in connection with his/her participation in the penal procedure;
 3. by way of investigation circumstances or evidence are detected which have not been known to the court, which has pronounced the sentence, the decision, the definition or the disposition are of significant importance to the case;
 4. by a decision of the European Court of Human Rights has been established a violation of the European Convention on Human Rights, which are of significant importance to the case;
 5. on sentences, decisions and definitions, which have not been checked under the cassation procedure upon an appeal or a protest of the party, in favour of which the cancellation is proposed have been admitted significant breaches of Art. 348, Para 1, items 1-3;
 6. extradition is admitted in the case of sentence by default against provided by the Bulgarian State bails for the revival of the suit – for the crime for which the extradition has been admitted.
- (2) The circumstances under Para 1, items 1 and 2 shall be established by an entered in force sentence, and where a sentence cannot be rendered – by way of investigation.

Revival of the penal case upon request of the sentenced by default due to his/her non-participation in the penal proceedings (Title amend. – SG 109/08)

Art. 423. (1) (amend. – SG 109/08) Within six-month period from learning about the enforceable sentence, the sentenced by default may file a motion for revival of the criminal case due to his/her non-participation in the penal proceedings. The motion shall be sustained, unless the sentenced after the fulfillment of the procedure of Art. 254, par. 4 has failed to appear in the court hearing without good reasons or has taken refuge.

(2) The request shall not suspend the execution of the sentence, except the court rules otherwise.

(3) The proceeding for revival of the criminal case shall be discontinued if the sentenced by default fails to appear before the court without valid reasons.

(4) Where the sentenced by default has been detained in execution of the enforceable sentence and the court revives the penal proceedings, in its judgement it may impose detention in custody or house arrest as a measure of compulsion, if the prosecutor has motioned for such in court hearing.

(5) (amend. – SG 109/08) If the request has been filed by a sentenced by default and handed by another state to the Republic of Bulgaria, against provided bails over the suit, the court shall revive it, without assessment of if the person had been or had not been aware of the court proceedings against him/her.

Court which shall consider the request

Art. 424. (1) The request for revival of the penal case shall be considered by the Supreme Cassation Court.

(2) The request shall be brought through the respective first-instance court, which shall immediately forward a copy of it the prosecutor, the sentenced or the acquitted, and the case – to the Supreme Cassation Court.

(3) The case shall be tried in an open session.

Powers of the court

Art. 425. (1) Where court finds the request for revival grounded, may :

1. cancel the sentence, the decision, the definition or the ruling and to remand the case for a new trial and shall point the stage from which the new trying shall start;
2. to cancel the sentence, the decision or the definition and to discontinue or suspend the penal procedure, and in the case of Art. 24, Para 1, item 1 – to acquit the defendant within the frames of the factual status as per the entered into force sentence;
3. amend the sentence, the appellate decision or the new sentence in the cases where the grounds for this are in favour of the sentenced.

(2) In the cases of Art. 423, Para 1 the procedure shall be revived and the case remanded on the stage, where the procedure by default has started.

Application of the rules of the cassation procedure

Art. 426. As far as in this chapter no special rules are established, the rules of the cassation procedure shall be applied.

Part seven.

SPECIAL PROCEDURES

Chapter thirty four.

APPLICATION OF COMPULSORY MEDICAL MEASURES. REHABILITATION

Section I.

Application of Compulsory Medical Measures

Proposal for Application of Compulsory Medical measures

- Art. 427. (1) Proposal for application of compulsory medical measures under Art. 89 and the following of the Penal Code shall be made by the regional prosecutor, and in the cases of interruption of the execution of the imprisonment punishment – by the district prosecutor.
- (2) Prior to making the proposal, the prosecutor shall appoint an expert examination and shall assign to a body of investigation to make clear the behaviour of the person before and after the perpetration of the act and whether that person is of public danger.
- Court to consider the proposal
- Art. 428. The proposal for applying compulsory medical measures shall be considered by the regional court in the place of residence of the person, and in the cases of interruption of the execution of the imprisonment punishment – of the district court in the place of serving the punishment.
- Closed session
- Art. 429. (1) After the institution of the case, a reporting judge shall be determined.
- (2) The reporting judge shall assess if all conditions for hearing the case in court session are there and shall set the case down for hearing within three days period from the receipt of the proposal.
- Court hearing
- Art. 430. (1) For the court hearing shall be summoned through prosecutor the person, to whom the application of compulsory medical measures is demanded, his/her parents, his/her guardian or trustee and the injured person.
- (2) The participation of a prosecutor and of a defender of the person, to whom the application of compulsory medical measures is demanded shall be mandatory.
- (3) The attendance of the person, to whom the application of compulsory medical measures is demanded, shall not be mandatory, when his/her health status is an obstacle thereto.
- (4) In all cases, the court shall hear the opinion of an expert-psychiatrist.
- Court definition
- Art. 431. (1) The court shall rule in a sitting of a single judge by a definition.
- (2) The definition under Para 1 shall be subject to appeal or protest within seven-day period from its pronouncement under the procedure of Chapter Twenty Two.
- (3) If the appellate instance reviews the definition, it shall settle the case.
- Continuation, substitution or discontinuation of the compulsory medical measures
- Art. 432. (1) Following the expiration of six months from the placement under compulsory medical treatment, the court shall ex officio rule on the continuation, substitution or discontinuation of the compulsory medical treatment.
- (2) Before the expiration of the six-month period from the placement under compulsory treatment, and in the cases under Art. 89, letter "a" of the Penal Code, the court may discontinue the compulsory medical treatment on a proposal of the prosecutor.
- (3) The court shall rule on the continuation, substitution or discontinuation of the compulsory medical measures in a court session, after taking the opinion of the respective medical establishment and the opinion of an expert-psychiatrist.

Section II.

Rehabilitation

Court to pronounce rehabilitation

- Art. 433. (1) Rehabilitation may be pronounced by the court which has pronounced the sentence as a first instance.
- (2) Where the person is sentenced with several sentences by various courts, competent shall be the court, which has imposed the heaviest punishment, and where the punishments are equally heavy, the court, which has passed the last sentence.
- Petition for rehabilitation
- Art. 434. (1) The procedure for rehabilitation shall commence on a petition in writing of the convicted.
- (2) The following shall be enclosed with the petition for rehabilitation:
1. A copy of the sentence, and where the case file has been destroyed - a transcript of the bulletin of conviction;
 2. Evidence of the existence of the conditions under Art. 87 of the Penal Code.
- Considering the petition
- Art. 435. (1) The petition for rehabilitation shall be considered by the court in a court session with summoning the petitioner.
- (2) The participation of the prosecutor shall be obligatory.
- Definition by the court
- Art. 436. (1) The court shall rule by a definition.
- (2) Against the definition appeal or a protest may be submitted within seven days period from it is rendered which shall be considered under the procedure of Chapter Twenty One.
- (3) If cancels the definition, the appellate instance shall settle the case.
- (4) If the petition is not recognized, a new petition may be submitted not earlier than one year from the definition is rendered.

