Print

CODE OF CRIMINAL PROCEDURE OF UKRAINE

(Articles 1 to 93-1)
(Articles 94 to 236-8 (1002-05))
(Articles 237 to 449 (1003-05))
(Enacted by the Law of 28 December 1960 (1000-05), VVR, 1961, No 2, p.15)

(As amended and supplemented by Decrees of the Presidium of the Verkhovna Rada of Ukrainian SSR)
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(In respect of the constitutionality of some provisions
See. Constitutional Court's Decision
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(As amended by Laws
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(For official interpretation of the Code See. the Constitutional Court's Decision No 11-рп/ 2007 (va11p710-07) of 11.12.2007)

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(For provisions recognized as unconstitutional See.
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No 2507-VI (2507-17) of 09.09.2010)

(In the body of the Code, words "service person" are replaced with "official" by Law No 282/95-BP of 11.07.95)

(In the body of the Code, words "Crimean Republic" are replaced with "the Autonomous Republic of Crimea" by Law No 2533 (2533-14) of 21.06.2001)

(In the body of the Code, words "preliminary investigation," "preliminary" are replaced with "pretrial investigation," "pre-trial," respectively, by Law No 2670-III (2670-14) of 12.07.2001)

Section I

GENERAL PROVISIONS

Chapter 1
BASIC PROVISIONS

Article 1. Purpose of the Code of Criminal Procedure of Ukraine

Code of Criminal Procedure of Ukraine prescribes the way in which criminal proceedings should be conducted.
(Article 1 as amended by Law No 2857-XII (2857-12) of 15.12.92)

Article 2. Tasks of criminal proceedings

Criminal proceedings aim at protecting rights and legal interests of physical and legal persons who take part therein as well as at a speedy and full resolution of crimes, identification of those guilty and ensuring correct application of law so that everyone who has committed a crime is prosecuted while everyone innocent is not punished.
(Article 2 as amended by Law No 2857-XII (2857-12) of 15.12.92)

Article 3. Applicability of the statute of criminal procedure

Criminal proceedings are conducted in the territory of Ukraine in accordance with the present Code wherever a crime has been committed.
Statute of criminal procedure which is effective during the inquiry, pre-trial investigation or trial, respectively, is applicable in criminal proceedings.
Rules of the present Code are applied in proceedings related to crimes committed by foreigners, except those who enjoy diplomatic immunity. Rules of the present Code are also applied in cases related to crimes committed by stateless persons.
(Article 3 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84)

Article 4. Duty to institute criminal proceedings and resolve a crime

Court, prosecutor, investigator, and inquiry agency are required, within their respective competencies, to institute criminal proceedings in every case when elements of crime are found and to take every legal measure to establish the occurrence of crime, the persons guilty of having committed the crime, and to punish them.

Article 5. Inadmissibility to prosecute an accused individual otherwise than on the grounds and in the way prescribed by law

No one may be prosecuted as an accused individual otherwise than on the grounds and in the way prescribed by law.

Article 6. Circumstances that preclude criminal proceedings

Criminal proceedings may not be instituted while instituted criminal proceedings should be closed:
1) in the absence of the occurrence of crime;
2) if an act does not contain any element of crime.
(Subparagraph 3 of the paragraph 1 of Article 6 is omitted by Law No 2670-III (2670-14) of 12.07.2001)
4) as a result of amnesty if it waives imposition of a punishment of the act committed as well as in connection with individual pardon;
5) in respect of a person who has not attained 11 years at the time when he/she has committed socially dangerous act;
6) if the accused, defendant has reconciled with the victim in proceedings which are instituted upon victim's complaint, save exceptions referred to in paragraphs 2, 4, and 5 of Article 27 of this Code;
7) if the victim has not lodge his/her complaint, when proceedings may be instituted only upon his/her complaint, except when prosecutor has the right to institute proceedings and in the absence of the victims' complaint (paragraph 3 of Article 27 of this Code);
8) in respect of a deceased, except when proceedings in the case are necessary to vindicate a deceased or renew the case in respect of other persons upon newly discovered facts;
9) with regard to the person in whose respect the judgment which has taken legal effect was pronounced based on the same charge or a decision or ruling has been passed to close proceedings based on the same ground;
10) with regard to the person in whose respect there is a decision of the inquiry agency, investigator, prosecutor to close proceedings related to the same charge if such decision has not been repealed;
11) if there is a valid decision of the inquiry agency, investigator, prosecutor to deny instituting criminal proceedings related to the same fact.
12) with regard to a crime in respect of which the state that extradited a person has granted no consent.
(Paragraph 2 of Article 6 is omitted by the Law No 2670-III (2670-14) of 12.07.2001)
Whenever circumstances referred to in subparagraphs 1, 2, and 4 of this Article appear at the stage of trial, the court considers the case up to the end and, in cases provided for in subparagraphs 1 and 2 of the present article, pronounces the judgment of acquittal while, in cases provided for in subparagraph 4, passes the judgment of conviction and releases the convict from the punishment.
Termination of a case based on the grounds specified in subparagraph 4 of this Article shall not be deemed acceptable if the accused objects thereto. In this case conduct of the case shall be continued according to the general procedure.
With the sufficient grounds present to consider that a socially dangerous act has been committed by the person who has attained 11 years but prior to the age permitted for

prosecution as established by law, criminal proceedings should be instituted based on such act. Such a case is resolved as prescribed in Article 7-3 of the present Code.
If, in the course of inquiry, pre-trial investigation or trial or verification which has been conducted based on the grounds referred to in paragraph 4 of Article 97 of the present Code, elements of an administrative offence are found in a person's act in addition to circumstances referred to in subparagraphs 1, 2, 4, 6, 7, 9 – 11 of paragraph 1 of the present Article which preclude criminal proceedings, - the inquiry agency, investigator, prosecutor, court or the judge concerned are required to refer appropriate records to the agency (official) that is competent to deal with the case related to such administrative offence.
(Article 6 as amended by decrees of the Presidium of the Verkhovna Rada of 10.09.62, No 6834-10 of 16.04.84, by laws No 3351-12 of 30.06.93, No 3787-12 of 23.12.93, No 358/95-BP of 05.10.95, No1483-III (1483-14) of 22.02.2000, No2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2286-VI (2286-17) of 21.05.2010)

Article 7. Procedure for the release from prosecution and punishment as a result of changes in the situation

The court may release defendant from prosecution if it is found that, at the time of trial, the act committed by the defendant or the defendant himself/ herself has become socially safe.
Prosecutor and investigator, upon prosecutor's consent, with the grounds referred to in Article 48 of the Criminal Code of Ukraine (2341-14), draws up a motivated decision to refer the case to court for deciding the matter of releasing the person concerned from prosecution.
With the grounds referred to in Article 48 of the Criminal Code of Ukraine, in cases which have been referred to court with the indictment, the court takes decision to close the case in court session.
Criminal proceedings should be closed based on such grounds with full respect of paragraphs 2 and 3of Article 7-1 of the present Code.
Court, by its judgment, may release from punishment the person who has committed the offense of minor or moderate severity if the court, taking into account irreproachable behavior and fair attitude of the person towards work, finds that, at the time of trial, the person concerned can not be considered socially dangerous.
Court, by its judgment, may also release a person from prosecution or punishment based on the grounds referred to in Articles 49 and 74 of the Criminal Code of Ukraine (2341-14).
(Article 7 as amended by decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, laws No 3351-XII (3351-12) of 30.06.93, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001)

Article 7-1. Closing criminal proceedings in connection with effective confession, reconciliation of the accused with the victim, imposition of compulsory measures of educational nature, commission of a person on bail, or expiration of periods of limitation
Court may close criminal proceedings in connection with:
1) effective confession;
2) reconciliation of the accused with the victim;
3) imposition of compulsory measures of educational nature on a juvenile as prescribed in Article 447 of the present Code;
4) taking a person on bail by the staff of an enterprise, institution or organization;
5) expiration of periods of limitation.
Prior to referring criminal case to court, the person concerned should be advised of the substance of charges, the ground for release from prosecution, and the right to object to the closure of proceedings based on such ground.

Criminal case may not be referred to court based on the grounds specified in the present Article if the accused, defendant objects thereto. If so, proceedings in the case should be continued in the regular course of actions.
Whenever prosecutor or investigator makes decision to refer the case to court in cases specified in the paragraph 1 of Article 7-1 of the present Code, they should make known the name of the decision to the accused, his/her defense counsel, victim or representative of the latter and, if they request, - all records of the case and explain them their rights set forth in the present Code.
(Article 7-1 is added to the Code by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, Laws No 2857-XII (2857-12) of 15.12.92, No 3787-XII (3787-12) of 23.12.93, No 2670-III (2670-14) of 12.07.2001)

Article 7-2. Releasing from prosecution in connection with effective confession

Prosecutor and investigator, upon consent of the prosecutor, with grounds referred to in Article 45 of the Criminal Code of Ukraine (2341-14) present, may, by their motivated decision, refer criminal case to court so that the latter decides on the release of the accused from prosecution.
With grounds referred to in Article 45 of the Criminal Code of Ukraine present, court passes the ruling to close the case if the case was referred to court with an indictment.
(Article 7-2 is added to the Code by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, Laws No 3351-XII (3351-12) of 30.06.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as revised by Law No 2670-III (2670-14) of 12.07.2001)

Article 7-3. Resolving cases related to socially dangerous acts whose perpetrator has not attained the age permitted for prosecution

The person in the age from 11 till the age permitted for prosecution, who is suspected of committing a socially dangerous act which has elements of crime punishable under the Criminal Code of Ukraine (2341-14) by confinement for more than 5 years, and if there are enough grounds to consider that he/she will evade investigation and court or procedural decisions, obstruct establishment of the truth in the case or continue illegal activity, may be placed in the receiving/distributing center for juveniles for up to 30 days. Given reasonable grounds this term may be extended by court's decision up to 30 more days. The court should immediately decide on the placement of such person in the receiving/distributing center for juveniles upon request of investigator or inquiry agency as agreed with prosecutor, taking into account the special features prescribed by paragraphs 3 and 4 of Article 447 of this Code. Court's decision may be appealed against before the Court of Appeals by prosecutor, legal representative, defense counsel of an underage and the underage himself/herself within three days after such decision has been made. Filing the appeal does not affect execution of court's decision on the placement of a child in the receiving/distributing center for juveniles.
Having established that a socially dangerous act has been committed by the person in the age of 11 till the age permitted for prosecution, investigator makes a motivated decision to close the case and impose compulsory measures of educational nature against the juvenile concerned. The case together with the decision is submitted to the prosecutor.
The juvenile in whose respect the decision was made and his/her parents or persons replacing them, prior to the case is referred to the prosecutor, are given the possibility to review all records of the case and, in so doing, they may take advices of a defense counsel.
(Paragraph 3 of Article 7-3 is omitted by Law No 2507-VI (2507-17) of 09.09.2010)

Having established in criminal proceedings that a socially dangerous act has been committed by a child who has not attained 11 years, the investigator makes a decision to close proceedings in the case with full respect for paragraph 3 of the present Article and informs thereon the prosecutor and the Service in charge of Juveniles in the place of child's residence.
(Article 7-3 is added to the Code by Law No 3787-XII (3787-12) of 23.12.93, as amended by Laws No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2670-III (2670-14) of 12.07.2001, No 609-V (609-16) of 07.02.2007, No 2507-VI (2507-17) of 09.09.2010)

Article 8. Releasing from prosecution in connection with reconciliation of the accused, defendant with the victim

Prosecutor and investigator, upon prosecutor's consent, with grounds referred to in Article 46 of the Criminal Code of Ukraine (2341-14), may take a motivated decision to refer the case to court so that the latter decides on the release of the accused from prosecution.
With grounds referred to in Article 46 of the Criminal Code of Ukraine present, the court, in court session, takes decision to close proceedings in the case if the case was submitted to court with a indictment.
(Article 8 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) 16.04.84, Law No 3351-XII (3351-12) of 30.06.93, as revised by Law No 2670-III (2670-14) of 12.07.2001)

Article 9. Releasing from prosecution with imposition of compulsory measures of educational nature against a juvenile

Prosecutor and investigator, upon prosecutor's consent, based on the ground referred to in paragraph 1 of Article 97 of the Criminal Code of Ukraine (2341 – 14), makes a motivated decision to refer the case to court so that the latter decides on the release of the juvenile concerned from prosecution. In such case, the juvenile is brought charges with full respect for Articles 438 and 440 of the present Code and, after the decision has been made, is produced all records of the case. The prosecutor refers records of the case together with the list of persons to be summoned in court to court.
With grounds referred to in paragraph 1 of Article 97 of the Criminal Code of Ukraine present, the court, in court session, takes decision to close proceedings in the case if the case was submitted to court with an indictment.
(Article 9 as revised by Law No 3787-XII (3787-12) of 23.12.93, as amended by Law No 2670-III (2670-14) of 12.07.2001)

Article 10. Releasing from prosecution in connection with bail

Prosecutor and investigator, upon prosecutor's consent, with grounds referred to in Article 47 of the Criminal Code of Ukraine (2341-14) present, may take a motivated decision to refer the case to court so that the latter decides on the release of the accused from prosecution and his/her commission on bail to the staff of an enterprise, institution or organization upon their request endorsed by the General Meeting. Minutes of the General Meetings are attached to records of the case.
Upon request of the staff, prosecutor, investigator informs the General Meeting on the circumstances under which the crime of a minor or moderate severity has been committed.
With grounds referred to in Article 47 of the Criminal Code of Ukraine present, the court, in court session, takes decision to close proceedings in the case if the case was submitted to court with an indictment.
Court, prosecutor, investigator is required to inform the staff that the person concerned has been released on bail of the staff.

(Article 10 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 3351-XII (3351-12) of 30.06.93, No 2670-III (2670-14) of 12.07.2001)

Article 11. Denying bail

With grounds present which, under Article 47 of the Criminal Code of Ukraine, preclude bail, court, prosecutor, investigator denies the request for bail and informs on reasons for such denial.
Investigator or prosecutor's denial to take decision on referring the case to court so that the latter decides on the release from prosecution with subsequent bail does not affect the staff's right to file request for bail with court.
(Article 11 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84; by Laws No 3351-XII (3351-12) of 30.06.93, No 2670-III (2670-14) of 12.07.2001)

Article 11-1. Releasing from prosecution in connection with expiration of periods of limitation

Prosecutor and investigator, upon prosecutor's consent, based on the ground referred to in paragraph 1 of Article 49 of the Criminal Code of Ukraine (2341 – 14), makes a motivated decision to refer the criminal case to court so that the latter decides on the release of the accused from prosecution.
With grounds referred to in paragraph 1 of Article 49 of the Criminal Code of Ukraine present, the court closes criminal proceedings in the case in connection with expiration of periods of limitation if the case was submitted to court with an indictment.
If, in the course of inquiry and pre-trial investigation during time-limits referred to in paragraph 1 of Article 49 of the Criminal Code of Ukraine, the perpetrator of crime has not been established, prosecutor or investigator, upon prosecutor's consent, refers criminal case to court so that the latter decides on the closure of the case based on the ground referred to in the paragraph 2 of the present Article.
The court decides on the application of periods of limitation to the person who has committed a crime of especially great severity for which life imprisonment may be imposed under law. If court finds it impossible to apply periods of limitation, life imprisonment, under paragraph 4 of Article 49 of the Criminal Code of Ukraine, may not be imposed and should be replaced with imprisonment for a definite term.
(Article 11-1 is added to the Code by Law No 2670 – III (2670-14) of 12.07.2001)

Article 12. Victim's challenging court's decision to release a person from prosecution in connection with changes in the situation, effective confession, imposition of compulsory measures of educational nature against a juvenile, bail, and expiration of periods of limitation

When deciding on the closure of a criminal case under Articles 7, 7-1, 7-2, 8, 9, 10, and 11-1 or when imposing compulsory measures of educational nature against a juvenile under Article 7-3 of the 11present Code, the court is required to find out the victim's opinion and, if the case is closed, to inform the victim and his/her representative thereon. The victim or his/her representative may challenge decision to close the case by way of appeal.
(Article 12 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85, No 838-XII (838-12) of 18.03.91, by Laws No 2857-XII (2857-12) of 15.12.92, No 3351-XII (3351-12) of 30.06.93, No 3787-XII (3787-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as revised by Law No

2670-III (2670-14) of 12.07.2001)

Article 13. Renewing proceedings in a case if bail is waived

If court is in possession of the decision made by the staff of the enterprise, institution, or organization at the General Meeting to waive the bail taken for the person who, throughout the year after the bailment, brakes the thrust of the staff, avoids measures of educational nature, and shatters public order, the court decides on the prosecution of such person.

In such a case, the case is renewed in accordance with Chapter 31 of the present Code.
(Article 13 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as revised by Law No 2670-III (2670-14) of 12.07.2001)

(Article 13-1 is omitted by virtue of the Decree of the Presidium of the Verkhovna Rada No 838-XII (838-12) of 18.03.91)

Article 14. Inviolability of person

No one may be arrested otherwise than based on court's decision.
Prosecutor should immediately release everyone who has been illegally confined or is kept in custody over period prescribed by law or a judgment.
(Article 14 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 14-1. Inviolability of home, protection of citizen's life, confidentiality of correspondence, telephonic conversations and telegraphic communications, bank deposits and accounts

Inviolability of home is guaranteed to citizens. No one is entitled to enter a home without legal cause and against the will of persons residing therein.
Citizen's life, confidentiality of correspondence, telephonic conversations and telegraphic communications, bank deposits and accounts are protected by law.
Search, removal, inspection of citizen's premises, arrest of correspondence and removal thereof in post and telegraphic institutions may be conducted only on the grounds and according to the procedure specified in the present Code.
If there is a threat of violence or any other unlawful acts against protected persons, wiretapping of telephone and other conversations, surveillance with or without audio recording, video recording, photographing and filming may be conducted upon written application or written consent of threatened persons. (Paragraph 4 of Article 14-1 as amended by Law No 965-IV (965-15) of 19.06.2003)
Wiretapping of telephone and other conversations, disclosure of information containing bank secrets are made upon written authorization of such information's owner or upon court's decision, except as provided for in the Law of Ukraine "On terrorism control" (638-15). (Paragraph 5 of Article 14-1 as amended by Law No 965-IV (965-15) of 19.06.2003).
(Article 14-1 is added by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; as amended by Laws No1381-XIV (1381-14) of 13.01.2000, No 2922-III (2922-14) of 10.01.2002)

Article 15. Administering justice only buy court

Justice in criminal proceedings is administered only by court.

No one may be found guilty in the commission of crime and criminally punished therefor otherwise than based on a court's sentence and in accordance with law.
(Article 15 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84)

Article 16. Justice administered in accordance with principle of citizen's equality before law and court

Justice in criminal proceedings is administered in accordance with principle of citizen's equality before law and court irrespectively of origin, social and property status, race and ethnic origin, sex, education, language spoken, attitude towards religion, kind and character of occupation, place of residence and other circumstances.
(Article 16 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84)

Article 16-1. Adversariality and optionality of proceedings

Courts try cases on the basis of adversariality of proceedings.
While conducting a case trial, the functions of prosecution, defense and ruling the case may not be imposed on the same body or person.
The government in court is represented by a prosecutor. In cases specified in the present Code, the victim or his/her representative conducts prosecution.
The defense of a defendant is maintained by the defendant himself/herself, by the defense counsel or legal representative of the latter.
Procurator, defendant, his/her defense counsel or legal representative, victim, civil plaintiff, civil defendant and their representatives participate in court session as parties and enjoy equal rights and freedom in producing evidence, examining it and proving its validity before court.
The court, while keeping objectivity and impartiality, creates necessary conditions for the parties to fulfill their procedural obligations and enjoy the rights granted thereto.
The function of trying a case is imposed on court.
(Article 16-1 is added by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 16-2. Automated electronic document management system in court

Automated electronic document management system which operates in court ensures:
1) objective and unprejudiced distribution of cases among judges in accordance with the principles of priority and equal number of cases for each judge;
2) providing information on situation of proceedings, for physical and juridical persons, which take part in these proceedings;
3) centralized storage of judgments, rulings, decisions, and other procedural documents;
4) preparation of statistical data;
5) registration of incoming and outgoing correspondence and stages of its movement;
6) issuing of court's judgments, decisions, rulings and executions on the basis of available data in the system;
7) transmission of cases to the electronic archive.
Criminal cases, complaints, submissions and other procedural documents prescribed under the law, which are submitted to court and may be the subject of judicial proceedings, should be registered in the automated electronic document management system of court on obligatory basis in the order of their receipt by relevant court staff members on the day of their arrival. The following data should be inserted into automated electronic document management system of court on a mandatory basis: the date of receipt of the criminal case, complaint, submission or other procedural document, name of the person against whom the

documents were submitted and their meaning, surname (name) of person (body), from whom the documents were received, surname of the court staff member who has made the registration, information on court documents movement, information about the judge who examined the case and other data, prescribed by the Provisions on the automated electronic document management system of court that approved by the Council of Judges of Ukraine as agreed with the State Judicial Administration of Ukraine.
Appointing a judge or panel of judges for trying a particular case is implemented by the automated electronic document management system of court during the registration of the respective criminal case, complaint, submission or other procedural document on the basis of probability, which takes into account the number of cases under trial, the prohibition to participate in reviewing judgments, rulings and regulations for the judge who participated in making a judgment, rulings and decision, the question of verification of which is raised, judges being on leave, on sick leave, on a business trip and the expiry of their mandate. Cases are distributed taking into account the specialization of judges. After the appointment of a judge or panel of judges for trying a particular case, amendments to registration data on this case, and the deleting of these data from the automated electronic document management system of court is not allowed, except instances specified by the law.
Access to the automated electronic document management system of court is given to judges and relevant court staff members in accordance with their functional responsibilities. Unauthorized interference into the operation of the automated electronic document management system of court results in responsibility under the law.
Functioning procedure of the automated electronic document management system of court, including issuing court's judgments, decisions, rulings and executions, transmission of cases to the electronic archive, storage of judgments, rulings, decisions, and other procedural documents, providing information for physical and legal persons, preparation of statistical data, is defined by the Provisions on the automated electronic document management system of court.
(Article 165-2 is added to this Code by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 17. Collegiate trial and trial by a single judge

Criminal cases are tried in the trial court by a single judge who acts on behalf of the court, except cases referred to in paragraphs 1 and 2 of the present Article.
Criminal cases related to crimes punishable under law with confinement for more than ten years are tried in the trial court by a panel composed of three judges if the defendant filed a petition for such trial.
Criminal cases related to crimes which under law may be punished with life imprisonment are tried in the trial court by a panel composed of two judges and three people's assessors, the latter enjoying all rights vested in a judge when administering justice.
Trial of cases by way of appeal and cassation is conducted respectively in appellate and cassation court by a panel composed of three judges. Trial of cases in exceptional cases is conducted in appellate and cassation court by a panel composed of three judges at least.
A judge or a panel of judges to conduct a particular case is assigned according to the procedure specified in paragraph 3 of Article 16-2 of this Code.
Trial of cases in the Supreme Court of Ukraine is conducted by a panel of judges composed of all the judges of the Supreme Court of Ukraine.
(Article 17 as revised by Law No 2464-XII (2464-12) of 17.06.92, as amended by Laws No 174/94-BP (174/94-BP) of 21.09.94, No 1483-III (1483-14) of 22.02.2000, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of

12.07.2001), No 2453-VI (2453-17) of 07.07.2010 - .

Article 18. Independence of judges and their obedience only to law

In administering justice in criminal cases, judges and people's assessors are independent and obey only to law. Judges and people's assessors resolve criminal cases based on law and under conditions which exclude external influence on judges.
(Article 18 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 19. Language of criminal proceedings

Criminal proceedings are conducted in Ukrainian or in a language spoken by the majority of local population.
Participants to the case who do not speak the language in which proceedings are conducted are ensured the right to make statements, give testimonies, submit motions, review all records of the case, speak mother language in court, and have translator as prescribed in the present Code.
Investigatory and judicial documents, in accordance with procedure established in the present Code, are handed over to the accused in translation to his/her mother language or other language he/she knows.
(Article 19 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84)

Article 20. Openness of court

Trial of cases in all courts is open, except when the openness is contrary to the interests of protecting state or any other legally protected secret.
Trial in camera is permitted upon court's motivated decision in cases related to crimes whose perpetrator has not attained 16, in cases related to sexual crimes, as well as in other cases to avoid disclosure of information on intimate life of persons who participate in the case and when interests of security for protected persons so require.
Trial of cases in camera is conducted with full respect for all rules governing proceedings.
In all cases, judges pronounce their judgment publicly.
(Paragraph 5 of the present Article is omitted by Law No 2553-III (2533-14) of 21.06.2001 – effective from 29.06.2001)
(Article 20 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 850-IV (850-15) of 22.05.2003)

Article 21. Ensuring right to defense to the suspect, accused, and defendant

Right to defense is ensured to the suspect, accused, and defendant.
Inquirer, investigator, prosecutor, judge, and court, before the first examination of the suspect, accused, and defendant, are required to advice them of the right to have a defense counsel and draw up an appropriate record thereon, as well as provide the suspect, accused, and defendant the possibility to defend themselves with legal remedies from the charge brought and ensure protection of their personal and property rights.
(Article 21 as revised by Law No 3780-XII (3780-12) of 23.12.93)

Article 22. Thorough, complete and objective examination of the circumstances of the case

Prosecutor, investigator, and inquirer are required to take all legal measures to ensure thorough, complete and objective examination of the case, reveal facts which both

incriminate and acquit the accused, as well as facts which mitigate and aggravate his/her responsibility.
Court, prosecutor, investigator, and inquirer may not place the burden of proof on the accused.
It is not permitted to seek testimonies from the accused and other participants to the case with the use of violence, threats, and other illegal measures.
(Article 22 as amended by Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 23. Finding out causes and conditions which have contributed to the commission of crime

When conducting inquiry, pre-trial investigation and trial of a criminal case, the inquiry agency, investigator, prosecutor is required to find out causes and conditions which have contributed to the commission of crime.
(Article 23 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 23-1. Submission of the inquiry agency, investigator, prosecutor in a criminal case

Having established causes and conditions which have contributed to the commission of crime, the inquiry agency, investigator, prosecutor makes a submission to the appropriate public authority, civil society organization or official so that they take necessary measures to eliminate such causes and conditions.
If the inquiry, pre-trial investigation or verification, the latter being conducted on the grounds referred to in paragraph 4 of Article 97 of the present Code, establishes that the act committed by the person to be prosecuted or acts committed by others contain elements of a disciplinary offence or these persons should be brought to material responsibility under applicable laws, the inquiry agency, investigator, or prosecutor are required to raise, in the submission, question of bringing these persons to disciplinary or material responsibility.
The person who made the submission should be informed on actions taken on the submission and results thereof within one month after the submission has been made.
If the official does not take action on the submission, the inquiry agency, investigator, or prosecutor are required to take measures specified in Articles 254 – 257 of the Code of administrative offences of Ukraine (80732-10).
(Article 23-1 is added by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Law No 358/95-BP (358/95-BP) of 05.10.95).

Article 23-2. Particular ruling (decision) of the court

With sufficient grounds present, the court draws up presentment in the case by which it draws attention of public authorities, civil society organizations or officials to the illegal facts established in the case, causes and conditions which contributed to the commission of crime and which require appropriate actions thereon.
Presentment in the case may be also drawn up if the court establishes violations of citizen's rights and other violations of law committed during inquiry, pre-trial investigation or trial by lower court.
(Paragraph 3 of Article 23-2 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001 – effective from 29.06.2001).
By its presentment, the court may bring to the attention of the appropriate enterprise,

institution or organization that the citizen concerned, when discharging his/her public duty, has displayed a high conscience, courage which contributed to preventing or revealing a crime.
The court also draws up a presentment if the person sentenced to confinement has under age children who have lost care and require placement or custody or care.
The court may also draw up a presentment in other cases if finds it necessary.
The court which drew up a presentment should be informed on actions taken on the presentment and results thereof within one month after the presentment.
If the official does not take action on the presentment of the court, measures specified in Articles 254 – 257 of the Code of administrative offences of Ukraine should be taken.
(Article 23-2 is added by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Laws No 358/95-BP (358/95-BP) of 05.10.95, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 24 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 25. Prosecutorial supervision in criminal proceedings

Prosecutor General and prosecutors accountable to him supervise how agencies dealing with operational – detective activities, inquiry, and pre-trial investigation comply with laws.
At all stages of criminal proceedings, prosecutor is required to timely take all legal measures to eliminate any breaches of law wherefrom they emanate.
Prosecutor discharges his/her powers in criminal proceedings independently from any authorities and officials. Prosecutor obeys only to law and is guided by instructions given by the Prosecutor General of Ukraine.
Prosecutor's decisions made in accordance with law are binding upon all enterprises, institutions, organizations, officials, and citizens.
(Article 25 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, in accordance with Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001)

Article 26. Joinder and disjoinder

Cases related to the accusation of several persons – associates in the commission of one or several crimes or to the accusation of one person in having committed several crimes may be joined in one criminal proceeding.
Disjoinder is allowed only when it is necessary, when disjoinder cannot affect thorough, complete and objective examination of the circumstances of the case and resolution of the case.
Criminal proceedings are joined and disjoined upon decision of the inquirer, investigator, and prosecutor or upon court's ruling or decision.
Provisions of the present Article may also apply in cases of prosecution for promises not to hide a criminal and the crime, as well as for non-reporting the crime.

Article 27. Prosecution only upon victim's complaint

Proceedings in cases related to crimes punishable under Article 125 and paragraph 1 of Article 126 of the Criminal Code of Ukraine, as well as cases related to crimes punishable under Article 356 of the Criminal Code of Ukraine in respect of acts thereby a damage was caused to rights and interests of citizens are instituted upon victim's complaint who is vested the right to maintain prosecution. Inquiry and pre-trial investigation are not

conducted in such type of cases. The said cases should be closed if the victim reconciles with the accused, defendant. Reconciliation is possible prior to the court retires in deliberation room to make a judgment.
Proceedings in cases related to crimes punishable under paragraph 1 of Article 152 of the Criminal Code of Ukraine are instituted upon victim's complaint but such proceedings may not be closed based on the reconciliation between the victim and the accused, defendant.
Prosecutor may institute proceedings in the case in the absence of victim's complaint if the case related to any of crimes referred to in the paragraph 1 of the present Article has a special public importance and in exceptional cases when the victim in such a case or in a case related to crimes referred to in the paragraph 2 of the present Article because of his/ her distress, dependence upon the accused or for any other reason is unable to protect his/ her legal interests. The case instituted by prosecutor is referred to inquiry or pre-trial investigation and, after investigation has been completed, is tried by court in the regular course of actions. Such a case is not subject to closure upon reconciliation between the victim and the accused, defendant.
Prosecutor may at any time engage in the case instituted by a judge upon victim's complaint in respect of crimes referred to in the paragraph 1 of the present Article and maintain prosecution in court if protection of state interests or citizens' rights so requires.
Prosecutor's involvement in the case does not deprive victim of the rights laid down in Article 49 of the present Code but the case is not subject to closure upon reconciliation between the victim and the accused, defendant.
(Paragraph 5 of Article 27 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001)
(Article 27 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 986-VIII (986-08) of 30.08.72, No 1937-VIII (1937-08) of 10.08.73, No 6834-X (6834-10) of 16.04.84, by Laws No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001)

Article 28. Civil suit in criminal case

A person who sustained material damage from the crime may, during criminal proceedings, bring a civil suit against the accused or the persons who are materially responsible for acts committed by the accused. Such civil action is considered by court together with criminal case.
Closure of cases on the grounds referred to in Articles 7 and 7-1 of the present Code does not release the person concerned from the duty to compensate, as prescribed by law, for material damage he/she caused to public, civil society organizations or citizens.
Civil suit may be brought during both pre-trial investigation and inquiry, and trial but before the beginning of court's examination. Denying the suit by way of civil proceedings deprives the plaintiff of the right to bring the same suit in criminal case.
The person who did not bring a civil suit in criminal case as well as the person on whose civil suit any action was taken may bring such suit by way of civil proceedings.
During consideration of a civil suit in criminal case or suit related to compensation for material damage caused by the person in whose respect the case was closed on the grounds referred to in Articles 7 and 7-1 of the present Code, civil plaintiff and civil defendant are released from the payment of state dues.
(Article 28 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92).

Article 29. Ensuring compensation for the damage caused by a crime, and execution of judgment in terms of asset forfeiture

With sufficient information present that a crime has caused material damage or that a health care institution incurred expenses for in-patient treatment of the victim of crime, the

inquiry agency, investigator, prosecutor, and court are required to ensure security for the claim.
Prosecutor brings or maintains the civil suit which the victim brought to compensate for damages caused by the crime if it is required by the protection of state interests and interests of citizens who, because of the state of their health and for other valid reasons, are unable to protect their rights.
(Paragraph 3 of Article 29 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001)
In criminal proceedings related to the crime for which additional sanction in the form of asset forfeiture may be imposed, the inquiry agency, investigator, prosecutor is required to take measures to ensure possible forfeiture of the accused's assets.
(Article 29 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92, No 3132-XII (3132-12) of 22.04.93, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 30 is omitted by Law No 2857-XII (2857-12) of 15.12.92)

Article 31. The way in which courts, prosecutors, investigators, and inquiry agencies interact with appropriate foreign authorities

The way in which courts, prosecutors, investigators, and inquiry agencies interact with appropriate foreign authorities and the way in which their mutual requests are executed is prescribed in Ukrainian laws and international treaties of Ukraine.
(Article 31 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92).

Article 32. Explanation of terms used in the Code

In the absence of special references, terms used in the present Code have the following meaning:
1) "Court" – Supreme court of Ukraine, High Civil and Criminal Court of Ukraine, Court of Appeal of the Autonomous Republic of Crimea, courts of appeal of oblasts, Kyiv and Sevastopol City Courts of Appeal, district, district (city), city and interdistrict (circuit) courts, and single judge who tries the case;
2) "Trial court" – interoblast, district (city), interdistrict (circuit) court entitled to render a judgment in a case;
3) "Court of Appeals" – court which tries cases by way of appeal against judgments, rulings, and decisions of the trial court, which have not taken legal effect;
4) "Court of Cassation" – court which tries cases upon cassation complaint and submissions made by way of cassation;
5) "Judge" – president, vice-president, and judge of the Supreme court of Ukraine, High Civil and Criminal Court of Ukraine, Court of Appeal of the Autonomous Republic of Crimea, courts of appeal of oblasts, Kyiv and Sevastopol City Courts of Appeal, district, district (city), city and interdistrict (circuit) courts, people's assessor;
5-a) "Presiding judge" – judge who presides at collegiate trial of a case or who tries a case alone;
6) "Prosecutor" - Prosecutor-General of Ukraine, prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv, city district prosecutor, city prosecutor, military prosecutor, transport prosecutor and other prosecutors assimilated to oblast prosecutors, city district or city prosecutors, their deputies and assistants, prosecutors working in departments or divisions of prosecutor's offices, all of them acting within their competencies;
6-a) "Chief of Investigation" – head of the Main Investigation Department, investigation department, division, Interior station, security subdivision and his/her deputies who act

within their competencies, as well as tax militia;
7) "Investigator" – prosecutor-office's investigator, investigator of Interior agencies, Security Service's investigator, tax militia's investigator;
8) "Participants to the process" – the accused, suspect, defense counsel, as well as victim, civil plaintiff, civil defendant and their representatives;
9) "Accuser" – prosecutor who maintains government case in court, and the victim - in cases specified in paragraph 1 of Article 27 of the present Code and in other cases prescribed in the present Code;
10) "Legal representatives" – parents, custodians, caretakers of the person concerned or representatives of institutions and organizations which took custody or care of the persons concerned;
11) "Close relatives" - parents, spouse, children, blood brothers and sisters, grandfather, grandmother, grandchildren;
12) "Judgment" – decision of a trial court on the guilt or innocence of a person;
13) "Ruling" – all decisions, except judgment, made by a panel of judges in court sessions of a trial, appellate, and cassation court;
14) "Decision" – decisions made by the inquiry agency, investigator and prosecutor, as well as decisions taken by a single judge or court of appeals;
15) "Appeal" – submission made a prosecutor or complaint filed by a participant to the process to set aside or alter a judicial decision by way of appeal;
(Paragraph 16, Article 32, is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Paragraph 17, Article 32, is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Paragraph 18, Article 32, is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
16) "Cassation protest, cassation complaint" – submission of the prosecutor, complaint of a participant to the process to set aside or alter a judicial decision by way of cassation;
17) "Record" – a document relating to the conduct of investigatory and judicial actions, to their contents and implications.
(Article 32 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 13.06.63, 18.01.66, No 117-VIII (117-08) of 30.08.71, No 52-IX (52-09) of 18.07.75, No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 2857-XII (2857-12) of 15.12.92, No 4018-XII (4018-12) of 24.02.94, No 85/98-BP (85/98-BP) of 05.02.98, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 32-1 is omitted by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

(Article 32-2 is omitted by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Chapter 2
JURISDICTION

Article 33. Trial court

All criminal cases are tried by district, city district, city and interdistrict (circuit) trial courts.
(Article 33 as amended by Law No 4018-XII (4018-12) of 24.02.94, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after

High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 33-1 is omitted by Law No 174/94-BP (174/94-BP of 21.09.94).

(Article 34 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 35 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Article 36 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 37. Territorial jurisdiction

A criminal case is tried in the court in whose area of operation a crime was committed. If is impossible to identify the place where a crime was committed, the case related to such a crime should be tried by the court in whose area of operation inquiry or pre-trial investigation in such a case was completed.

Article 38. Referral of a case from one court to another

In view of ensuring the most objective and complete consideration of a case, as well as ensuring educational role of the trial, a case sometimes may be referred to the court operating in the place where the accused resides or works or in the place where most of witnesses stay.
Referral of such cases from one court to another is allowed only prior to the beginning of the trial in court session.
Referral of a case - from one district, city district, city, interdistrict (circuit) court to another within the limits of the Autonomous Republic of Crimea, of one oblast, city of Kyiv or Sevastopol, is decided by the president of the Court of Appeal of the Autonomous Republic of Crimea, oblast court, courts of city of Kyiv or Sevastopol, respectively.
Referral of a case to another oblast court is decided by the president of High Civil and Criminal Court of Ukraine or his/her deputies.
(Article 38 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 4018-XII (4018-12) of 24.02.94, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 39. Determining jurisdiction over cases which fall within the competence of several courts of the same type

If criminal cases related to the accusation of several persons of having committed several crimes are joined in one proceeding and if such cases fall under jurisdiction of two or several courts of the same type, the case is tried by the court in whose area of operation criminal proceedings were instituted or pre-trial investigation or inquiry completed.

Article 40. Determining jurisdiction over cases which fall within the competence of courts of different types

Whenever one person or a group of persons is accused of having committed several crimes and cases related to such crimes fall under jurisdiction of courts of different types, the case is tried by the court which is higher among these courts.
(Paragraph 2 of Article 40 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
(Paragraph 3 of Article 40 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
(Article 40 as amended by Law No 4018-XII (4018-2) of 24.02.94).

Article 41. Referral of a case to the court of competent jurisdiction

Having established that a criminal case does not fall under jurisdiction of a given court, judge refers such case to the court of competent jurisdiction and makes a decision thereon.
If, during court session, it was established that the case being considered falls under jurisdiction of another court of the same type, the court continues trial if this does not jeopardize complete and objective examination of the case. If it is impossible to ensure complete and objective examination of the case, the court refers the case to the court of competent jurisdiction and makes a decision thereon.
Having established in court session that a case falls under jurisdiction of a higher court, the court refers the case to the court of competent jurisdiction.
If a higher court has begun trial of a case in court session, such a case may not be referred to a lower court.
(Article 41 as amended by Laws No 4018-XII (4018-2) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 42. Inadmissibility of disputes over jurisdiction

Courts may not engage in disputes over jurisdiction. A criminal case referred from one court to another as prescribed in Articles 38 – 41 of the present Code should be assumed by the court if this does not exceed court's competence.