Chapter thirty five.

PROCEDURES IN CONNECTION WITH THE EXECUTION OF THE PUNISHMENTS. SPECIAL PROCEEDINGS

Section I.

Release Ahead of Term

Proposals for release ahead of term

- Art. 437. (1) Proposals for release ahead of term under Articles 70 and 71 of the Penal Code may make:
1. The district prosecutor, respectively the military prosecutor, in the place of execution of the punishment;
 2. The Commission under Art. 17 of the Law of Execution of Punishments.
 3. (revoked – SG 109/08).
- (2) To the proposal shall be enclosed the personal file of the person proposed to be released ahead of term, the other literal materials of significance for the proper determination of the case and the list of the persons to be summoned.
- (3) (revoked – SG 109/08).
- Court to consider the proposal
- Art. 438. The offer under Art. 437, Para 1 shall be considered by the district, respectively by the military court in the place of execution of the punishment.
- Procedure of consideration of the proposal
- Art. 439. (1) The court shall consider the proposal in a sitting of a single judge.
- (2) (amend. – SG 109/08) The participation of the prosecutor and of the chairperson of the commission of Art. 17 of the Law of execution of the punishments shall be mandatory.
- (3) The attendance of the convicted shall be mandatory.
- (4) After the gathering and the check of the evidence are completed, the court shall give the floor to the body, which has made the proposal.
- (5) The prosecutor shall give a conclusion, if the proposal does not come from him/her.
- (6) The convicted shall speak last.

Definition by the court

- Art. 440. (1) The court shall rule by a reasoned definition.
- (2) Against the definition by the court, the prosecutor shall be entitled to submit a protest which shall be considered under the procedure of Chapter Twenty Two.

New proposal

- Art. 441. If the court does not grant the proposal under Art. 437, a new proposal may be made not earlier than three months after the day of pronouncing the definition.

Court which shall rule on serving the remainder of the punishment

- Art. 442. Where the conditionally released commits a new offence during the probationary period, the issues referred to in Art. 70, Para 7 and 8 shall be decided by the court, within the cognisance of which falls the case on the new offence.

Section II.

Cancellation of Taking into Consideration Working Days

Proposal for cancellation

- Art. 443. A proposal for cancellation of taking into consideration working days upon imprisonment under Art. 41, paras 4 and 5 of the Penal Code may make:

1. the district prosecutor in the place of execution of the punishment;
2. the warden.

Consideration of the proposal

- Art. 444. (1) The proposal shall be heard by the district court in the place of serving the term of imprisonment in a body of a judge and two court assessors.
(2) The definition by the court shall be subject to appeal within seven-day period from pronouncing it, under the procedure of Chapter Twenty Two.
(3) If the appellate instance cancels the definition, it shall decide the case.
(4) 3) To the extent, to which there are no special rules in this section, the rules of Section I of this chapter shall apply.

Section III.

Substitution of the Regime of Serving the Term of Imprisonment for a Heavier One

Proposal for substitution

- Art. 445. The proposals for substitution of the regime of serving the term of imprisonment for a heavier one than that determined by the court, may be made by:
1. the district prosecutor in the place of punishment;
 2. the warden of the prison or of the reformatory institution.
 3. a monitoring commission in the place of execution of the punishment.

Procedure of considering the proposal

- Art. 446. (1) The regional court in the place of execution of the punishment in a composition of a judge and two court assessors shall hear the proposal
(2) (Amend., No. 21/1998) The court ruling shall be subject to appeal within seven-day period from pronouncing it. If the appellate instance of review reverses the ruling, it shall determine the case.

Section IV.

Interruption of the Execution of a Sentence of Imprisonment

Grounds for the interruption

Art. 447. The execution of the sentence of imprisonment may be interrupted:

1. Where the sentenced gives birth in the prison or in the reformatory – until the child becomes one year old;
2. For exclusive reasons of family or social nature – for no longer than three months;
3. In case of health scourge suffered by the convicted – until his or her recovery;
4. For taking an examination in an educational establishment – for up to ten days.

Body to interrupt the execution

- Art. 448. (1) The execution of the punishment shall be interrupted by the district prosecutor in the place of serving it.
(2) Proposals for interruption may also be made by the warden of the prison or the reformatory.

Section V.

Substitution of Life Imprisonment for Punishment Imprisonment

Proposal for substitution

- Art. 449. The proposal for substitution of the life imprisonment for imprisonment punishment may be filed by the district prosecutor by place of execution of the punishment.

Procedure of consideration of the proposal

- Art. 450. (1) The proposal shall be considered by the district court in the place of execution of the sentence in a body of two judges and three court assessors.
(2) The participation of the prosecutor, the warden and the convicted shall be obligatory.
(3) The court shall rule by a reasoned definition. The definition by which substitution of the punishment is refused, shall be subject to appeal under the procedure of Chapter Twenty Two.
(4) If the proposal under Art. 449 is not recognized, a new proposal may be filed not earlier than two years from definition is pronounced.

Section VI.

Substitution of Probation Punishment with Imprisonment Punishment

Substitution proposal

Art. 451. Proposals to the court for substituting a probation punishment with imprisonment punishment may be filed by:

1. the district prosecutor at the place of execution of the punishment;
2. the chairperson of the probation council at the place of execution of the punishment.

Procedure for considering the proposal

- Art. 452. (1) The proposal shall be considered by the district court at the place of execution of the probation, composed of one judge and two jurors.
(2) The participation of the prosecutor, the chairperson of the probation board and the convicted person shall be mandatory.
(3) The court shall pronounce itself with a definition, which may be appealed and protested within seven days from its enactment under the procedure of Chapter Twenty-Two.
(4) Insofar as there are no special rules in this section, the provisions of Section I of this Chapter shall be applied.

Chapter thirty six.

PROCEDURES IN CONNECTION WITH INTERNATIONAL COOPERATION ON PENAL CASES

Section I.