Chapter 3
PARTICIPANTS TO THE PROCESS, THEIR RIGHTS AND DUTIES

Article 43. The accused and his/her rights

A person in whose respect decision to prosecute has been made as prescribed in the present Code is the accused. After the case has been assigned to trial, the accused is considered to be defendant.
The accused has the right to: know what he/she is accused of; give testimonies related to the charges brought or refuse testifying and answering questions; have a defense counsel and meet him/her before the first examination; produce evidence; submit motions; review all records of the case after the completion of pre-trial investigation or inquiry; participate in the trial conducted by trial court; propose disqualifications; submit complaints against actions and decisions of the inquirer, investigator, prosecutor, judge, and court, and, with appropriate grounds present, have his/her security ensured.
The defendant has the right to the last statement.

(Article 43 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X(6834-10) of 16.04.84, by Laws No 3780-XII (3780-12) of 23.12.93, No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 43-1. Suspect

The following person is considered to be a suspect:
1) a person apprehended on the suspicion of having committed a crime;
2) a person in whose respect a measure of restraint has been imposed before the decision to prosecute him/her has been made.
The suspect has the right to: know what he/she is suspected of; give testimonies or refuse testifying and answering questions; have a defense counsel and meet him/her before the first examination; produce evidence; submit motions and propose disqualifications; request that the court or prosecutor verify legality of the apprehension; submit complaints against actions and decisions of the officer who conducts operational-detective activities, inquirer, investigator, and prosecutor , and, with appropriate grounds present, have his/her security ensured.
The fact that the suspect was advised of his/her rights is entered into the record of apprehension or decision to impose a measure of restraint.
(Article 43-1 is added by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; as amended by Laws No 3780-XII (3780-12) of 23.12.93, No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) No 21.06.2001 – effective from 29.06.2001).

Article 44. Defense counsel

Defense counsel is a person who is legally authorized to defend rights and legitimate interests of the suspect, accused, defendant, convict, acquitted, and to provide them required legal assistance in criminal proceedings.
Persons who have a license to practice law in Ukraine and other specialists in law who are entitled, under law, to provide legal assistance personally or upon powers of attorney of a legal person may be admitted as defense counsel. Close relatives of the accused, defendant, convict, or the acquitted, his/her custodians or caretakers may be admitted as defense counsels in cases and according to the procedure established in the present Code.
Powers of a defense counsel to participate in a case should be confirmed with regard to:
1) lawyer – by authorization of the respective bar association;
2) lawyer who is not member of a bar association – by the agreement; other specialists in law who are entitled to provide legal assistance personally or upon powers of attorney of a legal person – by the agreement or powers of attorney of the legal person concerned;
3) close relatives, custodians, or caretakers – by the application of the accused, defendant, convict, or the acquitted for their admission to the case as defense counsels.
A defense counsel is admitted to the case at any stage of the process. Close relatives of the accused, his/her custodians, or caretakers are admitted to the case as defense counsels upon submitting records of pre-trial investigation to the accused for review. When, under Article 45 of the present Code, participation of a defense counsel in a case is mandatory, close relatives of the accused, his/her custodians, or caretakers may participate in the case as defense counsels only concurrently with defense counsel – lawyer or any other specialist in law who is entitled, under law, to provide legal assistance personally or upon powers of attorney of a legal person.
The inquirer, investigator, prosecutor, judge makes a decision, while court passes a ruling on the admission of a defense counsel in the case.
Persons invited by witness for providing legal assistance during examination or other investigative actions conducted with witness participation who meet requirements of

paragraphs 2 and 3 of this Article may be admitted as defense counsels of witness. Access of defense counsels of witness to the participation in case is granted according to the procedure prescribed by paragraph 5 of this Article.
(Article 44 as revised by Law No 3780-XII (3780-12) of 23.12.93, as amended by Law No 3787-XII (3787-12) of 23.12.93, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; as amended by Law No 2395-VI (2395-17) of 01.07.2010).

Article 45. Mandatory participation of a defense counsel

Participation of a defense counsel in the conduct of inquiry, pre-trial investigation and trial of a criminal case in trial court is mandatory:
1) in cases of persons who are suspected or accused of having committed a crime in the age up to 18 – upon finding a person a suspect or bringing charges against such person;
2) in cases related to crimes committed by persons who, because of their physical or mental disabilities (dumbness, deafness, blindness, etc), are unable to realize themselves their right to defense – upon apprehension of, or bringing charges against, such person or upon establishing such disabilities;
3) in cases of persons who have no knowledge of the language of proceedings - upon apprehension of, or bringing charges against, such person;
4) when the sanction of the Article under which the crime is described provides for life imprisonment – upon apprehension of, or bringing charges against, the person concerned;
5) in cases related to the imposition of a compulsory measure of medical nature – upon establishing the fact of a mental disease suffered by the person concerned;
6) in cases related to the imposition of a compulsory measure of educational nature – upon the first examination of a juvenile or upon his/her placement in a receiving/distributing center.
In the court of appeals, participation of a defense counsel in cases referred to in paragraph 1 of the present Article is mandatory if the issue of deterioration of the convict or the acquitted's position is raised in the challenge by way of appeal.
(Article 45 as revised by Laws No 3780-XII (3780-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; as amended by Law No 2507-VI (2507-17) of 09.09.2010).

Article 46. Waiver of the defense counsel and his/her replacement

The suspect, the accused and defendant, at any stage of criminal proceedings, may waive defense counsel who was employed or appointed. Such waiver is possible only upon initiative of the suspect, the accused or defendant and does not deprive him/her of the right to hire the same or any other defense counsel at other stages of the process.
The inquirer, investigator draws up a record of the waiver indicating reasons for the waiver while the court makes an entry thereof in its records. The inquirer, investigator takes a decision while the court passes a ruling on the acceptance or denial of the waiver of defense counsel.
The waiver of a defense counsel in cases referred to in Article 45 of the present Code may be accepted when the suspect, the accused, defendant, convict or the acquitted substantiates it with motives which, in the opinion of the inquirer, investigator, court, are valid. In such a case, the defense counsel is replaced with another one as prescribed in the fourth paragraph of the present Article.
Having decided to dismiss the defense counsel from the duties of his/her office in the case in accordance with Article 50 of the present Code as well as having accepted defense counsel's refusal to discharge his/her official duties, inquirer, investigator, judge or court advices the suspect, the accused, defendant of his/her right to hire another defense counsel and gives him/her therefor, at the stage of pre-trial investigation, at least one day and at least three days at the stage of trial. If, in cases referred to in Article 45 of the present

Code, the suspect, the accused and defendant does not employ another defense counsel, the inquirer, investigator or judge by his/her decision while the court by its ruling appoints defense counsel himself/herself.
One defense counsel may be replaced with another one, except cases provided for in Article 61 of the present Code, only upon application or consent of the suspect, the accused, defendant.
One defense counsel may be replaced with another one at any stale of the process and such replacement does not entail renewal of procedural actions conducted with participation of the replaced defense counsel.
(Article 46 as revised by Law No 3780-XII (3780-12) of 23.12.93, as amended by Law No 1483-III (1483-14) of 22.02.2000, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 47. The way in which a defense counsel is hired and appointed

A defense counsel is hired by the suspect, the accused, defendant or convict, their legal representatives, as well as by other persons upon the request or consent of the suspect, the accused, defendant or convict. The inquirer, investigator, court are required to help the apprehended person or the person kept in custody to establish contacts with a defense counsel or with persons who can employ a defense counsel.
The suspect, the accused, defendant may hire more than one defense counsel.
The inquirer, investigator or court may appoint a defense counsel as prescribed by law through the bar association. Request of the inquirer, investigator, court to appoint a defense counsel is compulsory for the head of the bar association.
A defense counsel is appointed in the following cases:
1) when, under the first and the second paragraphs of Article 45 of the present Code, involvement of a defense counsel is mandatory but the suspect, the accused, defendant is not willing or is unable to employ a defense counsel;
2) when the suspect, the accused, defendant is willing to employ a defense counsel but because of lack of resources or for any other objective reasons cannot afford it.
If there is a need to urgently conduct investigative actions or other procedural actions with defense counsel's involvement and the suspect or the accused did not have time to employ a defense counsel or the latter is unable to appear, the inquirer, investigator may, by his/her decision, appoint a defense counsel on a provisional basis before the hired defense counsel appears.
If there is no need to urgently conduct investigative actions or other procedural actions with defense counsel's involvement and when the defense counsel hired by the suspect cannot appear during twenty four hours and defense counsel hired by the accused or defendant during seventy two hours, the inquirer, investigator, court may invite the suspect, the accused, defendant to employ another defense counsel. If the latter is unable to appear to participate in the case during twenty four hours and if the suspect, the accused, defendant does not hire another defense counsel during the same time limit, the inquirer, investigator or judge by his/her decision while the court by its ruling appoints a defense counsel himself/herself.
(Article 47 as revised by Laws No 3780-XII (3780-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 48. Rights and duties of a defense counsel

A defense counsel is required to use legal remedies as provided for in the present Code and other legislative acts to ascertain facts which rebut the suspicion or charges, commute or preclude criminal liability of the suspect, the accused, defendant convict, and to provide them required legal assistance.
After having been admitted to the case, a defense counsel may:

1) have a confidential meeting with the suspect or the accused prior to the first examination and thereafter the same meetings without limitation of their number and length;
2) have meetings with the convict or the person in whose respect compulsory measures of medical or educational nature have been imposed;
3) review records of the case which substantiate apprehension of the suspect or imposition of a measure of restraint or charges and, after the completion of pre-trial investigation, review all records of the case;
4) be present at examinations of the suspect, the accused and at other investigative actions conducted with their participation or upon their petition or petition of the defense counsel himself/herself and at other investigative actions – upon consent of the inquirer, investigator;
5) use scientific-technical means in the conduct of investigative actions with defense counsel's involvement, as well as when reviewing records of the case – upon consent of the inquirer, investigator and in court, if the case is tried in open court, - upon consent of the judge or court;
6) participate in court sessions;
7) put questions to defendants, victim, witnesses, expert, specialist, plaintiff and defendant in court session, participate in examination of other evidence;
8) produce evidence, submit petitions and disqualifications, express his/her opinion about petitions of other participants to trial in court session, challenge actions and decisions of the inquirer, investigator, prosecutor and court;
9) speak in pleadings;
10) review court session record and submit comments thereto;
11) be aware of submissions made by the prosecutor and appeals filed in the case and present objections thereto;
12) participate in court sessions when a case is tried by way of appeal;
13) collect information on facts which can be used as evidence in the case, request and obtain documents or copies thereof from citizens and legal persons; review, at enterprises, institutions, organizations, citizens' associations, required documents save those whose confidentiality is protected by law; obtain experts' written opinions on issues which require special knowledge; poll citizens.
Defense counsel is required to appear to participate in the conduct of procedural actions when his/her involvement is mandatory. Whenever he/she is unable to appear in time fixed, defense counsel shall have the duty to inform in advance the inquirer, investigator, prosecutor, court thereon and on the reasons for his/her absence.
In case of defense counsel's non-appearance, investigative action in which participation of a defense counsel is not mandatory is conducted in his/her absence.
Defense counsel may not disclose information he/she learned in line of duty.
Defense counsel is required not to obstruct establishing the truth in the case through actions aimed at compassing a witness to withdraw his/her testimonies given or to give knowingly misleading testimonies, compassing an expert to refuse giving an opinion or to give knowingly misleading opinion, otherwise falsifying evidence in case or delaying investigation or trial. Defense counsel should comply with the order established for investigation and trial.
After having been admitted in the case, defense counsel – lawyer may refuse discharging his/her official duties only in the following cases:
1) when circumstances which, under Article 61 of the present Code preclude his/her participation in the case, are present;
2) when he/she explains his/her refusal by insufficient knowledge or lack of competence.
Documents relating to the discharge of defense counsel's official duties may not be inspected, disclosed or removed by the inquirer, investigator, prosecutor, or court without defense counsel's consent.
In case of participation of defense counsel invited by witness for providing him/her with

legal assistance during examination or other investigative actions conducted with his/her participation, he/she is entitled to be present during their execution; to give advice to the witness in the presence of the investigator, if the actual circumstances of the case can be used to prosecute witness personally or his/her family members or close relatives; to ask questions with the permission of the investigator, which should be entered on the record to clarify and supplement his/her answers; to object to the illegal actions of investigator concerning his/her conduction of examination or other investigative actions with reference to the rule of law which is violated, that is to be included into the relevant record; to challenge actions of the investigator in the manner prescribed by this Code, if the nature and content of the questions shows that the witness should be interrogated as a suspect.
(Article 48 as revised by Law No 3780-XII (3780-12) of 23.12.93, as amended by Law No 1381-XIV (1381-14) of 13.01.2000, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2395-VI (2395-17) of 01.07.2010)

Article 49. Victim

A person who sustained moral, physical or property damage as a result of a crime is victim. The inquirer, investigator and judge make a decision while court – a ruling on founding a citizen a victim or on refusal to find a citizen a victim.
A citizen found a victim of a crime may testify in the case. The victim and his/her representative may: produce evidence; enter pleas; review all records of the case after the completion of pre-trial investigation and, in case where pre-trial investigation has not been conducted, – after the assignment of the case to trial; participate in trial; propose disqualifications; submit complaints against actions of the inquirer, investigator, prosecutor, and court, as well as challenge court's judgment or rulings and decisions taken by people's judge, and, with appropriate grounds present, have his/her security ensured.
In cases specified in the present Code, the victim may press charges personally or through his/her representative during trial. The victim may participate in pleadings.
In cases related to crimes as a result of which the victim died, close relatives of the latter have rights laid down in the present Article.
(Article 49 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 50. Civil plaintiff

A citizen, enterprise, institution, or organization that sustained a material damage as a result of a crime and filed a claim for compensation of the damage under Article 28 of the present Code is considered to be civil plaintiff. The inquirer, investigator and judge make a decision while court – a ruling on founding or on refusal to find a citizen, enterprise, institution, or organization a civil plaintiff.
The civil plaintiff and his/her representative may: produce evidence; enter pleas; participate in trial; request that the inquiry agency, investigator, and court take measures to secure their claim; maintain civil claim; review records of the case after the completion of pre-trial investigation and, in case where pre-trial investigation has not been conducted, – after the assignment of the case to trial; propose disqualifications; submit complaints against actions of the inquirer, investigator, prosecutor, and court, as well as challenge court's judgment or rulings in so far as civil claim is concerned; and, with appropriate grounds present, have his/her security ensured.
Civil plaintiff is required to produce all necessary documents relating to the claim upon request of the inquiry agency, investigator, prosecutor, and court.
(Article 50 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III

(2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 51. Civil defendant

Parents, custodians, caretakers or any other persons, as well as enterprises, institutions, and organizations that, by virtue of law, bear material liability for damage caused as result of criminal actins of the accused may be brought to responsibility as civil defendants. The inquirer, investigator, judge make a decision while court – a ruling on founding subjects referred to above a civil defendant or on refusal to find such subjects a civil defendant.
The civil defendant or his/her representative may: object to the claim filed; produce explanations about the merits of the claim filed; produce evidence; enter pleas; review records of the case which relate to the civil claim after the completion of pre-trial investigation and, in case where pre-trial investigation has not been conducted, – after the assignment of the case to trial; participate in trial; propose disqualifications; submit complaints against actions of the inquirer, investigator, prosecutor, and court, as well as challenge court's judgment or rulings in so far as civil claim is concerned; and, with appropriate grounds present, have his/her security ensured.
(Article 51 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 52. Representatives of the victim, civil plaintiff and civil defendant

Lawyers, close relatives, legal representative, as well as other persons may be represent the victim, civil plaintiff and civil defendant based on the decision taken by the inquirer, investigator, judge or on the court's ruling.
If an enterprise, institution, or organization is civil plaintiff or civil defendant, their interests may be represented by persons specially authorized thereto.
Representatives referred to in the present Article enjoy procedural rights of the persons they represent.

Article 52-1. Ensuring security of persons who participate in criminal proceedings

If a real threat to life, health, home, or property is present, persons who participate in criminal proceedings are entitled to have their security ensured.
With appropriate grounds present, the following persons have the right to have their security ensured:
1) person who reported the crime to a law enforcement authority or otherwise participated in detecting, preventing, suppressing, and resolving a crime or assisted therein;
2) victim or his/her representative in the criminal case;
3) suspect, the accused, defense counsels, and legal representatives;
4) civil plaintiff, civil defendant, and their representatives in the case related to compensation of damage caused as a result of crime;
5) witness;
6) expert, specialist, translator, and attesting witness;
7) family members and close relatives of the persons refereed to in subparagraphs 1-6 of the present Article if there are attempts to exert influence on the participants to criminal proceedings through the use of threats or any other illegal actions.
The inquiry agency, investigator, prosecutor, or court, having received the application or communication that security of the person referred to in the paragraph 2 of the present Article is threatened, are required to verify such application (communication) and, within three days, and in urgent situations – immediately, to take decision to enforce or deny measures of security. Dependently on what decision has been taken, they pass a motivated decision or ruling and refer it to the authority in charge of enforcing measures of security.

Such decision or ruling is binding upon the said authority.
The authority in charge of enforcing measures of security establishes the list of required measures and ways of enforcing the same being guided by specific circumstances and the need to eliminate the threat present. The person under protection is informed on measures of security chosen, modalities of their enforcement, and rules for the use of documents and property issued to ensure security.
If the application (communication) about a threat to the person referred to in paragraph 2 of the present Article contains information on a crime, the inquiry agency, investigator, prosecutor, court or judge takes, as prescribed in Articles 94, 98, and 99 of the present Code (1002-05), decision on instituting or denying instituting criminal proceedings or on referring the application (communication) to the competent authority.
The applicant is immediately informed on the decision taken.
The authority in charge of enforcing measures of security informs in writing the inquiry agency, investigator, prosecutor, court or judge who conducts proceedings in the case about measures taken and their results.
(Article 52-1 is added by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 52-2. Rights and duties of persons in whose respect measures of security are enforced

Persons under protection may:
1) submit application for measures of security or for their recall;
2) be aware of what measures of security are enforced to them;
3) request that the inquiry agency, investigator, prosecutor, court takes additional measures of security or recall measure being enforced;
4) challenge illegal decisions or acts by authorities in charge of measures of security in a higher authority, prosecutor, or court.

Persons under protection are required to:
1) respect conditions under which measures of security are enforced and legal requests of authorities in charge of security measures;
2) immediately inform the said authorities on each threat or illegal actions against them;
3) dispose of the property and documents issued to them in temporary possession by the authority in charge of security measures with full respect for rules established by law.
(Article 52-2 is added by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 52-3. Non-disclosure of information on the person in whose respect security measures are carried out

Non-disclosure of information on the person under protection may be ensured through limiting information thereon in materials of verification (applications, explanations, etc.), as well as in records of investigative actions and of court sessions. The inquiry agency, investigator, prosecutor, court (judge), having made a decision to enforce security measures, takes a motivated decision, ruling to change first name, last name and patronymic of the protected person for a pseudonym. Thereafter, only this pseudonym is mentioned in procedural documents while real first name, last name and patronymic (year, month, and place of birth, family status, place of employment, occupation, or position held, place of residence, and other biographical particulars containing information on the protected person) are mentioned only in the decision (ruling) on the change of biographical particulars. Such decision (ruling) is not attached to the records of the case and is kept separately by the authority which conducts proceedings in criminal case. If first name, last name and patronymic of the protected person are changed for a pseudonym, records of investigative actions and other documents containing real particulars of such person are removed from records of the case and kept separately while copies of such documents with

real name changed for the pseudonym are attached to records of the case.
Information on security measures and protected persons constitutes information with restricted access. Provisions of paragraph 2 of Article 48, of Articles 217 – 219 and 255 of the present Code (1003-05) do not apply to documents containing such information.
(Article 52-3 is added by Law No 1381-XIV (1381-14) of 13.01.2000, as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 52-4. The way in which security measures are recalled

Security measures may be recalled in connection with expiration of the period for which a specific security measure has been enforced; elimination of the threat to life, health, home and property of protected persons; systematic neglect of lawful requests of the authority in charge of security measures by the person under protection if the latter was warned about the possibility of such recall.
The following may be the ground for recalling security measures enforced to participants of criminal proceedings, their family members, and close relatives: application of the participant to criminal proceedings, his family member or close relative in whose respect security measures have been enforced; receipt of reliable information that the threat to life, health, home and property of the said persons has been eliminated.
With the sufficient grounds for recalling security measures present, the inquiry agency, investigator, prosecutor, court (judge) makes a motivated decision or ruling to recall such measures.
Decision to recall security measures is brought to the notice of the persons in whose respect such measures have been enforced, in written within one day.
(Article 52-4 is added by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 52-5. Challenging decisions to deny the enforcement of security measures or to recall the same

Decision of the inquiry agency or investigator to deny the enforcement of security measures or to recall the same may be challenged with the appropriate prosecutor or local court in the place where the case is prosecuted.
The judge immediately considers the challenge and records of the case, if necessary hears the inquirer, investigator, opinion of the prosecutor and thereafter, dependently upon grounds for making such a decision, takes decision to enforce measures of security or recall the same or deny the same.
Judge's decision to dismiss the challenge may be appealed against before the court of appeals within three days after such decision has been made.
(Article 52-5 is added by Law No 1381-XIV (1381-14) of 13.01.2000, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 53. Duty to advice participants to the case of their rights and to ensure their rights

Court, prosecutor, investigator and the inquirer are required to advice participants to the case of their rights and to ensure the possibility to enjoy such rights.

Article 53-1. Duty of the inquiry agency, investigator, prosecutor and court to take measures to compensate the damage caused to a citizen by illegal actions

If a criminal case is closed based on the absence of occurrence of crime, absence of corpus delicti or based on the failure of evidence that the person concerned was involved in the commission of crime, as well as if a judgment of acquittal has been pronounced, the inquiry agency, investigator, prosecutor, and court are required to advice the person concerned of how he/she can restore violated rights and to take necessary measures to

compensate the damage which was caused to the person as a result of prosecution, apprehension, imposition of a measure of restraint and illegal continuation of sentence execution in instances when criminal statute which abolishes punishment for an action has taken legal effect.
Grounds and procedure for compensation of the damage are prescribed by laws of Ukraine.
(Article 53-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Law No 2547-XII (2547-12) of 07.07.92).

Article 53-2. Duty of the inquiry agency, investigator, prosecutor and court during the electoral process

During the electoral process the inquiry agency, investigator, prosecutor and court may conduct any actions (inquiry, pre-trial investigation) in respect to the election committees, individual members of election commissions on the premises, election documents, technical equipment, only on condition of the initiation of criminal case under the established procedure and providing of appropriate supporting documents.
(Article 53-2 is added under the law No 1616-VI (1616-17) of 21.08.2009)

Chapter 4
CIRCUMSTANCES PRECLUDING PARTICIPATION IN CRIMINAL PROCEEDINGS

Article 54. Circumstances precluding judge's participation in the trial

A judge or people's assessor may not participate in the trial of a criminal case:
1) if he/she is a victim, civil plaintiff, civil defendant, or a relative of any one of them, as well a relative of the investigator, inquirer, prosecutor or the accused;
2) if he/she has participated in the case concerned as a witness, expert, specialist, translator, inquirer, investigator, prosecutor, defense counsel, or representative of the victim or civil plaintiff or civil defendant's interests;
2-1) if he/she, at the stage of pre-trial investigation of the case, decided on the search, removal, inspection, imposition or alteration of measures of restraint, extension of custody or considered challenges against apprehension or decisions to deny instituting criminal proceedings or to close the case;
2-2) if he/she, at the stage of pre-trial investigation of the case, considered the removal of a defense counsel from the case as prescribed in Article 61-1 of the present Code;
3) if he/she personally or his/her relatives are personally interested in the results of the case;
4) with other circumstances present, which raise doubts as to the objectivity of the judge or people's assessor.
5) in case of breach of procedure for determining a judge for trying a case prescribed by paragraph 3 of Article 16-2 of this Code.
Persons who are relatives may not be on the panel which tries a case.
(Article 54 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 55. Inadmissibility of judge's re-participation in the trial of the case

A judge who participated in the trial of the case in the trial court may not participate in

consideration of the same by way of appeal or cassation, nor may he/she participate in a new trial of the case in the trial court if the judgment or ruling to close the case which were passed with his/her participation has been reversed.
A judge who participated in the trial of the case by way of appeal may not participate in consideration of the same in the trial court or by way of cassation, nor may he/she participate in a new trial of the case by way of cassation if the ruling which was passed with his/her participation has been reversed.
A judge who participated in the trial of the case by way of cassation may not participate in consideration of the same in the trial court or by way of appeal, nor may he/she participate in a new trial of the case by way of cassation if the judgment (ruling) which was passed with his/her participation has been reversed.
A judge who participated in the trial of the case may not participate in consideration of the same case on the grounds of the newly discovered circumstances and revision of the case by the Supreme Court of Ukraine.
(Article 55 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 56. Disqualifying a judge

With circumstances referred to in Articles 54 and 55 of the Code present, the judge and people's assessor are required to disqualify themselves. On the same grounds, disqualification of the judge or people's assessor may be proposed by the prosecutor, defendant, defense counsel, victim and his/her representative, civil plaintiff and civil defendant and their representatives.
Disqualifications are submitted before the beginning of the trial. Thereafter, disqualification is permitted if a ground for disqualification came to the knowledge after the beginning of the trial.
(Article 56 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 57. The way in which a disqualification is considered

Disqualification of a judge or people's assessor is considered by other judges without the judge whose disqualification is proposed. The judge to be disqualified may provide explanations with regard to disqualification. In case of a tie vote, the judge concerned is considered to have been disqualified.
Decision on the disqualification is taken in the retiring room. Proposed disqualification of two judges or the whole trial bench of the court is considered by the whole bench by simple majority of votes.
In the event of satisfaction of the application to disqualify a judge who tries a case alone, the case is considered in the same court by another judge who tries the case in compliance with procedure prescribed by paragraph 3 of Article 16-2 of this Code.

In the event of satisfaction of the application to disqualify some of judges or the whole trial bench of the court, if the case is considered by the chamber of judges, the case is considered in the same court by the same quantitative panel of the chamber of judges without disqualified judge of by the other panel of judges which is determined in compliance with procedure prescribed by paragraph 3 of Article 16-2 of this Code.
If after the satisfaction of disqualification (self-disqualification) or if there are grounds

specified in Article 55 of this Code, it is impossible to create a new panel of the court for trial, the court decides whether to refer the case to another court in compliance with procedure prescribed by this Code.
If a people's assessor is disqualified, he/she is replaced with another people's assessor.
(Article 57 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 4018 (4018-12) of 24.02.94, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 58. Disqualifying a prosecutor

Provisions of Article 54 and 56 of the present Code relate to a prosecutor. However, circumstances specified therein may not be a ground for disqualification if a prosecutor participated in the conduct of pre-trial investigation in the case, in consideration of the case in trial court by way of appeal or cassation.
Disqualification of a prosecutor at the stage of pre-trial investigation is considered by a higher prosecutor and in court – by the court that tries the case, in accordance with paragraphs 1 and 2 of Article 57 of the present Code. If a single judge tries the case, he/she considers disqualification of a prosecutor alone.
(Article 58 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 59 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 60. Disqualifying an investigator and inquirer

Investigator and inquirer are subject to disqualification:
1) if he/she is a victim, witness, civil plaintiff, civil defendant, or a relative of any one of them, as well as a relative of the accused;
2) if he/she has participated in the case concerned as court expert, specialist, translator, defense counsel, or representative of the victim, civil plaintiff, or civil defendant;
3) if he/she or his/her relatives are personally interested in the results of case consideration;
4) with other circumstances that raise doubts as to his/her impartiality present.
With circumstances specified above present, investigator and inquirer should disqualify themselves without waiting for disqualification proposal. Based on such circumstances, the accused, victim and his/her representative, civil plaintiff, civil defendant or their representatives may propose disqualification of the investigator and inquirer while defense counsel may propose disqualification of the investigator either.
Proposal for disqualification and self disqualification of the investigator and inquirer should be submitted to the prosecutor who is required to consider and decide on the same within 24 hours.
(Article 60 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 61. Circumstances that preclude a defense from performing duties of his/her office in the case

A person may not be a defense counsel if:
1) he/she participated in a given case as inquirer, investigator, prosecutor, judge, clerk of a court session, expert, specialist, translator, attesting witness, representative of the victim,

civil plaintiff, civil defendant;
2) he/she is a witness under the present Code and as such was examined or is subject to examination;
3) he/she is a relative of the inquirer, investigator, prosecutor, anyone of the trial bench of the court, victim, civil plaintiff;
4) criminal proceedings have been instituted against him/her;
5) he/she is found incapable or under a special ability.
A person also may not participate in the case as a defense counsel in the following instances:
1) if in a given case, he/she provides or provided earlier legal assistance to the person whose interests conflict with interests of the person who has applied for legal assistance;
2) in case of revocation of the certificate of authority to act as lawyer or forfeiture of the right to provide legal assistance or cancellation of the same as prescribed by law.
One and the same person may not be a defense counsel of two and more suspects, accused or defendants if the interests of defense of anyone of them are contrary to the interests of defense of another one.
A person may not be a defense counsel if he/she abuses his/her rights, obstructs establishing a truth in the case, delays investigation or trial, nor may be a defense counsel a person who breaks order in court session or ignores instructions of the presiding judges during trial.
In terms of one criminal case the same person may not be a defense counsel for two and more witnesses, nor a witness and a suspect, accused, defendant, victim, civil plaintiff, civil defendant.
(Article 61 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 3780-XII (3780-12) of 23.12.93, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No No 2395-VI (2395-17) of 01.07.2010)

Article 61-1. Dismissing a defense counsel from the duties of his/her office
A defense counsel may be dismissed from the duties of his/her office in a case only on the grounds referred to in Article 61 of the present Code.
Having ascertained the circumstances which, under Article 61, first paragraph, subparagraphs 1, 3, 4, and 5, second and third paragraphs, of the present Code, preclude participation of the defense counsel in a case, the inquirer, investigator takes a motivated decision to dismiss the defense counsel from the duties of his/her office and informs the defense counsel concerned and the suspect, the accused and defendant thereon.
At the stage of inquiry and pre-trial investigation, the judge who administers justice in the place where investigation is conducted decides on dismissal of a defense counsel from the duties of his/her office in the case on the grounds referred to in Article 61, first paragraph, subparagraph 2, or fourth paragraph, of the present Code and upon motion of the inquirer, investigator. The judge considers dismissal of the defense counsel from the duties of his/her office in the case, examines records which substantiate the dismissal, hears prosecutor and defense counsel and, if necessary, interviews the suspect, the accused, the person conducting proceedings in the case and thereafter takes a reasoned decision on the dismissal of the defense counsel from the duties of his/her office in the case or on denial of such dismissal. Judge's decision of the dismissal of the defense counsel may not be challenged.
During trial, the court decides the issue related to the dismissal of the defense counsel from the duties of his/her office in the case on the ground specified in Article 61 of the present Code.
With grounds present, the inquirer, investigator or court informs the appropriate authority, bar association that the defense counsel concerned has been dismissed from the duties of his/her office so that the appropriate authority, bar association decides on the defense

counsel's liability.
(Article 61-1 is added by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 62. Disqualifying a translator, expert, specialist, and clerk of court session

Rules laid down in Article 54 of the present Code apply to the translator, expert, specialist, and clerk of court session save that their previous participation in the case concerned in the capacity of translator, expert, specialist, and clerk of court session may not constitute the ground for disqualification.
The inquirer, investigator, or prosecutor decides on the proposal for disqualification of a translator, expert, and specialist at the stage of inquiry or pre-trial investigation. The court or the judge who tries the case alone decides on the proposal for disqualification of clerk of court session, translator, expert, specialist during trial.
(Article 62 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 2464-XII (2464-12) of 17.06.92).

Article 63. Circumstances that preclude victim's representative, civil plaintiff, and civil defendant from participation in the case

A victim, civil plaintiff, and civil defendant may not be represented by the person who participated in the case as investigator, inquirer, prosecutor, community accuser, judge, clerk of court session, expert, specialist, defense counsel, a person who has been or has to be examined as a witness, as well as a person who is a relative of anyone of the trial bench or accuser.
A lawyer may not participate in the case as representative of a victim, civil plaintiff, and civil defendant and if circumstances referred to in Article 61 of the Code are present.
With such circumstances present, a person is required to refuse discharging duties of the representative of the victim, civil plaintiff, or civil defendant in the case. On such grounds, the investigator, prosecutor, or court may also dismiss he/she from participation in the case.
(Article 63 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Chapter 5
EVIDENCE

Article 64. Circumstances to be proved in criminal proceedings

During pre-trial investigation, inquiry, and trial, should be proved in court:
1) occurrence of crime (time, place, the way in which, and circumstances under which, a crime has been committed);
2) guilt of the accused in the commission of crime and motives thereto;
3) circumstances which affect the degree of severity of the crime, as well as circumstances which characterize the personality of the accused, commute or aggravate the punishment;
4) nature and amount of damage caused by the crime, as well as the amount health institution spent on in-patient treatment of the victim.
(Article 64 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Laws No 3132-XII (3132-12) of 22.04.94, No 2670-III (2670-14) of 12.07.2001).

Article 65. Evidence

Evidence in a criminal case means various factual information based on which the inquiry agency, investigator, and court establish the presence or absence of a socially dangerous

act, the guilt of the offender, and other circumstances of importance for a correct resolution of the case.
Such information is established by testimonies given by a witness, victim, and suspect, accused; expert's opinion, exhibits, records of investigative and judicial actions, records with appropriate attachments drawn up by competent authorities as a result of operational-detective activities, and other documents.
(Article 65 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 66. Collecting and producing evidence

The inquirer, investigator, prosecutor and court, in cases in which they conduct proceedings, shall have the authority to summon, as prescribed in the present Code, any persons as witness and victims for questioning or as experts for preparing opinions; request that enterprises, institutions, organizations, officials, and citizens produce objects and documents which can establish factual data necessary in the case; request conducting audits, request that banks submit information containing bank secret in respect of legal and physical persons according to the procedure and in the amounts prescribed in the Law of Ukraine "On Banks and Banking Activities" (2121-14). Such requests are binding on all citizens, enterprises, institutions, and organizations.
Evidence may be produced by a suspect, accused, his/her defense counsel, prosecutor, victim, civil plaintiff, civil defendant, and their representatives, as well as by any citizens, enterprises, institutions, and organizations.
In situations prescribed by law, the inquirer, investigator, prosecutor, and court, in cases in which they conduct proceedings, may charge agencies that conduct operational-detective activities with carrying out operational-detective operations or using means for obtaining factual data which can be evidence in a criminal case.
(Article 66 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2922-III (2922-14) of 10.01.2002)

Article 67. Evaluating evidence

Court, prosecutor, investigator, and inquirer evaluate evidence according to their moral certainty which is based on thorough, complete and objective examination of the totality of circumstances in the case, being guided by law.
Any evidence produced to court by the prosecutor, investigator, and inquirer don't have probative value.
(Article 67 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 68. Testimonies of witnesses

Every person who is known as being aware of circumstances related to the case may be summoned to appear as witness.
A witness may be questioned about circumstances to be established in a given case, inclusive of facts which characterize the personality of the accused or suspect and his/her relationship therewith.
Information reported by a witness from unknown source may not be evidence. If testimonies of a witness are based on communications by other individuals, such individuals should be questioned either.
(Article 68 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 69. Persons who may not be examined as witnesses and persons who have the right to waive testifying as witnesses

The following persons may not be examined as witnesses:
1) lawyers and other specialists in law who are legally entitled to provide legal assistance in person or upon power of attorney of a legal person; notaries, doctors, psychologists, clergymen – about what came to their knowledge in the discharge of professional activities unless the person who entrusted them such information has released them from the duty to keep professional secrets;
2) defense counsel of the suspect, accused, defendant, representative of the victim, plaintiff, civil defendant – about circumstances which came to their knowledge during the provision of legal assistance to their clients;
3) persons who, in accordance with forensic psychiatric or forensic medical examination, may not correctly perceive facts which have probative value and give testimonies about the same because of their physical or mental disabilities;
4) witness who, under Article 52-3 of the present Code, testifies under a pseudonym – about his/ her real details;
5) a person in possession of information o real details on the witness who, under Article 52-3 of the present Code, testifies under a pseudonym – about such information.

The following persons may waive testifying as witnesses:
1) family member, close relatives, persons adopted by, and adopters of, the suspect, accused, defendant;
2) a person who, with his/her testimonies, would incriminated himself/herself, his/her family members, close relatives, the adopted person, adopter in having committed a crime.
Without their consent, may not be examined as witnesses the persons who enjoy diplomatic immunities, as well as members of diplomatic missions – without consent of the diplomatic representative.
The inquirer, investigator, prosecutor, and court, before examining persons referred to in the first and second paragraphs of the present Article, are required to advice them of the right to waive testifying, which is entered into the record of examination or court records.
(Article 69 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 3780-XII (3780-12) of 23.12.93, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 69-1. Witness's rights

A witness has the following rights:
1) testify in mother language or any other language he/she speaks fluently and take advantage of a translator;
2) disqualify translator;
3) know in connection with what and in which case he/she is examined;
4) enter his/her testimonies in the record of examination with his/her own hand;
4-1) to chose his/her own free will defense counsel during the examination or other investigative actions conducted with his/her participation according to this Code and other legal assistance under the procedure prescribed by law, and to refuse from defense counsel invited by him/her.
Defense counsel may be invited by witness, his/her legal representative and other persons at his/her request or with his/her consent;
5) draw upon notes and documents when testifying if testimonies relate to calculations and other data which are difficult for him/her to keep in mind;
6) to refuse to give testimony concerning himself/herself, family members and close relatives, and if he/she cannot freely without undue restrictions receive legal assistance in the amount and form as he/she requires including invitation of a defense counsel;

7) review record of examination and solicit introducing changes and comments therein, to enter such amendments and comments with his/her own hand;
8) file complaints against actions by the inquirer and investigator with the prosecutor;
9) be compensated expenses incurred as a result of the summon to testify.
With appropriate grounds present, a witness has the right to his/her security be ensured through enforcing measures specified by law and in accordance with procedure established in Articles 52-1 to 52-5 of the present Code.
(Article 69-1 is added by Law No 1381-XIV (1381-14) of 13.01.2000, Article 69-1 as amended by Law No2395-VI (2395-17) of 01.07.2010).

Article 70. Witness's duties

A person summoned by the inquiry agency, investigator, prosecutor, or court as witness is required to appear in the designated place and time and give true testimonies about circumstances he/she knows.
Whenever a witness does not appear without valid reasons, the inquiry agency, investigator, prosecutor, or court may enforce compulsory appearance under law through Interior agencies as prescribed in Articles 135 and 136 of the present Code.
In case provided for in the second paragraph of the present Article, the court may also impose a fine on the witness in the amount up to a half of the minimum wage. The court decides on the fine in court session when considering the case in whose relation the witness was summoned. The issue of fine can be decided in another court session in the presence of such witness. Witness's non-appearance without valid reasons does not preclude considering the issue of fine imposition.
(Article 70 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85, by Law No 2857-12 of 15.12.92).

Article 71. Witness's liability

The witness is criminally liable under Article 384 of the Criminal Code of Ukraine for giving knowingly misleading testimonies.
For willful evasion to appear before court, pre-trial investigation agencies or inquiry agencies, the witness is liable under Article 185-3, first paragraph, or Article 185-4 of the Code of Administrative Offenses of Ukraine (80731-10) while, for refusal to give testimonies about circumstances known to him/her, - under Article 385 of the Criminal Code of Ukraine.
(Article 71 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 9166-XI (9166-11) of 04.05.90, by Law No 2670-III (2670-14) of 12.07.2001).

Article 72. Victim's testimonies

A victim has the duty to appear upon summons of the inquirer, investigator, prosecutor and court.
A victim may be examined about circumstances to be established in a given case, inclusive of facts which characterize the accused or suspect and his/her relationship therewith. Proofs reported by the victim without reference to their source may not be admitted as evidence.
Whenever a victim does not appear without valid reasons, the inquiry agency, investigator, prosecutor, or court may enforce compulsory appearance under law as prescribed in Articles 135 and 136 of the present Code.
For willful evasion to appear before court, pre-trial investigation agencies or inquiry agencies, the victim is liable under Article 185-3, first paragraph, or Article 185-4 of the Code of Administrative Offenses of Ukraine (80731-10) while, for giving knowingly misleading testimonies - under Article 384 of the Criminal Code of Ukraine.

(Article 72 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 9166-XI (9166-11) of 04.05.90, by Law No 2670-III (2670-14) of 12.07.2001).

Article 73. Suspect's testimonies

A suspect may give testimonies about circumstances on the grounds of which he/she has been apprehended or a measure of restraint has been imposed thereon, as well as about all circumstances in the case he/she is aware of.
Testimonies of the suspect are subject to verification. Confession by the suspect may constitute the basis for accusation only if such confession is confirmed by the totality of proofs present in the case.
(Article 73 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 74. Testimonies of the accused

The accused may give testimonies with regard to charges brought against him/her, as well as about all circumstances in the case he/she is aware of and proofs present in the case.
Testimonies of the accused, including plea of "guilty", are subject to verification Confession by the accused may constitute the basis for accusation only if such confession is confirmed by the totality of proofs present in the case.
(Article 74 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 75. Expert's opinion

Expert examination is assigned when scientific, technical, or any other special knowledge is required to decide on certain matters during criminal proceedings.
Any person in possession of knowledge required to present an opinion on matters being examined may be summoned as an expert. Matters to be examined by an expert and his/her opinion thereon may not go beyond expert's special knowledge.
An expert produce an opinion on his/her own behalf and is personally liable therefor. In necessary, several experts may be appointed in a case and they produce their common opinion. In case of disagreement, every expert draws up his/her own opinion.
Expert' opinion is not binding on the inquirer, investigator, prosecutor and court however disagreement with such an opinion should be reasoned in an appropriate decision, ruling, judgment.
Whenever expert examination is found incomplete or insufficiently clear, an additional expert examination may be assigned to the same or any other expert.
If expert's opinion is deemed to be ill-founded or controversial in relation to other records of the case or otherwise casts doubts with regard to its reliability, re-examination may assigned to the same or any other experts.
Persons who by their official or any other duties depend upon the accused, victim or who previously were inspectors in the case may not be experts.

Article 76. Mandatory assignment of an expert examination

An expert examination is necessarily assigned to:
1) ascertain reasons of the death;
2) establish the degree of severity and nature of bodily injuries;
3) establish state of mental health of the suspect or the accused if information casting doubts with regard to his/her insanity is present in the records of the case;
4) establish puberty of the victim in cases related to crimes punishable under Article 155 of

the Criminal Code of Ukraine;
5) find out age of the suspect or the accused if it is important to decide on his/her criminal liability and if there are no appropriate documents and it is impossible to obtain them to find out the age.
(Article 76 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada of 27.06.61, by Law No 2670-III (2670-14) of 12.07.2001).

Article 77. Expert's rights and duties

A person who has been appointed as expert is required to appear upon summons and produce a correct opinion with regard to questions asked.
For willful evasion to appear before court, pre-trial investigation agencies or inquiry agencies, the expert is liable under Article 185-3, second paragraph, or Article 185-4 of the Code of Administrative Offenses of Ukraine while, for giving knowingly misleading opinion or for refusal to discharge his/her duties without valid reasons - under Articles 384 and 385 of the Criminal Code of Ukraine.
An expert has the right to: review records of the case relating to expert examination; apply for obtaining new materials which are necessary to prepare an expert opinion; upon consent of the inquirer, investigator, prosecutor or court, be present at examinations and other investigative actions and ask persons being examined questions related to expert examination and, with appropriate grounds present, to have his/her security ensured.
Whenever a question put to the expert is beyond his/her competence or if materials given to him/her are insufficient for producing an expert opinion, the expert concerned, in written, informs the agency which has assigned expert examination that he/she is unable to produce an expert opinion.
(Article 77 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 9166-XI (9166-11) of 04.05.90, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2670-III (2670-14) of 12.07.2001).

Article 78. Exhibits

Exhibits include objects which were instruments of crime, retained traces of crime or were a target for criminal actions, money, valuables, and other proceeds from crime, as well as all other objects which can help resolving a crime and identifying those guilty or denying charges or commuting liability.
(Article 78 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 79. Retaining exhibits

Exhibits should be thoroughly inspected, to the extent possible, photographed, described in details in the record of inspection and attached to the records of the case by a decision of the inquirer, investigator, prosecutor or court's ruling. Exhibits are retained with records of the case save bulky goods which are retained in the inquiry agency, pre-trial investigation agency and court or are transferred in custody of the appropriate enterprise, institution, or organization.
When transferring a case from one inquiry or pre-trial investigation agency to another one, when referring a case to the prosecutor or court, as well as when referring a case from one court to another, exhibits are transferred together with records of the case.
In some instances, exhibits, before the case is resolved in court, may be returned to their owners if it proves to be possible without compromising successful proceedings in the case.
(Article 79 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 80. Retention periods for exhibits

Exhibits are retained till the judgment takes legal effect or till the expiration of time-limit for challenging the decision or ruling on case closure.
Documents – exhibits should be retained with records of the case all time. Owners and persons concerned are provided copies of such documents upon their requests and according to procedure prescribed in Article 186 of this Code.
If litigation with regard to ownership for the objects which are exhibits arises, such objects are retained till court's decision made on this litigation by way of civil proceedings takes legal effect.
Perishable exhibits, as well as exhibits which cannot be returned to their owner are immediately transferred to state or cooperative organizations for sale. If thereafter there is a need to return such exhibits, organizations which have obtained them replace them with the same objects or repay their cost at state prices effective at the time when such objects should be returned.
(Article 80 as amended by Law No 807-VI (807-17) of 25.12.2008)

Article 81. Deciding the issue of exhibits

The issue of exhibits is decided by court's judgment, ruling or decision, or decision of the inquiry agency, investigator, and prosecutor to close the case and:
1) instruments of crime belonging to the accused are confiscated;
2) objects taken out of circulation are transferred to the appropriate institutions or destroyed;
3) objects which have no value and cannot be used are destroyed or may be transferred to the persons concerned upon their request;
4) money, valuables, and other proceeds from crime are assigned in public revenue;
5) money, valuables, and other proceeds which were target of criminal acts are returned to their lawful owners and, when such owners are not established, this money, valuables, and other proceeds are recycled into the public domain.
Litigation with regard to ownership for objects to be returned is decided by way of civil proceedings.

Article 82. Records of investigative and judicial actions and other mediums relating to such actions

Records of investigative and judicial actions drawn up as prescribed in the present Code, mediums where procedural actions have been recorded with technical devices constitute a source of evidence insofar as circumstances and facts of importance for the resolution of the case are confirmed therein.
(Article 82 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 83. Documents

Documents constitute a source of evidence if circumstances of importance for the case are stated or attested therein.
Documents are objects in which certain information is recorded by means of written characters, sound, image, etc.
The documents may include the materials of photography, audio and video recording and other media (including electronic) containing information about the circumstances established in the criminal proceedings by the inquiry agency, investigator, prosecutor or court in the manner prescribed by this Code.
Documents should be studied and attached to the case by the decision of the person who

conducts inquiry, by the investigator, prosecutor, court ruling and stored with the case all the time.
At the request of the owner and other persons who are entitled under the law to use these documents, documents or their copies seized and attached to the criminal case can be given to them in the manner prescribed by this Code.
When documents contain elements referred to in Article 78 of the present Code they are exhibits.
(Article 83 as revised by Law No 807-VI (807-17) of 25.12.2008)

Chapter 6
RECORDS

Article 84. Keeping records is mandatory

Records are kept during the conduct of procedural actions at the stage of pre-trial investigation and inquiry, in court sessions of trial and appellate courts.
(Article 84 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 85. Record of investigative action

A record of investigative action should contain the following information: place where, and date when it was drawn up; position and last name of the persons who conduct investigative action; names of persons who participated in the action, their addresses; explanation of their rights and duties; contents of the investigating action, with indication of the time when it begun and ended; all circumstances of importance for the case, revealed during the conduct of the investigating action. To not disclose information on the person in whose respect security measures have been enforced, records of investigative actions referred to in Articles 95, 96, 107, 145, 170, 171, 173, and 176 of the present Code contain limited information on such a person in accordance with Article 52-3 of the present Code.
The record is read out to all persons who participated in the conduct of the investigative action, their right to comments being explained to them. The said persons may review the record personally.
Insertions and amendments should be entered in the record before signatures.
The record is signed by the person who conducted the investigative action, the person questioned, as well as translator, attesting witnesses, if any, and other persons who were present during, or participated in, the conduct of the investigative action concerned. If anybody of these persons is unable to sign the record because of physical disabilities or for other reasons, a stranger is invited to sign the record. Photographs, audio recording, video recording, films, plans, schemes, moulds, and other materials which explain the contents of the record can be attached to the record.
If a person who participated in the conduct of investigative action refuses to sign the record, this should be stated in the record and signed by the person who conducted investigative action.
(Article 85 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 18.01.66, No 6834-X (6834-10) of 16.04.84, by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 85-1. Audio recording in pre-trial investigation

Audio recording may be used during questioning the suspect, the accused, witness, and victim, confrontation, presentation for identification, reproduction of the situation and circumstances and during the conduct of other investigative actions at the stage of pre-trial

investigation.
All participants to the investigative action before its beginning are informed that audio recording will be used in the conduct of investigative action. Phonogram should contain details referred to in Article 85, first paragraph, of the present Code and should reflect the entire course of the investigative action. Repeating any part of investigative action during the conduct thereof especially for audio recording is not permitted.
Before the end of investigative action, audio recording is replayed to participants to investigative action. Comments and additions to video recording are recorded to phonogram. Record of investigative action conducted with the use of audio recording is drawn up as prescribed in the present Code. The record should also state that audio recording was used and participants to the investigative action informed thereon, what technical devices were used and under which conditions, that audio recording was replayed to participants to the investigative action, as well as what applications were made by the participants to the investigative action with regard to the use of audio recording. The fact of reproducing testimonies given during another investigative action should be stated in the record of the investigative action concerned. At confrontation, replaying audio recording of testimonies previously given by the participants to confrontation is allowed only after they have given testimonies during the confrontation and after such testimonies have been put on the record.
When records of the case are presented to participants to the process in connection with completion of the pre-trial investigation, audio recording is replayed to the accused and his/her defense counsel and to other participants to the process upon request of the latter. Sealed phonogram is retained with records of the case.
(Article 85-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06. 2001).

Article 85-2. Filming and video recording during the conduct of investigative action

Filming, video recording may be used during inspection, search, and reproduction of situation and circumstances and in the conduct of other investigative actions.
Participants to the investigative action before its biguning are informed that filming, video recording will be used in the conduct of investigative action. After filming, video recording and preparing film tape, video tape, the latter are shown to all participants to the investigative action and a separate record is drawn up thereon. Procedural processing of the filming, video recording and film tape and video tape demonstration in the conduct of another investigative action, in presenting records of the case in connection with completion of the pre-trial investigation, as well as during trial should be made in accordance with Article 85-1 of the present Code.
(Article 85-2 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

(Article 86 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 87. Record of court session

Record of court session constitutes the main means to fix the course of trial. Record is drawn up at every court session of trial courts, as well as after a particular procedural action conducted out of the place where trial court permanently sits. In the appellate court, record of court session is kept in instances specified in the present Code.
Record of court session reflects all essential moments of trial in the sequence such moments took place in court session or in the conduct of a particular procedural action.

Record of court session should state the following:
1) year, month, date and place of the court session;
2) time when court session or a particular procedural action started;
3) name of the court which tries the case, last name and initials of the judge (judges), clerk of court session;
4) tried case and full and accurate name of participants to the process;
5) information on appearance or non-appearance of participants to the process, reasons for absence and on subpoenas serviced to them;
6) information on personality the defendant;
7) information on the time when the defendant obtained a copy the indictment;
8) information on the explanation to the defendant and other participants to the trial of their rights and duties;
9) court rulings and decisions taken without retiring to the deliberation room; 49
10) all orders of the presiding judge and actions of the court in the order they have taken place;
11) all petitions and statements made by the participants to the trial;
12) detailed contents of testimonies of the defendant, victim, witnesses, explanations of specialists, answers of the expert to oral questions, narrated in the grammatical category of the 1st person singular;
13) sequence and brief contents of the court pleadings;
14) brief contents of the defendant's last statement;
15) information on the judgment pronounced and explanation of the procedure and time-limits for challenging the judgment, explanation of the right to, and time-limit for, reviewing the record of court session, and submitting comments thereto;
16) time when court session ended.
Trial is fully fixed with an audio recording device upon request of at least one participant to judicial proceedings or upon initiative of the judge (judges) in trial or appellate courts.
(Article 87 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No (1483-14) of 22.02.2000; as revised by Laws No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2875-IV (2875-15) of 08.09.2005; as amended by Law No 3150-IV (3150-15) of 30.11.2005).

Article 87-1. The way in which records and technical recording are drawn up and arranged

Record of court session should be prepared within 7 days after the case has been tried.
Record of court session is signed by the presiding judge and clerk of court session.
If necessary, the presiding judge may extend time-limit for preparing and signing record of court session for 14 days maximum after the end of court session.
Participants to trial are informed on preparation and signature of the record of court session.
Whenever the trial was fully fixed with audio recording device, record of court session should state technical specifications of such device and the medium.
The medium where trial was fixed is attached to records of the case.
(Article 87-1 is added by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as revised by Law No 2875-IV (2875-15) of 08.09.2005).

Article 88. Comments to the record of court session

Parties may review record of court session and, within three days after they have been informed that the record of court session was prepared, or after the time-limit for preparing the same has expired, submit their written comments as to inaccuracies or omissions committed therein.
(Article 88 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No

No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Law No (2464-12) of 17.06.92; as revised by Laws No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2875-IV (2875-15) of 08.09.2005).

Article 88-1. Considering comments to the record of court session

Comments to the record are considered:
By presiding judge if the case was tried by a single judge;
By the trial bench or majority of the bench if the case was tried collegially.
The court considers comments to the record of court session, and in case of agreeing thereon confirms their truthfulness.
Whenever presiding judge disagrees with the comments submitted, the latter are considered in court session and the parties are informed on the time when, and place where, such court session will be held. Parties' non-appearance in court session does not preclude the court from consideration of comments. Technical recording of the process may be replayed during consideration of comments. Having considered comments, presiding judge by his/her decision while the chamber of judges by its ruling, with grounds present, attests that comments are correct, or dismiss them.
If the time-limit for the submission of comments was missed and if there are no grounds for its extension, the court takes no action thereon and attaches them to records of the case. Comments should be considered within five days after they have been filed with the court.
(Article 88-1 is added to chapter 6 by Law No 2875-IV (2875-15) of 08.09.2005).

Article 88-2. Replaying technical recording of court session
Fully or partially replaying technical recording of judicial process is made upon court's decision taken in court session if the case is tried by trial court, by way of appeal or cassation, as well as during consideration of comments to the record of court session. Presiding judge decides on case-by-case basis on issuing a copy of technical recording, on replaying such recording out of court session.
(Article 88-2 is added to chapter 6 by Law No 2875-IV (2875-15) of 08.09.2005, as amended by Law No 3150-IV (3150-15) of 30.11.2005).

Chapter 7
TIME-LIMITS AND COURT COSTS

Article 89. Computing time-limits

Time-limits established in the present Code are computed in hours, days, and months. The day and the hour from which a time-limit starts running are not taken into account.
If a time-limit is computed in days, the time-limit expires at midnight of the last day. If an action should be conducted in court or inquiry and pre-trial investigation agencies, the time-limit expires with the end of working day established in these institutions.
A time-limit computed in months expires on the respective day of the last month.
Whenever a time-limit expires on a day off, the last day of such time-limit is considered to be the next working day. If a time-limit computed in months expires in the month which does not have a respective day, the time-limit expires on the last day of such month.
A time-limit is not considered to be missed if a complaint or any other document was delivered at a post-office before such time-limit run out, and, for persons in custody – if a complaint or any other document was submitted the administration of the place of detention pending trial.
(Article 89 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 90. Renewal of a time-limit

A time-limit which was missed for valid reasons should be renewed upon petition of the party concerned by the decision of inquiry agency, investigator, prosecutor, by court's ruling or judge's decision.
Filing petition to renew a missed time-limit precludes execution of the decision which was challenged after the time-limit has expired, till the issue of renewing the time-limit is decided.
(Article 90 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 91. Court costs

Court costs include:
1) sums paid and to be paid to witnesses, victims, experts, specialists, translators and attesting witnesses;
2) sums spent for storage, sending and examination of material evidence;
3) other costs incurred by the inquiry agencies, pre-trial investigation agencies and court during proceedings in a given case.
(Article 91 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 92. Reimbursement of expenses incurred by witnesses, victims, victims' legal representatives, experts, specialists, translators, and attesting witnesses

Witnesses, victims, victims' legal representatives, experts, specialists, translators, and attesting witnesses are entitled to reimbursement of expenses they incurred in connection with appearance before inquiry agencies, pre-trial investigation agencies, prosecutor's office, and court upon the summons of the latter.
For the time spent to appear upon summons, the persons above retain the average wage they earn in the place of their employment. Persons who are not workers or employees are paid remuneration for the break in their occupation.
Experts, specialists, and translators are also entitled to remuneration for the discharge of their official duties if the work assigned to them does not fall within the scope of their service responsibilities.
The said payments are made from the budget of inquiry agencies, pre-trial investigation agencies, and court. Relevant guidelines prescribe the way in which such payments are made and amounts thereof (710-96-п).
(Article 92 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII 52(117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Law No 360/95-BP (360/95-BP) of 05.10.95).

Article 93. Recovery of court costs and lawyers' fees

Court costs are imposed on convicted persons, except amounts paid and to be paid to translators, or are covered at the expense of the State.
Whenever a defendant is found guilty, the court takes decision to recover from him/her court costs. If several defendants are found guilty, the court prescribes the amount of cost to be borne by each of them, taking into account the degree of guilt and property status of the convicts.
If a defendant was found guilty but was released from punishment, the court may impose court costs on such a defendant.
When a case is dismissed based on conciliation between the victim and the accused in cases related to crimes referred to in paragraph 1 of Article 27 of the present Code, the court may impose court costs on either of them or on both of them.

Court costs imposed on a person who is unable to bear them, as well as court costs related to translator's remuneration are covered at the expense of the State.
Fees of a defense counsel who was appointed in the case are covered at the expense of the State according to the procedure and in the amounts prescribed by the Cabinet of Ministers of Ukraine. In such a case, recovery of costs to the State may be imposed on the convict or persons who assume property responsibility for his/her actions upon their consent.
(Article 93 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No (2464-12) of 17.06.92, No 3780-XII (3780-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 93-1. Recovery of expenses incurred in connection with in-patient treatment of a person who suffered from a crime

Sums spent by a health care institution for in-patient treatment of a victim of crime – except when the damage was caused as a result of excess or sudden break of passion attributable to illegal violence or serious insult on the part of the victim – are recovered by court during decreeing a judgment upon claim of the health care institution concerned, a Ministry of Finance of Ukraine's authority, or prosecutor as prescribed in Article 28 and paragraphs 2 and 3 of Article 93 of the present Code.
(Paragraph of Article 93-1 is omitted under Law 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
If, when rendering a judgment, decision on the recovery of expenses incurred in connection with inpatient treatment of the victim has not been made, such expenses are recovered by way of civil proceedings initiated upon claim of persons referred to in paragraph 1 of the present Article.
In the same manner, are recovered expenses incurred in connection with in-patient treatment of the victim of a criminal act, if criminal proceedings are dismissed or institution of criminal proceedings is denied under circumstances referred to in Article 6, first paragraph, subparagraphs 3, 4, and 6; Articles 7, 7-2, 8, 9, and 10 of the present Code.
(Article 93-1 is added by Law No 3132-XII (3132-12) of 22.04.93, as amended by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 94 – Article 236-8 (1002-05)
(Article 237 – Article 449 (1003-05)

Section II

(Articles 94 to 236-8)

(Article 1 – Article 93-1 (1001-05))
(Article 237 – Article 449 (1003-05))

INSTITUTING CRIMINAL PROCEEDINGS, INQUIRY, AND PRE-TRIAL INVESTIGATION

Chapter 8
INSTITUTING CRIMINAL PROCEEDINGS

Article 94. Reasons and grounds for instituting criminal proceedings

The following shall be the ground for instituting criminal proceedings:
1) applications or reports from enterprises, institutions, organizations, officials, representatives of government, public opinion, or particular citizens;
2) reports from representatives of government, public opinion, or particular citizens who

caught the suspect red-handed at the scene of crime;
3) surrender;
4) publications in the press;
5) finding indicia of crime by the inquiry agency, investigator, prosecutor, or court;
Proceedings may be initiated only if sufficient data show that indicia of crime are present.

Article 95. Applications and reports of crime

Applications or reports of crime from representatives of government, public opinion, or particular citizens can be oral or written. Oral applications are entered in the record which is signed by the applicant and official who received the application. In so doing, the applicant is warned about the liability for misleading information, such warning being reflected in the record.
Written application should be signed by the applicant. Prior to instituting criminal proceedings, it is necessary to check the personality of the applicant, warn him/her about the liability for misleading information, and take the appropriate signed acknowledgment from him/her.
Reports from enterprises, institutions, organizations, and officials should be made in written.
Reports from representatives of government, public opinion, or particular citizens who caught the suspect red-handed at the scene of crime may be oral or written.

Article 96. Surrender

Surrender refers to personal, voluntary written or oral statement the offender makes to the inquiry agency, inquirer, investigator, prosecutor, judge, or court about crime he/she has committed or prepared to commit, such statement being made before instituting criminal proceedings against such offender. Whenever criminal proceeding has been already instituted based on the presence of indicia of crime, the offender should make such statement before the decision to prosecute him/her is taken.
Oral statement is entered in the record where information on the offender and contents of his/her statement are narrated in the grammatical category of the 1st person singular. The record is signed by the offender and official who drew up the record.
If oral statement of surrender is made in court session, information on the offender and contents of his/her statement are entered on the record of court session and signed by the offender. Presiding judge transmits an excerpt from the record of court session to the appropriate prosecutor within three days.
Written statement of surrender has to be signed by the offender and the official from the inquiry agency, inquirer, investigator, or prosecutor who received such statement, with indication of the date of its receipt.
(Article 96 as revised by Law No 3082-III (3082-14) of 07.03.2002).

Article 97. Obligation to accept applications and reports of crimes and the way in which the same are considered

Prosecutor, investigator, inquiry agency, or judge are required to accept applications and reports of crimes which have been committed or are being prepared, including in cases which do not fall within their competence.
Prosecutor, investigator, inquiry agency, or judge is required, within three days, to take one of the following decisions on the application or report of crime:
1) institute criminal proceedings;
2) deny instituting criminal proceedings;
3) refer the application or report of crime to appropriate authority;
At the same time, all possible measures are taken to prevent or suppress the crime. With

appropriate grounds present, which confirm that a real treat exists to the life and health of the person who reported the crime, it is necessary to take required measures to have applicant's security ensured, as well as security of his/her family members and close relatives if attempts to exert influence on the applicant are made through threats or any other illegal actions.
If it is necessary to verify an application or report of crime before instituting criminal proceedings, such verification is made by the prosecutor, investigator, or inquiry agency within 10 days by way of taking explanations from particular citizens or officials or by directing to submit required documents.
An application or reports of crimes can be verified, prior to instituting criminal proceedings, trough operational - detective operations. Specific operational – detective activities as specified in Ukrainian legislative acts are conducted upon court's authorization which is issued in response to the submission of the chief (his/her deputy) of the operational unit concerned, such submission being subject to the consent of the prosecutor. The judge passes a ruling on issuance of such authorization and such ruling may be challenged as prescribed in Articles 177, 178, and 190 of the present Code.
(Article 97 as amended by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 98. Instituting criminal proceedings

With reasons and grounds referred to in Article 94 of this Code present, prosecutor, investigator, inquiry agency, or judge are required to take decision on instituting criminal proceedings, such decision stating reasons and grounds for instituting criminal proceedings, provision of criminal statute under which criminal proceedings are instituted, as well as further course of action of such proceedings.
If the perpetrator of crime has been identified upon institution of criminal proceedings, criminal proceedings should be instituted against such perpetrator.
Proceedings referred to in paragraph 1 of Article 27 of the present Code are instituted by the people's judge concerned while in cases specified in paragraph 3 of Article 27 of the present Code – by the prosecutor.
After proceedings have been instituted:
1) prosecutor sends the case to pre-trial investigation or inquiry;
2) investigator starts pre-trial investigation while inquiry agency begins inquiry;
3) court assigns to trial the case related to crime referred to in paragraph 1 of Article 27 of the present Code.
(Article 98 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 358/95-BP (358/95-BP) of 05.10.95, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 98-1. Measures of restraint against a person in whose respect criminal proceedings have been instituted

When criminal proceedings are instituted against a person, prosecutor (judge) shall have the power to take decision thereby such person is prohibited from leaving the limits of Ukraine till pre-trial investigation or trial is completed and a motivated decision (ruling) should be passed thereon.
(Article 98-1 is added by Law No 358/95-BP (358/95-BP) of 05.10.95).

Article 98-2. Serving or sending a copy of the decision to institute criminal proceedings

Should criminal proceedings be instituted, prosecutor, investigator, inquiry agency, or judge are required to immediately serve a copy of decision to the person in whose respect criminal proceedings have been instituted and to the victim. If it is impossible to serve the copy of

the decision immediately, the copy should be handed over within three days after the decision has been taken.
If it is impossible to serve a copy of decision to institute criminal proceedings to the said persons within time-limits specified in the first paragraph of the present Article because of their illness, failure to establish their place of stay or for any other valid reasons, the copy of the decision should be served within three days from the appearance, compulsory appearance under law or establishing place of stay of such persons.
Whenever the person concerned refuses receiving the copy of the decision to institute criminal proceedings, prosecutor, investigator, inquirer, or judge draws up an appropriate record thereof.
A copy of the decision to institute criminal proceedings is served or sent to the victim's representative, defense counsel or legal representative of the suspect or the accused upon their written request within three days from such request.
(Article 98-2 is added by Law No 526-V (526-16) of 22.12.2006).

Article 99. Denial to institute criminal proceedings

With grounds for instituting criminal proceedings absent, prosecutor, investigator, inquiry agency, or judge takes a decision to deny instituting criminal proceedings and inform the persons, enterprises, institutions, organizations concerned thereon.
If verification of an application or report does not establish grounds for instituting criminal proceedings but records of verification contain information on the presence of an administrative or disciplinary misdemeanor or any other breach of public order, prosecutor, investigator, inquiry agency, judge may, after having denied instituting criminal proceedings, send the application or report to the public society organization, Service in charge of Juveniles, labor collective or owner of the enterprise, institution or organization or authority designated by such owner so that they take appropriate measures of influence, or may transfer materials for imposition of administrative penalties as prescribed by law.
(Article 99 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001, No 2670-III (2670-14) of 12.07.2001, No 609-V (609-16) від 07.02.2007).

Article 99-1. Challenging decisions to deny instituting criminal proceedings

Decision made by the investigator and inquiry agency to deny instituting criminal proceedings may be challenged before the appropriate prosecutor and, if such decision was made by the prosecutor, – before a higher prosecutor. The challenge should be filed by the person concerned or by his/her representative within seven days after the receipt of a copy of the decision.
Decision made by the prosecutor, investigator and inquiry agency to deny instituting criminal proceedings may be challenged by the person concerned or by his/her representative before court as prescribed in Article 236-1 of the present Code.
Decision made by the judge to deny instituting criminal proceedings may be challenged by the person concerned or by his/her representative by way of appeal within seven days after the receipt of a copy of the decision.
(Article 99-1 is added by Law No 2857-XII (2857-12) of 15.12.92, as amended by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 100. Prosecutor's supervision of legality of instituting criminal proceedings

Prosecutor supervises the legality of instituting criminal proceedings.
Investigator and inquiry agency are required to send a copy of the decision to institute criminal proceedings or to deny instituting criminal proceedings to the prosecutor within 24

hours.
If proceedings have been instituted without legal grounds, prosecutor dismisses the case and, if investigative actions have not been conducted in the case, overturns the decision to institute criminal proceedings.
In case of ill-grounded denial to institute criminal proceedings by the investigator or inquiry agency, prosecutor takes a decision thereby he/she overturns the decision made by the investigator or inquiry agency and institutes criminal proceedings.
(Paragraph 5 of Article 100 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Article 100 as amended by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Chapter 9
INQUIRY AND PRE-TRIAL INVESTIGATION AGENCIES

Article 101. Inquiry agencies

The following are inquiry agencies:
1) Militia;
1-1) Tax militia - in cases related to tax (mandatory payments) evasion, evasion of contributions for general state pension insurance, as well as in cases related to concealing currency earnings;
2) Security Service agencies – in cases which fall under their jurisdiction according to law;
3) chiefs of command bodies of the Military Justice Service of the Military Forces of Ukraine and their deputies responsible for inquiry – in cases related to crimes committed by servicemen of the Military Forces of Ukraine and those liable to military service during training development sessions, by civilian employees of the Military Forces of Ukraine in line of duty or crimes committed in the place of deployment of military units, and commanders (chiefs) of military units, formations, and chiefs of military institutions – in cases related to crimes committed by their subordinates and those liable to military service during training development sessions as well as in cases related to crimes committed by civilian employees of the Military Forces of Ukraine in line of duty or crimes committed in the place of deployment of military units, formations, institution or at military sites;
3-1) captains of ships – in cases related to crimes committed by their servicemen, as well as in cases related to crimes committed by civilian employees of the Military Forces of Ukraine in line of duty outside the limits of Ukraine;
4) Customs agencies – in cases related to smuggling;
5) chiefs of penitentiary institutions, investigative isolation wards, medical-labor prophylactic establishments - in cases related to crimes against the established order of service committed by the staff of such institutions, as well as in cases related to crimes committed in the location of such institutions;
6) State fire safety agencies – in cases related to fires and violations of fire safety regulations;
7) Border Guard Service agencies – in cases related to illegally crossing the State Border and in cases related to the use of knowingly fake documents while crossing the State Border;
8) captains of sea crafts navigating outside territorial waters of Ukraine.
9) chiefs of units of the State Special Transport Service – in cases related to crimes committed by their subordinates and those liable to military service during training development sessions, as well as in cases related to crimes committed by workers of the State Special Transport Service in connection with execution of office or crimes committed in the place of the relevant unit of the State Special Transport Service.
(Paragraph 9 is added to Article 101 by Law No 1414-VI (1414-17) of 02.06.2009)
(Article 101 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85, by Laws No 2857-XII

(2857-12) of 15.12.92, No 2468-XII (2468-12) of 17.06.92, No 85/98-BP (85/98-BP) of 05.02.98, No 1134-XIV (1134-14) of 08.10.99, No 662-IV (662-15) of 03.04.2003 – effective from 01.08.2003, No 743-IV (743-15) of 15.05.2003, No 2377-IV (2377-15) of 20.01.2005, No 3108-IV (3108-15) of 17.11.2005, No 1254-VI (1254-17) of 14.04.2009, No 1657-VI (1657-17) of 21.10.2009).

Article 102. Pre-trial investigation agencies

Investigators of prosecutor's offices, investigators of Interior agencies, investigators of tax militia, and investigators of Security Service agencies are pre-trial investigation agencies. (Article 102 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 13.06.63, No 117-VIII (117-08) of 30.08.71, by Laws No 2857-XII (2857-12) of 15.12.92, No 85/98-BP (85/98-BP) of 05.02.98).

Chapter 10
INQUIRY

Article 103. Powers of inquiry agency

Inquiry agencies are responsible for conducting necessary operational – detective activities aimed at establishing indicia of crime and identifying its perpetrators.
Inquiry agency immediately informs prosecutor on the crime detected and inquiry started. (Article 103 as amended by Law No 3351-XII (3351-12) of 30.06.93).

Article 104. The way in which inquiry is conducted in criminal cases

With indicia of crime which is not grave present, inquiry agency institutes criminal proceedings and, being guided by the statute of criminal procedure, conducts investigative actions till perpetrator of crime is identified. Thereafter, inquiry agency, in full compliance with time-limits prescribed in Article 108, first paragraph, of the present Code, draws up a decision on the transfer of the case to investigator, such decision being subject to prosecutor's approval.
If inquiry agency institutes criminal proceedings in a case related to a crime of grave severity, the agency is required to refer the case to investigator through prosecutor after having completed urgent investigative actions within time-limits prescribed in paragraph 2 of Article 108 of the present Code.
If perpetrator of crime is not identified in a case related to crime of grave severity which was referred to investigator, inquiry agency continues conducting operational – detective activities and informs investigator on the results thereof.
After investigator has engaged in the case, inquiry agency is required to follow investigator's requests relating to the conduct of investigative and detective actions. (Article 104 as revised by Law No 3351-XII (3351-12) of 30.06.93).

(Article 105 is omitted by Law No 3351-XII (3351-12) of 30.06.93).

Article 106. Apprehension of the suspect by inquiry agency

Inquiry agency may apprehend a person suspected of having committed a crime for which confinement can be imposed only if one of the following grounds is present:
1) a person has been caught during the commission of crime or immediately after it has been committed;
2) eyewitnesses, including victims, expressly state that the given person is the perpetrator of crime;
3) obvious traces of crime have been found at the person concerned or his/her clothes, in his/her home.

With other particulars giving grounds for suspicion of the commission of crime present, the person concerned may be apprehended only if this person tried to escape or if he/she does not have a place of permanent residence, or if the personality of the suspect has not been established.
Inquiry agency is required to draw up a record of every apprehension, such record stating grounds, motives, date, hour, year, month, place of apprehension, explanations of the apprehended person, time when the record of explanation to the suspect, as prescribed in paragraph 2 of Article 21 of the present Code, of his/her right to have a visit of a defense counsel upon apprehension was drawn up. The record is signed by the officer who drew it up and the apprehended person.
A copy of the record with the list of rights and duties is immediately handed over to the apprehended person and sent to the prosecutor. Records which gave ground for the apprehension are also sent to the prosecutor upon request of the latter.
The inquiry agency promptly notifies apprehension of the persons suspected of having committed a crime to one of his/her relatives while apprehension of an officer who is on active list of an intelligence agency of Ukraine in his/her line of duty is also immediately reported to the appropriate intelligence agency.
Inquiry agency within seventy two hours after apprehension:
1) releases the apprehended person – if suspicion of having committed a crime has not been confirmed, time-limit established by law expired or apprehension was conducted contrary to the first and second paragraphs of the present Article;
2) releases the apprehended person and impose on him/her a measure of restraint other than custody;
3) brings the apprehended person to judge and requests the latter to impose a measure of restraint in the form of custody.
In case of challenging apprehension before court, the apprehended person's complaint is immediately sent to court by the head of the place of custody pending trial. The judge considers such complaint concurrently with inquiry agency's request to impose a measure of restraint. If complaint was filed after the measure of restraint has been imposed, it is considered by judge within three days after its receipt. If the request was not received or when the complaint was received after expiration of seventy two hours after the apprehension, the judge considers the complaint within five days from its receipt.
The complaint is considered in compliance with requirements set forth in Article 165-2 of the present Code. Following consideration of the complaint, the judge takes decisions on the legality of apprehension or satisfies the complaint and finds apprehension illegal. A copy of such decision is sent to the prosecutor, inquiry agency, the apprehended person, and the head of the place of custody pending trial.
Prosecutor, the person in whose respect the decision was taken or his/her defense counsel or legal representative may challenge judge's decision by way of appeal within seven days from the day on which such decision has been taken. Filing the appeal does not affect execution of court's decision.
The suspect may not be detained for more than seventy two hours.
If judge's decision to place the apprehended person in custody or to release him/her does not reach the place of custody pending trial within time-limit prescribed by law, the head of the place of custody pending trial releases the apprehended person and draws up an appropriate record thereof and notifies the official or agency which conducted apprehension thereof.
(Article 106 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 3084-IX (3084-09) of 16.02.78, No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 3780-XII (3780-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 3111-III (3111-14) of 07.03.2002, No 1276-VI (1276-17) of 16.04.2009).

Article 106-1. Short-term apprehension of persons suspected of having committed a crime

The way in which persons suspected of having committed a crime are apprehended on a short-term basis is defined in the Regulations governing Short-term apprehension of persons suspected of having committed a crime.
(Article 106-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 3084-IX (3084-09) of 16.02.78, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 107. Interrogation of those suspected of having committed a crime

A suspect is summoned and interrogated in compliance with rules laid down in Articles 134 – 136, 145, and 146 of the present Code.
If a suspect was apprehended or a measure of restraint in the form of custody was imposed thereon, he/she is interrogated immediately and, when such immediate interrogation is impossible, - not later than 24 hours after apprehension. Presence of a defense counsel is compulsory during such interrogation, except when the suspect waives the right to defense counsel and his/her waiver is accepted.
Before interrogation, the suspect should be advised of his/her rights set forth in Article 43-1 of the present Code, and informed on what crime he/she is suspected of, and an appropriate note thereof is entered in the record of interrogation.
(Article 107 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws 3780-XII (3780-12) of 23.12.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 108. Time-limits for inquiry

In cases related to crimes which are not of grave or especially grave severity, inquiry is conducted within 10 days starting from identifying the perpetrator of crime. If such perpetrator has not been identified, inquiry is suspended in compliance with Article 209 of the present Code.
In cases related to crimes of grave or especially grave severity, inquiry is conducted within 10 days starting from instituting criminal proceedings.
If a measure of restraint has been imposed on the suspect as prescribed in Article 165-2 of the present Code, inquiry is conducted within 5 days starting from the imposition of the measure of restraint.
(Article 108 as revised by Law No 3351-XII (3351-12) of 30.06.93, as amended by Laws No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2670-III (2670-14) of 12.07.2001).

Article 109. Inquiry completion

Inquiry is completed with drawing up a decision to refer the case to pre-trial investigation, such decision being subject to prosecutor's approval.
With grounds referred to in Article 6 of this Code present, inquiry agency closes the case by a motivated decision which is sent to the prosecutor within 24 hours.
(Article 109 as revised by Law No 3351-XII (3351-12) of 30.06.93).

Article 110. Challenging actions and decisions of inquiry agencies

Actions and decisions of inquiry agencies may be challenged before prosecutor.
In case of a complaint, the prosecutor is required to consider the same within 10 days and communicate the decision taken on the complaint to the complainant.
Actions and decisions of inquiry agencies may be challenged before court.