Transfer of Convicted Persons

Competent authority

- Art. 453. (1) The transfer of persons convicted by a court of the Republic of Bulgaria, for serving the punishment in the state whose citizens they are, and the transfer of Bulgarian citizens convicted by a foreign court, for serving the punishment in the Republic of Bulgaria, shall be decided by the Chief Prosecutor under an agreement with the competent authority of the other state, in the presence of consent in writing from the convicted person.
(2) The decision for the transfer of the convicted person may also be made after the execution of the punishment has started.

Transfer without the person's consent

- Art. 454. (1) The consent of a Bulgarian citizen convicted by a foreign court or of a foreign citizen convicted by a Bulgarian court shall not be required for the transfer when:
1. the sentence or the subsequent administrative decision of the state, which has convicted the person, includes an order for expulsion (deportation) or another act under which the person, after his/her release from the place of imprisonment, cannot stay in the territory of the state, which has convicted him/her;
 2. before serving the sentence, the convicted person has fled from the state, which has convicted him/her, to the territory of the state whose citizen he/she is.
- (2) In the cases under Para 1, item 1, before enacting the decision for transfer, the opinion of the convicted person shall be taken into consideration.

Determination of the place, time and procedure for transmitting and receiving the convicted person

- Art. 455. The place, time and procedure for transmitting and receiving the convicted person shall be determined by agreement between the chief prosecutor and the competent authority of the other state.

Detention request

- Art. 456. (1) When there are data that the person convicted by a Bulgarian court is in the territory of the state whose citizen he/she is, the chief prosecutor may address a request to the foreign authorities for detaining the person for whom a request will be done for accepting the execution of the sentence, while informing that there is an effective sentence with regard of this person.

(2) In the event of a submitted request for detaining a Bulgarian citizen by another state, Art. 64 and Art. 68 shall be applied respectively.

Deciding by the court of the issues in connection with the execution of the sentence

- Art. 457. (1) After the convicted person arrives in the Republic of Bulgaria or it is established that he/she is in its territory, the Chief Prosecutor shall send the sentence accepted for execution and the materials of the Sofia City Court attached thereto with a proposal for deciding the issues connected to its execution.

- (2) The court shall pronounce itself on the proposal with a definition in a court hearing with the participation of a prosecutor and summoning the convicted person.
(3) (suppl. - SG 27/09, in force from 01.06.2009) The definition shall contain the number and date of the sentence accepted for execution, the case in which it has been enacted, the text of the law of the Republic of Bulgaria stipulating liability for the perpetrated crime, the term of the imprisonment punishment

- imposed by the foreign court, and the initial regime and type of imprisonment institution for serving the punishment shall be determined.
- (4) When under the law of the Republic of Bulgaria the maximum term of imprisonment for the perpetrated crime is shorter than that determined with the sentence, the court shall reduce the imposed punishment to this term. When under the law of the Republic of Bulgaria imprisonment is not stipulated for the perpetrated crime, the court shall determine a punishment corresponding most fully to that imposed with the sentence.
- (5) The pre-trial detention and the served punishment in the state where the sentence has been enacted shall be deducted, and when the punishments are different, these periods shall be taken into consideration in determining the term of the punishment.
- (6) The additional punishments imposed with the sentence shall be subject to execution, if such ones are stipulated in the respective text of the legislation of the Republic of Bulgaria and have not been executed in the state where the sentence was enacted.
- (7) The court definition shall be subject to appeal before the Sofia Court of Appeal.

Execution of a decision of a foreign court for rescinding or changing the sentence

Art. 458. (1) The decision for changing the sentence enacted by a court of the other state after the transfer of the convicted person shall be accepted for execution under the procedure of Art. 457.

- (2) The decision for rescinding the sentence enacted by the court of the other state after the transfer of the convicted person shall be executed immediately by order of the chief prosecutor.
- (3) When the sentence of the foreign court has been rescinded and a new investigation or hearing of the case has been decreed, the issue of instituting a penal procedure as regards the person transmitted for serving the punishment shall be decided by the chief prosecutor in accordance with the laws of the Republic of Bulgaria.

Verification of the sentence

Art. 459. (1) The sentence as regards a person transmitted or accepted under the procedure of this section for serving the punishment shall be subject to verification only by the competent authorities of the state where it was enacted.

- (2) When the sentence as regards a person transmitted for serving the punishment in another state is rescinded or changed, the Supreme Cassation Prosecution shall send a copy of the court decision to the competent authority of that state. If a new investigation or hearing of the case has been decreed, the materials necessary for this shall also be sent.

Termination of the execution of the punishment under amnesty

Art. 460. (1) In the event of amnesty in the Republic of Bulgaria, the execution of the punishment under a foreign sentence accepted for execution shall be terminated under the general procedure.

- (2) In the event of amnesty in the state where the sentence accepted for execution has been enacted, the execution of the punishment shall be terminated immediately by order of the chief prosecutor.
- (3) In the event of amnesty in the Republic of Bulgaria, the chief prosecutor shall inform immediately the competent authority of the state where the person has been transmitted for serving the punishment.

Force and effect of the sentence

Art. 461. The sentence as well as the decisions for changing or rescinding it, accepted for execution under the procedure of this section, shall have the force and effect of a sentence and decisions enacted by a court of the Republic of Bulgaria.

Application of the provisions of the section

Art. 462. The provisions of this section shall be applied insofar as an international agreement in which the Republic of Bulgaria participates does not stipulate otherwise.

Section II.

Recognition and Execution of a Sentence of a Foreign Court

Terms for recognition and execution of a sentence of a foreign court

Art. 463. An effective sentence enacted by a foreign court shall be recognised and executed by the authorities of the Republic of Bulgaria in accordance with Art 4, Para 3, when:

1. the act for which the request was made constitutes a crime under the Bulgarian law;
2. the perpetrator bears criminal liability under the Bulgarian law;
3. the sentence has been enacted fully in accordance with the principles of the The Convention for the Protection of Human Rights and Fundamental Freedoms and the protocols thereto, to which the Republic of Bulgaria is a party;
4. the perpetrator has not been convicted for a crime considered to be political or for one connected with a political crime, or for a war crime;
5. as regards the same perpetrator for the same crime the Republic of Bulgaria has not recognised a sentence of another foreign court;
6. the sentence does not contradict the basic principles of the Bulgarian penal and penal procedure law.