Complaints against actions and decisions of inquiry agencies are considered by trial court during preliminary trial or during trial of the case on its merits except as otherwise provided by the present Code.
(Article 110 as revised by Law No 2857-XII (2857-12) of 15.12.92, as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Chapter 11
PRE-TRIAL INVESTIGATION - GENERAL PROVISIONS

Article 111. Pre-trial investigation

Pre-trial investigation in conducted in all cases save cases related to crimes referred to in paragraph 1 of Article 27 and Article 425 of the present Code where pre-trial investigation is conducted in cases related crimes committed by a juvenile or a person who is unable to enjoy his/her right to defense because of his/her physical or mental disabilities, as well as when prosecutor or court finds it appropriate.
(Article 111 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 2631-VII (2631-07) of 18.03.70, No 140-IX (140-09) of 04.09.75, No 1593-IX (1593-09) of 22.12.76, No 6347-XI (6347-11) of 03.08.88, No 5822-XI (5822-11) of 29.04.88, No 6976-XI (6976-11) of 14.12.88, as revised by Law No 3351-XII (3351-12) of 30.06.93).

Article 112. Competence

In cases related to crimes punishable under Articles 157, 158, 158-1, 159, 159-1, 160, 161, 162, 163, 166, paragraph 2 of Article 168, Articles 170, 171, 172, 173, 175, paragraph 3 of Article 176, paragraph 3 of Article 177, Articles 182, 183, paragraph 2 of Article 184, Article 209, paragraph 3 of Article 229, Articles 233, 234, 235, 236, 237, 238, 244, 253, 271, 272, 273, 274, 275, 276, 281, 335, 336, 338, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 392, 397, 398, 399, 400, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 438, 439, 441, 445 of the Criminal Code of Ukraine (2341-4), as well as in all cases related to crimes committed by officials who hold especially important offices under Article 9, first paragraph, of the Law of Ukraine "On Civil Service" (3723-12) and by persons who hold positions of the 1 – 3 category, by members of law enforcement authorities, - pre-trial investigation is conducted by investigators of prosecutor's offices. Investigators of prosecutor's offices may investigate other crimes upon decision of the Prosecutor General of Ukraine, his/her deputies, oblast prosecutor, and prosecutors assimilated to them.
In cases related to crimes punishable under Articles 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, paragraph 2 of Article 126, Articles 127, 128, 129, 130, 131, 132, paragraphs 2 and 3 of Article 133, Articles 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 150-1, 151, 152, 153, 154, 155, 156, 165, 167, paragraph 1 of Article 168, Articles 169, 174, paragraphs 1 and 2 of Article 176, paragraphs 1 and 2 of Articles 177, Articles 178, 179, 180, 181, paragraphs 1 of Article 184, paragraphs 2, 3, 4, 5 of Article 185, paragraphs 2, 3, 4, 5 of Article 186, Article 187, Article 188-1, Article 189, paragraphs 2, 3, 4 of Article 190, Articles 192, 193, paragraph 2 of Article 194, paragraphs 2 and 3 of Article 194-1, Articles 195, 196, 197, 197-1, 198, 199, 200, paragraph 2 of Article 203, Article 203-1, Article 204, paragraph 2 of Article 205, Articles 206, 207, 209, paragraph 2 of Article 213, Articles 214, 215, 217, 219, 220, 221, 222, 223, 223-1, 223-2, 224, paragraph 2 of Article 225, paragraph 2 of Article 226, Articles 227, 228, paragraph 1 and 2 of Article 229, Articles 231, 232, 232-1, 232-2, 233, 234, 235, 239, 239-1, 239-2, 240, 241, 242, 243, paragraph 2 of Article 245, paragraph 2 of Article 248, paragraph 2 of

Article 249, Articles 251, 252, 254, 259, 260, 261, 262, 263, 264, 265, 266, 267, 267-1, 268, 269, 270, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, paragraphs 2, 3, 4 of Article 296, Articles 297, 298, 298-1, 299, 300, 301, 302, 303, 304, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 337, 339, 340, 341, 344, 352, 353, 354, 355, 357, 358, 360, 361, 361-1, 361-2, 362, 363, 363-1, 389, 390, 391, 393, 394 of the Criminal Code of Ukraine, as well as in all cases related to crimes committed by juveniles, - pre-trial investigation is conducted by investigators of Interior agencies.

In cases related to crimes punishable under Articles 109, 110, 111, 112, 113, 114, 201, 209, 258, 258-1, 258-2, 258-3, 258-4, 258-5, 261, 265-1, 305, 328, 329, 330, 332, 333, 334, 359, 361, 361-1, 361-2, 362, 363, 363-1, 422, 436, 437, 438, 439, 440, 441, 442, 443, 444, 446, 447 of the Criminal Code of Ukraine pre-trial investigation is conducted by investigators from the Security Service of Ukraine. Whenever investigation of crimes punishable under Articles 328, 329, and 422 reveals crimes punishable under Articles 364, 365, 366, 367, 423, 424, 426 of the Criminal Code of Ukraine (2341-14), committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation, such crimes are investigated by investigators from the Security Service of Ukraine, including crimes committed by officials who hold especially important offices under Article 9, first paragraph, of the Law of Ukraine "On Civil Service" (3723-12) and by persons who hold positions of the 1 – 3 category of civil servants, and by members of law enforcement authorities.

In cases related to crimes punishable under Articles 204, 207, 208, 209, 212, second, third, and fourth paragraphs, 212-1, second, third, and fourth paragraphs, Articles 216 and 218 of the Criminal Code of Ukraine, - pre-trial investigation is conducted by investigators from the tax militia. Whenever investigation of these crimes reveals crimes punishable under 192, 200, 201, 202, 203, 205, 213, 215, 219, 220, 221, 222, and 358 of the Criminal Code of Ukraine committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation, such crimes are investigated by investigators from the tax militia.

In cases related to crimes punishable under Articles 191, 210, 211, 255, 256, and 257 of the Criminal Code of Ukraine (2341-14), - pre-trial investigation is conducted by the agency which instituted criminal proceedings. Whenever investigation of these and other crimes reveals crimes punishable under Articles 364, 365, 366, 367, 368, 369, 370 of the Criminal Code of Ukraine (2341-14), linked to crimes in whose respect criminal proceedings are instituted, they are investigated by the agency which instituted criminal proceedings.

In cases related to crimes punishable under Articles 209-1, 384, 385, 386, 387, 388, 396 of the Criminal Code of Ukraine, - pre-trial investigation is conducted by the agency in whose competence falls the crime in respect of which criminal proceedings were instituted. If criminal proceedings reveal other crimes committed by the person under investigation or by any other person, if they are linked to crimes committed by the person under investigation and which do not fall within the competence of the agency conducting pre-trial investigation, in case the disjoinder is impossible, the prosecutor who supervises pre-trial investigation determines the competence over such crimes in his/her decision.

(Article 112 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of (677a-06), of 18.01.66, No 1879-VIII (1879-08) of 03.07.73, No 2718-VIII (2718-08) of 17.06.74, No 3086-IX (3086-09) of 16.02.78, No 2942-X (2942-10) of 24.12.81, No 6591-X (6591-10) of 29.02.84, No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85, No 704-XI (704-11) of 01.08.85, No 1432-XI (1432-11) of 10.12.85, No 2444-XI (2444-11) of 27.06.86, No 2753-XI (2753-11) of 18.08.86, No 4392-XI (4392-11) of 31.07.87, No 4452-XI (4452-11) of 21.08.87, No 4981-XI (4981-11) of 25.11.87, No 4995-XI (4995-11) of 01.12.87, No 5397-XI (5397-11) of 10.02.88, No 5723-XI (5723-11) of 14.04.88, No 6976-XI (6976-11) of 14.12.88, No 7226-XI (7226-11) of 06.03.89, No 7373-XI (7373-11) of 14.04.89, No 7617-XI

(7617-11) of 16.06.89, No 8711-XI (8711-11) of 19.01.90, No 8918-XI (8918-11) of 07.03.90, No 9082-XI (9082-11) of 20.04.90, No 9166-XI (9166-11) of 04.05.90, No 596-XII (596-12) of 26.12.90, No 597a-XII (597a-12) of 26.12.90, No 647-XII (647-12) of 18.01.91, No 661-XII (661-12) of 28.01.91, No 1255-XII (1255-12) of 25.06.91, No 1434a-XII (1434a-12) of 25.08.91, by Law of the Ukrainian SSR No 1255-XII (1255-12) of 03.07.91, by Laws No 1564-XII (1564-12) of 18.09.91, No 1974-XII (1974-12) of 12.12.91, No 2354-XII (2354-12) of 15.05.92, No 2468-XII (2468-12) of 17.06.92, No 2547-XII (2547-12) of 07.07.92, No 2613-XII (2613-12) of 17.09.92, No 2703-XII (2703-12) of 16.10.92, No 2935-XII (2935-12) of 26.01.93, No 2936-XII (2936-12) of 26.01.93, No 2947-XII (2947-12) of 28.01.93, No 3039-XII (3039-12) of 03.03.93, No 3351-XII (3351-12) of 30.06.93, No 3582-XII (3582-12) of 11.11.93, No 3785-XII (3785-12) of 23.12.93, No 3888-XII (3888-12) of 28.01.94, No 4043-XII (4043-12) of 25.02.94, No 218/94-BP (218/94-BP) of 20.10.94, No 246/94-BP (246/94-BP) of 15.11.94, No 299/94-BP (299/94-BP) of 16.12.94, No 64/95-BP (64/95-BP) of 15.02.95, No 282/95-BP (282/95-BP) of 11.07.95, No 323/96-BP (323/96-BP) of 12.07.96, No 386/96-BP (386/96-BP) of 01.10.96, No 388/96-BP (388/96-BP) of 02.10.96, No 530/96-BP (530/96-BP) of 20.11.96, No 44/97-BP (44/97-BP) of 05.02.97, No 552/97-BP (552/97-BP) of 07.10.97, No 85/98-BP (85/98-BP) of 05.02.98, No 210/98-BP (210/98-BP) of 24.03.98, 1288-XIV (1288-14) of 14.12.99, No 1381-XIV (1381-14) of 13.01.2000, No 1587-III (1587-14) of 23.03.2000, No 1685-III (1685-14) of 20.04.2000, No 1945-III (1945-14) of 14.09.2000, No 1981-III (1981-14) of 21.09.2000, No 2114-III (2114-14) of 16.11.2000, No 2181-III (2181-14) of 21.12.2000 – effective from 01.04.2001, No 2247-III (2247-14) of 18.01.2001, No 2362-III (2362-14) of 05.04.2001, No 2409-III (2409-14) of 17.05.2001, as revised by Law No 2670-III (2670-14) of 12.07.2001, as amended by Law No 2953-III (2953-14) of 17.01.2002, No 430-IV (430-15) of 16.01.2003 - effective from 11.06.2003, No 669-IV (669-15) of 03.04.2003, No 850-IV (850-15) of 22.05.2003, No 903-IV (903-15) of 05.06.2003, No 1125-IV (1125-15) of 11.07.2003, No 1703-IV (1703-15) of 11.05.2004, No 1723-IV (1723-15) of 18.05.2004, No 2289-IV (2289-15) of 23.12.2004, No 2598-IV (2598-15) of 31.05.2005, No 3108-IV (3108-15) of 17.11.2005, No 3169-IV (3169-15) of 01.12.2005, No 3504-IV (3504-15) of 23.02.2006, No 3480-IV (3480-15) of 23.02.2006, No 170-V (170-16) of 21.09.2006, No 534-V (534-16) of 22.12.2006, No 578-V (578-16) of 11.01.2007, No 965-V (965-16) of 19.04.2007, No 966-V (966-16) of 19.04.2007, No 1071-V (1071-16) of 24.05.2007, No 270-VI (270-17) of 15.04.2008, No 801-VI (801-17) of 25.12.2008, No 894-VI (894-17) of 15.01.2009, No 1708-VI (1708-17) of 05.11.2009, No 2258-VI (2258-17) of 18.05.2010, No 2262-VI (2262-17) of 18.05.2010, No 2339-VI (2339-17) of 15.06.2010)

Article 113. Beginning pre-trial investigation

Pre-trial investigation begins only after criminal proceedings have been instituted and is conducted as prescribed in the present Code.
Investigator is required to immediately proceed to investigation in the case he/she instituted himself/herself or in the case which was referred to him/her. If investigator institutes the case himself/herself and takes over proceedings in this case, a decision is drawn up to institute criminal case and take over proceedings therein. If investigator takes over proceedings in the case he/she instituted earlier, the investigator takes a separate decision to take over such proceedings.
Investigator sends a copy of the decision to take over proceedings in the case to the prosecutor within 24 hours.

Article 114. Investigator's powers

When conducting pre-trial investigation, investigator takes all decisions related to

investigation and investigative actions on his/her own except when law requires obtaining consent of the court (judge) or prosecutor, and is fully responsible for conducting them timely and within the scope of law.
Whenever investigator disagrees with prosecutor's instructions with regard to prosecuting an individual as an accused, determining the nature of crime and scope of charges, referring the case to court or dismissing the case, investigator shall have the power to submit the case to a higher prosecutor with his/her written comments. In such a case, the prosecutor either revokes instructions of the lower prosecutor or assigns investigation in this case to another investigator.
Within cases he/she investigates, investigator may give assignments and instructions to inquiry agencies with regard to conducting detective and investigative actions and request assistance of inquiry agencies in the conduct of particular investigative actions. Such investigator's assignments and instructions are binding upon inquiry agencies.
In cases where pre-trial investigation is mandatory, investigator may proceed to pre-trial investigation at any time without waiting till inquiry agencies conduct actions specified in Article 104 of the present Code.
Decisions the investigator makes under law in the criminal case he/she investigates are binding upon all enterprises, institutions, organizations, officials, and citizens.
When conducting various investigative actions, investigator may use typewriting, audio recording, stenography, filming, and video recording.
(Article 114 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 8.01.66, No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 114-1. Powers of Chief of Investigation

(The document is taken from the website of the Verkhovna Rada of Ukraine)

Chief of Investigation exercises control of investigative actions aimed at resolving and preventing crimes, takes measures to ensure thorough, complete and objective pre-trial investigation in criminal cases.
Chief of Investigation should verify criminal cases, give instructions to the investigator as to the conduct of pre-trial investigation, prosecution of an individual as an accused, determination of the nature of crime and scope of charges, direction of the case, conduct of particular investigative actions, transfer the case from one investigator to another, assign investigation of the case to several investigators, as well as participate in the conduct of pre-trial investigation and conduct pre-trial investigation in person taking benefit of investigator's powers.
Chief of Investigation gives the investigator binding written instructions.
Challenging these instructions does not affect execution of the same except as provided for in paragraph 2 of Article 114 of the present Code.
Prosecutor's instructions in criminal cases which are given as prescribed in the present Code shall be binding on the Chief of Investigation. Challenging these instructions before a higher prosecutor does not affect execution of the same.
(Article 114-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada of 18.01.66).

Article 115. Apprehension by an investigator of a person suspected of having committed a crime

Investigator may apprehend and interrogate a person suspected of having committed a crime on the grounds and according to procedure referred to in Articles 106, 106-1, and 107 of the present Code.
An officer who is on active list of an intelligence agency of Ukraine and who is suspected of

having committed a crime may be apprehended in his/her line of duty only in the presence of official representatives of such agency.
(Article 115 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 3084-IX (3084-09) of 16.02.78, No 6834-X (6834-10) of 16.04.84, by Law No 3111-III (3111-14) of 07.03.2002).

Article 116. Place of pre-trial investigation

Pre-trial investigation is conducted in the area where the crime has been committed. When the place where the crime has been committed is unknown and in view of its prompt and full investigation, investigation may be conducted in the place where the crime was detected or in the place where the accused stays, or in the place where most of witnesses stay, or upon prosecutor's determination.
Having established that a given case goes beyond his/her competence, investigator is required to conduct all of urgent actions and thereafter direct the case to prosecutor for its referral to appropriate authority.
(Article 116 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 1125-IV (1125-15) of 11.07.2003).

Article 117. Disputes over competence

District prosecutor resolves disputes over competence among investigators operating within the boundaries of one and same district, while disputes among investigators of transport prosecutor's office are decided by transport prosecutor who acts as a district, city prosecutor.
Prosecutor of the Autonomous Republic of Crimea, oblast prosecutor resolves disputes over competence among investigators operating within the boundaries of various districts of the Crimea, and a particular oblast, respectively, while disputes among investigators of different transport prosecutor's offices which act as district, city prosecutor's offices are decided by transport prosecutor, disputes among investigators of different urban districts – by the prosecutor of the city of Kyiv, city prosecutor or deputies thereof.
Prosecutor General of Ukraine or his/her deputy resolves disputes over competence if a criminal proceeding has been instituted in several districts or cities belonging to different oblasts.
(Article 117 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92).

Article 118. Separate requests

Investigator shall have powers to conduct investigative actions in other investigative districts and may assign the conduct of such actions to the appropriate investigator or inquiry agency that are required to carry out such assignment within ten days.
Investigator is required to conduct investigative actions himself/herself within the limits of the city or district though the latter is divided into several investigative areas.

Article 119. Several investigators proceeding in one case

If investigation of an especially complicated case is assigned to several investigators, this is reflected in the decision to institute criminal proceedings or a separate decision is made thereon. One of such investigators is appointed as the team leader who takes over proceedings in the case and directs the work of other investigators.
Decision to appoint several investigators in the case is read out to the accused.

Article 120. Time-limits for pre-trial investigation

Pre-trial investigation in criminal cases should be completed within two months. This time-limit runs from instituting criminal proceedings till presentment of the case to the prosecutor together with an indictment or decision to refer the case to court for the latter to consider imposition of compulsory measures of medical nature or till dismissal or suspension of proceedings in the case. In case of failure in the completion of investigation, district, city prosecutor, military prosecutor of the army, flotilla, body of troops, garrison and the prosecutor assimilated thereto may extend this time-limit up to three months.
In especially complicated cases, the time-limit prescribed in paragraph 1 of the present Article may be extended up to six months by the prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv, military prosecutor of the region, fleet, and prosecutor assimilated thereto or their deputies based on investigator's motivated decision.
Thereafter, the Prosecutor General of Ukraine or his/her deputies may extend time-limit for pre-trial investigation only in exceptional cases.
When court remands a case for supplementary investigation and when a dismissed case is reopened, time-limit for supplementary investigation is fixed by the prosecutor who supervises investigation in the case up to one month from taking charge of proceedings. Further extensions of this time-limit are made in accordance with regular procedure.
Rules laid down in the present Article do not apply to cases in which perpetrator of crime has not been identified. Time-limit for investigation in such cases starts running from the day on which perpetrator of crime has been identified.
(Article 120 as revised by Law No 1960-XII (1960-12) of 10.12.91, as amended by Laws No 2857-XII (2857-12) of 15.12.92, No 3351-XII (3351-12) of 30.06.93, No 658-IV (658-15) of 03.04.2003)

Article 121. Non-disclosure of information relating to pre-trial investigation

Information relating to pre-trial investigation may be disclosed only upon permission of the investigator or prosecutor and in the amount they find it possible.
As appropriate, investigator advises witnesses, victim, civil plaintiff, civil defendant, defense counsel, expert, specialist, translator, attesting witnesses, as well as other persons present during the conduct of investigative actions of their duty not to disclose information relating to pre-trial investigation without his/her consent. Those guilty of disclosure of information relating to pre-trial investigation are criminally liable under Article 387 of the Criminal Code of Ukraine.
(Article 121 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2670-III (2670-14) of 12.07.2001).

Article 122. Advising victim of his/her rights

Having found a person victim of crime, investigator advises him/her of his/her rights set forth in Article 49 of the present Code and makes a note thereof in the decision which is signed by the victim concerned.
When a material damage has been caused to property of a citizen, enterprise, institution, or organization as a result of crime, investigator advises the victim and his/her representative of the right to bring a civil claim and makes a note thereof in the record of interrogation or directs an appropriate written notice to the victim, a copy of such notice being attached to records of the case.
(Article 122 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 123. Founding an individual as a civil plaintiff

If a civil claim is brought in the case, investigator is required to draw up a motivated

decision to find the victim as civil plaintiff or to deny finding him/ her as such.
Civil plaintiff or his/her representative is informed on such decision. In case of civil plaintiff or his/her representative's appearance, he/she is advised on his/her rights set forth in Article 50 of the present Code and an appropriate note is entered on the decision which is signed by civil plaintiff or his/her representative.

Article 124. Prosecuting an individual as civil defendant

Having found it necessary to prosecute an individual as civil defendant, investigator makes a motivated decision thereon. The decision is read out to civil defendant or his/her representative. In so doing, he/she is advised of his/her rights set forth in Article 51 of the present Code and an appropriate note is entered on the decision which is signed by civil defendant or his/her representative.

Article 125. Obligation to secure civil claim and forfeiture of asset under law

Upon civil plaintiff's petition or upon his/her own initiative, investigator is required to take measures to secure civil claim brought in a criminal case, as well as potential civil claim and draw up a decision thereon.
In cases related to crimes punishable under law with forfeiture of asset, investigator is required to take measures to ensure enforcement of the judgment in terms of possible forfeiture of asset and draw up a decision thereon.

Article 126. The way in which a civil claim and forfeiture of asset are secured

Civil claim and potential forfeiture of asset are secured through attachment of deposits, valuables, and other asset of the accused or suspect or persons who are materially liable for his/her acts wherever such deposits, valuables, and other asset are located, as well as through removal of attached asset. Deposits of the said persons may be attached only upon court's decision.
Attached asset are subject to inventory and may be transferred in custody of enterprises, institutions, organizations or family members of the accused or other persons. Persons who took attached asset in custody are warned about criminal liability for asset conservation, such warning being made against signed acknowledgment.
Primary necessities which are used by the person subject to inventory and by his/her family members are not subject to inventory. List of such necessities is attached in the Annex to the Criminal Code of Ukraine (2002-05).
With regard to attached asset and its transfer in custody, an appropriate record is drawn up and signed by the person who conducted inventory, attesting witnesses and the person who assumed custody of the attached asset. A list of assets transferred in custody is attached to the record, such list being signed by the said persons.
In case of need, a specialist is invited to assess the value of the asset inventoried; such specialist signs the record and the list of assessed asset.
Attachment is revoked by investigator's decision whenever there is no longer need in such a measure.
(Article 126 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2631-IV (2631-15 of 02.06.2005).

Article 127. Involving attesting witnesses

At least, two attesting witnesses should be present during search, removal, inspection, presentation of persons and objects for identification, reconstruction of situation and circumstances of an event, inventory of asset.
Attesting witnesses may be invited to participate in the examination if investigator finds it

necessary.
Persons neutral to the case are invited as attesting witnesses. Victim, relatives of the suspect, accused, and victim, members of inquiry and pre-trial investigation agencies may not be attesting witnesses.
Attesting witnesses who are present during the conduct of the abovementioned investigative actions attest with their signatures that entries in the record conform to actions conducted.
An attesting witness's comments to investigative actions conducted should necessarily be entered on the record.
With appropriate grounds present, attesting witnesses shall be entitled to have their security ensured trough the enforcement of measures provided for in Ukrainian laws.
(Article 127 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 1381-XIV (1381-14) of 13.01.2000).

Article 128. Involving a translator

Investigator invites a translator in instances provided for in Article 19 of the present Code. The translator should appear upon investigator's summon and make translation fully and accurately.
Investigator advises translator of his/her duties and warns him/her about criminal liability for refusal to discharge translator's duties and for knowingly misleading translation, such warning being made against signed acknowledgment.
With appropriate grounds present, translator shall be entitled to have his/her security ensured trough the enforcement of measures provided for in Ukrainian laws.
The present Article applies to the person invited to take part in the process as signer.
(Article 128 as amended by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 128-1. Participation of a specialist in the conduct of investigative actions

If necessary, a specialist who is neutral to the case may be invited to participate in the conduct of a particular investigative action. Investigator's summon is binding on the head of enterprise, institution, or organization where the specialist concerned works.
The specialist is required to: appear upon summon; participate in the conduct of investigative action taking advantage of his/her special knowledge and skills to assist investigator in detecting, fixing, and removing proofs; draw investigator's attention to circumstances relating to detecting and fixing proofs; give explanations about specific issues arising during the conduct of investigative action.
The specialist may: upon investigator's consent, put questions to participants to investigative action; make statements relating to detecting, fixing, and removing proofs.
With appropriate grounds present, the specialist shall be entitled to have his/her security ensured trough the enforcement of measures provided for in Ukrainian laws.
Before the beginning of investigative action the specialist is involved in, investigator makes himself/herself sure of the identity and competence of the specialist concerned, finds out his/her relationship with the accused and victim and advises specialist of his/her rights and duties. Fulfilling these requirements by investigator is entered on the record of investigative action.
If a specialist refuses or avoids discharging his/her duties, investigator informs thereon the administration of the enterprise, institution, or organization where such specialist is employed or civil society organization for appropriate response.
(Article 128-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71; as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, Law No 1381-XIV (1381-14) of

13.01.2000).

Article 129. Investigator's considering petitions

Investigator considers petitions of the suspect, accused, their defense counsels, as well as victim and his/her representatives, civil plaintiff, civil defendant or their representatives about the conduct of any investigative actions within three days and satisfies them if circumstances whose establishment is required in such petitions have an importance for the case.
Results of petitions' consideration are communicated to the petitioner. A motivated decision is drawn up on the full or partial denial of the petition.
(Article 129 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84; by No 3780-XII (3780-12) of 23.12.93).

Article 130. Decision of the investigator and prosecutor

A motivated decision is drawn up on decisions taken by the investigator or prosecutor at the stage of pre-trial investigation in cases specified in the present Code, as well as in cases when investigator or prosecutor find it appropriate.
Such decision states place where, and time when, it was drawn up, position of the person who takes the decision, name of the person who takes the decision, identity of the case in which proceedings are conducted, as well as substantiation of the decision made and provision of the Code underlying the decision taken.

Chapter 12
BRINGING CHARGES AND INTERROGATION OF THE ACCUSED

Article 131. Prosecuting an individual as an accused

Investigator takes decision to prosecute an individual as an accused if there are sufficient proofs indicating at the commission of crimes by this individual.

Article 132. Decision to prosecute an individual as an accused

Decision to prosecute an individual as an accused should state: who drew up the decision; place where, and time when, it was drawn up; identity of the case; last name, first name, and patronymic of the accused, day, month, and year his/her birth; crime incriminated to this person, time, place, and other circumstances of the crime in so far as investigator is aware thereof, and provision of the criminal statute which punishes such crime.
When the accused is prosecuted for the commission of several crimes which fall under different provisions of the criminal statute, decision to prosecute an individual as an accused should state what exactly actions are incriminated to the accused under each of such provisions.
A copy of the decision is directed to the prosecutor immediately.

Article 133. Time-limit for bringing charges

Charges should be brought within two days from the day on which investigator has made the decision to prosecute an individual as an accused and in any case not later than the appearance of the accused or his/her compulsory appearance under law.

Article 134. Summoning the accused

An accused is summoned to appear before investigator by telephone, telephone message,

telegram, or notice paper which is served to the accused against signed acknowledgment with indication of the time of service.
If the accused is temporary unavailable, notice paper is served to any adult family member who lives together with the accused, to housing maintenance organization or administration in the place of his/her employment for further transfer to the accused.
The accused that is kept in custody is summoned through the administration of the place of custody pending trial.
(Article 134 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84).

Article 135. Appearance of the accused is compulsory

The accused is required to appear upon investigator's summon in the time fixed.
In case of non-appearance without valid reasons, the accused is subject to compulsory appearance under law.
Valid reasons for non-appearance of the accused are untimely receipt of the notice paper, illness and other circumstances which do make it impossible for him to appear before investigator in the time fixed.

Article 136. Compulsory appearance under law

Compulsory appearance under law of the accused is ensured by Interior agencies and Military Justice Service of the Military Forces of Ukraine (with regard to servicemen and civil employees of the Military Forces of Ukraine) upon a motivated decision of the investigator.
Save exceptional circumstances, compulsory appearance under law of the accused is ensured during daytime.
Compulsory appearance under law of the accused without pre-trial summons may be applied only if the accused avoids investigation or does not have a permanent place of residence.
Decision on the compulsory appearance under law is read out to the accused before its enforcement.
(Article 136 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 743-IV (743-15) of 15.05.2003, No 1276-VI (1276-17) of 16.04.2009).

Article 137. Establishing the place where the accused stays

When the place of stay of the accused is unknown and if the accused avoids investigation, investigator, prior to the expiry of the time-limit prescribed for pre-trial investigation, is required to take all necessary measures to establish the place of stay of the accused.

Article 138. Announcing retrieval of the accused

If the place of stay of the person in whose respect a decision to prosecute as an accused has been made is unknown, investigator proceeds to retrieval of the accused. With grounds referred to in Article 155 of this Code present, investigator may impose on the accused that is wanted a measure of restraint in the form of custody.
Retrieval may be announced both during pre-trial investigation and concurrently with its suspension.

Article 139. Retrieval of the accused

Investigator draws up a decision on the retrieval of the accused in which he/she states required information on the wanted person. Decision on the retrieval and imposition of a measure of restraint is directed to appropriate detective agencies.
After announcing retrieval, investigator continues taking all necessary measures to find out

the place of stay of the accused.
After having apprehended the wanted accused in whose respect keeping in custody as a measure of restraint was imposed, detective agency immediately informs thereon the prosecutor in the place of apprehension. The prosecutor is required to verify within 24 hours whether the apprehended person is really the one who is wanted and, after making himself/ herself sure that grounds for the arrest do exist, issues a sanction to convoy the arrested person to place where investigation is conducted.

Article 140. The way in which charges are brought

A defense counsel should necessarily be present during brining charges except when he/she waives the right to a defense counsel and such waiver is accepted.
Having made sure of the identity of the accused, investigator reads him/her out the decision to prosecute him/her as an accused, explains the substance of charges, and gives him/her a copy of the decision to prosecute him/her as an accused.
Investigator draws up the record that charges have been brought, substance of charges explained, and a copy of the decision to prosecute as an accused given, such record stating the hour and the day when charges were brought and being signed by the accused, investigator, and defense counsel.
If the accused refuses signing the record, investigator makes a note in the record that the accused refused to sign the record and states motives for such refusal and informs the prosecutor thereon.
(Article 140 as amended by Laws No 3780-XII (3780-12) of 23.12.93, No 1833-III (1833-14) of 22.06.2000, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 141. Changing and supplementing charges

Should the need to change or supplement charges brought arise at the stage of pre-trial investigation, investigator is required to re-bring charges in compliance with Articles 131, 132, 133, and 140 of the present Code.
Whenever a part of charges brought was not confirmed during pre-trial investigation, investigator, by his/her decision, dismisses the case in so far as such charges are concerned and informs the accused thereon.

Article 142. Advising the accused of his/her rights during investigation

When bringing charges, investigator is required to advise the accused that, during pre-trial investigation, he/she has the right to:
1) be aware what he/she is charged of;
2) testify with regard to charges brought or refuse testifying and answering questions;
3) produce evidence;
4) apply for interrogation of witnesses, confrontation, expert examination, obtainment of documents and their attachment to records of the case, submit petitions relating to all other matters which have an importance for establishing the truth in the case;
5) propose disqualification of investigator, prosecutor, expert, specialist, and translator;
6) be present during the conduct of particular investigative actions, upon investigator's consent;
7) review all records of the case after the completion of pre-trial investigation;
8) have a defense counsel and meet him/her before the first interrogation;
9) file complaints against actions and decisions of the investigator and prosecutor.
Investigator states in the decision to bring charges that the accused was advised of his/her rights, the latter fact being confirmed by the signature of the accused.
(Article 142 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No

6834-X (6834-10) of 16.04.84, by Law No 3780-XII (3780-12) of 23.12.93).

Article 143. Interrogation of the accused

Investigator is required to interrogate the accused immediately after his/her appearance or compulsory appearance under law and in any case not later than 24 hours after charges have been brought.
Interrogation of the accused, save exceptional circumstances, should be conducted in daytime.
A defense counsel may be present during interrogation upon the consent of the accused and, in cases referred to in Article 45 of the present Code, defense counsel's presence is mandatory.
The accused is interrogated in the place where pre-trial investigation is conducted and, if necessary, - in the place where the accused stays.
Several accused are interrogated separately. In such a case, investigator should take measures so that the persons accused in one and the same case could not communicate among them.
At the beginning of interrogation, investigator asks the accused whether he/she pleads guilty of charges brought and then invites him/her give testimonies in respect of merits of charges. Investigator hears testimonies of the accused and, if necessary, asks him/her questions. It is not permitted to ask questions containing a reply, a part of reply, or prompting a reply (leading questions).
(Article 143 as amended by Laws No 3780-XII (3780-12) of 23.12.93, No 1833-III (1833-14) of 22.06.2000, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 144. Bringing charges against deaf, dumb, blind persons and persons with limited criminal capacity, and interrogating them

Deaf, dumb, blind persons and persons with limited criminal capacity are brought charges and interrogated in accordance with Articles 140, 141, 142, and 143 of the present Code in the presence of a defense counsel, and in deaf and dumb cases, in addition to the defense counsel, a signer is invited.
(Article 144 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 2670-III (2670-14) of 12.07.2001).

Article 145. Record of interrogation of the accused

Investigator draws up the record of each interrogation of the accused in accordance with Article 85 of the present Code.
Record of interrogation states place where, and date when, the accused was interrogated; position and last name of the interrogator and of the persons who were present during the interrogation; time when interrogation started and finished; last name, first name, and patronymic of the accused; year, month, day, and place of his/her birth; nationality, ethic origin, education, family status, place of employment, occupation or position, place of residence, criminal history of the accused and other information on the accused which is necessary taking into account circumstances of the case.
Testimonies given by the accused and answers to questions are narrated in the grammatical category of the 1st person singular and, as far as possible, word-by-word.
After interrogation has been completed, investigator produces the record to the accused for review.
Upon request of the accused, investigator reads out the record to the accused and enters an appropriate note in the record. The accused may request supplementing the record and introducing amendments therein. Such supplements and amendments should necessarily be

entered in the record.
The accused and investigator sign the record. If the record is written on several pages, the accused signs each page thereof. If prosecutor, expert, specialist, translator, defense counsel or any other persons participated in the interrogation, they sign the record either. (Article 145 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 146. Handwriting his/her testimonies by the accused

If he/she so requires, the accused is given the possibility to handwrite his/her testimonies, and an appropriate note is entered in the record of interrogation. Investigator, having reviewed written testimonies of the accused, may ask him/her additional questions. Such questions and answers thereto are entered in the record. The accused and investigator attest the accuracy of written testimonies, questions, and answers thereto with their signatures.

Article 147. Suspension of the accused from office

Whenever an official is prosecuted for an official crime and when such person is prosecuted for another crime and if he/she can negatively affect the course of pre-trial investigation or judicial investigation, investigator is required to suspend him/her from office and take a motivated decision thereon.
Suspension from office is made upon prosecutor or his/her deputy's sanction. A copy of the decision should be directed to the place of work (service) of the accused for execution.
The issue of suspending from office persons who are appointed by the President of Ukraine is decided by the President of Ukraine based on motivated decision of the Prosecutor General of Ukraine.
Suspension from office is revoked by the decision of the investigator (prosecutor) whenever there is no longer need in such a measure.
(Article 147 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 358/95-BP (358/95-BP of 05.10.95, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Chapter 13
MEASURES OF RESTRAINT

Article 148. Objective of, and grounds for, imposing a measure of restraint

Measures of restraint are imposed on the suspect, accused, defendant, convict with a view to preventing his/her attempts to avoid inquiry, pre-trial investigation, or trial, obstruct establishing the truth in a criminal case, or continue criminal activity, as well as to ensuring execution of procedural decisions.
Measures of restraint are imposed if there are sufficient grounds to believe that the suspect, accused, defendant, convict can avoid investigation and trial or execution of procedural decisions, can obstruct establishing the truth in a criminal case or continue criminal activity.
If there are no sufficient grounds for imposing a measure of restraint, the suspect, accused, or defendant is asked to give a written obligation to appear upon the summons of the inquirer, investigator, prosecutor or court, as well as to inform on the place of his/her staying if the latter has been changed.
Whenever a measure of restraint is impose on the suspect, charges should be brought against him/her within 10 days after such measure of restraint has been ordered. If charges

are not brought within this time-limit, the measure of restraint should be revoked.
(Article 148 as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 149. Measures of restraint

The following are measures of restraint:
1) recognizance not to leave the jurisdiction;
2) personal surety;
3) guarantee of a civil society organization or labor collective;
3-1) bail;
4) taking in custody;
5) delivery under military command's supervision.
Apprehension of a suspect is a temporary measure of restraint which is imposed on the grounds and according to procedure specified in Articles 106, 115, 165-2 of the present Code.
(Article 149 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws 530/96-BP (530/96-BP) of 20.11.96, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 150. Circumstances to be taken into account when imposing a measure of restraint

When deciding on the imposition of a measure of restraint, in addition to circumstances referred to in Article 148 of the present Code, there should be taken into account the severity of crime of which a person is suspected, charged, his/her age, state of health, family and property status, occupation, place of residence, and other circumstances characteristic of him/her.
(Article 150 as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
(With regard to how Article 150 complies with the Constitution (254k/96-BP), see. Decision of the Constitutional Court No 14-рп/2003 (v014p710-03) of 08.07.2003).

Article 151. Recognizance not to leave the jurisdiction

Recognizance not to leave the jurisdiction consists in that a suspect or accused gives a written obligation not to leave his/her permanent or temporary place of residence without permission of the investigator.
If a suspect or accused ignores his/her recognizance not to leave the jurisdiction, the latter may be replaced with more severe measure of restraint; the suspect or accused should be told this when giving obligation not to leave the jurisdiction.
(Article 151 as amended by Law No 1276-VI (1276-17) of 16.04.2009)

Article 152. Personal surety

Personal surety consists in obtaining from persons who deserve credit, a written obligation that they guarantee that the accused will duly behave himself /herself and appear upon the summons and that they undertake to bring him/her, in case of need, before inquiry, pre-trial investigation agencies, or court upon the first request of the latter. The number of sureties is determined by investigator but they may not be less than two.
The surety is informed on the substance of the case in which the measure of restraint is imposed, as well as warned that, if the accused in whose respect such measure of restraint has been imposed avoids investigation or court, the surety may be fined in the amount of

two hundred non-taxable minimum incomes of citizens.
If the surety denies obligation taken, personal surety is replaced with another measure of restraint.
(Article 152 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 530/96-BP (530/96-BP) of 20.11.96.).

Article 153. The way in which the issue of a fine from the surety if the accused avoids appearance before inquiry or investigation agencies is decided

If the accused avoids appearance before inquiry or investigation agencies, the inquirer or investigator draws up a record thereof and attaches it to records of the case. The issue of a fine from the surety is decided by court in court session during trial or in any other court session. The surety should be summoned to appear in court session.
(Article 153 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 154. Guarantee of a civil society organization or labor collective

Guarantee of a civil society organization or labor collective consists in that a civil society organization or labor collective of an enterprise, institution, organization, collective farm, workshop, group of workers takes a decision at the general meeting that the organization or labor collective concerned guarantees appropriate behavior and timely appearance of the accused before the inquiry agency, investigator and court.
Civil society organization or labor collective should be made aware of the nature of charges brought to the person concerned.
(Article 154 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 154-1. Bail

A bail refers to depositing money at the account of pre-trial investigation agency or court by the suspect, accused, defendant, other physical or legal persons, or to transferring other material values to them in view of ensuring that the person in whose respect the measure of restraint is imposed behaves adequately, respects his/her obligation not to leave his/her place of permanent residence or place of temporary stay without permission of the investigator or court, and appears before the investigating agency and court upon the summons of the latter.
The amount of the bail is determined based on the circumstances of the case by the agency which imposed the measure of restraint. The amount of the bail may not be lesser: in respect of the person charged of having committed a crime of grave or especially grave severity – than one thousand nontaxable minimum incomes of citizens; in respect of the person charged of having committed another crime of grave or especially grave severity or who has previous penal position– than five hundred non-taxable minimum incomes of citizens, and all other categories of persons – lesser than fifty non-taxable minimum incomes of citizens. In any case, the amount of bail may not be lesser than the amount of civil claim which is supported with sufficient proofs.
Upon paying a bail, the suspect, accused, defendant is advised of his/her duties and implications of their neglect, while the bailor is explained the crime of which the person in whose respect the measure of restraint is imposed is suspected or accused and that, in case of failure to discharge his/her obligations, the bail will be assigned to public revenue.
A measure of restraint in the form of bail in respect of the person kept in custody, before referral of the case to court, may be ordered only upon permission of the prosecutor who issued the sanction to arrest and, after the case has been received by court, - by court.
The bailor may exonerate himself/herself from his/her obligations before the circumstances

that entail assignment of the bail to public revenue occur. In this case, he/she ensures the appearance of the suspect, accused, or defendant before the investigation agency or court to replace the measure of restraint for another one. The bail is given back only after a new measure of restraint has been ordered.
The bail is assigned to public revenue if the suspect, accused, defendant fails to fulfill his/her obligations. The issue of assigning bail to public revenue is decided by court in court session during trial of the case or in any other court session. The bailor is summoned in court session to give explanations. Bailor's non-appearance in court session without valid reasons does not preclude consideration of the issue of assigning bail to public revenue.
Returning bail back to bailor is decided by court during trial of the case. Bail as paid by the suspect, accused, defendant may be used by court to execute judgment in terms of material claim.
(Article 154-1 is added by Law No 530/96-BP (530/96-BP) of 20.11.96 as amended by Law No 2670-III (2670-14) of 12.07.2001, No 1276-VI (1276-17) of 16.04.2009).

Article 155. Taking in custody

Taking in custody as a measure of restraint is imposed in cases related to crimes punishable with deprivation of liberty for more than three years. In exceptional cases, this measure of restraint may by ordered in cases related to crimes punishable with deprivation of liberty for less than three years.
(Paragraph 2 of Article 155 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
Persons in whose respect taking in custody is imposed as a measure of restraint are kept in places of detention pending trial, i.e. pre-trial detention centers. In some cases, these persons may be kept in places for apprehended persons.
Places of detention pending trial for servicemen in whose respect taking in custody is imposed as a measure of restraint shall be military detention facilities of the Military Justice Service of the Armed Forces of Ukraine or pre-trial detention centers. Servicemen are kept in such centers or military detention facilities of the Military Justice Service of the Armed Forces of Ukraine upon investigator's decision. In some cases, servicemen may be kept in places for apprehended persons.
In places for apprehended persons, those taken in custody may be kept for not more than three days. If delivery of imprisoned persons in pre-trial detention center or military detention facility of the Military Justice Service of the Armed Forces of Ukraine is impossible within this time limit because of the long distance or lack of appropriate roads, they may be kept in places for apprehended persons up to 10 days.
If taking in custody as a measure of restraint is imposed on the person who has committed a crime during serving his/her sentence in a penitentiary institution, such person may be kept in the disciplinary isolation ward or sweat cell of the penitentiary institution.
Procedure for preliminary imprisonment is prescribed by Law of Ukraine "On preliminary imprisonment" (3352-12) and the present Code.
(Article 155 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 10.09.62, No 117-VIII (117-08) of 30.08.71, No 1898-VIII (1898-08) of 23.07.73, No 3130-VIII (3130-08) of 14.10.74, No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 2468-XII (2468-12) of 17.06.92, No 2935-XII (2935-12) of 26.01.93, No 282/95-BP (282/95-BP) of 11.07.95, No 210/98-BP (210/98-BP) of 24.03.98, No 1945-III (1945-14) of 14.09.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 488-IV (488-15) of 06.02.2003, No 743-IV (743-15) of 15.05.2003, No 2377-IV (2377-15) of 20.01.2005).

Article 156. Custody periods

Custody at the stage of pre-trial investigation may not last more than two months.
Whenever it is impossible to complete investigation of a case within time-limit prescribed in paragraph 1 of the present Article and there are no grounds for revocation or substitution of this measure of restraint for a lighter one, custody may be extended:
1) up to four months – upon motion agreed with the prosecutor who supervises legality of proceedings conducted by inquiry and pre-trial investigation agencies, or by such prosecutor himself/ herself or by the judge of the court which made the decision to impose the measure of restraint;
2) up to nine months – upon motion agreed with the Deputy Prosecutor General of Ukraine, prosecutor of the Autonomous Republic of Crimea, oblast, cities of Kyiv and Sevastopol and prosecutors assimilated to them, or by such prosecutor himself/ herself in cases related to crimes of grave and especially grave severity, by the justice of the Court of Appeals;
3) up to eighteen months – upon motion agreed with the Prosecutor - General of Ukraine, his/her deputy or by such prosecutor himself/ herself in very complicated cases related to crimes of grave and especially grave severity, by a justice of High Civil and Criminal Court of Ukraine.
In every case, when it is impossible to complete full investigation of the case within time-limits referred to in the first and second paragraphs of the present Article and if there are no grounds for the substitution of the measure of restraint, the prosecutor who observes legality of proceedings in the case concerned may give his/her consent to refer the case to court in terms of charges proved. If so, as long as crimes and episodes of criminal activities which have not been investigated are concerned, the case is subject to disjoinder and is conducted according to regular procedure under the requirements stipulated in Article 26 of this Code.
A custody period is computed since taking in custody or, if apprehension of a suspect preceded taking in custody, since apprehension. The time a person stays in a psychiatric institution for in-hospital expert examination is credited to custody period. Whenever a person is re-taken in custody in the same case, as well as in connection with the case which has been disjoined from, or joined to, his/her case, or if new charges have been brought, the custody period includes previous custody period.
Custody periods at the stage of pre-trial investigation terminate the day on which the court has received the case. Whenever the prosecutor withdraws the case from court under Article 232 of the present Code, duration of these periods is renewed starting the day on which the prosecutor has received the case.
Records of a criminal case in which investigation has been completed should be produced to the accused that is committed to custody and his/her defense counsel at least one month before the expiration of the maximum custody period specified in the second paragraph of the present Article.
If records of the criminal case were produced to the accused and his/her defense counsel in disrespect of the one month time-limit before the expiration of the custody period as prescribed in the second paragraph of the present Article, after its expiration, the accused is subject to be promptly released. In such a case, the accused and his/her defense counsel are entitled to review records of the case.
If records of the criminal case were produced to the accused and his/her defense counsel within one month time-limit, before the expiration of the custody period, but this time was insufficient for reviewing records of the case, the said custody period may be extended by a judge of the Court of Appeals upon investigator's motion as agreed with the Prosecutor General of Ukraine or his/her deputy, or upon motion of this prosecutor or his/her deputy. If several accused who are kept in custody are involved in the case, and if the time-limit referred to in the sixth paragraph of the present Article is insufficient for at least one of them for reviewing records of the case, the said motion may be introduced in respect of the accused or several accused who have already reviewed records of the case unless such measure of restraint as custody is necessary in their respect and unless grounds for

imposing another measure of restraint exist.
If the court reminds the case to the prosecutor for supplementary investigation, custody period of the accused is computed since the case has been received by the prosecutor and it may not exceed two months. The said period is extended further with consideration of the time the accused was kept in custody before the case was referred to court, according to the procedure and within the limits prescribed in the second paragraph of the present Article.
Whenever a custody period as a measure of restraint referred to in the first and second paragraphs of the present Article has expired, and if this period has not been extended as prescribed in the present Code, the inquiry agency, investigator, prosecutor is required to immediately release the person from custody.
The chief of the place of detention pending trial is required to promptly release from custody the accused if the detention facility has not received, as of the day of expiration of custody periods referred to in the first, second, and sixth paragraphs of the present Article, the judge's decision on the extension of custody periods. In such a case, he forwards an appropriate notice to the official or agency conducting proceedings in the case and to the appropriate prosecutor who supervises the investigation.
(Article 156 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 8595-XI (8595-11) of 29.12.89, as revised by Law No 1960-XII (1960-12) of 10.12.91, as amended by Laws No 2857-XII (2857-12) of 15.12.92, No 3351-XII (3351-12) of 30.06.93; as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; as amended by Law No 658-IV (658-15) of 03.04.2003, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

(Article 157 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 158. Enforcement of the decision to commit to custody as a measure of restraint

Decision to commit to custody as a measure of restraint is enforced by the agency which imposed this measure of restraint. If necessary, the agency which imposed this measure of restraint may assign execution of this decision to Interior agencies. One copy of the judge's decision or court's ruling is forwarded together with the arrested person to the place of detention pending trial for execution.
(Article 158 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 159. Taking care of underage children of the arrested person

If a person taken into custody has underage children who are thus left without care, investigator is required to promptly make a submission to the Service in charge of juveniles so that the latter takes necessary measures to commit the said juvenile children to the care of relatives or to place them in a child care institution.
The investigator informs the prosecutor and the arrested person on measures taken and attaches a copy of such submission to records of the case.
(Article 159 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 2670-III (2670-14) of 12.07.2001, No 609-V (609-16) of 07.02.2007).

Article 160. Protection of prisoner's property

When imprisoning a suspect or the accused, investigator is required to take measures to protect the property and home of prisoner if the property and home remain without care.

Article 161. Notice of custody

Investigator is required to promptly notify the spouse or any other relative and the place of employment of the suspect or the accused that he/she has been committed to custody and the place where he/she is kept.
Where the accused is an alien, the decision to arrest is sent to the Ministry of Foreign Affairs of Ukraine.
(Article 161 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 162. Visits to the arrested person

Visits of relatives or other persons to the arrested person may be allowed by the official or agency conducting proceedings in the case. Visits may last from one to four hours. A visit may be allowed once per month.
The issues related to visits of relatives or other persons to a person in whose respect detention or extradition arrest is imposed as a measure of restraint is considered by an agency conducting extradition inspection.
(Article 162 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 488-IV (488-15) of 06.02.2003, No 2286-VI (2286-17) of 21.05.2010).

Article 163. Military command's supervision

Supervision by the military command of a suspect or accused who is on obligated military service list consists in taking such measures as provided for in the Armed Forces of Ukraine regulations that can ensure due behavior and appearance of the suspect or accused upon summon of the inquirer, investigator, prosecutor, court. Military command shall be informed on the substance to the case in which this measure of restraint has been imposed.
Agency which imposed this measure of restraint informs in written about delivery under military command's supervision.
(Article 163 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92).

(Article 164 is omitted by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 165. General provisions concerning the way in which a measure of restraint is imposed, revoked, and altered

Measure of restraint in the form of committing to custody shall be imposed only upon a motivated decision of the judge or ruling of the court. Other measures of restraint are enforced upon decision of the inquiry agency, investigator, prosecutor, judge or upon court's ruling.
One measure of restraint is substituted for another by the inquiry agency, investigator, prosecutor, judge or court in compliance with provisions of the first paragraph of the present Article.
If a case is dismissed, a period of custody expired unless it has not been extended as prescribed by law and in other cases, a person is released from custody at the stage of pre-trial investigation upon decision of the inquiry agency or investigator conducting pre-trial

investigation in the case or prosecutor; the inquiry agency or investigator conducting pre-trial investigation in the case or prosecutor immediately inform the court which imposed this measure of restraint on releasing the person concerned from custody. Releasing from custody in criminal cases being tried in court may be made only upon judge or court's decision.
A measure of restraint is revoked or altered if there is no longer need in such measure of restraint or in previously enforced measure of restraint.
Investigator and inquiry agency may revoke or alter a measure of restraint, except custody, which was imposed by the prosecutor only upon consent of the latter.
(Article 165 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 3084-IX (3084-09) of 16.02.78; as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001; as amended by Law No 2376-IV (2376-15) of 20.01.2005).

Article 165-1. Decision (ruling) on ordering, revoking, and altering a measure of restraint

The inquiry agency, investigator, prosecutor, judge takes a decision while the court - a ruling on ordering, altering, or revoking a measure of restrain.
The decision (ruling) on ordering or altering a measure of restraint should state last name, first name and patronymic, age, place of birth of the person in whose respect a measure of restraint is imposed, the crime committed by the person concerned, appropriate provision of the Criminal Code of Ukraine, the measure of restraint ordered, and grounds of its enforcement or alteration, as well as should name the official or agency that will exercise control of the execution of the decision (ruling). Decision (ruling) on revocation of the measure of restraint should state grounds for alteration of the same.
Decision or ruling is immediately read out to the person concerned against signed acknowledgment, except for the cases set forth in paragraph 6 of Article 165-2 of this Code. At the same time, such person is advised of the way in which the decision or ruling may be challenged and time-limits for the challenge.
When reading out the decision on ordering measures of restraint other than custody, the person concerned should be advised, against signed acknowledgment, of what the ordered measure of restraint consists, obligations imposed on him/her in connection with ordering such measure. The person concerned is also admonished that a more serious measure of restraint may be imposed in his/her respect in case of breach of obligations imposed on him/her and inadequate behavior.
(Article 165-1 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended by Law No 2286-VI (2286-17) of 21.05.2010).

Article 165-2. The way in which a measure of restraint is ordered

At the stage of pre-trial investigation of the case, the inquiry agency, investigator imposes a measure of restraint, other than custody.
If the inquiry agency, investigator finds that probable cause exists to believe that grounds for ordering a measure of restraint in the form of custody exist, he/she submits an appropriate motion to court. Prosecutor may enter such motion either. When deciding this matter, the prosecutor shall have the duty to review all records of the case which give grounds for committing to custody, verify how legally proofs were obtained, as well as how sufficient such proofs are for the accusation.
The motion should be considered within seventy two hours after the suspect or accused has been apprehended.
If the motion aims at taking into custody a person who is at large, judge may authorize, in his/her decision, apprehending the suspect, accused and his/her bringing to court under guard. In this case, the apprehension may not exceed 72 hours; and, if a person is outside the settlement in which the court operates – the period of detention may not exceed 48 hours since delivering the person concerned into this settlement.

Having received the motion, the judge, reviews records of criminal case as submitted by the inquiry, investigator, prosecutor, questions the suspect or the accused, if necessary takes explanations from the person who conducts proceedings in the case, hears opinion of the prosecutor, defense counsel if he/she has appeared, and thereafter takes a decision:
1) to deny imposing the measure of restraint if there no grounds for ordering such measure of restraint;
2) to order the measure of restraint in the form of custody against the suspect, accused.
The court may take a decision on imposing custody as a measure of restraint in the absence of the concerned person only it the person is put on the international wanted list. In such cases, the court decides on ordering the measure of restraint in the form of custody or denies to impose such measure after a concerned person has been apprehended and within 48 hours from the moment of brining the person into court and in presence of the concerned person, and issues a corresponding ruling.
Having denied ordering the measure of restraint in the form of custody, the court may impose a measure of restraint other than custody on the suspect, accused.
Judge's decision may be challenged by the prosecutor, the suspect, accused his/her defense counsel, or legal representative within three days from the day on which such decision has been taken. Filing the appeal does not affect execution of the judge's decision.
Whenever ordering a measure of restraint for the apprehended person requires additionally reviewing information on the personality of the apprehended person or ascertaining other circumstances of importance for taking a decision on this matter, the judge may extend period of apprehension for up to ten days, and, upon request of the suspect, accused, – for up to fifteen days and an appropriate decision is made thereon. Whenever it is so necessary to decide this matter in respect of the person who has not been apprehended, the judge may defer consideration of the matter for up to ten days and take measures to ensure his/her adequate behavior during this time or may apprehend the suspect, accused for this period by his/her decision.
(Article 165-2 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended by Laws No 2286-VI (2286-17) of 21.05.2010, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 165-3. The way in which periods of custody are extended

With sufficient grounds absent for alteration of the measure of restraint or if it is impossible to complete the investigation of the case in terms of charges proved, the investigator, upon agreement with the appropriate prosecutor, or the prosecutor himself/herself applies to court for the extension of custody. The motion states reasons for the extension of custody, circumstances and facts to be established, proofs confirming that the crime has been committed by the person kept in custody and substantiates the necessity of maintaining this measure of restraint.
Motion to extend custody shall be filed with court:
1) not later than five days before expiration of custody period if the custody is to be extended for up to four months;
2) not later than fifteen days before expiration of custody period if the custody is to be extended for up to nine months;
3) not later than twenty days before expiration of custody period if the custody is to be extended for up to eighteen months;
4) not later than five days before expiration of the maximum custody period if the custody is to be extended for the accused and his/her defense counsel to review records of the

criminal case.
Having received the motion, the judge reviews records of the criminal case, if necessary interviews the accused, the person who conducts proceedings in the case, hears opinion of the prosecutor, defense counsel if he/she has appeared, and thereafter takes a decision, with sufficient grounds present therefor, on the extension of custody, except as referred to in Article 156, seventh paragraph, of the present Code, or dismisses the motion.
The prosecutor, suspect, accused, his/her defense counsel, or legal representative may appeal against judge's decision within 3 day after it has been rendered. The appeal does not affect execution of the judge's decision. Decisions of a judge of Court of Appeals or a justice of the Supreme Court of Ukraine may not be challenged, and the prosecutor may not challenge such decisions.
(Article 165-3 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001; as amended by Law No 658-IV (658-15) of 03.04.2003, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Chapter 14
INTERROGATING A WITNESS AND A VICTIM

Article 166. Summoning a witness for interrogation

A witness is summoned to appear before investigator by a notice paper which is served to the witness against his/her signed acknowledgment, and if the witness is temporary unavailable, the notice paper is served to any adult family member, to housing maintenance organization, executive committee of the village or settlement council of people's deputies or administration in the place of his/her employment. The witness may be summoned also by telegram or telephone message.
The notice paper should state who is summoned as witness, where he/she is summoned, who summons the witness, day and time of appearance, implications of non-appearance, referred to in Articles 70 and 71 of the present Code.
An underage witness is summoned through his/her legal representatives.
(Article 166 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 167. Interrogating a witness

A witness may be interrogated about facts related to the given case, as well as about the person of the suspect or the accused and victim.
The witness should be interrogated in the place where pre-trial investigation is conducted and, if necessary, in the place of his/her stay.
The witness is interrogated separately from other witnesses. Investigator takes measures so that other summoned witnesses in the case do not communicate one with another before interrogation has ended.
Before proceeding to interrogation, investigator establishes the person of the witness, explains him/her in what case he/she is summoned, and admonishes him/her of the duty to tell everything he/she knows in the case, as well as advises the witness of criminal liability for refusal to testify and for knowingly misleading testimonies. Thereafter, investigator finds out relationship between the witness and the suspect or accused and the victim and starts the interrogation. After the witness has ended testifying, investigator asks him/her questions. It is not permitted to ask questions containing a reply, a part of reply, or prompting a reply (leading questions).

If the witness came for interrogation with the defense counsel, the defense counsel is entitled to be present during the interrogation; to give advice to the witness in the presence of the investigator, if the actual circumstances of the case can be used to prosecute witness personally or his/her family members or close relatives; to ask questions with the permission of the investigator, which should be entered on the record of interrogation to clarify and supplement his/her answers; to object to the illegal actions of the investigator concerning his/her conduction of interrogation with reference to the rule of law which is violated, that is to be included into the record of interrogation; to challenge actions of the investigator in the manner prescribed by this Code, if the nature and content of the questions shows that the witness should be interrogated as a suspect.
(Article 167 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; by Law No 1833-III (1833-14 of 22.06.2000, No 2395-VI (2395-17) of 01.07.2010).

Article 168. Interrogating an underage witness

A witness under 14 years and, upon investigator's discretion, under 16 years is interrogated in accordance with Article 167 of the present Code in the presence of a pedagogue and, if necessary, a doctor, parents or any other legal representatives of the underage witness. Before interrogation, the above mentioned persons are advised of their duty to be present during interrogation and of their right to make comments and, upon investigator's authorization, ask the witness questions. Questions legal representatives, pedagogue, or doctor ask the witness, are entered in the record of interrogation. Investigator may dismiss a question but such question should be entered in the record.
The witness who has not attained 16 years is advised of his/her duty to tell only the truth but he/she is not admonished of criminal liability for refusal to testify and for knowingly misleading testimonies.

Article 169. Interrogating a dumb or deaf witness

A dumb or deaf witness is interrogated in accordance with Article 167 of the present Code with the involvement of the person who understands the witness. Participation of such a person in the interrogation is reflected in the record.

Article 170. Record of witness's interrogation

A record of witness's interrogation is drawn up in accordance with Article 85 of the present Code. In addition, the record of interrogation states: last name, first name, and patronymic of the witness; his/her age; nationality, ethic origin, education, place of employment, occupation or position, place of residence, and information on his/her relationship with the accused and victim.
The record should contain a note that the witness was advised of his/her rights, duties, and liability for refusal to testify and for knowingly misleading testimonies. Testimonies given by the witness and answers to questions are narrated in the grammatical category of the 1st person singular and, as far as possible, word-by-word.
Upon his/her request, the witness can be given the possibility to handwrite his/her testimonies in the presence of investigator, and an appropriate entry is made thereon in the record.
After interrogation has been completed, investigator produces the record to the witness for review. Upon request of the witness, investigator reads out the record to the witness. The witness and persons who were present during interrogation may request supplementing the record and introducing amendments therein. Such supplements and amendments should necessarily be entered in the record by the investigator.
The witness, investigator, and persons who were present during interrogation sign the

record. If the record is written on several pages, the witness signs each page thereof.
(Article 170 as amended by Law No 1381-XIV (1381-14) of 13.01. 2000).

Article 171. Summoning and interrogating a victim

A victim is summoned in accordance with Article 166 of the present Code.
The victim is interrogated in accordance with Article 167, first, second, and third paragraphs, of the present Code. Before interrogation has started, investigator admonishes the victim of criminal liability for knowingly misleading testimonies under Article 384 of the Criminal Code of Ukraine. Thereafter, investigator finds out relationship between the victim and the suspect or the accused and invites the victim to tell everything he/she knows in the case. It is not permitted to ask questions containing a reply, a part of reply, or prompting a reply (leading questions).
A record of witness's interrogation is drawn up in accordance with Article 170 of the present Code.
(Article 171 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; by Law No 1833-III (1833-14 of 22.06.2000, No 2670-III (2670-14) of 12.07.2001).

Chapter 15
CONFRONTATION, PRESENTATION FOR IDENTIFICATION

Article 172. Confrontation

Investigator may confront two previously interrogated persons whose testimonies are controversial.

Article 173. Conducting confrontation

At the beginning of confrontation, it should be ascertained whether persons summoned to confrontation know one another and what relationship exist between them. Witnesses are admonished of criminal liability for refusal to testify and for knowingly misleading testimonies while victims are warned of criminal liability for knowingly misleading testimonies.
Persons summoned to confrontation are invited one after another to give testimonies about circumstances of the case to the establishment of which confrontation was fixed. Thereafter, investigator asks questions. Upon consent of the investigator, persons summoned to confrontation may ask questions one another.
Testimonies given by participants to confrontation at previous interrogations may be disclosed only after participants to confrontation have given testimonies at confrontation and such testimonies have been entered in the record.
Investigator presents the record of confrontation to interrogated persons for review or reads them the record upon their request. Interrogated persons may request supplementing the record and introducing amendments therein. Such supplements and amendments should necessarily be entered in the record. Every interrogated person and investigator sign the record of confrontation.

Article 174. Presenting a person for identification

When it is necessary to present a person for identification by a witness, victim, accused, or suspect, investigator first questions them about appearance and characteristic signs of such person and about circumstances under which the identifying person saw the person concerned, and then draws up a record of interrogation.
If a witness or victim identifies the person, the former is admonished of criminal liability for knowingly misleading testimonies while the witness is also warned about criminal liability

for refusal to testify. The person to be identified is presented to the identifying person together with other individual of the same sex and in number not less that three persons who don't have sharp differences in the appearance and outwear.
Prior to present the person concerned for identification, such person is invited to take a place among other persons to be presented. The identifying person is asked to point at the person he/she should identify and explain by which signs he/she has identified him/her.
On exceptional basis, when it is necessary to ensure protection of the identifying person, identification may be conducted out of visual observation of the person to be identified, in accordance with provisions of the present Article. The person who was presented for identification should be necessarily informed on the result of identification.
In case of need, identification may be conducted by photos in accordance with provisions of the present Article.
A person is presented for identification in the presence of two attesting witnesses at least. When identification is conducted according to the fourth paragraph of the present Article, attesting witnesses should make sure that identification out of visual observation of the person to be identified is really possible and they should attest such identification.
(Article 174 as amended by Law No 1381-XIV (1381-14) of 13.01. 2000).

Article 175. Presenting objects for identification

If it is necessary to present an object for identification, investigator first asks the identifying person about characteristic signs of this object, as well as about circumstances under which the identifying individual saw this object and draws up a record of interrogation.
Whenever the identifying individual is a victim, the latter is warned about criminal liability for knowingly misleading testimonies while the witness is admonished of criminal liability for refusal to testify.
The object to be identified is shown to the identifying person among other similar objects. The identifying individual is invited to point at the object which he/she is supposed to identify, and to explain by which signs he/she has identified the object concerned.
Objects are produced for identification in the presence of two attesting witnesses at least. As far as practically possible, objects presented for identification should be photographed.

Article 176. Record of identification

A record of identification of a person or an object and of identification results is drawn up as prescribed in Article 85 of the present Code. Such record should also contain information on the person of the identifying individual and that the latter has been admonished of criminal liability for refusal to testify and for knowingly misleading testimonies. The record should further state details of persons and objects being presented for identification and characteristic signs by which the identifying individual has identified the person or the object concerned.
If identification is conducted in accordance with rules specified in the fourth paragraph of Article 174 of the present Code, the record, in addition to information required by the present Article, should necessarily state that identification was made out of visual observation of the person to be identified, as well as narrate all circumstances and conditions under which such identification was conducted.
The record is signed by all persons who participated in the identification, attesting witnesses, and investigator. The record is attached photos if persons or objects presented for identification have been photographed.
(Article 176 as amended by Law No 1381-XIV (1381-14) of 13.01. 2000).

Chapter 16
SEARCH AND REMOVAL

Article 177. Grounds for search and authorization thereof

Search is conducted when probable cause exists to believe that crime instrument, illegally obtained goods and valuables, as well as other objects and documents of importance for establishing the truth in a case or securing a civil claim remain in a certain premise or place or are kept by a person.
Search is also conducted when there are sufficient data that wanted persons, dead bodies or animals stay in a certain premise or place.
Search is conducted upon motivated decision of the investigator or upon prosecutor or his/ her deputy's sanction, except home or any other possession of a person.
In urgent cases, a search, except home or any other possession of a person may be conducted without prosecutor's sanction but with further information submitted to the prosecutor within 24 hours about the search conducted and its results.
Home or any other possession of a person, except urgent cases, is conducted only upon a motivated decision of a judge. When it is necessary to conduct a search, investigator, upon prosecutor's consent, files an appropriate request with the court in the place where investigation is conducted. The judge appointed according to the procedure prescribed in paragraph 3 of Article 16-2 of this Code promptly considers the request and records of the case and, if necessary, hears investigator, prosecutor and, with sufficient grounds present, takes a decision to conduct the search or dismisses the request for search. Judge's decision to conduct a search may not be challenged. Judge's decision to dismiss the request for search may be challenged by the prosecutor before the Court of Appeals within three days from the date of the decision.
In urgent cases, when it comes to saving life and property or to hot pursuit of the persons suspected of having committed a crime, the home or any other possession of a person may be searched without judge's decision. In such cases, the record should state reasons for the search without judge's decision. Investigator forwards a copy of the search record to the prosecutor within 24 hours after this action has been conducted.
(Article 177 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 178. Grounds for removal and authorization thereof

Removal is conducted when there is accurate information that objects or documents of importance for the case remain with a certain person or in a certain place.
Removal is conducted upon motivated decision of the investigator.
Documents containing state and/or bank secret may be removed only upon motivated decision of judge and in the way agreed with head of the institution concerned.
Compulsory removal under law from a home or any other possession of a person, as well as removal of a document relating to final process is conducted only upon judge's motivated decision which should be made in accordance with Article 177, fifth paragraph, of the present Code.
(Article 178 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; as amended by Laws No 2922-III (2922-14) of 10.01.2002, No 2252-IV (2252-15) of 16.12.2004, No 3538-IV (3538-15) of 15.03.2006, No 1940-VI (1940-17) of 04.03.2010).

Article 179. Objects and documents should necessarily be produced (delivered)

Officials and citizens may not refuse producing or delivering documents or copies thereof or any other objects requested by investigator during search or removal.
Documents containing state and/ or bank secret are delivered and inspected in compliance with rules which ensure protection of state and/ or bank secret.
(Article 179 as amended by Law No 2922-III (2922-14) of 10.01.2002, No 1940-VI (1940-17) of 04.03.2010).

Article 180. Time when search and removal are conducted

Searches and removals, except urgent cases, should be conducted in daytime.

Article 181. Persons in whose presence search and removal are conducted

Search and removal are conducted in the presence of two attesting witnesses and the tenant of the premise concerned and, in the absence of the latter, - in the presence of a representative of housing maintenance organization or local council of people's deputies.
Search and removal in premises occupied by enterprises, institutions, and organizations are conducted in the presence of their representatives. During search, as far as possible, there should be present the person whose premise is searched or full age member of his/her family and, if necessary, the victim.
Persons whose premise is searched, attesting witnesses, and appropriate representatives should be advised of their right to be present during all actions conducted by investigator and make statements in connection with such actions; these statements should be entered in the record.
(Article 181 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 182. Conditions for search and removal in premises of diplomatic missions

In premises occupied by diplomatic missions, as well as in premises where members of diplomatic missions and their families who enjoy diplomatic immunities live, search and removal may be conducted only upon consent of the diplomatic representative.
Consent of diplomatic representatives for search and removal is sought through the Ministry of Foreign Affairs of Ukraine.
Search and removal in the said premises are necessarily conducted in the presence of a prosecutor and Foreign Ministry's representative.

Article 183. The way in which search and removal are conducted

Before the search or removal, investigator produces the decision to the persons who occupy the premise concerned or to representative of the enterprise, institution, or organization where search or removal is conducted and suggests that they deliver objects or documents named in the decision, as well as show the place where the wanted criminal hides. If they refuse satisfying investigator's request, investigator conducts coercive search or removal.
Whenever persons who occupy the premise concerned are unavailable, decision to conduct search or removal is produced to a representative of the housing maintenance organization or local council of people's deputies, and search or removal is conducted in their presence.
When conducting search, investigator shall have the power to open closed premises and repositories if the owner refuses opening them. In so doing, investigator should avoid causing unnecessary damage to doors, locks, and other objects.
Investigator may prohibit persons who are present in the premise during the search or removal, as well as persons who entered the premise during search or removal from leaving the premise and communicating one with another till the search or removal has been

completed.
If necessary, investigator shall have the right to invite members of Interior and required specialists to participate in the search.
(Article 183 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada of 18.01.66, No 6834-X (6834-10) of 16.04.84).

Article 184. Searching a person and removing objects and documents therefrom

With grounds referred to in Article 177, first paragraph, of the present Code present and in view of removing objects and documents which can have probative value and are kept by a certain person, investigator may conduct a search of person and remove such objects or documents therefrom.
The person is searched and objects and documents are removed therefrom as prescribed in Article 177 and 178 of the present Code.
The person may be searched and objects and documents removed therefrom without an appropriate decision in the following cases:
1) when a suspect is physically captured by officials authorized thereto if probable cause exists to believe that the apprehended person has a weapon on him/her or any other objects which endanger surrounding people or attempts to free himself/ herself from proofs which incriminate him/her or any other person whatsoever in the commission of crime;
2) upon apprehension of a suspect;
3) upon committing a suspect, accused to custody;
4) with sufficient grounds present to believe that the person - who is in the premise where a coercive search or removal is conducted – hides objects or documents on him/her which are of importance for establishing the truth in the case.
Persons who participate in the conduct of these investigative actions should be of the same sex as the person who is being searched.
Search of an officer who is on active list of an intelligence agency of Ukraine in line of his/ her duty shall be conducted in the presence of official representatives of such agency.
(Article 184 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; as modified by Law No 3111-III (3111-14) of 07.03.2002).

Article 185. Non-disclosure of circumstances related to private life of persons searched

During search or removal, investigator shall have the duty to take measures to prevent any disclosure of circumstances related to private life of persons searched and of other persons who live or temporary stay in this premise.

Article 186. Seizing objects and documents

During search or removal, only objects and documents of importance for the case, as well as valuables and property of the accused or suspect may be seized in order to secure the civil claim or possible forfeiture of asset. Objects and documents which were seized from circulation under law are subject to seizure irrespective of their relationship with the case.
Investigator should present all documents and objects to be seized to attesting witnesses and other persons present and list such documents and objects in the record of search or removal or in inventory attached thereto stating their name, number, seize, weight, material they are produced of, and individual signs. If necessary, objects and documents seized should be packed and sealed in the place where search or removal is conducted.
The copies of seized documents at the request of the owner and other persons who are entitled under the law to use these documents may be given to the investigator during the seizure of documents. Copies of seized documents are made using copiers, electronic

equipment of these persons (with their consent), or copiers, electronic equipment of the agencies that carry out seizure, and should be confirmed by the signature of the investigator and certified with seal.
If it is impossible to make copies of seized documents or identify their owner during the seizure the investigator enters on the record of investigative proceeding the requests for copies of documents and within ten days after the seizure of documents gives copies to the appropriate persons or gives reasoned refusal to give the copies of documents which can be appealed against to the prosecutor or the court.
(Article 186 as amended by Laws No 807-VI (807-17) of 25.12.2008)

Article 187. Arresting correspondence and reading out information from communications channels

Correspondence may be arrested and information read out from communication channels only if probable cause exists to believe that letters, telegraph and other correspondence of the suspect or accused to other persons or from other persons to the suspect or accused, as well as information they exchange through telecommunication facilities contain data relating to the crime committed or documents and objects having probative value and unless it is impossible to obtain such information otherwise.
Correspondence which may be arrested includes letters of all types, postal packets, parcels, postal containers, postal money orders, telegrams, radiograms, etc.
Correspondence may be arrested and information read out from communication channels in view of preventing a crime prior to instituting criminal proceedings.
With grounds referred to in paragraph 1 of this Article present, investigator, upon agreement with prosecutor, applies to the president of the Court of Appeals in the place where investigation is conducted for ordering arrest on the correspondence or reading out information from communication channels. President of the Court of Appeals or his/her deputy considers the motion, reviews records of the case, if necessary hears investigator, hears prosecutor's opinion and thereafter, with grounds for taking such a decision present, passes a ruling to order the arrest of correspondence or the reading out of information from communication channels or to dismiss such motion. This decision may not be challenged and prosecutor may not file any complaint against it.
Decision to arrest correspondence should state the criminal case and grounds for conducting such investigative actions, last name, first name, and patronymic of the person whose correspondence will be intercepted, accurate address of such person, types of postal telegraph items to be arrested, period of arrest, name of telecommunication agency charged with intercepting correspondence and informing investigator thereon.
Decision to read out information from communication channels should state the criminal case and grounds for conducting such investigative actions, last name, first name, and patronymic of the person from whose channels information will be read out, accurate address of such person, types of channels, reading out period, name of agency charged with reading out information and informing investigator thereon.
Decision to arrest correspondence or read out information from communication channels is forwarded by investigator to the head of the appropriate agency and is binding thereon.
Head of the appropriate agency intercepts correspondence or reads out information from communication channels and informs investigator thereon within 24 hours.
Arrest on correspondence is revoked while reading out information from communication channels terminated after the expiration of the period fixed for the conduct of such investigative actions by judge's decision. Investigator revokes the arrest of correspondence or terminates reading out information from communication channels whenever such measures are no longer needed, upon dismissal of the criminal case or referral to prosecutor as prescribed in Article 255 of the present Code.
Decision is taken in a manner to ensure non-disclosure of details of pre-trial investigation or operational-detective operations.

(Article 187 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; as revised by Law No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001, as amended by Law No 2670-III (2670-14) of 12.07.2001, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 187-1. Inspection and removal of the correspondence and examination of information read out from communication channels

Correspondence is inspected in the telecommunication agency upon court's decision in the presence of attesting witnesses from among employees of this agency and, in case of need, with participation of a specialist. In the presence of the said individuals, investigator opens and inspects intercepted correspondence.
Should documents or objects having probative value be found, investigator conducts removal of the correspondence concerned or limits himself/herself to making copies from the messages concerned. In the absence of documents or objects having probative value, investigator instructs to deliver the correspondence inspected to the addressee or to keep it till the date he/she fixes.
Investigator draws up a record of each occurrence of inspecting, removing or keeping the correspondence. The record shall necessarily state which kind of messages have been inspected, what has been removed therefrom and what should be delivered to the addressee or temporarily kept and from what messages copies have been made.
Examination of information read out from communications channels, if necessary, is conducted with involvement of a specialist. Investigator listens or otherwise analyzes contents of the information obtained and draws up a record thereon. In case of detection of data having probative value, the record should reproduce the appropriate part of recording and thereafter investigator by his/her decision finds the medium of information obtained as a proof and attaches it to records of the case.
(Article 187-1 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 188. Record of search and removal

Investigator draws up a record of search or removal in two copies in compliance with Article 85 of the present Code. The record states grounds for search or removal; premise or other place where search or removal has been conducted; the person liable to search or removal; investigator's actions and search or removal results. In respect of each object which is subject to seizure, there should be stated where exactly such object was found and under which circumstances.
All statements and comments made by those present during search or removal with regard to investigator's actions should be entered in the search or removal record. Both copies of the record and description of objects seized are signed by investigator, the person in whose premise search or removal was conducted and persons who were present during search or removal.

Article 189. A copy of the record of search or removal should be necessarily handed over

The second copy of the record of search or removal and the second copy of object description is handed over to the person in whose premise search or removal was conducted and in the absence of the latter – to the representative of housing maintenance organization or local council of people's deputies.
When search or removal is conducted at an enterprise, institution, or organization, the

second copy of the record and description is handed over to the representative of enterprise, institution, or organization concerned.
If the record contains comments on wrong actions during the search, investigator informs the prosecutor who supervises investigation thereon within two days.
(Article 189 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Chapter 17
INSPECTION, EXAMINATION, RECONSTRUCTION OF SITUATION AND CIRCUMSTANCES OF AN EVENT

Article 190. Inspection

In order to detect traces of crime and other exhibits, find out the situation in which a crime was committed and other circumstances of importance for the case, investigator inspects surrounding area, premises, objects, and documents.
In urgent cases, the place of crime may be inspected before instituting criminal proceedings. In such cases, criminal proceedings are instituted immediately after inspection of the place of crime if sufficient grounds are present therefor.
Investigator draws up a record of inspection.
Home or any other possession of a person may be inspected only upon a motivated decision of the judge rendered in compliance with paragraph 5 of Article 177 of the present Code. This judge's decision may not be challenged.
In urgent cases, when it comes to saving life and property or to hot pursuit of the persons suspected of having committed a crime, the home or any other possession of a person may be inspected, upon owner's consent, without judge's decision.
Court's decision is not required if inspection of the place of crime in the home or any other possession of a person in urgent cases is conducted upon owner's request or report of crime committed against him/her and in the absence of such person or impossibility to obtain his/her consent to urgent inspection of the place of crime.
In cases specified in paragraphs 5 and 6 of the present Article, investigator should necessarily state in the record of inspection reasons for inspection without judge's decision and inform the prosecutor supervising pre-trial investigation that inspection of the home or any other possession of the person has been conducted and on its results within 24 hours after such action has been carried out.
(Article 190 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 191. The way in which inspection is conducted

Inspection should be conducted in the presence of two attesting witnesses at least and, as a rule, in daytime.
Investigator may invite specialists to participate in the inspection who are neutral to the case.
When necessary, investigator makes measurements, draws up a plan and layout of the place inspected and particular objects and, as far as practicable, photographs them.
Interior agencies are required to assist investigator in conducting inspection.
Investigator inspects objects and documents seized during inspection of the place of crime, removal or search, and presents them to the suspect, accused, victim, and other persons at the place of crime, search, or removal and, when it appears to be impossible, in the place of proceedings in the case.
(Article 191 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No

6834-X (6834-10) of 16.04.84).