Terms of refusal to recognise and execute a sentence of a foreign court

- Art. 464. A request by another state for recognising and executing a sentence enacted by its court shall be rejected when:
1. the imposed punishment cannot be executed due to the expiry of the prescription stipulated in the Bulgarian Penal Code;
 2. against the convicted person at the time of perpetrating the crime, a penal procedure could not have started in the Republic of Bulgaria;
 3. for the same person for the same crime in the Republic of Bulgaria there is an uncompleted penal procedure, an effective sentence, decree or effective definition or disposition for terminating the case;
 4. there are sufficient grounds to consider that the sentence has been imposed or aggravated for racial, religious, national or political considerations;
 5. the execution contradicts the international obligations of the Republic of Bulgaria;
 6. the crime was perpetrated out of its territory.

Recognition procedure

Art. 465. (1) A request for recognition in the Republic of Bulgaria of a sentence of a foreign court shall be addressed from the competent authority of the other state to the Ministry of Justice.

- (2) The Ministry of Justice shall send the request and the sentence and other documents attached thereto to the district court at the place of residence of the convicted person. If the latter does not reside in the country, competent to consider the request shall be the Sofia City Court.
- (3) The court shall consider the request for recognition of the sentence of the foreign court, composed of three judges in an open hearing with the participation of a prosecutor, whereas the convicted person shall be appointed a defence attorney unless he has engaged one himself/herself.
- (4) The court, after hearing the prosecutor, the convicted person and his/her defence, shall enact a decision within ten days, whereby it shall grant or reject the request for recognition of the sentence of the foreign court.
- (5) The court decision shall be subject to appeal or protestation before the respective court of appeal within seven days from making it public.
- (6) The appeal and the protestation shall be considered by the respective court of appeal within ten days from their submission to the court. The decision of the court of appeal shall be final.

(7) A certified copy of the effective decision shall be sent to the Ministry of Justice to be forwarded to the competent authorities of the state requesting the recognition of the sentence. If at the time of enacting the decision the convicted person is serving an imprisonment sentence in another state, the court shall hand him/her over a copy of the decision through the Ministry of Justice.

Effect of the decision whereby a sentence of a foreign court has been recognised

- Art. 466. (1) The decision whereby a sentence of a foreign court has been recognised has the effect of a sentence enacted by a Bulgarian court.
- (2) If the sentence of the foreign court has imposed imprisonment punishments as regards several persons, the recognition has effect only as regards the person for whom recognition of the sentence has been requested.
- (3) If the recognised sentence of the foreign court refers only to an individual act of a continued crime perpetrated in the territory of another state, the recognised sentence shall not be an obstacle for penal prosecution of the convicted person for other acts included in the continued crime, which have been perpetrated in the territory of the Republic of Bulgaria.

Detention in custody

Art. 467. (1) For ensuring the execution of the imprisonment punishment imposed with the sentence of the foreign court, the competent court under Art. 465, Para 2, may at any time after the institution of the procedure for recognition and execution of the sentence of the foreign court until the entering in effect of the decision take the measure detention in custody of the convicted person who is in the territory of the Republic of Bulgaria.

- (2) The definition whereby the measure detention in custody is taken shall be appealed under the general procedure.

Execution procedure

Art. 468. (1) Competent to enact execution of the decision whereby a sentence of a foreign court has been recognised, is the district court at the place of residence of the convicted person, and when he/she does not have a place of residence in the country – the Sofia City Court.

- (2) The court under Para 1 shall be competent to enact also the execution of the decision on the rights to seized and confiscated property.

(3) The court under Para 1 shall be competent on all issues related to the execution procedure, including the consideration of a request for rehabilitation as regards the imprisonment punishment imposed with the sentence of the foreign court.

(4) The court shall decide the issue of serving the imprisonment punishment, whereas the time of the detention in custody and the imprisonment punishment served in the other country shall be deducted.

(5) The court shall terminate the procedure of execution of the imprisonment punishment under the recognised sentence when the state whose court has enacted it informs about amnesty, pardon or another reason for which the further execution of the sentence is unallowable. If under the amnesty, pardon or another reason the imposed punishment is reduced, the court shall decide what part of the sentence should be served. The court decision shall be subject to appeal under the general procedure.

(6) The provisions of this code for execution of punishments shall also be applied to the execution of the decision whereby a sentence of a foreign court has been recognised.

Recognition and execution of other court acts

Art. 469. (suppl. – SG 15/10) Under the procedure of this section, shall also be recognised and executed other acts of a foreign court, whereby seizure or confiscation of the means of the crime and of property acquired through crime, or of its equivalence, is enacted, unless otherwise specified in a Law.

Terms for a request to another state for recognition and execution of a sentence of a Bulgarian court

Art. 470. A request to another state for recognition and execution of a sentence of a Bulgarian court shall be addressed by the respective Bulgarian court and shall be sent by the Ministry of Justice when:

1. the convicted person has permanent residence in the other state;
2. the execution of the sentence in the other state may improve the possibilities for socialisation of the convicted person;
3. the person was convicted to imprisonment and is already serving or should serve another imprisonment punishment in the other state;
4. the other state is the state of origin of the convicted person and it has declared that it wishes to accept the execution;
5. the punishment cannot be implemented in the Republic of Bulgaria even through extradition.

Section III.

International Legal Assistance in Penal Cases

Grounds for and content of the international legal assistance

Art. 471. (1) International legal assistance in penal cases of another state shall be rendered on the terms of a concluded international treaty to which the Republic of Bulgaria is a party, or on the principle of mutuality. International legal assistance in penal cases shall also be rendered to an international court of justice whose jurisdiction has been recognised by the Republic of Bulgaria.

(2) The international legal assistance shall include:

1. submission of documents;
2. investigation actions;
3. collection of evidence;
4. providing information;

5. other forms of legal assistance if they are stipulated in an international treaty to which the Republic of Bulgaria is a party, or are imposed on the terms of mutuality.

Refusal of international legal assistance

Art. 472. The international legal assistance may be refused if the granting of the request could endanger the sovereignty, national security, public order or other interests protected by law.

Appearance of a witness and an expert before a foreign court

Art. 473. (1) The appearance of a witness and an expert before foreign court authorities shall only be allowed if assurance is given that the summoned persons, irrespective of their citizenship, would not bear criminal liability for acts committed prior to summoning them. In the event of a refusal to appear, no coercive measures may be applied to them.

(2) Turning over persons detained in custody, in order to be interrogated as witnesses or experts, shall only be allowed in exceptional cases at the discretion of the respective district court on the grounds of papers submitted by the other state or the international court of justice, provided that the person gives his/her consent for being turned over and provided that his/her stay in the other state will not extend the term of his/her detention in custody.

Interrogation of persons through video conference or telephone conference

Art. 474. (1) A court authority of another state may carry out through a video conference or a telephone conference the interrogation of a person who is a witness or an expert in penal procedure and is in the Republic of Bulgaria, when this is stipulated in an international treaty to which the Republic of Bulgaria is a party. An interrogation through video conference with the participation of a defendant may only be carried out with his/her consent and after the participating Bulgarian court authorities and the court authorities of the other state have agreed on the manner of holding the video conference. An interrogation through video conference or telephone conference may only be carried out if this does not contradict basic principles of the Bulgarian law.

(2) The request for interrogation from the court authority of the other state shall contain:

1. the reason for which the appearance of the person himself/herself is undesirable or impossible;
2. the name of the court authority of the other state;
3. the data of the persons who will carry out the interrogation;
4. the consent of the person who will be interrogated as a witness or an expert through a telephone conference;
5. the consent of the defendant who will participate in a hearing for interrogation through a video conference.

(3) The Bulgarian competent authorities in penal procedure shall execute requests for interrogation through video conference or telephone conference. For the needs of a pre-trial procedure, a request for interrogation through video conference or telephone conference shall be executed by the National Investigation Service. For the needs of a court procedure, a request for interrogation through telephone conference shall be executed by a court of equal degree at the place of residence of the person, and for interrogation through video conference – by the court of appeal at the place of residence of the person. The competent Bulgarian authority may require the requesting state to ensure the technical means of interrogation.

(4) The interrogation shall be held directly by the court authority of the requesting state or under its direction in accordance with its legislation.

(5) Prior to the interrogation, the Bulgarian competent authority shall establish the identity of the person who is to be interrogated. After the interrogation, a protocol shall be drawn up, reflecting:

1. the date and place of holding it;
2. the data of the interrogated person and his/her consent, should this be required;
3. the data of the persons participating from the Bulgarian side;
4. the fulfillment of other terms accepted by the Bulgarian side.

(6) A person who is abroad may be interrogated by a competent Bulgarian authority or under its direction through video conference or telephone conference, when the legislation of the other state allows this. The interrogation shall be carried out in accordance with the Bulgarian legislation and the provisions of the international treaties to which the Republic of Bulgaria is a party, regulating the said means of interrogation.

(7) Interrogation through video conference or telephone conference under Para 6 in the pre-trial procedure shall be carried out by an investigator from the National Investigation Service, and in the court procedure – by the court.

(8) The provisions of Paras 1 - 5 shall also be applied respectively to the interrogation of the persons under Para 6.

Procedure for submitting an order for another state or an international court of justice

Art. 475. (1) The order for international legal assistance shall contain data of: the authority addressing it; the subject and motive of the request; the names and citizenship of the person to whom the request refers; the name and address of the person to whom the papers are to be handed over; if necessary – the indictment and a brief statement of the its facts.

(2) The order for international legal assistance shall be sent to the Ministry of Justice unless an international treaty to which Bulgaria is a party stipulates another procedure.

Execution of order from another state or an international court of justice

Art. 476. (1) The order for international legal assistance shall be executed under the procedure stipulated in the Bulgarian laws, or under a procedure stipulated in an international treaty to which the Republic of Bulgaria is a party. The order may also be executed under the procedure stipulated in the law of the other state or the statutes of the international court of justice, provided that this has been requested and does not contradict the Bulgarian laws. The other state or the international court of justice shall be informed about the time and place of execution of the order, if this is requested.

(2) The request for legal assistance and all the other notices from the competent authorities of another state, sent and received by facsimile and electronic mail, shall be received and executed by the Bulgarian competent authorities under the same procedure as those sent by ordinary mail. The Bulgarian authorities may ask for verification of the authenticity of the sent materials and may receive the originals by express mail.

- (3) The Supreme Cassation Prosecution shall establish together with other states joint investigation teams in which Bulgarian prosecutors and investigation authorities shall participate. An agreement shall be concluded with the competent authorities of the participating states about the activities, term and composition of the joint investigation team. In the territory of the Republic of Bulgaria the joint investigation team shall observe the provisions of the international treaties, the terms of the agreement and the Bulgarian legislation.
- (4) The Supreme Cassation Prosecution shall file requests to other states for investigation through an undercover officer, through controlled delivery and cross-boundary observation, and shall pronounce itself on such requests from other states.
- (5) On the terms of mutuality, the foreign authority carrying out an investigation through an undercover officer in the territory of the Republic of Bulgaria may collect evidence in accordance with its national legislation.
- (6) In urgent cases of crossing the state boundary for cross-boundary observation in the territory of the Republic of Bulgaria, the Supreme Cassation Prosecution shall be informed immediately. It shall adopt a decision for the continuation or termination of the cross-boundary observation on the terms and under the procedure of the Special Intelligence Devices Act.
- (7) The execution of requests from other states for controlled delivery and cross-boundary observation shall be carried out by the competent investigating authority. It may ask for assistance the police, customs and other administrative authorities.

Expenses for execution of orders
 Art. 477. The expenses for the execution of the order shall be distributed between the countries in accordance with the international treaties to which the Republic of Bulgaria is a party, or on the principle of mutuality.

Section IV.

Penal Procedure Transfer

Transfer of penal procedure by another state

Art. 478. (1) A request for transfer of penal procedure by another state shall be sent to:

1. the Supreme Cassation Prosecution – for pre-trial procedure;
 2. the Ministry of Justice – for court procedure.
- (2) The request for transfer of penal procedure from another state shall be accepted by the authority under Para 1 when:
1. the act for which the request has been addressed constitutes a crime under the Bulgarian law;
 2. the perpetrator bears criminal liability under the Bulgarian law;
 3. the perpetrator has permanent residence in the territory of the Republic of Bulgaria;
 4. the perpetrator is citizen of the Republic of Bulgaria;
 5. the crime for which the request is addressed is not considered to be political or to be related to a political crime, or a war crime;
 6. the request does not aim at prosecution or punishment of the person due to his/her race, religion, ethnicity, gender, civil status or political convictions;
 7. a penal procedure has started against the perpetrator in the Republic of Bulgaria for the same or for another crime;
 8. the transfer of procedure is in the interest of establishing the truth, and the major evidence is in the territory of the Republic of Bulgaria;
 9. the execution of the sentence, if a sentence should be enacted, will improve the possibilities of the convicted person for socialisation;
 10. the presence in person of the perpetrator may be ensured in the procedure in the Republic of Bulgaria;
 11. the sentence, if a sentence should be enacted, may be executed in the Republic of Bulgaria;
 12. the request does not contradict the international obligations of the Republic of Bulgaria;
 13. the request does not contradict the basic principles of the Bulgarian penal and penal procedure law.
- (3) If the authority under Para 1 grants the request, it shall immediately forward it to the competent authorities of penal procedure in accordance with the provisions of this code.
- (4) Any procedure action carried out by an authority in the requesting state in accordance with its national legislation, shall enjoy in the Republic of Bulgaria the same force of evidence it would have enjoyed had it been carried out by a Bulgarian authority.