Article 192. Inspection of dead body

External inspection of a dead body is made by investigator with participation of a medical examiner and in the presence of two attesting witnesses. If it is impossible to invite the medical examiner, a nearest doctor is invited.
When exhumation is required, investigator draws up a decision thereon which is subject to prosecutor's approval. The dead body is taken out of the grave in the presence of investigator, medical examiner, and two attesting witnesses and an appropriate record is drawn up thereon to be signed by all of the said persons.

Article 193. Examination

When it is necessary to find or attest that the accused, suspect, or victim or witness has particular signs, investigator, draws up a record thereon and conducts examination.
If it is necessary to conduct forensic medical examination of the accused, suspect, or victim or witness, such an examination is carried out by a medical examiner or a doctor upon investigator's instruction.
Investigator may not be present during examination of the person of another sex if such examination is accompanied by denudation of the individual examined. Acts which humiliates the dignity of the individual examined or which endanger his/her health are not permitted.
Investigator draws up a record of examination which is to be signed by investigator and the persons examined. When it comes to forensic medical examination, an act is drawn up, and when examination is conducted by a doctor, the latter issues a certificate.
(Article 193 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 194. Reconstruction of the situation and circumstances of an event

To check and clarify results of interrogation of a witness, victim, suspect, or the accused or data which have been obtained during inspection and other investigative actions, investigator may move to the place of crime and, in the presence of attesting witnesses and if necessary of a specialist, witness, victim, suspect, or the accused, reconstruct the situation and conditions under which events may have taken place in reality.
Such actions are allowed unless they humiliate the dignity of persons who participate therein and endanger their health.
When necessary, investigator makes measurements, draws up a plan and layout, as well as takes photos.
A record of all actions conducted is drawn up and signed by all participants thereto, attesting witnesses, and investigator.
(Article 194 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 195. Record of inspection, examination, and reconstruction of the situation and circumstances of an event

Record of inspection, examination, and reconstruction of the situation and circumstances of an event is drawn up as prescribed in Article 85 of the present Code. The record should state grounds for the conduct of such actions and describe everything which was found in the sequence it took place and in the form it was observed during the conduct of an action. Appropriate schemes, photos, plans, and documents are attached to this record.

Chapter 18

EXPERT EXAMINATION

Article 196. The way in which expert examination is assigned

Expert examination is assigned as prescribed in Article 75 and 76 of the present Code.
If it is necessary to conduct an expert examination, investigator draws up a motivated decision which, in addition to information specified in Article 130 of the present Code, should state grounds for expert examination, expert's name or name of the institution to which expert examination was assigned, matter on which the expert should prepare his/her opinion, objects to be examined, as well as lists materials that should be produced to expert for review.
When expert examination is conducted in the institution other than expert one, investigator, having made sure of the expert's person, serves him/her a copy of the decision to assign expert examination, advises him/her of his/her rights and duties stipulated in Article 77 of the present Code, and admonishes him/her of criminal liability under Article 385 of the Criminal Code of Ukraine for refusal to discharge his/her responsibilities, as well as liability under Article 384 of the Criminal Code of Ukraine for giving knowingly misleading opinion.
Having conducted these actions, investigator draws up a record which, in addition to information specified in Article 85 of the present Code, states details on the person of expert, his/her competence in a given field of knowledge and statements made by the expert.
When expert examination is conducted in an expert institution, the expert concerned states, in the introduction to his/her opinion, that he/she has been warned of criminal liability for giving knowingly misleading opinion and signs such statement.
(Article 196 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 197. Rights of the accused when an expert examination is assigned and conducted

When an expert examination is assigned and conducted, the accused has the following rights:
1) challenge the expert;
2) request that an expert be appointed from among persons indicated by the accused;
3) request that additional questions be put prior to expert examination;
4) give explanations to the expert;
5) produce additional documents;
6) review records of expert examination and expert's opinion after expert examination has been completed;
7) apply for assigning a new or additional expert examination.
Upon request of the accused, investigator may allow the accused to be present during the conduct of particular studies by expert and to give explanations. Investigator should make the accused aware of the decision to assign expert examination and should advise him/her of his/her rights as laid down in the present Article, and a record is drawn thereon in compliance with Article 85 of the present Code.
Decision to assign forensic psychiatric examination is not read out to the accused if the state of mental health of the latter makes it impossible.
When expert examination has been conducted before an individual is prosecuted as an accused, this Article applies to the person suspected of having committed a crime.

Article 198. Carrying out expert examination in an expert institution

Having received the decision to conduct expert examination, head of the expert institution concerned assigns expert examination to one or several experts. These experts prepare their opinion of their own behalf and are personally liable therefor.

Article 199. Obtaining samples for expert examination

If necessary, investigator shall have the power to make a decision on seizing and taking samples of handwriting and other samples which are necessary for expert examination. A record of taking samples is drawn up.
Samples are stored in compliance with rules governing storage of exhibits (Articles 79-81 of the present Code).

Article 200. Expert's opinion

Having carried out required studies, expert prepares his/her opinion which should state: when, where and who (name, education, specialty, scientific degree and academic status, position of the expert concerned) and based on what ground expert examination was conducted, who were present at expert examination, questions put to the expert, what kind of materials expert used and what kind of studies he/she conducted, motivated answers to questions asked. If, during examination, expert reveals facts of importance for the case but which were not subjects of questions asked, he/ she may point out at such facts in his/her opinion. The opinion is signed by expert.

Article 201. Interrogation of an expert

After having reviewed the opinion, investigator may interrogate the expert concerned in order to obtain explanations or supplement the opinion. A record of expert interrogation is drawn up.

Article 202. Producing records of expert examination to the accused

Records of expert examination shall be produced to the accused.
Investigator draws up a record that records of expert examination have been produced to the accused, such record stating explanations, comments, and objections of the accused and petitions of the latter. Investigator decides on whether satisfy petitions of the accused or not in accordance with Article 129 of the present Code.
When expert examination has been conducted before an individual is prosecuted as an accused, records of expert examination are produced to the person suspected of having committed a crime.

Article 203. Assigning an additional or a second examination

In cases referred to in Article 75 of the present Code, investigator may assign an additional or a second examination by his/her motivated decision, such examination being conducted in compliance with the present chapter.

Article 204. Establishing mental condition of the accused

If a case contains information that probable cause exists to believe that, during the commission of a publicly dangerous act, the accused was in the state of insanity or had limited criminal capacity, as well as if he/she committed a crime having full criminal capacity but after the commission of crime fell ill of a mental disease which made him/her unable to realize what he/she was doing or to direct his/her actions, investigator assigns forensic psychiatric examination to establish mental condition of the accused.
(Article 204 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 205. Sending the accused to in-patient examination

When forensic medical or forensic psychiatric examination requires long observation of the

accused or surveying him/her, court, upon request of investigator as agreed with prosecutor, places him/her in the appropriate medical institution and takes an appropriate decision thereon.
The request is considered in compliance with Article 165-2, fifth paragraph; prosecutor, the accused, his/her defense counsel or legal representative may file an appeal against judge's decision with the Court of Appeals within 3 days. Filing the appeal does not preclude execution of judge's decision.
(Article 205 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; as revised by Law No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001).

Chapter 19
SUSPENDING PRE-TRIAL INVESTIGATION

Article 206. Grounds and procedure for suspension of pre-trial investigation

Pre-trial investigation in a criminal case is suspended when:
1) place where the accused stays in unknown;
2) mental or any other serious disease of the accused precludes completing proceedings in the case;
3) person of the offender is not established;
4) court suspends investigative actions for the time when complaint against decision to institute criminal proceedings is being considered.
In instances referred to in the first and second paragraphs of the present Article, pre-trial investigation may be suspended only after investigator has made a decision to prosecute an individual as an accused and conducted all investigative actions which are allowed in the absence of the accused, as well as taken measures to preserve documents and other possible proofs in the case.
In instances referred to the third paragraph of the present Article, pre-trial investigation may be suspended only after all necessary and practicable investigative actions have been conducted to establish the perpetrator of crime.
Pre-trial investigation is suspended by a motivated decision of investigator, and a copy of such decision is forwarded to the prosecutor. Whenever two or more accused are prosecuted in the case and grounds for suspension of the case relate not to all accused, investigator may disjoin and suspend the case related to particular accused or suspend all proceedings in the case.
(Article 206 as amended by Law No 462-V (462-16) of 14.12.2006).

Article 207. Suspending investigation when place where the accused stays in unknown

When place where the accused stays in unknown, investigator declares him/her wanted, being guided by Article 138 of the present Code, and suspends investigation in accordance with Article 206, second paragraph, of the present Code till the accused is found.

Article 208. Suspending investigation in connection with a temporary serious disease of the accused

If investigation finds that the accused has temporarily and seriously fell ill after having committed the crime, investigator suspends proceedings in the case in accordance with Article 206, second paragraph, of the present Code till the accused has recovered.
In such a case, the measure of restraint which has been ordered against the accused may be maintained or revoked.
After the accused has recovered, investigation is renewed and continues in the regular

course of actions.

Article 209. Suspending investigation when the person of the offender is not established

If the offender has not been established, investigator suspends pre-trial investigation in accordance with Article 206, third paragraph, of the present Code and is required to take measures, both himself/herself and through inquiry agencies, to establish the person of the perpetrator of crime.

Article 210. Reopening investigation

When it is necessary to reopen pre-trial investigation, investigator draws up a motivated decision and sends a copy thereof to the prosecutor.

Article 211. Dismissal of the case in which investigation has been suspended

A case in which investigation has been suspended should be dismissed:
1) upon expiration of periods of limitation for prosecution as referred to in Articles 49 and 106 of the Criminal Code of Ukraine and, in instances specified in Article 7, first paragraph, of the present Code, - before expiration of periods of limitation;
2) in instances referred to in Article 6, first paragraph, subparagraphs 4, 8, 9, 10, and 11, of the present Code.
(Article 211 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws 3351-XII (3351-12) of 30.06.93, No 2670-III (2670-14) of 12.07.2001).

Chapter 20
COMPLETING PRE-TRIAL INVESTIGATION

Article 212. Forms in which pre-trial investigation is completed

Pre-trial investigation is completed with preparing an indictment or decision to dismiss the case or decision to refer the case to court for deciding the issue of compulsory measures of medical nature.
(Article 212 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 213. Grounds for dismissing a case

A criminal case is dismissed:
1) with grounds referred to in Article 6 of the present Code present;
2) because of failure of evidence that the accused was involved in the commission of crime.
(Article 213 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX 102 (1851-09) of 23.03.77, by Law No 2670-III (2670-14) of 12.07.2001).

Article 214. The way in which a case is dismissed

Investigator dismisses a case by his/her motivated decision which, in addition to details referred to in Article 130 of the present Code, should state: information on the person of the accused, substance of the case, grounds for dismissal of the case, decision to revoke measure of restraint and measures to secure civil claim and possible forfeiture of asset, as well as decision on exhibits in accordance with Article 81 of the present Code.
Whenever investigation establishes facts which require that public or disciplinary influence should be exerted or administrative sanctions imposed on the person who was prosecuted

as an accused or with regard to other persons, - investigator, when dismissing the criminal case, brings these facts to the attention of civil society organization, comrade's court, labor collective, or management of the enterprise, institution, organization concerned so that they take appropriate measures of influence and forwards records of the case to court for the latter to order an administrative sanction.
A copy of the decision to dismiss the case is sent to the prosecutor, the person who was criminally prosecuted, the person upon whose application criminal proceedings have been instituted, as well as to the victim and civil plaintiff.
(Article 214 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84; by Law No 1833-III (1833-14) of 22.06.2000).

Article 215. Challenging decision to dismiss a case

Investigator's decision to dismiss the case may be challenged before the prosecutor within 7 days from the date on which written notice about dismissal of the case or a copy thereof has been received.
The persons in whose respect investigation has been conducted shall have the right to challenge this decision in terms of grounds and motives for dismissal of the case.
If the case is dismissed because of the death of the accused, close relatives and civil society organizations may request that pre-trial investigation be finalized in order to vindicate the deceased.
Whenever investigator's decision to dismiss the case has been challenged, prosecutor reviews records of the case and, within 30 days from the receipt of the complaint, reverses the decision to dismiss the case and reopens pre-trial investigation or dismisses the complaint and informs the complainant thereon.
Decision of the prosecutor, investigator, and inquiry agency to deny instituting criminal proceedings may be challenged by the person whose interests are affected by such decision or by his/her representative before court as prescribed in Article 236-1 of the present Code.
(Article 215 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 27.06.61, No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14)of 21.06.2001 – effective from 29.06.2001).

Article 216. Reopening investigation in a dismissed case

Pre-trial investigation in a dismissed case may be reopened within periods of limitation for prosecution, by the decision of the prosecutor, Chief of Investigation, and, in instances referred to in Article 236-6, third paragraph, of the present Code - by judge's decision.
(Article 216 as revised by Law No 2857-XII (2857-12) of 15.12.92).

Article 217. Reviewing records of the case by the victim, civil plaintiff, and civil defendant

Having found completed pre-trial investigation in the case which is subject to referral to court to prosecute the accused, investigator informs thereon the victim and his/her representative, civil plaintiff, civil defendant or their representatives and advises them of their right to review records of the case; investigator draws up an appropriate record thereon and attaches a copy of the written notice to records of the case.
In case of verbal or written petition of the said person to review records of the case, investigator should give the victim and his/her representative, civil plaintiff, civil defendant or their representatives the possibility to review the same. Civil defendant may review records of the case in the scope specified in Article 51, second paragraph, of the present Code.
The said persons may take notes from records of the case and apply for supplementing records of investigation, investigator being required to make decision on such applications in accordance with Article 129 of the present Code.

Records relating to protective measures in respect of participants to criminal proceedings are not presented for review of the said persons.
Announcing the completion of investigation and producing records of the case for review are reflected in the record which is drawn up in accordance with Article 220 of the present Code.
(Article 217 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 218. Informing the accused on the completion of investigation and presenting him/ her records of the case

Having found collected proofs sufficient as to indictment and having complied with Article 217 of the present Code, investigator is required to announce to the accused that investigation in his/her case has been completed and that he/she has the right to review all records of the case personally and with assistance of a defense counsel and may file petition to supplement records of pre-trial investigation. Investigator shall have the duty to advise the accused of his/her right to file a petition for his/her case to be heard in trial court by a single judge or collegially by a panel of three persons in cases provided for by law.
If the accused was not interested in reviewing records of the case together with defense counsel, all records of the case are presented to the accused for review. When reviewing records of the case, the accused may take notes from records of the case and file petitions.
Whenever several persons are prosecuted in the case, investigator produces all records of the case to each of them.
The fact that completion of the investigation has been announced to the accused and that records of the case have been produced for his/her review is reflected in the appropriate record.
If a defense counsel is involved in the case, investigator gives him/her the possibility to review all records of the case either and draws up an appropriate record thereon. In such a case, producing records of the case should be postponed till defense counsel's appearance but not more than for three days. If defense counsel employed by the accused is unable to appear within this time-limit, investigator takes measures referred to in Article 47, fourth and sixth paragraphs, of the present Code.
Records of pre-trial investigation which are produced for review should be filed and numbered. While producing records of pre-trial investigation, the investigator shall, upon the accused' request, hand him/her a notarized copy of the records on the criminal case, which is stated in the records on the completion of investigation and presenting him/her records and his/her defense counsel of the case. Records relating to protective measures in respect of participants to criminal proceedings are not presented for review and are kept separately from records of the criminal case.
The accused and his/her defense counsel may not be limited in time they need to review all records of the case.
(Article 218 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 986-VIII (986-08) of 30.08.72, in accordance with Laws No 3780-XII (3780-12) of 23.12.93, No 305/94-BP (305/94-BP) of 20.12.94, No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) No 21.06.2001 - effective from 29.06.2001, No 658-IV (658-15) of 03.04.2003, No 2396-VI (2396-17) of 01.07.2010).

Article 219. Defense counsel's rights during reviewing all records of the case

Defense counsel of the accused, when reviewing records of the case, shall have the right to: take notes, have confidential meeting with his/her client, advise the accused of the substance of charges, discuss the issue of filing petitions with the accused, produce evidence, propose challenges, challenge investigator and prosecutor's actions and decisions.

Article 220. Record of announcing the completion of investigation to the accused and producing records of the case for review of the accused and his/her defense counsel

Investigator draws up a record that completion of the investigation has been announced to the accused and that records of the case have been produced for his/her review, in accordance with Article 85 of the present Code. In addition, the record should state what kind of records (number of volumes and pages) have been produced for review, whether the accused and his/her defense counsel did review records of the case, time spent for review, and what petitions have been filed by the accused and his/her defense counsel.
The record of producing records of pre-trial investigation for review is signed by the accused, investigator, and defense counsel if the latter participates in the case.

Article 221. Disposition of petitions filed during reviewing records of the case

The accused and his/her defense counsel may file verbal or written petitions for supplementing pretrial investigation, altering crime description, and dismissing the case. Verbal petitions are entered in the record while written ones attached to records of the case.
Investigator is required to satisfy petitions of the accused and his/her defense counsel if circumstances to be established upon petition filed have an importance for the case.
In case of dismissal of the petition, investigator draws up a motivated decision thereon and reads out the latter to the accused and his/her defense counsel.
Whenever defense counsel is present during the conduct of supplementary investigative actions, he/she may, through investigator, put questions to witnesses, victim, expert, specialist, and the accused, as well as request that circumstances of importance for the case be entered in the record. Investigator may overrule defense counsel's questions but such question should be entered in the record.
(Article 221 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84).

Article 222. Producing additional records of investigation to the accused and other participants to the process

Having conducted supplementary investigative actions, investigator shall have the duty to produce all additional records to the accused and his/her defense counsel for review and give possibility to review them to the victim and his/her representative, civil plaintiff, civil defendant or their representative, and if the latter so request – present them all records of the case in accordance with Articles 217 – 221 of the present Code.
(Article 222 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 223. Indictment

After completion of investigation and compliance with Articles 217 – 222 of the present Code, investigator prepares an indictment.
The indictment comprises a modus and operative part. Modus states: circumstances of the case which have been established at the stage of pre-trial investigation; place, time, means, motives, and consequences of crime committed by each of the accused, as well as evidence collected in the case and details on the victim; testimonies of each of the accused in respect of merits of charges brought, arguments stated in his/her defense and results of their verification; presence of aggravating and mitigating circumstances.
When referring to evidence, pages of the cases should necessarily be indicated.
Operative part states details on the person of each of the accused, briefly describes the substance of charges brought with indication of criminal provision under which the crime

concerned is punished.
Investigator signs the indictment with indication of place where, and time when, it was drawn up.
Whenever the accused has no knowledge of the language of the indictment, the latter should be translated in the mother tongue of the accused or any other language the accused understands. Translation of the indictment is attached to records of the case.
(Article 223 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84), by Law No 2670-III (2670-14) of 12.07.2001).

Article 224. Annexes to indictment

The following is attached to the indictment:
1) list of persons to be cited in court session with indication of their addresses and pages of the case containing their testimonies or findings;
2) certificate of case progress and of measure of restraint imposed with indication of period and place of custody for each of the accused if they were arrested;
3) certificate of exhibits, civil claim, measures taken to secure the civil claim and possible forfeiture of asset;
4) certificate of procedural expenses incurred in the case for the time of pre-trial investigation with reference to appropriate pages of the case.
List of persons to be cited in court session – in order not to disclose information on individuals in whose respect protective measures have been enforced as prescribed in Articles 52-1 and 52-3 of the present Code – instead of real last names, first names and patronymic of such persons, states their pseudonyms while in lieu of their addresses – identity of the agency which is in charge of protective measures, and such agency's address.
(Article 224 as amended by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 225. Forwarding the case to prosecutor

Having prepared the indictment, investigator forwards the same to the prosecutor.

Article 226. Completing pre-trial investigation in insane cases

If, based on forensic psychiatric examination and other proofs, it is established that the person who has been criminally prosecuted or is to be prosecuted, during the commission of a publicly dangerous act, was in the state of insanity or thereafter fell ill of a mental disease which made him/her unable to realize what he/she was doing or to direct his/her actions, investigator draws up a motivated decision being guided by Article 417 of the present Code.

Chapter 21
PROSECUTORIAL SUPERVISION OF HOW THE INQUIRY AND PRE-TRIAL INVESTIGATION COMPLY WITH LAW

Article 227. Prosecutorial powers to supervise how the inquiry and pre-trial investigation comply with law

When observing how the inquiry and pre-trial investigation comply with law, the prosecutor within the scope of his/her competence:
1) requires from inquiry and pre-trial investigation agencies, for verification, records of criminal cases, documents, materials, and other information on crimes committed, progress of inquiry, pre-trial investigation, and identification of persons who have committed crimes; at least once per month, verifies how legislative provisions relating to the receipt, registration, and disposition of statements and reports on crimes committed or prepared to be committed are complied with;

2) revokes illegal and ill-grounded decisions of inquirers and investigators;
3) gives written instructions concerning investigation of crimes; imposition, alteration or revocation of a measure of restraint, determination of the nature of crime, conduct of separate investigating actions, and search for people who have committed crimes;
3-1) verifies the documents of pre-trial investigation agencies about surrender of a person (extradition) before referral to superior prosecutor, returns them to appropriate agency with written instructions, if he/she considers them groundless or such that do not comply with international treaty of Ukraine or other act of Ukrainian legislation;
4) directs the inquiry to execute decisions on apprehension, compulsory appearance under law, placement in custody, search, removal, retrieval of criminals, execution of other investigative actions, as well as instructs to take necessary measures to resolve crimes, identify offenders in cases proceeded by the prosecutor or prosecutor office's investigator;
4-1) directs the inquiry agency to conduct the investigation and detain persons who have committed crimes outside Ukraine, to implement particular proceedings in order to surrender a person (extradition) at the request of the competent authority of a foreign state;
5) takes part in the inquiry and pre-trial investigation and, when necessary, conducts investigative actions or full investigation in any case personally;
6) authorizes search, suspension of the accused from office and other actions of investigator and inquiry agency in instances specified in the present Code;
7) extends time-limits for investigation in cases and according to procedure prescribed in the present Code;
7-1) gives consent to, or files with the court, the motion to impose a measure of restraint in the form of custody, as well as to extend custody period as prescribed in the present Code;
8) returns criminal cases to the pre-trial investigation together with his/her instructions as to the conduct of supplementary investigation;
9) in view of ensuring the most complete and objective investigation, withdraws any case from the inquiry agency and assigns the same to investigator, transfers the case from one pre-trial investigation agency to another one, from one investigator to another;
10) suspends the inquirer or investigator from conducting inquiry or pre-trial investigation if they have broken law during investigation of the case;
11) initiates criminal proceedings or denies instituting the same; dismisses or suspends proceedings in criminal cases; gives consent to dismissing a criminal case by the investigator when the present Code so allows; approves indictments; refers criminal cases to court;
12) decides on admitting defense counsel in the case;
Prosecutor also exercises other powers specified in the present Code.
Instructions prosecutor gives to inquiry and pre-trial investigation agencies under the present Code in connection with instituting proceedings in criminal cases and investigating them are binding upon such agencies. Challenging instructions given before a higher prosecutor does not preclude their execution except as provided for in Article 114, second paragraph, of the present Code.
(Article 227 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 986-VIII (986-08) of 30.08.72, No 6834-X (6834-10) of 16.04.84, in accordance with Laws No 3351-XII (3351-12) of 30.06.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2286-VI (2286-17) of 21.05.2010).

Article 228. Prosecutor's verifying the case together with indictment

Having received from the inquiry the case and the indictment, prosecutor shall have the duty to verify:
1) whether the occurrence of crime had place;
2) whether the incriminated act contains constituent elements of crime;
2-1) whether requirements of the present Code in respect of ensuring the right of a suspect

and the accused to defense were met by the inquiry and pre-trial investigation;
3) whether there are circumstances in the case which entail dismissal of the case under Article 213 of the present Code;
4) whether charges were brought with regard to all criminal acts by the accused;
5) whether all persons to whom the commission of crime was incriminated have been prosecuted as the accused;
6) whether the nature of acts by the accused was determined correctly under criminal statute;
7) whether legal provisions were complied with during preparation of the indictment;
8) whether the measure of restraint was imposed correctly;
9) whether measures were taken to ensure compensation of damage caused as a result of crime, and possible forfeiture of asset;
10) whether causes and conditions which contributed to the commission of crime were identified and whether measures were taken to eliminate them;
11) whether the inquiry and pre-trial investigation complied with all other provisions of the present Code.
(Article 228 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws 3351-XII (3351-12) of 30.06.93, No 3780-XII (3780-12) of 23.12.93).

Article 229. Prosecutor's decision in the case with indictment

Having verified the case with indictment, prosecutor or his/her deputy takes one of the following decisions:
1) approves the indictment or prepare a new one;
2) reminds the case to the inquiry or investigator together with his/her written instructions for conducting supplementary investigation;
3) dismisses the case and draws up a decision thereon in compliance with Article 214 of the present Code.
Prosecutor or his/her deputy may change investigator's list of persons to be cited in court session, as well as revoke or alter previously imposed measure of restraint or order a measure of restraint if such measure was not imposed, or, in cases provided for in the present Code, raise before court the issue of committing to custody as measure of restraint.
(Article 229 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 3351-XII (3351-12) of 30.06.93, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 230. Prosecutor draws up a new indictment

Whenever prosecutor or his/her deputy disagrees with the indictment, he/she may prepare a new indictment; in such a case, previous indictment should be removed from records of the case.
(Article 230 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 231. Prosecutor changes charges

When it is necessary to change a charge for more severe one or for the charge which essentially changes the charge brought under actual circumstances, prosecutor or his/her deputy returns the case to investigator for conducting supplementary investigation and bringing a new charge.
If change in original charge does not entail application of penal provision with more severe sanction and does not result in essentially changing the charge brought under actual

circumstances, prosecutor or his/her deputy draws up a decision stating changes introduced in the indictment.
(Article 231 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 3351-XII (3351-12) of 30.06.93).

Article 232. Prosecutor refers the case to court

Having approved the indictment prepared by investigator or having prepared a new indictment, prosecutor refers the case to court having jurisdiction thereof and informs the court whether he/she finds it appropriate to prosecute on behalf of the state.
Concurrently, prosecutor or his/her deputy informs the accused on to what court the case has been referred.
(Paragraph 3 of Article 232 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 –and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
Prosecutor General of Ukraine, prosecutors of the Autonomous Republic of Crimea, oblasts, city of Kyiv and prosecutors assimilated to them, their deputies, district, city prosecutors and prosecutors assimilated to them have the right to withdraw a criminal case from court if the case has not been preliminary tried.
(Article 232 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 3351-XII (3351-12) of 30.06.93, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 232-1. Prosecutor's actions in cases he/she received from investigator in respect of referring to court to decide on the release from criminal prosecution

Having received the case from investigator which was transferred as prescribed in Articles 7, 7-1, 7-2, 7-3, 8, 9, 10, and 11-1 of the present Code, prosecutor verifies how fully investigation was conducted, how legal is the decision, and takes one of the following decisions:
1) gives written consent to investigator's decision and refers the case to court;
2) reverses investigator's decision and returns him/her the case together with written instructions;
3) changes investigator's decision or takes a new decision.
(Article 232-1 is added in accordance with Law No 3787-XII (3787-12) of 23.12.93, as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 233. Time-limits for prosecutor's considering cases submitted by the inquiry or investigator

Having received a case from inquiry or investigator, prosecutor is required to consider the case and give appropriate directional thrust thereto.

Chapter 22
CHALLENGING ACTIONS OF INVESTIGATOR AND PROSECUTOR

Article 234. Challenging investigator's actions
Investigator's actions may be challenged before prosecutor both directly and through investigator.
Challenges may be written and verbal. Prosecutor or investigator enters verbal challenges in the record.
Investigator is required to forward the received challenge together with his/her

explanations to prosecutor within 24 hours.
Filing a challenge does not preclude execution of action being challenged if investigator or prosecutor finds it appropriate.
Investigator's actions may be challenged before court.
(Provisions of paragraph 6 of Article 234 - which make it impossible for the court to consider, at the stage of pre-trial investigation, challenges against decisions of investigator, prosecutor related to compulsory appearance under law, grounds and procedure for instituting criminal proceedings against a person – have become inoperative as unconstitutional based on Constitutional Court's decision No 3-рп/ 2003 (v003p710-03) of 30.01.2003).
Challenges against investigator's actions are considered by trial courts during preliminary consideration of the case or during consideration of the case on its merits unless the present Code prescribes otherwise.
(Article 234 as amended by Law No 2533-III (2533-14) of 21.06.2001 – eff. 29.06.2001).

Article 235. How prosecutor disposes challenges

Prosecutor should dispose a challenge within three days from its receipt and should inform the complainant thereon.
The challenge and a copy of notice on results of its disposition are attached to records of the case.
Dismissal of challenge should be motivated.
Prosecutor's decision may be challenged before a higher prosecutor.

Article 236. Challenging prosecutor's actions

Challenge against prosecutor's actions during his/her conducting pre-trial investigation or particular investigative actions in a case should be filed with a higher prosecutor who is required to dispose the same in the way and within time-limits prescribed in Articles 234 and 235 of the present Code.
Prosecutor's actions may be challenged before court.
(Provisions of paragraph 3 of Article 236 - which make it impossible for the court to consider, at the stage of pre-trial investigation, challenges against decisions of investigator, prosecutor related to compulsory appearance under law, grounds and procedure for instituting criminal proceedings against a person – have become inoperative as unconstitutional based on Constitutional Court's decision No 3-рп/ 2003 (v003p710-03) of 30.01.2003)
Challenges against prosecutor's actions are considered by trial courts during preliminary consideration of the case or during consideration of the case on its merits unless the present Code prescribes otherwise.
(Article 236 as amended by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 236-1. Challenging the decision to deny instituting criminal proceedings before court

Challenge against decision of the inquiry agency, investigator, prosecutor to deny instituting criminal proceedings shall be filed by the person whose interests such decision affects or by his/her representative with district (city) court in the place where the issuing agency or official is located, within seven days after a copy of the decision or a notice of the prosecutor on the denial to reverse the decision has been received.
(Article 236-1 is added by Law No 2857-XII (2857-12) of 15.12.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 236-2. Judge's considering the challenge against decision to deny instituting criminal proceedings

Challenge against decision of the prosecutor, investigator, and inquiry agency to deny instituting criminal proceedings shall be considered by a single judge within ten days from the date on which it has been received by court.
The judge directs to submit him/her materials based on which instituting criminal proceedings has been denied, reviews these materials and informs the prosecutor and the complainant then the challenge is considered. If necessary, the judge hears complainant's explanations. Record of court session should be kept during consideration of the challenge.
Having considered the challenge, the judge, depending on whether provisions of Article 99 of the present Code have been complied with or not, makes one of the following decisions:
1) reverses decision to deny instituting criminal proceedings and returns materials for additional verification;
2) dismisses the challenge.
Prosecutor, complainant may challenge judge's decision before Court of Appeals within seven days from the date of judge's decision.
A copy of judge's decision is forwarded to the person who took the challenged decision, prosecutor, and the complainant.
(Article 236-2 is added by Law No 2857-XII (2857-12) of 15.12.92; as modified by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 3150-IV (3150-15) of 30.11.2005, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)).

(Article 236-3 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 236-4 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 236-5. Challenging the decision to dismiss a case before court

Decision of the inquiry agency, investigator, prosecutor to dismiss criminal case may be challenged by the person whose interests such decision affects or by his/her representative before district (city) court in the place where the issuing agency or official is located, within seven days after a copy of the decision or a notice of the prosecutor on the dismissal of the complaint has been received.
(Article 236-5 is added by Law No 2857-XII (2857-12) of 15.12.92; as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 236-6. Judge's considering the challenge against decision to dismiss a case

Challenge against decision of the inquiry agency, investigator, prosecutor to dismiss the case shall be considered by a single judge appointed according to the procedure prescribed in paragraph 3 of Article 16-2 of this Code within five days and, if the case is complicated, – within ten days from the date on which the dismissed case has been received by court.
The judge directs to submit him/her records of the case and, if appropriate, hears complainant's explanations.
The judge informs prosecutor and the complainant on the time when the challenge will be considered, prosecutor and the complainant being allowed to participate in the consideration of the challenge and present their arguments. Record of court session is kept

during consideration of the challenge.
Having considered the challenge, the judge, depending on whether the case was dismissed in compliance with provisions of Articles 213 and 214 of the present Code or not, makes one of the following decisions:
1) dismisses the challenge;
2) reverses decision to dismiss the case and returns the case to prosecutor for renewing investigation or inquiry.
When reversing decision to dismiss the case and referring the case to prosecutor for renewing investigation or inquiry, the judge points out what circumstances should be ascertained in the course of pre-trial investigation.
Prosecutor, complainant may challenge judge's decision before Court of Appeals within seven days from the date of judge's decision.
A copy of judge's decision is forwarded to the person who took decision to dismiss the case, complainant, and prosecutor who denied renewing pre-trial investigation or inquiry.
(Article 236-6 is added by Law No 2857-XII (2857-12) of 15.12.92; as amended by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 3150-IV (3150-15) of 30.11.2005, No 3150-IV (3150-15) of 30.11.2005, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)).

Article 236-7. Challenging the decision to institute criminal proceedings before court

Decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings against the individual concerned or upon the fact of the commission of crime may be challenged before local court in the place where the issuing agency is located or the issuing official woks, in compliance with rules governing jurisdiction.
Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings against the individual concerned may be filed with court by the person in whose respected criminal proceedings have been instituted, by his/her defense counsel or legal representative.
Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings upon the fact of the commission of crime may be filed with court by the person whose interests are affected by criminal proceedings, his/her defense counsel or legal representative with sufficient substantiation of violation of rights and legitimate interests of the person concerned. Whenever judge finds that violation of rights and legitimate interests of the person concerned is substantiated insufficiently, the judge takes decision to deny consideration of the challenge. Denial to open proceedings does not waive the right re-apply to court.
The court accepts the challenge against decision to institute criminal proceedings throughout the entire period during which the inquiry agency, investigator, prosecutor proceeds the case till completion of pre-trial investigation.
(Article 236-7 is added by Law No 462-V (462-16) of 14.12.2006).

Article 236-8. Court's considering the challenge against decision to institute criminal proceedings

Challenge against decision of the inquiry agency, investigator, prosecutor to institute criminal proceedings is considered by a single judge appointed according to the procedure prescribed in paragraph 3 of Article 16-2 of this Code within five days from the date on which the court has received the challenge.
The judge takes decision on opening proceedings upon the challenge against decision to institute criminal proceedings within 24 hours from the date on which the court has received

the challenge and a copy of judge's decision is forwarded to:
1) complainant, his/her defense counsel, or legal representative;
2) agency which instituted criminal proceedings or which is in charge of proceedings in the case;
3) prosecutor;
4) victim or the person upon whose application criminal proceedings have been instituted.
Decision to open proceedings should state:
1) time when, and place where, the challenge will be considered;
2) list of person who should necessarily appear before court;
3) actions which parties are required to carry out to ensure consideration of the challenge;
4) deadline for submitting to court materials based on which decision to institute criminal proceedings was taken.
In the decision to open proceedings, the judge should decide on the appropriateness of suspending investigative actions in the case for the time of consideration of the challenge.
Judge's decision to open proceedings takes legal effect upon rendering the decision and is subject to immediate execution.
The inquirer, investigator, prosecutor in charge of proceedings in the case is required to submit, within time-limit prescribed, to judge materials based on which decision to institute criminal proceedings was taken. Materials which are submitted to court should be described, filed, and numbered with indication of the position and name of the person who prepared the description.
(Provisions of paragraph 7 of Article 236-8 have become inoperative as unconstitutional based on Constitutional Court's decision No 16-рп/2009 (v016p710-09) of 30.06.2009)
In case of failure to submit, - without valid reasons, within time-limit prescribed by judge, - to court materials based on which decision to institute criminal proceedings was taken, the judge may find the absence of such materials as a ground for reversing the decision to institute criminal proceedings.
If the court by its decision decided to suspend investigative actions for the time of consideration of the challenge, period of consideration of the latter is not credited to the period of pre-trial investigation.
(Provision of paragraph 9 of Article 236-8 "non-appearance of whom in court session does not preclude consideration of the case" has become inoperative as unconstitutional based on Constitutional Court's decision No 16-рп/2009 (v016p710-09) of 30.06.2009)
Duty to prove lawfulness of instituting criminal proceedings is assumed by prosecutor whose nonappearance in court session does not preclude consideration of the challenge.
Non-appearance of the complainant in court session without valid reasons and whose presence was found by judge mandatory shall be the ground for dismissing proceedings related to consideration of the challenge.
Judge considers the challenge in court session based on available records of the case.
In court session, having checked appearance of the parties, the judge:
1) examines materials based on which criminal proceedings were instituted;
2) hears explanations of the complainant, his/her defense counsels or legal representatives, victim or the person upon whose application criminal proceedings were instituted if they have appeared in court session;
(Provision of sub-paragraph 3 of paragraph 12 of Article 236-8 "non-appearance of whom in court session does not preclude consideration of the case" has become inoperative as unconstitutional based on Constitutional Court's decision No 16-рп/2009 (v016p710-09) of 30.06.2009)
3) hears prosecutor's opinion if he/she has appeared in court session;
4) if necessary, hears explanations of the person who issued decision to institute criminal proceedings.
Record of court session is kept during consideration of the challenge.
During consideration of the challenge, the parties may review materials which substantiate

institution of criminal proceedings and may request that such materials be read out in court session.
When considering the challenge against decision to institute criminal proceedings, the court should verify the presence of motives and grounds for rendering the said decision, how legal are sources from which was obtained information underlying the decision to institute criminal proceedings and may not consider and dispose matters which should be decided by court during consideration of the case on its merits.
Having considered the challenge, the judge, depending on whether the case was instituted in compliance with provisions of Articles 94, 97 and 98 of the present Code or not, by his/her motivated decision:
1) dismisses the challenge;
(Provision of sub-paragraph 2 of paragraph 16 of Article 236-8 "and issued decision to deny instituting criminal proceedings" has become inoperative as unconstitutional based on Constitutional Court's decision No 16-рп/2009 (v016p710-09) of 30.06.2009)
2) satisfies the challenge, reverses decision to institute criminal proceedings, and takes decision to deny instituting criminal proceedings.
Taking legal effect by judge's decision to reverse decision to institute criminal proceedings means revoking measures of restraint, giving back removed objects, and restoring rights which were restricted for the time of pre-trial investigation.
A copy of judge's decision is forwarded to prosecutor, agency which instituted criminal proceedings, agency in charge of criminal proceedings, complainant, his/her defense counsel or legal representative, victim, and the person upon whose application criminal proceedings was instituted.
If the challenge is dismissed, records of the case are returned to pre-trial investigation. Copies of documents are kept in materials related to consideration of the challenge.
If decision to institute criminal proceedings is reversed and instituting criminal proceedings is denied, documents submitted to court are kept in records of the proceedings conducted on the challenge till the appropriate judge's decision takes legal effect. Thereafter, these materials are kept in court.
Judge's decision may be challenged by way of appeal before Court of Appeals within seven days from the date of the decision. Filing an appeal does not suspend execution of the judge's decision.
(Article 236-8 is added by Law No 462-V (462-16) of 14.12.2006, as amended by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 1 – Article 93-1 (1001-05))
(Article 237 – Article 449 (1003-05))

(Articles 237 to 449)

(Article 1 – Article 93-1 (1001-05))
(Article 94 – Article 236-8 (1002-05))

Section III
PROCEEDINGS IN TRIAL COURT

Chapter 23
PRELIMINARY CONSIDERATION OF A CASE BY JUDGE

(Title of chapter 23 as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from

29.06.2001)

Chapter 237. Matters to be ascertained by judge at the stage of preliminary consideration of a case

In a case referred from prosecutor, the judge ascertains in respect of each of the accused the following matters:
1) whether the proceedings fall within court's jurisdiction;
2) whether grounds for dismissing or suspending proceedings exist;
3) whether the indictment was drawn up in compliance with the present Code;
4) whether grounds for altering, revoking, or imposing a measure of restraint exist;
5) whether, at the stage of instituting criminal proceedings, inquiry or pre-trial investigation, there were violations of the present Code without whose elimination the case cannot be assigned for trial.
Upon request of the prosecutor, the accused, his/her defense counsel or legal representative, victim or his/her representative, the judge also ascertains whether grounds for prosecution of other persons exist.
Upon motion of the prosecutor, victim or his/her representative, the judge also finds out whether there are grounds for determining actions of the accused under provision of the Criminal Code which provides for liability for more severe crime, or grounds for bringing a charges against him/her which has not been brought so far.
(Article 237 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 986-VIII (986-08) of 30.08.72, by Laws No 2464-XII (2464-12) of 17.06.92, No 1483-III (1483-14) of 22.02.2000, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001)

(Article 238 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 239 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 240. The way in which preliminary consideration of a case is conducted

Preliminary consideration of a case is conducted be a single judge appointed according to the procedure prescribed in paragraph 3 of Article 16-2 of this Code with mandatory participation of the prosecutor. Other participants to the process are informed on the day of preliminary consideration but their non-appearance does not preclude consideration of the case.
Preliminary consideration of the case starts with prosecutor's report about the possibility of assigning the case to trial. If other participants to the process have not appeared in court session, express their opinions with regard matters specified in Article 237 of the present Code and petitions they have lodged. Prosecutor expresses his/her opinion in respect of petitions submitted by other participants to the process. The judge renders his/her decision in the retiring room.
A record is kept during preliminary consideration of the case.
(Article 240 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71; as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001; as amended by Law No 3150-IV (3150-15) of 30.11.2005, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and

Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 241. Time-limits for preliminary consideration of a case

A case should be assigned for preliminary consideration within ten days and, if the case is complicated, - within 30 days after the case has been received by court.
(Article 241 as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 242 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 243 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 244. Judge's decision as a result of preliminary consideration of a case

As a result of preliminary consideration of a case, the judge, by his/her decision, takes one of the following decisions:
1) on assigning the case for trial;
2) on suspending proceedings in the case;
3) on reminding the case to prosecutor;
4) on referring the case to the court of competent jurisdiction;
5) on dismissing the case;
6) on referring the case for supplementary investigation.
(Article 244 as amended by Law No 2464-XII (2464-12) of 17.06.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 245. Assigning the case for trial

With sufficient grounds for trial of the case in court session present, the judge, without rendering in advance the decision on the guilt, makes decision to assign the case for trial. The decision should state: place where, and date when, the decision was taken, judge's position and name, last name, first name and patronymic of the accused, grounds for assignment of the case for trial, provision of the Criminal Code under which charges were brought, and decision on other matters related to preparation of the case for trial.
Judge's decision may not be challenged and prosecutor may not submit objections thereto.
(Article 245 as amended by Law No 2464-XII (2464-12) of 17.06.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from. 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 246. Referring the case for supplementary investigation

During preliminary consideration of a case, the judge, - upon his/her own discretion or upon motion of the prosecutor, petition of the accused, his/her defense counsel or legal representative, victim, plaintiff, defendant or their representatives, - by his/her decision refers the case for supplementary investigation if, at the stage of instituting criminal proceedings, inquiry or pre-trial investigation, there were violations of the present Code without whose elimination the case cannot be assigned for trial.
Upon motion of the prosecutor, petition of the accused, his/her defense counsel or legal representative, the judge may refer the case for supplementary investigation to prosecute other persons if a separate trial of the case in their respect appears to be impossible. Upon motion of the prosecutor, petition of the victim or his/her representative, the judge may

refer the case for supplementary investigation in the presence of grounds to determine acts of the accused under a provision of the Criminal Code which provides for liability for a more serious crime or bringing against him/her charges which have not been brought. Judge's decision should state grounds for referring the case for supplementary investigation and can indicate what investigative actions should be conducted during supplementary investigation. Judge's decision should also decide the issue of a measure of restraint in respect of the accused.
A copy of the decision is forwarded to parties within three days after it has been made. Parties may challenge judge's decision by way of appeal within seven days from the date of the decision and.
(Article 246 as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 247 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 248. Dismissing a case

Upon presence of circumstances referred to in Article 6, Article 7, first paragraph, Articles 7-1, 7-2, 8, 9, 10, and 11-1 of the present Code, the judge by his/her motivated decision dismisses the case, revokes measures of restraint, provisional remedies for civil claim and forfeiture of asset, as well as decides the matter of exhibits, particularly money, valuables, and other object obtained illegally.
A copy of the decision is forwarded to parties within three days after it has been made. Parties may challenge judge's decision by way of appeal within seven days from the date of the decision and.
(Article 248 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, as revised by Law No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001, as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 249. Suspending proceedings in a case and referring the case to the court of competent jurisdiction

If, during preliminary consideration of a case, it is established that the accused has disappeared and the place of his/her stay is unknown, the judge renders decision to suspend proceedings in the case till the accused is found.
Whenever the accused gets ill and thus is unable to participate in the trial, the judge by his/her decision suspends proceedings in the case till the accused rehabilitates.
Having found that the court has no jurisdiction over the case, the judge makes decision to refer the case to the court of competent jurisdiction.
Decision on suspending proceedings in the case or referring the case to the court of competent jurisdiction may not be challenged.
(Article 249 as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 249-1. Reminding the case to prosecutor

If the prosecutor substantially disrespected provisions of Articles 228 – 232 of the present Code, judge, by his/her decision, reminds the case to prosecutor for elimination of violations found.
Decision on reminding the case to prosecutor may not be challenged and prosecutor may not submit objections thereto.
(Article 249-1 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 250 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 251. Specific nature of preliminary consideration of cases instituted upon victim's complaint

Victim's complaint should meet requirements established by the present Code for the indictment (Articles 223 and 224 of the present Code).
Having received victim's complaint requiring institution of criminal proceedings, judge takes one of the following decisions:
1) dismisses the complaint if it does not comply with the first paragraph of the present Article and returns it to the complainant;
2) with grounds present, deny instituting criminal proceedings or refers the complaint to the appropriate prosecutor;
3) with sufficient grounds present which indicate on the commission of crime provided for in Article 27, first paragraph, of the present Code, institutes criminal proceedings and assigns the case to trial.
The defendant should be served a copy of the victim's complaint, a copy of judge's decision to institute criminal proceedings and citation to appear in court session not later than three days before hearings.
Cross-charges in cases related to crimes referred to in Article 27, first paragraph, of the present Code may be joined in one case.
The complainant may challenge decision to deny instituting criminal proceedings by way of appeal within seven days from the date of the decision.
(Article 251 as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

(Article 252 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 253. Matters to be resolved by judge in connection with preparation of a case for trial

Having decided to assign a case for trial, the judge resolves the following matters:
1) appointment of a defense counsel when participation of the later is required;
2) alteration, revocation, or imposition of a measure of restraint;
3) finding a person legal representative of the accused, finding a person victim, defendant, representative of the victim, plaintiff, defendant if such decision was not taken at the stage of investigation;
4) finding a victim civil plaintiff if the suit has not been brought during investigation;
5) list of person to be cited in court session, and obtainment of additional proofs;

7) provisional remedies to secure civil claim;
8) inviting a translator as the case may be;
10) trial in open court or in camera;
11) day and place of trial;
12) all other matters relating to preparation for trial.
With grounds present to believe that, in accordance with Article 299 of the present Code, only certain proofs are examined at the stage of trial or they are not examined at all, the judge may cite in court session only persons or direct to submit him/her only proofs whose interrogation or examination was requested in petitions of participants to trial.
At the stage of trial, the judge may not deny participants to trial in examination of proofs if the latter are appropriate and admissible.
(Article 253 as amended by Laws No 3780-XII (3780-12) of 23.12.93, No 1381-XIV (1381-14) of 13.01.2000, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 254. Serving a copy of the indictment and notice on the day when trial will be held to the defendant

A copy of the indictment and citation are served to the defendant against signed acknowledgment at least within three days before trial of the case in court. Copies of indictment and annexes thereto which are served to the defendant do not mention addresses of persons to be summoned in court session so that their security be ensured.
(Paragraph 2 of Article 254 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
If documents referred to in the present Article are drawn up in the language the defendant has no knowledge, they should be served to the defendant translated into his/her mother tongue or any other language he/she understands.
All other persons are notified of the day of trial within the same time-limit.
Witnesses, experts, translators are summoned in court with citation. Persons in whose respect measures of restraint have been ordered are cited in court exclusively through the agency which enforces such measures.
If the defendant is underage, a copy of the indictment is served to him/her and his/her legal representative.
(Article 254 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 255. Ensuring the right to review records of the case

After a case has been assigned to trial, the judge should ensure the prosecutor, defendant, his/her defense counsel, victim, civil plaintiff and their representatives, upon request of the latter, the possibility to review records of the case, while civil defendant and his/her representative – the right to review records relating to civil claim. All of the said persons may take notes from records of the case.
Records relating to protective measures enforced in respect of participants to criminal proceedings are not produced for review.
(Article 255 as amended by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 256. Time-limits for assigning a case for trial

A case should be assigned for trial within ten days and, if the case is complicated, within twenty days after its preliminary consideration.
(Article 256 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from

29.06.2001).

Chapter 24
TRIAL GENERAL PROVISIONS

Article 257. Direct and verbal nature of the trial

Trial court, when hearing a case, should directly examine evidence in the case: examine defendants, victims, witnesses, hear expert findings, inspect exhibits, read out records and other documents.
Court session is conducted without any breaks, except the time for rest.
(Article 257 as amended by Law No 3129-XII (3129-12) of 22.04.93).

Article 258. Immutability of the trial bench during consideration of a case

Each case should be considered by the same trial bench which may be changed only in cases set forth by law and in compliance with the procedure prescribed in paragraph 3 of Article 16-2 of this Code. Whenever a judge cannot participate in court session, he/she should be replaced by another judge and trial re-begins, except cases specified in Article 259 of the present Code.
If presiding judge withdraws from the trial bench, trial of the case is suspended.
(Article 258 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010

Article 259. Reserve people's assessor

In a case requiring much time, reserve people's assessor may be invited. Reserve people's assessor stays in court room from the very beginning of the trial and, if a people's assessor withdraws from the trial bench, he/she replaces the latter.
Unless reserve people's assessor requests that judicial actions re-begin, the trial continues.

Article 260. Judge presiding in court session

Judge presiding in court session directs the course of court session, aims trial examination at ensuring that parties enjoy their rights, removes from the trial everything which has no importance for the case being considered, and ensures adequate high level of judicial proceedings.
If any of participants to trial objects to presiding judge's actions which restrict or violate their rights, such objections are entered in the record.
(Article 260 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 261. Equal rights of parties to trial

The prosecution (prosecutor, victim, civil plaintiff and their representatives) and the defense (defendant, defense counsel and legal representative, civil defendant and his/her representative) enjoy equal rights to propose disqualifications and motions, produce evidence, participate in examination thereof and prove cogency of evidence, speak in debates, challenge court's decisions.
(Article 261 as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 262. Participation of the defendant in trial

Trial court considers the case in the presence of the defendant whose appearance in court is necessarily required.
In the absence of the defendant, the case may be considered only on exceptional basis:
1) when the defendant stays outside the limits of Ukraine and evades appearing in court;
2) if the defendant requests that his/her case related to crime which may not be punished with confinement be considered in his/her absence. However, if so, the court may find that defendant's appearance is necessarily required.
(Article 262 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 263. Defendant's rights during trial

In court session, the defendant has the right to:
1) propose disqualifications;
1-1) collegiate trial of the case in instances specified by law;
2) have a defense counsel or to defend himself/ herself;
3) submit petitions and express his/her opinion with regard to petitions of other participants to trial;
4) produce evidence, request that the court attach documents to the records of the case, cite witnesses, assign expert examination and direct to submit other proofs;
5) give testimonies as to the merits of the case at any time during trial examination or waive giving testimonies and answering questions;
6) request that the court announce evidence available in the case;
7) put questions to other defendants, witnesses, expert, specialist, victim, civil plaintiff, and civil defendant;
8) participate in the examination of exhibits, inspection of scene of crime, and documents;
9) speak in court pleadings;
10) address the court with final statement.
(Article 263 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 3780-XII (3780-12) of 23.12.93, No 305/94-BP (305/94-BP) of 20.12.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 264. Prosecutor's participation in court session

Prosecutor should necessarily participate in court session, except the following instances:
1) during trial of cases related to crimes referred to in Article 27, first paragraph, of the present Code;
2) when prosecutor refuses prosecuting on behalf of the state.
Prosecutor, being guided by law and his/her moral certainty, prosecutes on behalf of the state, produces evidence, participates in examination of evidence, files motions, and expresses his/her opinion with regard to petitions of other participants to trial, states his/her considerations in respect of application of criminal statute to, and sanction against, the defendant.
Whenever following trial, the prosecutor comes to the conclusion that judicial investigation does not confirm charges brought against the defendant, he/she should withdraw charges and state motive therefor in his/her decision. In such a case, the court advices the victim and his/her representative of their right to request that trial of the case be continued and charges pressed.
Prosecutor brings or prosecutes the civil claim filed if protection of rights of physical and legal persons or state interests so requires.
(Article 264 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92, as revised by

Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 265 is omitted under 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 266. Defense counsel's participation in trial

Defense counsel assists the defendant in his/her realizing his/her rights and in defending his/her lawful interests. Defense counsel has the right to meet the defendant, participate in examination of evidence, file petitions with court to request obtaining and attaching new evidence to records of the case, such evidence acquitting the defendant or mitigating his/her liability, lodge other petitions, express his/her opinion with regard to petitions lodged by other participants to trial.
Defense counsel participates in court pleadings and expresses his/her opinion with regard to importance of verified evidence for the case, to the presence of circumstances which acquit the defendant or mitigate his/her liability, as well as states his/her considerations in respect of application of criminal statute to, and sanction against, the defendant.
(Article 266 as amended by Law No 3780-XII (3780-12) of 23.12.93).

Article 267. Victim's participation in trial

During trial, the victim has the right to: give testimonies; propose disqualifications and submit petitions; express his/her opinion with regard to petitions of other participants to trial; give explanations in respect of circumstances of the case being examined by court; produce evidence, put questions to witnesses, experts, specialist, and defendants; participate in the inspection of the scene of crime, examination of evidence, documents, and, in cases referred to Article 27, first paragraph, of the present Code, - press charges. Victim may participate in court pleadings.
If the prosecutor withdraws charges, the victim may request that trial of the case be continued. In such a case, the victim press charges.
(Article 267 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 268. Participation of the civil plaintiff and civil defendant in trial

Civil plaintiff and civil defendant and their representatives have the right to: be present at the trial, propose disqualifications and submit petitions, express their opinion with regard to petitions of other participants to trial, give explanations, participate in the examination of evidence and in court pleadings in respect of how proved is the commission of crime and what are its civil and legal implications.

(Article 269 is omitted by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 270. Translator's participation in trial

In cases specified in Article 19 of the present Code, a translator in invited in court session. A signer is invited to be present during examination of a deaf or dumb. Rules set forth in the present Code for a translator are applied to a signer.

Article 270-1. Specialist's participation in trial

When necessary, a specialist can be summoned to appear in court session. He/she participates in trial in accordance with rules prescribed in Article 128-1 of the present

Code.
(Article 270-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 271. Court session's routine

Presiding judge maintains order during court session.
All participants to trial, as well as those present in court room are required to follow presiding judge's instructions indisputably, to keep the established order of court session and refrain from any actions that testify obvious contempt of court or the rules established by the court. For the contempt of court guilty persons are brought to responsibility prescribed by law. The question about the brining the person to responsibility for contempt of court is considered by the court immediately after commitment of the violation, and therefore a recess is announced in court session of the criminal trial.
All participants to trial address the court, give their testimonies, and make their statements upright. Derogation from this rule is allowed only upon permission of the presiding judge.
Persons, who have not attained the age of 16, unless they are defendants, victims, or witnesses in the case, are not allowed in the court room.
(Article 271 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 272. Measures to be taken against violators of the routine of court session

If the defendant breaks order in court session or disobeys requests of the presiding judge, the latter warns the defendant that, if he/she continues in the same way, he/she will be removed from the courtroom. If the defendant repeats his/her undue behavior in court session, he/she can be removed from the courtroom temporarily or for the whole trial upon court's decision. In such a case, the judgment pronounced is immediately read out to the defendant.
If public prosecutor, community accuser, defense counsel or community defense counsel disregards requests of the presiding judge, the latter warns them. If they repeat such behavior, the trial, upon presiding judge's order and court's decision, may be adjourned whenever such violator cannot be replaced with another person without compromising the case. At the same time, the court informs thereon the higher prosecutor, Ministry of Justice of Ukraine, qualification-disciplinary commission of the Bar.
For disobedience to presiding judge's requests or breach of order in court session, the witness, victim, civil plaintiff, civil defendant, and other citizens are liable under Article 185-3, first paragraph, of the Code of Administrative Offenses of Ukraine.
(Article 272 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 9166-XI (9166-11) of 04.05.90, 3780-XII (3780-12) of 23.12.93).

Article 273. The way in which rulings are passed in court session

Court passes rulings in all issues disposed by court during trial. Rulings to refer the case for supplementary investigation, during deciding matters referred to in Articles 276, 278, and 279 of the present Code, to dismiss the case, impose, alter, or revoke a measure of restraint, enforce protective measures, rulings related to disqualifications and assignment of expert examination, as well as presentments are passed by court in retiring room and stated in the form of a separate document which is signed by the whole trial bench.
All other rulings may be passed, upon court's discretion, in the order mentioned above or after discussion among judges in court room with entering the ruling concerned in the

record of court session.
Rulings passed by court during trial should be announced, except rulings passed as prescribed in Article 52-1, third paragraph, and Article 52-3, first paragraph, of the present Code.
When a case is tried by a single judge, the latter takes decisions in instances specified in the present Article.
(Article 273 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 274. Imposing, revoking, or altering a measure of restraint in court

During trial, the court, with grounds present, may, by its ruling, alter, revoke or impose a measure of restraint in respect of the defendant.
The court decides on the measure of restraint in the form of custody in accordance with appropriate Articles of chapter 13 of the present Code. 126

Article 275. Scope of trial

A case is tried only in respect of defendants and only within charges brought.
When it is necessary to supplement or change a charge brought or to institute criminal proceedings in connection with a new charge or in respect of new persons, the court should comply with provisions of Articles 276, 277, and 278 of the present Code.
(Article 275 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 276. Disposition of the issue related to a new charge

Whenever trial examination's data show that the defendant has committed one more crime and that charges have not been brought in connection with this new crime, the court, upon motion of the prosecutor, petition of the victim or his/her representative, without suspending trial, passes the ruling while the judge takes decision and thereby informs the prosecutor on the commission of this crime.
When a new charge is closely connected with the original charge and when separate consideration of such charges proves to be impossible, the whole case is referred for supplementary investigation.
After supplementary investigation, the case is referred to court according to regular procedure.
Parties may challenge the ruling, decision by way of appeal within seven days from the date of the ruling.
(Article 276 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 2857-XII (2857-12) of 15.12.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 277. Changing a charge in court

During trial and before completion of trial examination, prosecutor may change the charge which has been brought against a person.
Changing a charge is not allowed if rules related to jurisdiction or compulsory conduct of pre-trial investigation are so broken. In such a case, with grounds present therefor,

prosecutor files the motion to refer the case for supplementary investigation.
Having arrived at the conclusion that the charge brought should be changed, prosecutor takes the decision where he/she sets forth the new charge and states motives underlying the decision taken. Prosecutor announces his/her decision and serves a copy thereof to the defendant, his/her defense counsel and legal representative, victim, plaintiff, defensor and their representatives. The decision is attached to records of the case.
Whenever prosecutor's decision raises the issue of applying criminal statute which provides for liability for a less grave crime or reducing the scope of charges, the court advises the victim and his/her representative of their right to request prosecution in the scope of charges originally brought.
If the victim and his/her representative waived prosecution in the scope of charges originally brought, as well as in all other instances, the court advises the defendant that the latter will have to defend in court session from the new charge and adjourns the trial at least for three days so that the defendant, his/her defense counsel and legal representative have the time to prepare the defense against the new charge. Upon defendant's petition, this time-limit can be extended. After the expiration of this time limit, the trial continues.
(Article 277 as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 278. Disposition of the issue related to prosecution of another person

Having established at the stage of trial examination that a crime has been committed by any person who has not been prosecuted, the court, upon prosecutor's motion, petition of the victim or his/her representative passes a motivate ruling while the judge takes decision and thereby informs the prosecutor on the commission of this crime or refers the whole proceedings in the case for a new pretrial investigation or inquiry.
(Article 278 as amended by Law No 2464-XII (2464-12) of 17.06.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 279. Disposition of the issue relating to prosecution for knowingly misleading testimonies, wrong translation, and misleading findings

Concurrently with decreeing a judgment, the court, by its ruling, while the judge by his/her decision may raise before the prosecutor the issue of prosecuting a witness, victim, expert, or translator for knowingly misleading testimonies, wrong translation, and misleading findings.
(Article 279 as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 280. Postponing and suspending trial

When a case cannot be considered in a given court session because of non-appearance of cited persons or if it is necessary to request submitting new proofs, the court postpones the trial and takes necessary measures to ensure appearance of persons cited or submission of new proofs.
Whenever the defendant evades the court or if he/she fell ill with a mental or any other serious disease which precludes trial, the court suspends proceedings in the case of such defendant till he/she is found or recovered and continues the trial in respect of other defendants if several individuals are prosecuted in the case. Retrieval of the defendant who evades the court is declared by court's ruling or judge's decision.
In so far as it is necessary to postpone the trial, the court is required, before closing court

session, to hear all applications of participants to trial and dispose the same.
(Article 280 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 281. Referring a case for supplementary investigation

A case may be referred for supplementary investigation because of incomplete or wrong pre-trial investigation only if such incompleteness or wrongfulness cannot be eliminated in court session.
Whenever the issue of referring the case for supplementary investigation raises, the court, having heard opinion of the prosecutor and other participants to trial, disposes this issue by its motivated ruling while the judge by his/her decision in the retiring room.
After supplementary investigation, the case is sent to court in accordance with regular procedure.
Parties may challenge the ruling, decision by way of appeal within seven days from the date of ruling, decision.
(Article 281 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 2857-XII (2857-12) of 15.12.92, No 3351-12 of 30.06.93, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 282. Dismissing a case

Whenever, during trial of a case, grounds for dismissal of the case - referred to in Article 6, subparagraphs 5, 6, 7, 8, 9, 10, 11, Articles 7, 7-2, 8, 9, 10, and 11-1 of the present Code, - are established, the court, having heard opinion of participants to trial and conclusion of the prosecutor, by its motivated ruling while the judge by his/her decision, dismisses the case.
The court dismisses the case by its ruling (decision) if the prosecutor withdrew charges and the victim is unwilling to enjoy the right set forth in Article 267, second paragraph, of the present Code.
By its ruling (decision), the court dismisses the case related to the crime specified in Article 27, first paragraph, of the present Code, upon conciliation of parties or because of victim's non-appearance in court session without valid reasons.
Parties may challenge the ruling, decision by way of appeal within seven days from the date of ruling, decision.
(Article 282 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Law No 2464-XII (2464-12) of 17.06.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001; as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Chapter 25
PREPARATORY PART OF COURT SESSION

Article 283. Opening court session

Presiding judge opens court session at the time fixed for trial and announces what case will be heard.
(Article 283 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 305/94-BP (305/94-BP) of 20.12.94).

Article 284. Verifying appearance of participants to trial

Having opened court session, presiding judge announces who out of participants to trial and of those cited in court session appeared and informs on the reasons for non-appearance of those absent.
(Paragraph 2 of Article 284 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Article 284 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 285. Advising translator of his/her duties

If a translator participates in trial, presiding judge advises him/her of the duty to make correct translation in court session and admonishes him/her, against signed acknowledgment, of the liability under Article 384 of the Criminal Code of Ukraine for knowingly wrong translation.
(Article 285 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 286. Establishing the person of the defendant and the time when a copy of the indictment has bee served to him/her

The court establishes the person of the defendant by finding out his/her last name, first name, and patronymic; year, month, day, and place of his/her birth; place of residence, occupation, family status, and other information relating to the person of the defendant. Thereafter, presiding judge asks the defendant whether he/she has been served a copy of the indictment and when, and, in cases referred to in Article 27, first paragraph, of the present Code – a copy of complaint, a copy of the decision to institute criminal proceedings and citation.
If the said documents have not been served to the defendant or have been served within less than three days before trial in court session, hearings of the case should be postponed for three days while these documents should necessarily be handed over to the defendant for review.
In instances when the said documents were not served to the defendant in due time, the case may be tried in court session only upon defendant's request.
(Article 286 as amended by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 287. Announcing trial bench of the court and advising of the right to disqualify

After actions mentioned in the preceding Article have been completed, presiding judge announces trial bench of the court in the given case, name of the reserve judge, if any, names of the prosecutor, community accuser, defense counsel, community defense counsel, translator, court expert, specialist, secretary of court session, advises the defendant and other participants to trial of their right to disqualify and asks them whether they want to propose a disqualification. The court decides on the proposed disqualification in accordance with Article 57 of the present Code.
(Article 287 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 288. Implications of the defendant's non-appearance

If the defendant does not appear in court session without valid reasons in cases where his/her appearance is necessarily required (Article 262 of the present Code), the court postpones the trial and may impose procedural expenses related to the postponed session

on the defendant.
In addition, the court may pass the ruling while the judge the decision on reconduction of the defendant and replacement of the enforced measure of restraint with more severe one or on the imposition of a measure of restraint if the latter has not been imposed.
(Article 288 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 289. Implications of prosecutor, community accuser, defense counsel, or community defense counsel's non-appearance

If prosecutor or defense counsel does not appear in court session and there is no possibility to replace them with other individuals, hearings of the case should be postponed. Defense counsel who has not appeared in court session may be replaced only upon defendant's consent.
The court is required to give prosecutor and defense counsel who have joined the case for the first time the time necessary for reviewing records of the case and preparing for court session.
The court informs appropriate authorities on the prosecutor or defense counsel's non-appearance.
(Paragraph 4 of Article 289 is omitted by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).
(Article 289 as amended by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 290. Implications of victim's non-appearance

If the victim does not appear in court session, the court, having heard the opinion of participants to the trial, decides on the conduct of trial or its postponement depending on to what extent it is possible to ascertain all circumstances of the case and defend victim's rights and lawful interests in his/her absence. Under Article 72 of the present Code, the court may order compulsory appearance under law in respect of the victim who has not appeared without valid reasons. For willful non-appearance before court, the victim is liable under Article 185-3, first paragraph, of the Code of Administrative Offenses of Ukraine (80731-10).
On exceptional basis, the court may release the victim under protection from the duty to appear in court session if written confirmation of testimonies he/she gave earlier is available.
(Article 290 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 9166-XI (9166-11) of 04.05.90, by Law No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Article 291. Implications of civil plaintiff's non-appearance

If the civil plaintiff or representative of his/her interests does not appear in court session, the court does not consider the civil suit however the victim retains the right to bring such suit by way of civil proceedings.
The court may consider the civil suit in the absence of the civil plaintiff upon the plea of the latter. When a suit is maintained by prosecutor or when the suit is brought by an enterprise, institution, or organization, the court considers the civil suit irrespectively of the appearance of the civil plaintiff or his/her representative.
(Article 291 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 292. Implications of witnesses and experts' non-appearance

If not all of the cited witnesses and experts have appeared, the court hears the opinion of participants to trial with regard the possibility to try the case and passes the ruling while the judge takes decision to continue trying the case or to postpone the trial, taking, as necessary, measures referred to in Articles 70 and 71 against witnesses and measures referred to in Article 77 of the present Code against experts.
On exceptional basis, the court may release the witness under protection from the duty to appear in court session if written confirmation of testimonies he/she gave earlier is available.
(Article 292 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 1381-XIV (1381-14) of 13.01.2000).

Article 292-1. Examination of persons who have appeared in court session in case of trial postponement

If the court passes the ruling to postpone trial, the court may examine witnesses, expert or specialist, the victim, civil plaintiff, civil defendant or their representatives who have appeared. Whenever the postponed case is tried by the same trial bench of the court, the said persons may be re-cited in court session only if necessary.
(Article 292-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85).

Article 293. Removing witnesses from the courtroom

When trial of a case has been found possible, presiding judge orders to remove witnesses from the courtroom in a separate premise and takes measures to make impossible communication between examined witnesses and witnesses to be examined. The victim and expert are not removed from the courtroom.

Article 294. Advising a defendant of his/her rights

Having conducted actions referred to in preceding Articles, presiding judge is required to advise the defendant of his/her rights laid down in Article 263 of the present Code.

Article 295. Advising persons engaged in a case of their rights and duties

Presiding judge advises the victim, civil plaintiff, civil defendant, specialist, and experts of their rights and duties in court session and admonishes the expert of criminal liability for refusing to discharge his/her duties under Article 385 of the Criminal Code of Ukraine and for giving knowingly misleading opinion - under 384 of the Criminal Code of Ukraine.
(Article 295 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, in accordance with Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; 2670-III (2670-14) of 12.07.2001).

Article 296. Entering and disposing motions

Presiding judge asks participants to trial whether they have motions to cite new witnesses and experts, request submitting new proofs and attaching the same to records of the case. The person who enters such motions should indicate for ascertaining which circumstances he/she request that new witnesses be cited, new proofs submitted and attached to records of the case. Finding out circumstances to whose confirmation new witnesses are to be cited should be conducted in the absence of such witnesses.
When a motion is entered, the court hears opinion of the prosecutor and other participants

to trial and disposes the motion by its motivated ruling while the judge – by his/her decision.
Overruling a motion does not forfeit the right to enter the same motions throughout the entire trial.
(Paragraph 5 of Article 296 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
(Paragraph 6 of Article 296 is omitted by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).
(Article 296 as amended by Laws 2464-XII (2464-12) of 17.06.92, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001).

Chapter 26
EXAMINATION DURING TRIAL

Article 297. Beginning examination during trial

Having completed preparatory actions, presiding judge announces that trial examination begins. Examination begins by reading out the indictment, in cases referred to in Article 27, first paragraph, of the present Code – by reading out victim's complaint.
If a civil claim was brought in the case, the claim is also read out.
Prosecutor reads out the indictment, upon consent of the parties – only indictment's operative part; victim or his/her representative reads out the complaint while civil plaintiff or his/her representative – statement of claim.
(Article 297 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001; 2670-III (2670-14) of 12.07.2001).

Article 298. Explaining the substance of charges to the defendant

After reading out documents referred to in Article 297 of the present Code, presiding judge explains to the defendant – and if there are several defendants to each of them – the substance of charges and asks him/her (them) if they understand the charges brought and if they plead guilty and if they are willing to testify. If a civil claim was brought in the case, presiding judge asks the defendant and civil defendant whether they agree with the claim.
(Article 298 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, No 8627-X (8627-10) of 20.03.85).

Article 299. Establishing the scope of evidence to be examined and procedure for its examination

After actions referred to in the preceding Article have been completed, presiding judge finds out parties' opinion about what kind of evidence should be examined and the way in which it should be examined.
The scope of evidence to be examined and the way in which it should be examined shall be established in judge's decision or court's ruling.
The court has the right, if parties to the trial do not object thereto, to find that examination of evidence is unnecessary in respect of circumstances of the case and the amount of civil claim which are not contested. In so doing, the court ascertains whether the defendant and other participants to trial correctly understand contents of such circumstances, whether there are no doubts regarding voluntary and true nature of their position, as well as explains them that in such a case they will be forfeited the right to challenge these circumstances and the amount of claim by way of appeal.

If it appears necessary to examine the defendant in order to dispose the issue regarding the scope of evidence to be examined, the court disposes this issue after defendant's examination.
Unless the defendant waives testifying, his/her examination is necessarily required.
(Article 299 as amended by Law No 2464-XII (2464-12) of 17.06.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001).

Article 300. Examining a defendant

Defendant's examination begins from that presiding judge propose to give testimonies in the case. Then, the defendant is examined by the prosecutor, community accuser, victim, civil plaintiff, civil defendant, their representatives, defense counsel, and community defense counsel. Thereafter, other defendants may ask the defendant questions. Next, judge and people's assessors examine the defendant. Throughout the entire examination of the defendant by participants to trial, the court may ask the defendant questions to clarify and supplement his/her answers.
The defendant may be examined in the absence of another defendant upon a motivated ruling of the court only on exceptional basis when interests of the case or defendant's protection so require. After the defendant has returned in the courtroom, presiding judge makes him/her aware of testimonies which were given in his/her absence and gives him/her the possibility to put questions to the defendant who was examined in the absence of the former and provide explanations with regard to such testimonies.
The defendant has the right to use notes in court session.
(Article 300 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 301. Announcing defendant's testimonies

Testimonies given by the defendant during inquiry, pre-trial investigation or trial may be announced by court both upon court's initiative and motion of the prosecutor and other participants to trial in the following instances:
1) if essential controversies in testimonies the defendant gave in during trial, pre-trial investigation or inquire are present;
2) if the defendant waived testifying during examination in court;
3) if the case is heard in the absence of the defendant.

Article 301-1. Moving to pleadings after defendant's examination

When, under Article 299, third paragraph, of the present Code, the court limits examination of actual circumstances of the case to examination of the defendant, the court, after having examined the defendant, complies with provisions of Article 317 of the present Code and moves to pleadings.
(Article 301-1 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001; as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 302. Advising a witness and victim of their rights and duties

Before examining a witness or victim, presiding judge establishes his/her person, advises the witness of his/her rights and duty to inform on everything he/she knows in the case and admonishes him/her of criminal liability under Articles 384 and 385 of the Criminal Code of Ukraine for knowingly misleading testimonies and waiver of testifying.
Presiding judge advises the victim of his/her rights and admonishes him/her of criminal liability under Articles 384 of the Criminal Code of Ukraine for knowingly misleading

testimonies.
(Article 302 as amended by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2670-III (2670-14) of 12.07.2001).

Article 303. Examining a witness

Each witness is examined separately in the absence of witnesses who have not been examined.
Before examination each witness is asked questions in order to find out his/her relations with the defendant and the victim and is invited to tell everything he/she knows in the case.
After the witness has told everything he/she knows in the case, he/she is examined by prosecutor, victim, civil plaintiff, civil defendant, defense counsel, defendant, judge, and people's assessors, as well as defense counsel invited by him/her.
Whenever a witness has been cited in court session upon prosecutor's motion or petition of other participants to trial, the witness is asked questions first by the participant to trial upon whose petition the witness has been cited.
Throughout the entire examination of the witness by participants to trial, the court may ask the witness questions to clarify and supplement his/her answers.
To ensure security of the witness to be examined, the court (judge), upon its own initiative or upon motion of the prosecutor, defense counsel or petition of the witness himself/ herself, passes a motivated ruling to examine the witness concerned with the use of technical means from another premise, including outside court's building, and to give participants to the process the right to listen his/her testimonies, ask questions and hear answers thereto.
If there is a risk that witness's voice can be identified, examination may be accompanied by acoustic noises.
If it appears impossible to examine the witness with the use of technical means, the court (judge) examines him/her in the absence of the defendant. Examined witness is removed from the courtroom.
After the defendant has returned in the courtroom, presiding judge makes him/her aware of testimonies which were given by the witness and gives him/her the possibility to provide explanations with regard to such testimonies.
Defendant and participants to trial may ask the witness questions.
The witness answers questions in the absence of the defendant.
Examined witnesses stay in courtroom and may not leave without presiding judge's permission till the trial is completed.
(Article 303 as amended by Laws No 1381-XIV (1381-14) of 13.01.2000, No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, No 2395-VI (2395-17) of 01.07.2010).

Article 304. Additional examination or re-examination of a witness

Each participant to trial may ask witness additional questions in order to clarify or supplement answers given to questions of other persons.
Every witness may be additionally examined or re-examined in the presence of other witnesses who have been already examined or during confrontation.

Article 305. Witness's right to use notes

Testifying witness may have on him/her notes when testimonies relate to calculations and other information difficult to be kept in mind.
The witness is allowed to read out documents relating to his/her testimonies. Such documents should be produced to court and participants to trial upon their request; these

documents may be attached to records of the case upon court's ruling.

Article 306. Announcing witness's testimonies

Upon its own initiative or motion of the prosecutor or petition of other participants to trial, the court may announce testimonies the witness has given during inquiry, pre-trial investigation, or trial, in the following instances:
1) if essential controversies in testimonies the witness has given in during trial, pre-trial investigation or inquire are present;
2) witness's appearance is impossible for one or another reason;
3) if the case is heard in the absence of the witness as prescribed in Article 292, second paragraph, of the present Code.
Testimonies of the witness who has been examined under Article 292-1 of the present Code may also be announced in court session.
(Article 306 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, by Law No 1381-XIV (1381-14) of 13.01.2000).

Article 307. Examining an underage witness

An underage witness under 14 years of age and, upon court's discretion, under 16 years of age is examined in court as prescribed in Article 168 of the present Code.
After examination of the underage witness, the latter is removed from courtroom, unless the court, upon its own discretion or upon prosecutor's motion or petition of other participants to trial finds that presence of such witness in courtroom is required.
On exceptional basis, when interests of the case or protection of the witness so require, the underage witness can be examined, upon court's ruling, in the absence of the defendant.
After the defendant has returned in courtroom, the court is required to make the defendant aware of witness's testimonies and give him/her the possibility to ask witness questions and provide explanations as to witness's testimonies.
(Article 307 as amended by Law No 1381-XIV (1381-14) of 13.01. 2000).

Article 308. Examining a victim

A victim is examined in accordance with rules governing examination of witnesses. The victim should be examined before examination of witnesses.

Article 309. Identification

A person or an object may be presented for identification by a witness, victim, or defendant during examination.
Presenting for identification is conducted after the identifying person, during examination, has indicated by which signs he/she can identify the object or person concerned.
During identification of a person or an object, the identifying individual should state whether he/she recognize the person or the object and by which signs exactly.

Article 310. Expert examination in court

Expert examination is assigned in court as prescribed in chapter 18 of the present Code.
In court session, the expert participates in examining evidence and may, upon court's permission, ask the defendant, victim, and witnesses questions as to circumstances of importance for his/her findings.
After circumstances of importance for expert's findings have been ascertained, presiding judge invites prosecutor, defendant, the latter's defense counsel and other participants to trial to submit written questions they wish to ask the expert concerned.
The court considers these questions, taking into account the opinion of participants to trial,

removes those of them which do not relate to the case or are beyond expert's competence, as well as formulates questions it puts to expert on its own initiative.
Thereafter, the court passes the ruling while the judge the decision where it states questions to be disposed during expert examination. These questions are handed over to the expert who draws up his/her findings.
Expert's findings should comply with provisions of Article 200 of the present Code. Expert's findings are announced in court session and attached to records of the case.
(Article 310 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2464-XII (2464-12) of 17.06.92).