Transfer of penal procedure to another state

Art. 479. (1) If the person against whom a penal procedure has been instituted in the Republic of Bulgaria is a citizen of another state or has permanent residence in another state, the authorities under Para 2 may send a request for transfer of the penal procedure to this state.

- (2) A request for transfer of a penal procedure to another state at the proposal of the competent Bulgarian authority of penal procedure shall be sent by:
1. the Supreme Cassation Prosecution – for pre-trial procedure;
 2. the Ministry of Justice – for court procedure.

(3) A request for transfer of penal procedure to another state may be addressed when:

1. the extradition from the requested state of the person, perpetrator of the crime, is not possible, is not allowed or has not been requested for another reason;
 2. for establishing the facts, for determining the punishment or for executing the sentence, it is expedient that the penal procedure be held in the requested state;
 3. the person who has perpetrated the crime is or will be extradited to the requested state, or for another reason his/her appearance in the penal procedure in that state is possible;
 4. the extradition of a person convicted by a Bulgarian court with an effective sentence of imprisonment is not possible or is not allowed by the requested state, or the execution of the sentence in that state is not possible.
- (4) If the requested state allows the transfer of the penal procedure, this procedure cannot continue in the territory of the Republic of Bulgaria against the person who has perpetrated the crime, and the imposed sentence under Para 3, Item 4 on the crime in connection with which a transfer of penal procedure has been made, shall not be executed.

(5) The authorities of the pre-trial procedure or the court shall continue the penal procedure or shall send the sentence to be executed, if the requested state:

1. having accepted the request for transfer, fails to institute a penal procedure;
2. subsequently rescinds its decision for transfer of the penal procedure;
3. fails to continue the procedure.

Decision by subsidiary competence

Art. 480. In the event of receiving information from an authority of another state for instituted penal procedure or for procedure which will be instituted in connection with a crime perpetrated in that state, the respective prosecutor under Art. 37 shall decide whether the Bulgarian authorities shall exercise their power under Art. 4, Para 1 for instituting a penal procedure for the same crime.

Additional provisions

§ 1. (1) "Close relatives" in the meaning of this code shall be the direct descendants (including the adopted and stepchildren), the relatives of collateral branches up to fourth degree included, relatives in law up to third degree.

(2) "Data of the traffic" in the meaning of this law shall be all data connected with a message, passing through a computer system, produced by it as an element of a communication chain, with statement of the information of origin, destination, rout, hour, data, size and duration of the connection or of the main service.

Transitional and concluding provisions

§ 2. The Penal Procedure Code shall be revoked (prom. SG, 89/ 1974; corr., 99/ 1974; 10/ 1975; amend. 84 / 1977, 52/ 1980, 28/1982; corr., 38/ 1982; amend., 89/ 1986, 31 / 1990; corr, 32 and 35 /1990; amend., 39, 109 and 110 / 1993, 84/ 1994, 50/1995 ,107 and110 / 1996, 64 / 1997; corr., 65/ 1997; amend., 95/ 1997, 21/ 1998, 45/ 1998 - Decision No. 9 of the Constitutional Court of year 1998; amend., 6p. 70/ 1999, 88/ 1999 - Decision No. 14 of the Constitutional Court of year 1999; amend., 42/ 2001, 74/ 2002, 50 and 57/ 2003, 26, 38, 89 and 103 / 2004, 46/ 2005 r.).

§ 3. (1) The pending penal cases, which jurisdiction is altered by this code shall be considered by the courts, where they have been instituted.

(2) The pending pre-trial procedures shall be finalized by the bodies, before which they are pendant.

§ 4. Regarding the periods which have started to run before this code enters into force, the provisions which were effective before shall be applied if by them a longer period is stipulated.

§ 5. In the Penal Code (prom. SG, 26/ 1968; corr. 29/ 1968; amend., 92/ 1969, 26 and 27/ 1973, 89/ 1974, 95 /1975, 3/ 1977, 54/ 1978, 89/ 1979, 28/ 1982; corr., 31/ 1982; amend., 44/ 1984, 41 and 79/ 1985; corr. 80/ 1985; amend., 89/ 1986; amend., 90/ 1986; 37, 91, 99/ 1989, 10, 31 and 81/ 1990, 1 and 86/ 1991; corr, 90/ 1991; amend., 105/ 1991, 54/ 1992, 10 or 1993, 50/ 1995, 97/ 1995 – Decision of the Constitutional Court No. 19 of year 1995; amend., 102/ 1995, 107/ 1996, 62 and 85/ 1997, 120/ 1997 - Decision of the Constitutional Court No. 19 of year 1995; amend, 83, 85, 132, 133 and 153/ 1998, 7, 51 and 81/ 1999, 21 and 51/ 2000, 98/ 2000 - Decision of the Constitutional Court No. 14 of year 2000; 41 and 101/ 2001, 45 , 92 / 2002, 26 and 103/ 2004, 24, 43 and 76/ 2005) the following amendments and supplementations shall be done:

1. In Art. 78a
- a) In Para 1 letter "a" the words "up to two years" shall be replaced by "up to three years" and the words "up to three years" – by "up to five years"
- b) Para 6 shall be created
- "(6) Where the grounds of Para 1 present and the act has been committed by a juvenile, the court shall release him/her from criminal liability. In this case the court shall impose to the perpetrator administrative punishment public reprobation if he/she is of age of 16 years, or a corrective measure if he/she is under the age of 16 years."
2. In Art. 343, Para 2 the words "the perpetrator shall be punished" shall be replaced by "the penal procedure shall be discontinued"
3. In Art. 343a, Para 2 the words "the perpetrator shall be punished" shall be replaced by "the penal procedure shall be discontinued"
4. In Art. 406 paras 3 and 4 shall be revoked
5. In Art. 424:
- a) Para 6 shall be amended as it follows:
- "(6) Regarding the militaries, as well as the officers and sergeants, as well as persons from the rankers staff of other institutions, the administrative sanctions stipulated by this code shall be imposed by the respective commander and superiors, who have the right to impose disciplinary punishments. In this case the appeals against the penal decrees shall be heard by a military tribunal."
- b) Para 7 shall be revoked.
6. In the transitional and concluding provisions of the Law of Amendment and Supplementation of the Penal Code) SG 62/2004) in § 90 the words "Art. 304" shall be replaced by "Art. 306".
7. In the transitional and concluding provisions of the Law of Amendment and Supplementation of the Penal Code (SG 103/2004) in § 44 the words "Art. 304" shall be replaced by "Art. 306".
- § 6. In the Civil Procedure Code (Promulg. Izv. 12/ 1952; amend. 92/ 1952, 89/ 1953, 90/ 1955, 90/1956, 90/ 1958, 50 and 90/ 1961; corr., 99/ 1961; amend., SG 1/ 1963, 23/ 1968, 27/ 1973, 89/ 1976, 36/ 1979, 28/ 1983, 41/ 1985, 27/ 1986, 55/ 1987, 60/ 1988, 31 and 38/ 1989, 31/ 1990, 62/ 1991, 55/ 1992, 61 and 93/ 1993, 87/ 1995, 12 and 26/1996, 37, 44 and 104/ 1996, 43, 55 and 124/ 1997, 21, 59, 70 and 73/ 1998, 64 and 103/ 1999, 36, 85 and 92/ 2000, 25/ 2001, 105 and 113 / 2002, 58 and 84/ 2003 and 28 and 36/ 2004, 38, 42, 43 and 79/ 2005) the following amendments and supplementations shall be done:
1. In Art. 63, Para 1:
- a) In letter "b" the conjunction "and" after the word "expenditures" shall be deleted.
- b) letter "e" shall be created:
- "e) from the claimant on claims for damages from tort arising from offence for which an entered in force sentence exists."
2. In Art. 65. Para 2 at the end shall be added "except in the cases under Art. 63, Para 1, letter "e".
3. In art. 97, Para 4 the words "Art. 21, Para 1, items 2-5" shall be replaced by "Art. 24, Para 1, items 2-5", and the words "Art. 22, item 2 and Art. 22a" shall be replaced by "Art. 25, item 2 and Art. 26".
4. In Art. 126a:
- a) in Para 1 shall be created letter "r"
- "r) on claims for damages from tort, for which an entered in force sentence exists."
- b) in Para 2 the words "letter "l", and the change" shall be replaced by "letters "l" and "r" in case of change"
- § 7. In the Tax Procedure Code (Prom. SG 103/ 1999; 29/ 2000 – Decision No. 2 of the Constitutional Court of year 2000; amend., 63 / 2000, 109/ 2001, 45 and 112/ 2002, 42, 112 and 114/ 2003, 36, 38, 53 and 89/ 2004, 19, 39, 43 and 79 / 2005) in Art. 91 the words "Art. 97a" shall be replaced by "Art. 123".
- § 8. In the Law of Special Intelligence Devices (Promulg. SG 95/ 1997; amend., 70/ 1999, 49/ 2000 and 17/ 2003) the following supplementations shall be done:
1. In Art. 2, Para 3 after the word "information" comma shall be put and added "controlled delivery, trust-transaction and investigation through officer under coverage".
2. Articles 10a, 10b and 10c shall be created:
- "Art. 10a. The controlled delivery shall be applied by the intelligence body and shall be used by the investigating body within its competence under permanent control on the territory of the Republic of Bulgaria or other country within the frames of the international cooperation and shall consist of import, export, transfer or transit transportation through the territory of the Republic of Bulgaria by the controlled person of an item – object of offence, in order to reveal the participants in trans-border offence.
- Art. 10b. The trust-transaction shall be used by the officer under coverage and shall be expressed in simulative sail or other type of transaction with an order in order to obtain the trust of the other party participating in the transaction.
- Art. 10c. The officer under coverage shall be an officer from the competent services under the Law of Ministry of Interior, the Law of the Defence and Armed Forces or from the National Intelligence Service, empowered to establish or maintain contacts with controlled person in order to obtain or reveal information about serious deliberate crime or about the organization of the criminal activity."
- § 9. In the Law of Execution of the Penalties (Promulg SG, 30/ 1969; amend, 34/ 1974, 84/1977, 36/ 1979, 28/ 1982, 27 and 89/ 1986, 26/ 1988, 21/ 1990, 109/ 1993, 50/ 1995, 12 and 13/ 1997, 73 and 153/ 1998 , 49/ 2000, 62 and 120/ 2002, 61, 66, 70 and 103/ 2004) the following amendment shall be done:
1. In Art. 100, letter "f" the words "Art. 361, Para 2" shall be replaced by "Art. 420 Para 3" and the words "Art. 362a, Para 2" by "Art. 423, Para 2"
2. In the concluding and transitional provisions of the Law of Amendment and Supplementation of the Law of Execution of the Penalties" (SG 103/2004) in § 54 the words "Art. 304" shall be replaced by "Art. 306".
- § 10. Law of the Extradition and the European Arrest Warrant (SG 46/05) the following amendments shall be done
1. In Art. 13:
- a) In Para. 7 the words "Art. 152a, Para 5 and 8" shall be replaced by "Art. 64, Para 3 and 5".
- b) in Para 10 the words "Art. 152b" shall be replaced by "Art. 65".
2. In Art. 15, Para 1 the words "Art. 152a, Para 5 and 8" shall be replaced by "Art. 64, Para 3 and 5"
3. In Art. 43:
- a) in Para. 2 the words "Art. 152a" shall be replaced by "Art. 64"
- b) in Para 4 the words "Art. 152b" shall be replaced by "Art. 65".
- § 11. In the Law of the Ministry of Interior (Promulg., SG, 122/ 1997, 29/ 1998 – Decision of the Constitutional Court No. 3 of year 1998; amend., 70, 73 and 153/ 1998, 30 and 110 / 1999, 1 and 29/ 2000, 28/ 2001, 45 and 119/ 2002, 17, 26, 95, 103, 112 and 114 2003, 15, 70 and 89/ 2004, 11, 19 and 27/ 2005) the following amendment shall be done:
1. In Art. 181a, Para 2, item 2 the words "Art. 21, Para 3" shall be replaced by "Art. 24, Para 3".
2. In Art. 259 the words Art. 154 and 392" shall be replaced by "Art. 69 and 403"
- § 12. In the Law of Divestment in Favour of the State of Property Acquired from Criminal Activity (SG 19/05) Art. 3, Para 2, item 3 the words "Art. 22" shall be replaced by "Art. 25".
- § 13. In the Law of Fighting the Illegal Traffic of People (SG 46/2003) in Art. 31 the words "Art. 97a" shall be replaced by Art. 123.
- § 14. In the Law of the Bulgarian Identity Documents (Prom., SG 93/ 1998; amend., 53, 67, 70 and 113/ 1999, 108/ 2000, 42/ 2001, 45 and 54/ 2002, 29 and 63/ 2003, 96, 103 and 111/ 2004, 43 and 71 / 2005), in Art. 75, item 3 the words "Art. 153a" shall be replaced by "Art. 68".
- § 15. In the Law of the Judicial System (Promulg., SG 59 / 1994, 78/ 1994 – Decision No. 8 of the Constitutional Court of year 1994, 87 / 1994 - Decision No. 9 of the Constitutional Court of year 1994, 93/ 1995 r. - Decision No. 17 of the Constitutional Court of year 1995.; amend., 64 / 1996, 96 / 1996 - Decision No. 19 of the Constitutional Court of year 1996; amend, 104 and 110/ 1996, 58, 122 and 124/ 1997, 11 and 133/ 1998, 6 /1999 - Decision No. 1 of the Constitutional Court of year 1999; amend., 34, 38 and 84/ 2000, 25/ 2001, 74/ 2002, 110 / 2002 - Decision No. 11 of the Constitutional Court of year 2002 118/ 2002 - Decision No. 13 of the Constitutional Court of year 2002; amend 61 and 112 of 2003, 29, 36 and 70 / 2004, 93/ 2004 - Decision No. 4 of the Constitutional Court of year 2004, 37/ 2005 - Decision No. 4 of the Constitutional Court of year 2005; amend., 43 / 2005) the following supplementations shall be done:
1. Art. 118 a shall be created:
- "Art. 118a. In execution of the function under Art. 118. item 1 the prosecutor shall govern the investigation and perform permanent supervision for its lawful conduction as a supervising prosecutor.
- (2) Where the participation of the supervising prosecutor in hearing the case at court session is impossible with reason, the superior prosecutor shall appoint another prosecutor who shall take his/her place."
2. In Art. 168, Para 1 after the words "as well as" shall be supplemented "offending the terms provided by the procedure laws, for committing actions which unreasonably slow down the procedure and".

3. Art. 188t:

"Art. 188t. (1) Where is possible, all acts and documents on the cases shall be made out also on a electronic carrier.

(2) Whereas a pending case or correspondence shall be attached to another case, a full photographing of the materials shall be done, which materials shall be certified by the body before which the procedure is pending, and the copy shall be sent for attachment."

§ 16. In the Law of the customs (Prom. SG1 15/ 1998;amend., 89 and 153/ 1998, 30 and 83/ 1999, 63/ 2000, 110/ 2001, 76/ 2002, 37/ 95 2003, 38/ 2004, 45/ 2005) Art. 15, Para 2 shall be revoked.

§ 17. The execution of the code shall be assigned to the Minister of Justice and to the Minister of Interior.

§ 18. The code shall enter in force six months after its promulgation in the State Gazette.

The code was adopted by the XL National Assembly on the 14 of October 2005 and was affixed by the official seal of the National Assembly.

Transitional and concluding provisions

TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE LAW ON DEFENCE AND ARMED FORCES OF THE REPUBLIC OF BULGARIA
(PROM. - SG 46/07, IN FORCE FROM 01.01.2008)

§ 77. This Law shall enter into force from 1 January 2008 except:

1. Paragraph 1, § 2, Item 1, § 4, Item 1, Letter "a" and Item 2, § 5, 13, 15, 32, 33, 34, 35, 36, 37, § 38, Item 1, Letter "a" and Item 2, § 40, 43, 44, 46, 55, 59 and 75 which shall enter into force three days after its promulgation in the State Gazette.

2. Paragraph 2, Item 2, § 3, § 4, Item 1, Letter "b", § 6, 7, 60, 61 (regarding addition of the words "and 309b") and 63, which shall enter into force 6 months after its promulgation in the State Gazette.

Transitional and concluding provisions

OF THE LAW FOR THE STATE AGENCY "NATIONAL SECURITY"

(PROM. - SG 109/07, IN FORCE FROM 01.01.2008)

§ 44. This Law shall enter into force from 1 January 2008.

Transitional and concluding provisions

OF THE LAW FOR AMENDMENT AND SUPPLEMENTATION OF THE PENAL PROCEDURE CODE
(PROM. - SG 109/07)

§ 37. (1) The pending penal cases, the jurisdiction of which is being changed, shall be referred to the court, where they have been instituted.

(2) The pending pre-trial procedures shall be finalized by the bodies, before which they are pending.

(3) The expired prior to entering of this law into force term of Art. 112, par. 3 shall be taken into consideration.

Transitional and concluding provisions

TO THE LAW OF AMENDMENT AND SUPPLEMENTATION OF THE TAX-INSURANCE PROCEDURE CODE

(PROM. - SG 12/09, IN FORCE FROM 01.05.2009; SUPPL. - SG 32/09)

§ 68. (suppl. - SG 32/09) This Law shall enter into force from 1 May 2009 except § 65, 66 and 67, which shall enter into force from the date of promulgation of the Law in the State Gazette and § 2 - 10, § 12, Items 1 and 2 - regarding Para 10 and 11, Item 8, Letter "a", Items 9 and 12 and § 53 - 64, which shall enter into force from 1 January 2010.

Transitional and concluding provisions

TO THE LAW ON AMENDMENT AND SUPPLEMENTATION OF THE PENAL CODE

(PROM. - SG 27/09)

§ 65. In pending cases, for which the court has decided to conduct preliminary hearing under Art. 372, Para 4 of the Penal Procedure Code, shall apply the hitherto effective order for determining the punishment under Art. 373, Para 2.

§ 70. Paragraphs 36, 50, 51, 52, 53 and § 64, Item 1 shall enter into force from 10 April 2009, and § 64, Items 2, 3, 4, 7 and 8 shall enter into force from 1 June 2009.