Article 311. Examining an expert in court

After expert's findings have been read out, the expert may be asked questions to clarify and supplement his/her findings.
Experts is first asked questions by prosecutor, then victim, civil plaintiff, civil defendant, their representatives, defense counsel, defendant, judge, and people's assessors.
Questions put to the expert and answers thereto are entered in the record of court session.
(Article 311 as amended by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 312. Additional expert examination or re-examination

In instances specified in Article 75 of the present Code, the court, by its motivated ruling while the judge by his/her decision may fix additional expert examination or re-examination.
Additional expert examination or re-examination is conducted in accordance with Articles 310 and 311 of the present Code.
Trial of the case may be postponed if additional expert examination or re-examination is fixed.
(Article 312 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 313. Examining exhibits

Exhibits should be inspected by court and produced to participants to trial and, if necessary, to witnesses and experts.
Individuals to whom exhibits have been produced may draw court's attention to details of importance for the case and appropriate entry is made in the record of court session thereon.
Examination of objects which cannot be brought in court session, if necessary, is conducted in the place of their location.

Article 314. Inspecting and reading out documents

Documents which constitute evidence in a case should be inspected or read out in court session. Such actions can be conducted both upon court's initiative and applications of participants to trial at any time during court examination.

Article 315. Field inspection

Having found field inspection necessary, the court conducts the inspection with the involvement of the prosecutor, defendant, his/her defense counsel, victim, civil plaintiff, civil defendant and their representatives and, circumstances of the case so require, - with participation of witnesses and experts.
Having arrived at the scene, presiding judge announces that court session continues and the court proceeds to inspection. During the inspection, the defendant, witnesses, victim,

and experts may be asked questions relating to the inspection.
Prosecutor, defendant, his/her defense counsel, and other participants to trial, shall the right, during the inspection, to draw court's attention to everything that, in their opinion, may facilitate ascertaining circumstances of the case.
Record of court session should mention the inspection and results of the same.
(Article 315 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 315-1. Court orders

In order to verify and clarify actual information obtained in the course of examination during trial, the court passes the ruling while the judge – decision and thereby orders the agency which conducted investigation to carry out investigative actions. The ruling (decision) states what exactly circumstances should by ascertained and what exactly investigative actions should be conducted and fixes a time-limit for execution of the order.
The person who executes the order conducts the appropriate investigative action in compliance with Chapters 11 – 18 of the present Code. The record of investigative action and other evidence obtained are submitted to the court which issued the order.
The record of investigative action and other evidence submitted by the agency which executed the order are examined in court session and attached to records of the case.
(Article 315-1 is added by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 316. What the court should do if it finds a defendant insane in court session

Whenever, in the course of trial, the court finds that, during the commission of publicly dangerous acts, the defendant was in the state of insanity and thereafter fell ill of a mental disease which made him/her unable to realize what he/she was doing or to direct his/her actions, the court passes a ruling while the judge takes a decision thereon and continues trial in compliance with rules prescribed in Chapter 34 of the present Code.
(Article 316 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 317. End of trial

After having considered all proofs present in the case, presiding judge asks participants to trial whether they are willing to supplement trial examination and with what exactly. Should motions or petitions be lodged, the court discuses and dispose them and passes an appropriate ruling while the judge takes a decision thereon. After disposition of motions and petitions and the conduct of supplementary actions, presiding judge announces that the trial examination is closed.
(Article 317 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Chapter 27
PLEADINGS AND DEFENDANT'S LAST STATEMENT

Article 318. The way in which pleadings are held

Having completed trial examination, the court proceeds to pleadings.
Pleadings refer to speeches of the prosecutor, victim and his/her representative, civil plaintiff, civil defendant or their representatives, defense counsel, defendant.
In pleadings, participants to trial may evoke only evidence which was examined in court session. Whenever it becomes necessary to produce new proofs during pleadings, the court reopens trial examination. After reopened trial examination has been completed, the court

reopens pleadings with regard to newly examined circumstances.
The court may not limit duration of pleadings by a certain time. Presiding judge may stop the speech of participants to pleadings only if the latter exceed the scope of the case being considered.
After speeches, participants to pleadings may exchange replies. The defendant has the right to the last reply.
(Article 318 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001).

Article 319. Defendant's last statement

Presiding judge announces that pleadings are closed and gives the defendant the possibility to make his/her last statement after the defense counsel or defendant's speech.
The court may not limit duration of defendant's last statement by a certain time.
It is not allowed to ask the defendant questions during his/her last statement. If the defendant informs on new circumstances which are essential for the case in his/her last statement, the court, on its own discretion, as well as upon prosecutor's motion or petition of other participants to trial, reopens trial examination.
After reopened trial examination has been completed, the court opens pleadings with regard to additionally examined circumstances, and gives the defendant the possibility to make his/her last statement.

Article 320. Court retires to decree a judgment

After defendant's last statement, the court promptly retires in deliberation room to decree a judgment and presiding judge announces the same to those present in courtroom.

Chapter 28
DECREEING A JUDGMENT

Article 321. Decreeing a judgment in the name of the State

Ukrainian courts shall decree judgments in the name of the State.
(Article 321 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 322. Confidentiality of judges' deliberations in the retiring room

A judgment is decreed in a separate premise i.e. retiring room. Only judges who compose trial bench in a given case may be present in the retiring room during judges' deliberations and decreeing a judgment. Reserve judges or clerk of the court session and other individuals are not allowed to be present in the retiring room. During the night time, the court may make a break in deliberations for rest.
Judges may not disclose considerations expressed in the retiring room.
(Article 322 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 323. Legality and validity of a judgment

Court's judgment should be legal and valid.
Court's judgment is valid when it is decreed only based on the evidence which was examined in court session.
The court assesses evidence in accordance with its moral certainty based on thorough, complete and objective examination of all circumstances in the case and being guided by

law.
(Article 323 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 324. Matters to be disposed by court when decreeing a judgment

When decreeing a judgment, the court should decide the following matters:
1) whether the act of which an individual is accused has really taken place;
2) whether the act concerned contains elements of crime and under which provision of criminal statute it is punishable;
3) whether the defendant is guilty of this crime;
4) whether defendant should be punished for the crime committed;
5) whether circumstances which aggravate or mitigate the punishment of the defendant do exist and which exactly;
(Subparagraph 6 of Article 324 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
6) what kind of sanction has been impose on the defendant and whether he/she should serve it;
(Subparagraph 8 of Article 324 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
7) whether the civil claim brought should be satisfied, in whose favor and in what amount and whether the harm caused to the victim and funds spent by a health institution for his/ her in-patient treatment should be compensated if the civil claim was not brought;
8) what should be done with asset inventoried to secure the civil claim and likely forfeiture of asset;
9) what should be done with exhibits, in particular money, valuables and other goods obtained as proceeds from crime;
10) who should be charged procedural expenses and in what amount;
11) what kind of measure of restraint should be imposed on the defendant;
12) whether compulsory treatment should be ordered in respect of the defendant in instances specified in Article 96 of the Criminal Code of Ukraine;
13) whether it is necessary enforce protective measures in respect of the defendant.
Whenever the defendant is accused of committing several crimes, the court decides matters referred to in subparagraphs 1 to 6 of the present Article, separately regarding each crime.
If several individuals are accused of committing a crime, the court decides matters referred to in the present Article, separately in respect of each of the defendant.
Compulsory medical treatment referred to in paragraph 12 of the present Article may be enforced only based on the appropriate opinion of medical institution.
(Article 324 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 10.09.62, No 117-VIII (117-08) of 30.08.71, by Laws No 3132-XII (3132-12) of 22.04.93, No 1381-XIV (1381-14) of 13.01.2000, No 2670-III (2670-14) of 12.07.2001).

Article 325. Judges' deliberations

Prior to decreeing a judgment, judges deliberate under the guidance of the presiding judge. Presiding judge puts before judges matters referred to in Article 324 of the present Code. In so doing, presiding judge is required to put questions in the form which allows only positive or negative answer.
When deciding on each particular matter, no one of the judges may abstain from voting. Presiding judge votes in the last turn. All of the matters are disposed by simple majority of the votes.

Article 326. Reopening trial examination

When, during deliberations in the retiring room, the court finds it necessary to ascertain any circumstance which is important for the case, the court, without decreeing a judgment, by its ruling while the judge – by his/her decision reopens trial examination in the case. In

such a case, examination is conducted within the scope of circumstances for the sake of which trial examination has been reopened.
After reopened trial examination has been completed, depending on the results thereof, the court opens pleadings with regard to additionally examined circumstances, gives the defendant the possibility to pronounce his/her last statement and retires in the deliberation room to decree a judgment or, if examination of these circumstances proved to be impossible in the court, to pass a ruling to remand the case for supplementary investigation.
(Article 326 as amended by Law No 2464-XII (2464-12) of 17.06.92).

Article 327. Types of judgments

Court's judgment may be a conviction or an acquittal. Judgment of conviction and judgment of acquittal should be motivated by court.
A judgment of conviction may not draw on assumptions and is decreed provided that defendant's guilt has been proved during trial.
If a defendant is found guilty of having committed a crime, the court decrees a judgment of conviction and imposes on the defendant the punishment specified in the criminal statute.
The court decrees the judgment of conviction and releases the convict from serving his/her sentence based on grounds specified in Article 80 of the Criminal Code of Ukraine.
Judgment of acquittal is decreed when the occurrence of crime has not been established, when defendant's act does not contain any element of crime, as well as when defendant's involvement in the crime concerned has not been proved.
If the judgment of acquittal is decreed because defendant's involvement in the crime concerned has not been proved while the perpetrator of this crime was not identified, the court, after the judgment has taken legal effect, passes a ruling to remand the case to prosecutor so that he/she takes necessary measures to identify the person guilty of the commission of the crime concerned.
(Article 327 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Law No 2670-III (2670-14) of 12.07.2001).

Article 328. Disposing a civil claim

When decreeing a judgment of conviction, the court, depending on to what extent grounds and the amount of civil claim ware proved, satisfies the civil claim in whole or in part or dismisses the same.
If the defendant is acquitted because his/her involvement in the commission of crime has not been proved or the occurrence of crime is absent, the court dismisses the civil claim.
If the defendant is acquitted because his/her acts do not contain any element of crime, the court takes no action on the claim.

Article 329. Securing a civil claim

If the civil claim is satisfied, the court, prior the judgment has taken legal effect, may decide to take measures to secure the civil claim if such measures were not taken earlier.

Article 330. Disposing the issue of exhibits

When decreeing a judgment, the court disposes the issue of exhibits being guided by provisions of Article 81 of the present Code.
Goods which are not exhibits should be returned to their owner even though the latter has not brought a civil claim.
Whenever a dispute arises in respect of ownership of the said goods, such dispute should be resolved by way of civil proceedings.

Article 331. Disposing the issue of procedural expenses

The issue of procedural expenses is disposed by court in compliance with Article 93 of the present Code.

Article 332. Drawing up a judgment

Having considered the matters that ought to be decided on in a retiring room, the court draws up a judgment.
A judgment should be drawn up by one of the judges who participated in its decreeing.
The judgment comprises three parts – narrative part, statement of reasons, and findings.
Corrections in the judgment should be stated separately and signed by all judges in the retiring room before pronouncing the judgment.

Article 333. Narrative part of a judgment

Narrative part of a judgment should state that the judgment is decreed in the name of Ukraine under Article 321 of the present Code, indicate identity of the decreeing court, place where, and time when, the judgment was decreed, composition of the court, clerk, participants to trial, translator, if any, last name, first name, and patronymic of the defendant, year, month, and day of his/her birth, place of birth and place of residence, occupation, education, family status, and other details on the person of the defendant which are of importance for the case, as well as criminal statute which punishes the crime which is incriminated to the defendant.
(Article 333 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 334. Statement of reasons

Statement of reasons of a judgment should contain charges which the court finds proved with indication of place where, time when, and way how, the crime was committed and implications of crime, the form of guilt and motives for the crime. This part of the judgment should state circumstances which determine the extent of gravity of the crime committed and proofs underlying court findings in respect of each of the defendants with indication of motives based on which the court dismisses other proofs; mitigating or aggravating circumstances; motives for changing charges; grounds therefor if a part of charges was considered to be ill-founded.
The court is also required to motivate punishment in the form of confinement if criminal statute sanction provides for also punishments other than imprisonment; release on probation; imposition of punishment which is lower than the lowest sanction prescribed in the Special Part of the Criminal Code of Ukraine (2341-14) or imposition of another, more lenient, punishment which is not mentioned as penalty in provisions of appropriate Articles; release on probation of pregnant women and women having children up to 7 years of age and in connection with expiration of statute of limitations for execution of the judgment of conviction.
(Paragraph 3 of Article 334 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Paragraph 4 of Article 334 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
If the court, under Article 96 of the Criminal Code of Ukraine, found it necessary to enforce compulsory medical treatment in respect of the defendant, statement of reasons should contain motives for such a decision.
(Paragraph 6 of Article 334 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
Statement of reasons of a judgment should contain charges which were brought against the defendant and which were found by the court as not proved, as well as grounds for acquittal with indication of motives based on which the court dismissed proofs produced by the prosecution. The judgment may not contain wordings which cast doubt on defendant's

innocence.
Statement of reasons should contain grounds for satisfying or dismissing a civil claim, as well as grounds for compensation of material harm in cases referred to in Article 29, third paragraph, of the present Code, grounds and motives for the court to establish that procedural actions or operational detective activities were conducted contrary to law.
(Article 334 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 10.09.62, No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws No 2670-III (2670-14) of 12.07.2001, No 3165-IV (3165-15) of 01.12.2005).

Article 335. Findings of a judgment

Findings of a judgment should state: last name, first name, and patronymic of the defendant; criminal statute under which the defendant was found guilty; punishment imposed on the defendant for each of charges which the court found as proved; final penalty imposed by court; time when the term of serving the sentence starts running; duration of probation in the case of release on probation; decision made in respect of civil claim; procedural actions or operational detective activities conducted contrary to law, if any; decision taken on exhibits and procedural expenses; decision on the credit of detention pending trial; decision of the measure of restraint before the judgment has taken legal effect, and instruction with regard to the way in which the judgment may be challenged and time limit therefor.
(Paragraph 2 of Article 335 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Paragraph 3 of Article 335 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
In cases stipulated in Article 54 of the Criminal Code of Ukraine, findings of a judgment shall state decision to apply to appropriate public authorities for reducing military, special rank, grade or skill category of the defendant.
In cases stipulated in Article 96 of the Criminal Code of Ukraine, findings of a judgment shall state court's decision to enforce compulsory medical treatment in respect of the defendant.
The penalty should be determined so that execution of the judgment does not cast any doubt with regard to the type and amount of punishment imposed by the court.
Whenever several charges were brought against the defendant and if some of them were not proved, findings of the judgment should state by which of them the defendant is acquitted or convicted.
If the defendant is found guilty but is released from serving the sentence, the court shall state the same in the findings.
In so far as the punishment is lower than the lowest penalty prescribed by law for the crime concerned, findings of the judgment should refer to Article 69 of the Criminal Code of Ukraine and state the penalty imposed by court.
In case of the release on probation under Articles 75 – 79 and 104 of the Criminal Code of Ukraine, findings of the judgment should state duration of probation, obligations imposed on the defendant, as well as labor collective or person upon whom the court, upon their consent or request, imposes the duty to supervise the defendant or carry out educational work with him/her.
(Paragraph 11 of Article 335 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Paragraph 12 of Article 335 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
Findings of the judgment state last name, first name, and patronymic of the acquitted person; that the defendant is found innocent of the charge brought and is acquitted by court; that the measure of restraint is revoked as are measures to secure the civil claim and likely forfeiture of asset; decision on exhibits, procedural expenses, and the way in which the judgment may be challenged and time-limit therefor.
(Article 335 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 10.09.62 No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws No

2670-III (2670-14) of 12.07.2001, No 3165-IV (3165-15) of 01.12.2005).

(Article 336 is omitted by virtue of the Decree of the Presidium of the Verkhovna Rada of 10.09.62 No 117-VIII (117-08) of 30.08.71).

Article 337. Determining the sanction by cumulation of crimes

When decreeing a judgment by cumulation of crimes, the court imposes the punishment being guided by Articles 70 and 71 of the Criminal Code of Ukraine.
(Article 337 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Articles 338. Computing the term of serving the sentence

The beginning of the term of sentence in the form of imprisonment or correctional works, if the defendant was not kept in custody till the judgment has been pronounced, is computed from the time when the judgment was enforced.
Whenever the defendant was kept in custody till the judgment has been pronounced, custody period is credited to the term of sentence.
If the defendant, when being in custody, was placed in a medical institution, time the defendant spent therein is credited to the term of sentence.
Whenever the defendant was kept in custody till the judgment has been pronounced, if the punishment in the form of correctional works was imposed, time the defendant spent in custody is credited to term of correctional works on the basis of one day of custody for three days of correctional works. If the defendant was sentenced to correctional works and after reconsideration of the same case – to imprisonment, the time of correctional works served is credited to the term of imprisonment on the basis of three days of correctional works for one day of imprisonment.

Article 339. Signing a judgment and separate opinion

The judgment is signed by all judges or one judge if the case is considered by a single judge.
The minority judge may state his/her written separate opinion which is attached to records of the case but may not be pronounced.
If the criminal case in which there is a separate opinion was not considered by court of cassation, then, after the judgment has taken legal effect, separate opinion together with records of the case is forwarded to the president of the higher court so that the latter decides whether it is necessary to review the case by way of supervision.
(Article 339 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2464-XII (2464-12) of 17.06.92).

Article 340. Presentment of a trial court

With grounds referred to in Article 23-2 of this Code present, the court which tries a case in the first instance passes a separate ruling while the judge a presentment.
(Article 340 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Law No 2464-XII (2464-12) of 17.06.92).

Article 341. Pronouncing a judgment

After a judgment has been signed, judges return to courtroom where presiding judge or one of judges pronounces the judgment.
All those present in courtroom, including trial bench, listen the judgment upright.
Presiding judge explains, to the defendant, his/her legal representative, victim, civil plaintiff, civil defendant and their representatives, contents of the judgment, time-limits

and procedure for challenging the judgment, and advises of the right to petition for pardon. If the defendant has no knowledge of the language in which the judgment has been decreed, then, after the judgment has been pronounced, translator reads out the judgment to the defendant in the mother language of the latter or any other language he/she knows.
(Article 341 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 1483-III (1483-14) of 22.02.2000).

Article 342. Releasing the defendant from custody upon court's judgment

If the defendant is kept in custody, the court releases him/her from custody in courtroom whenever he/she is acquitted, released from serving his/her sentence, or imposed a sentence other than imprisonment.
(Paragraph 2 of Article 342 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Article 342 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 4995-XI (4995-11) of 01.12.87, by Law No 2670-III (2670-14) of 12.07.2001).

Article 343. Imposing a measure of restraint prior to a judgment has taken legal effect

When decreeing a judgment under which a sanction is imposed on the defendant, the court is required to decide the matter of a measure of restraint prior to the judgment has taken legal effect and the court may enforce a measure of restraint or revoke, alter or confirm the measure of restraint which has been already imposed.
Committing to custody as a measure of restraint is allowed only if grounds specified in appropriate Articles of chapter 13 of the present Code are present.

Article 344. Serving a copy of judgment to the convicted or acquitted person

A copy of judgment is handed over to the convicted or acquitted person within three days after the judgment has been pronounced.
If the convicted or acquitted person has no knowledge of the language in which the judgment has been decreed, then the judgment should be served to him/her in the mother language or any other language he/she knows.

Article 345. Allowing relatives to visit the convicted person

Before the judgment has taken legal effect, presiding judge or president of the court concerned is required to allow close relatives of the convicted person, upon their request, to visit the convicted persons kept in custody.

Article 346. Caring about underage children and preserving defendant's property

If the defendant has underage children who have lost their caretaker, the court is required, when decreeing the judgment, to take a separate ruling while the judge a presentment to raise, before the Service in charge of underage children or the appropriate custody and care authority, the issue of placing these underage children or granting them custody or care.
If the person sentenced to imprisonment has any property or home which is so left without care the court is required to take, through appropriate authorities, measures to preserve them.
The convicted person is informed on measures taken in this respect.
(Article 346 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, by Laws No 2464-XII (2464-12) of 17.06.92, No 2670-III (2670-14) of 12.07.2001).

Section IV

VERIFICATION OF COURT'S JUDGMENTS, RULINGS, AND DECISIONS

Chapter 29
FILING APPEALS

Article 347. Judicial decisions subject to appeal

The following may be challenged by way of appeal:
1) local courts' judgments which have not taken legal effect;
2) local courts' decisions on the enforcement or denial of enforcement of compulsory measures of educational or medical nature.
Appeals may also be filed against:
1) local courts' rulings (decisions) to dismiss a case or remand a case for supplementary investigation;
2) local courts' presentments;
3) other local courts' decisions in instances prescribed in the present Code.

Article 348. Persons who may file an appeal

An appeal may be filed by:
1) convicted person, his/her legal representative and defense counsel – in so far as his/her interests are concerned;
2) acquitted person, his/her legal representative and defense counsel – in terms of motives and grounds for acquittal;
3) legal representative, defense counsel of an underage and the underage himself/herself in whose respect compulsory measure of educational natures has been enforced – in so far as his/her interests are concerned;
4) legal representative and defense counsel of the person in whose respect the issue of enforcing compulsory measure of medical nature was decided;
5) defendant whose case is dismissed, his/her legal representative and defense counsel - in terms of motives and grounds for dismissing the case;
6) defendant whose case was remanded for supplementary investigation, his/her legal representative and defense counsel - in terms of motives and grounds for remanding the case for supplementary investigation;
7) civil defendant or his/her representative – in so far as resolution of the claim is concerned;
8) prosecutor who participated in the trial of the case by a trial court, as well as prosecutor who approved the indictment – within the scope of charges pressed by the prosecutor who participated in the trial of the case by a trial court;
9) victim and his/her representative - in so far as victim's interests are concerned but within the scope of claims brought in trial court;
10) civil plaintiff or his/her representative – in so far as disposition of the claim is concerned;
11) person in whose respect the court has made a presentment;
12) other persons in instances specified in the present Code.
(Article 263 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 349. Procedure and time-limits for filing an appeal

An appeal should be filed through the court which has decreed the judgment, ruling, or decision, except cases specified in the fifth paragraph of the present Article. Prosecutor and defense counsel's appeal should be enclosed copies in the number sufficient to serve them to all participants to trial concerned with the appeal.
Whenever the appeal is filed directly with the court of appeals within time-limits prescribed

in the third paragraph of the present Article, the court of appeals refers the appeal to trial court so that the latter fulfils requirements of Articles 350 and 351 of the present Code.
An appeal against judgment, ruling, or decision made by trial court, unless the present Code specifies otherwise, may be filed within 15 days from the date on which they have been pronounced, while the convicted person kept in custody may file an appeal within the same time-limit but from the day on which he/she has been served a copy of judgment.
Nobody may direct the court to submit records of the case throughout the time-limit prescribed for filing the appeal. During this time-limit, the court is required to give the parties, upon request thereof, the possibility to review records of the case.
An appeal against court's ruling or judge's decision made as prescribed in Articles 52-5, 165-2, 165-3, 177, 205, 462, 463 of the present Code should be filed directly to the court of appeals within time-limits specified in these Articles and considered in accordance with provisions of Article 382 of the present Code.
An appeal against judge's decision taken as prescribed in Articles 236-2, 236-6, and 236-8 and 468 of the present Code should be filed within time-limits specified in these Articles and considered in accordance with provisions of Article 382 of the present Code.
(Article 349 as amended by Law No 462-V (462-16) of 14.12.2006, No 2286-VI (2286-17) of 21.05.2010).

Article 350. Contents of the appeal

The appeal should state the following:
1) name court with which the appeal is filed;
2) appellant;
3) judgment, ruling, or decision challenged and identity of the issuing court;
4) explanation why the judgment, ruling, or decision challenged is illegal, and arguments substantiating such explanation;
5) request of the appellant;
6) list of documents attached to the appeal.
The prosecutor and defense counsel, when substantiating the necessity to change or reverse judgment, ruling, decision, should refer in their appeal to appropriate pages of records of the case.

Article 351. Notice of appeal

Trial court notifies - prosecutor, other persons referred to in Article 348 of the present Code whose interests are affected by the appeal - of the receipt of appeal, through sending them appropriate notices and placing the notice on bulletin board of the court. The said persons may obtain a copy of appeal or review it in court within five days from the day on which the notice has been placed on bulletin board of the court. Concurrently with the service of copy or review of the appeal, the said persons are advised of the right to submit their objections to the appeal within five days from this time.
Notice of appeal and copy of the appeal are served to the prisoner concerned through the head of the detention facility. At the same time, he/she is advised of the right to submit his/her objections to the appeal within five days from the service of these documents.
Objections to the appeal shall be attached to records of the case or forwarded directly to the court of appeals.

Article 352. Taking no action on an appeal

If the appellant does not comply with provisions of Article 350 of the present Code, presiding judge, by his/her decision, takes no action of the appeal and informs that the said provisions should be complied with within seven days from the date on which such information has been received. This decision may not be challenged.

Whenever these provisions are not complied with within the time-limit prescribed, presiding judge, in his/her decision, finds that the appeal is not subject to consideration. Such decision may be challenged before the court of appeals which may, by its ruling, find that the appeal is subject to consideration and may direct the trial court to fulfill requirements of Article 351 of the present Code.

Article 353. Implications of disregarding time-limits for filling an appeal and procedure for reopening appeal proceedings

If an appeal was filed in disregard of the time-limit prescribed in Article 349 of the present Code and if the request for renewing this time-limit has not been made, presiding judge, in his/her decision, finds that the appeal is not subject to consideration.
If the time-limit for appeal was missed upon valid reasons, persons entitled to file the appeal may lodge an application with the court which decreed the judgment or passed the ruling concerned for renewing the time-limit missed.
The issue of renewing the time-limit missed is decided in court session by court which tried the case. Parties are timely informed on the day and time when the application lodge is considered and parties' non-appearance in court session does not preclude consideration of the application.
After having considered the application, the court passes the ruling, decision and thereby renews the time-limit missed or denies its renewal and finds that the appeal is not subject to consideration.
Judge's decision or court's ruling made under the first paragraph or fourth paragraph of the present Article may be challenged before the court of appeals which may, by its ruling, renew the missed time-limit, find that the appeal is subject to consideration and direct trial court to comply with Article 351 of the present Code.

Article 354. Implications of filing an appeal

Filing an appeal against court's judgment, ruling, or decision stays their taking legal effect and their execution, except instances specified in the present Code.
After provisions of Article 351 of the present Code have been complied with, the court which decreed the judgment or passed the ruling, decision refers the case together with the appeal filed and objections thereto to the court of appeals within seven days and fixes the date of case consideration. The case is assigned to trial within three months from the date on which the case has been referred to the court of appeals. The case should arrive at the court of appeals at least one month before the date fixed by trial court for consideration.
Trial court notifies all those concerned of the date when the case will be tried by way of appeal, by sending them appropriate notices and placing the notice on bulletin board of the court. Notice that the case has been assigned for trial by way of appeal is served to the prisoner concerned kept in custody through the head of the detention facility.
If the appeal raises the issue of worsening the situation of the convicted or acquitted person, trial court concurrently cites these persons, their legal representatives and defense counsels if their participation in the case is necessarily required under Article 45 of the present Code to appear before the court of appeals.

Article 355. Supplementing, altering, and withdrawing an appeal

Prior to trial of the case in the court of appeals, the appellant may supplement, alter, or withdraw the appeal, as well as file his/her objections to the appeal of another participant to trial.
Introducing changes in the appeal which worsen the situation of the convicted or acquitted person after time-limits for the appeal have expired is not permitted.
Defense counsel of the convicted or acquitted person may withdraw his/her appeal only

upon consent of his/her client or his/her client's legal representative. Defense counsel who engaged in appeal proceedings may alter or supplement the appeal of the defense counsel who participated in the trial of the case by trial court only upon consent of the convicted or acquitted person and legal representatives thereof.
The convicted or acquitted person may withdraw his/her appeal, as well as the appeal of hi/her defense counsel, except instances specified in Article 45, first paragraph, of the present Code.
The appeal of victim's representative may be withdrawn by victim's representative only upon consent of the victim or by the victim himself/herself.

Chapter 30
TRIAL OF A CASE BY WAY OF APPEAL

Article 356. Courts entitled to try cases by way of appeal

Appeals against judicial decisions made by district, district (city), city and inter-district (circuit) courts are considered by Court of Appeals of the Autonomous Republic of Crimea, oblast courts of appeals, courts of appeals of the cities of Kyiv and Sevastopol.
The panel of judges for trying a particular case is determined according to procedure prescribed in paragraph 3 of Article 16-2 of this Code.
(Article 356 as amended by Law No 2670-III (2670-14) of 12.07.2001, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)).

Article 357. Preliminary consideration of a case by the court of appeals

In case of need, the court of appeals may hold preliminary consideration of the case.
Preliminary consideration of the case is conducted in court session by a single judge with necessarily required participation of the prosecutor. Other participants to trial may be cited in court session but their non-appearance does not preclude trial of the case.
Preliminary consideration of the case starts from the report of a judge who informs participants to trial on grounds underlying preliminary consideration of the case. Prosecutor and other participants to trial express their views with regard to issues submitted for consideration. The judge takes his/her decision in the retiring room.
After preliminary consideration of the case has been completed, the court may take one of the following decisions on:
1) issues related to preparation of the case for appeal trial;
2) dismissal of the appeal;
3) suspension of proceedings in the case;
4) remanding the case to trial court concerned.
A record is kept during preliminary consideration of the case if appropriate.

Article 358. Disposition of issues related to preparing a case for appeal trial

During preliminary consideration of the case, court of appeals may dispose the following issues related to preparing a case for appeal trial:
1) appropriateness of trial examination and its scope;
2) requesting, if appropriate, supplementary proofs;
3) list of persons to be cited in court session;
4) commission to trial court;
5) altering, revoking, or imposing a measure of restraint;

6) summoning a translator if necessary;
7) trial in open court or in camera;
8) day when, and place where, the case will be considered;
9) all other matters relating to preparation of the case for trial.
Convicted or acquitted person, their legal representatives should be necessarily cited in the court of appeals if the appeal raises the issue of worsening their situation or if the court finds it necessary to conduct trial examination. In such cases, their defense counsels are also cited if participation of the latter in the case under Article 45 of the present Code is mandatory. The prisoner should also be necessarily cited in court of appeals if he/she filed a petition thereon.
The court may find it necessary to conduct full or partial trial examination if probable cause exists to believe that trial court has conducted incomplete or biased trial examination.
In order to eliminate incompleteness or bias in trial examination by trial court, the court of appeals may direct this trial court to conduct particular procedural actions. In the exercise of such request, trial court conducts the appropriate procedural actions in accordance with chapter 26 of the present Code. Record of court session is forwarded to the court of appeals which directed trial court and is attached to records of the case.

Article 359. Other decisions the court of appeals may take at the stage of preliminary consideration of a case

Court of appeals dismisses the appeal if the latter has been filed by a person who is not entitled to.
The case is remanded to trial court whenever:
1) record of court session is not signed by presiding judge or clerk of court session – for complying with second paragraph of Article 87 of the present Code;
2) trial court has not considered comments on the record of court session nor has given, under Article 349 of the present Code, the possibility to review records of the case – for complying with Articles 88 and 349 of the present Code;
3) copy of judgment has not been served to the convicted, acquitted person - for complying with Article 344 of the present Code;
4) trial court accepted the appeal which is contrary to provisions of Article 350, first paragraph, Articles 351 or 352 of the present Code – for complying with Articles 353 or 354 of the present Code;
5) trial court has not complied with Article 353 of the present Code – for complying therewith.
If the defendant whose participation in the appeal trial is necessarily required falls ill, the court of appeals suspends appeal trial.
Whenever the appellant withdraws his/her appellate claims while other participants to the process do not lodge any appeal, the court of appeals passes the ruling to close appeal trial.

Article 360. Time-limits for appeal trial

Court of appeals should consider the case on the day fixed by trial court.
Court of appeals notifies all those concerned with the case of the time and place of trial, by placing an appropriate notice on the bulletin board of the court.
Prisoner concerned is notified of the day of trial through the head of the detention facility.
Court of appeals may postpone trial of the case for not more than 30 days if, at the stage preliminary consideration of the case or appellate trial of the case, the court found it appropriate to conduct trial examination, request submitting new proofs, cite certain person in court session, give instructions to trial court, as well as if the case is particularly complicated.

Article 361. Citing to appear before court of appeal

Persons are cited to appear before court of appeals as prescribed in Article 254 of the present Code.

Article 362. Trial in court of appeals

Having completed preparatory actions referred to in Articles 283 – 287, 293 of the present Code, presiding judge advises participants to trial of their rights and the right to give explanations with regard to filed appeals and speak in pleadings, while appellants are advised of their right to maintain their appeals or withdraw them. Petitions of participants to trial should relate to that part of judgment which is challenged by way of appeal, and the court decides on such petitions as prescribed in Article 296 of the present Code.
Thereafter, presiding judge or one of judges reports on the substance of judgment or decision, informs on the appellant and the scope of the appeal, narrates main arguments contained in appeals and objections of other participants to trial if any. Presiding judge finds out whether appellants maintain their appeals.
Non-appearance of participants to trial does not preclude trial of the case unless the present Code or appellate court's decision provides otherwise.
If court of appeals has not conducted trial examination after completion of actions referred to in paragraph 2 of the present Article, presiding judge makes additional materials, if any, materials submitted by trial court upon court of appeals' request known to participants to trial, hears their explanations with regard to filed appeals as prescribed in Article 318 of the present Code and proceeds to pleadings.
Trial examination in court of appeals is conducted in accordance with Chapter 26 of the present Code only with regard to that part of judgment whose legality and validity are challenged in the appeal.
Pleadings in court of appeals are held according to Article 318 of the present Code and consist in speeches by participants to trial with regard the challenged part of judgment. Appellants are to speak first. Prosecutor if he/she maintains the appeal filed by a prosecutor is to speak first, in other instances – the last.
The defendant, if he/she participated in the appellate trial, is given the possibility to make his/her last statement prior to the court retires in deliberation room to decree an award with regard to legality and validity of trial's court judgment.
Judges of appellate court deliberate as prescribed in Articles 322 and 325 of the present Code.
Record of court session is kept and the course of judicial process in the court of appeals is recorded with technical devices if the court of appeals conducts trial examination.

Article 363. Reopening trial examination

Court of appeals reopens trial examination as prescribed in Article 326 of the present Code if, during last statement of the convicted or acquitted person or during decreeing award by court of appeals, the necessity arises to examine new circumstances of the case or proofs which are confirmed or denied and if these circumstances and proofs relate to the challenged part of trial court's judgment.

Article 364. Closing appeal proceedings

Whenever the appellant withdraws his/her appellate claims while other participants to trial do not lodge any appeal, the court of appeals passes the ruling to close appeal proceedings.

Article 365. Extent to which court of appeals verifies the case

Court of appeals verifies the judgment, ruling or decision made by trial court within the scope of the appeal. Trial court's findings in respect of actual circumstances of the case which were not challenged and in whose respect proofs were not examined under Article 299 and Article 301-1 of the present Code are not subject to verification.
Whenever trial of the case gives grounds for taking a decision in favor of persons in whose respect appeals were not filed, the court of appeals is required to take such decision.

Article 366. Results of appellate trial

After having considered appeals against decisions referred to in Article 347, first paragraph, of the present Code, the court of appeals:
1) passes a ruling to maintain the judgment or decision and to dismiss the appeal; to reverse the judgment or decision and remand the case to prosecutor for supplementary investigation or a new trial in trial court; reverse the judgment or decision and dismiss the case; change the judgment or decision;
2) decrees its own judgment and sets aside trial court's judgment fully or partially;
3) takes its own decision and sets aside trial court's decision fully or partially.
After having considered appeals against decisions referred to in Article 347, second paragraph, of the present Code, the court of appeals:
1) passes a ruling to maintain the ruling or decision and to dismiss the appeal; to reverse the ruling or decision and refer the same to trial court for a new trial and, in case of setting aside ruling or decision to close the case, remand the case for supplementary investigation; reverse a presentment; change the ruling or decision;
2) passes its own ruling and sets aside trial court's ruling or decision fully or partially.

Article 367. Grounds for reversing or changing a judgment or decision

The following shall be grounds for reversing or changing judicial decisions referred to in Article 347, first paragraph, of the present Code during appellate trial:
1) biased or incomplete inquiry, pre-trial investigation or trial examination;
2) court's findings stated in a judgment (decision) inconsistent with actual circumstances of the case;
3) essential break of the statute of criminal procedure;
4) wrong application of criminal statute;
5) imposed punishment inconsistent with the gravity of crime and the person of the convicted individual.
It is not permitted that court of appeals sets aside a judgment of acquittal only because defendant's rights have been essentially violated. Court of appeals may not reverse the decision to deny enforcement of compulsory measures of educational or medical nature only because rights of the person in whose respect the issue of enforcing such measures was raised have been essentially violated.

Article 368. Biased or incomplete inquiry, pre-trial investigation or trial examination

Inquiry, pre-trial investigation or trial examination in trial court are considered to be biased or incomplete if circumstances whose ascertainment can have essential importance for correctly resolving the case were not examined.
In any case, inquiry, pre-trial investigation or trial examination are considered to be biased or incomplete:
1) if certain persons were not questioned, documents, exhibits, and other proofs were not requested to be submitted and examined in order to confirm or deny circumstances having essential importance for correctly resolving the case;
2) when circumstances stipulated in the ruling of court which remanded the case for supplementary investigation or a new trial were not examined, save that it was impossible

examine the same;
3) whenever necessity to examine a circumstance is attributable to new details established during appellate trial;
4) if details relating to the person of the convicted or acquitted individual were not established sufficiently fully.

Article 369. Findings of a trial court are inconsistent with actual circumstances of the case

A judgment or decision is considered to be inconsistent with actual circumstances of the case:
1) when court's findings are not confirmed by proofs examined in court session;
2) if the court ignored proofs which might have essentially affected its findings;
3) in so far as, with controversial proofs of essential importance for court's findings present, the judgment (decision) does not state why the court accepted one proofs and ignored the others;
4) whenever court's findings stated in the judgment (decision) contain essential controversies.
Based on these grounds, a judgment or decision should be reversed or changed only if inconsistency of court's findings with actual circumstances of the case might have affected the issue of the convicted person's guilt or acquitted person's innocence, the correct application of the criminal statute, the determination of sanction or enforcement of compulsory measures of educational or medical nature.

Article 370. Essential breaks of the criminal procedure statute

Essential breaks of the criminal procedure statute refer to breaks of the present Code which have obstructed or might have obstructed the court in thoroughly and completely trying the case and decreeing a legal, valid, and just judgment or decision.
2. In any case, a judgment (decision) should be reversed if:
1) the case has not been dismissed with grounds present therefor;
2) the judgment has been decreed by unlawful trial bench;
3) the accused's right to defense has been violated;
4) the accused's right to use his/her mother tongue or any other language he/she has knowledge of and the right to translator's assistance have been violated;
5) the case has been investigated by the persons who should be disqualified;
6) the case has been tried in the absence of the defendant, except as prescribed in Article 262, second paragraph, of the present Code;
7) rules governing jurisdiction have been ignored;
8) confidentiality of judges' deliberations has been broken;
9) the judgment (decision) concerned has not been signed by any judge of trial bench;
10) records of the case lack the record of court session or the course of judicial process has not been recorded, in instances specified in the present Code, with the use of technical devices;
11) Articles of the present Code related to compulsory bringing charges and reviewing records of investigation have not been complied with;
12) the indictment has not been approved by the prosecutor nor served to the defendant;
13) Articles of the present Code which set forth immutability of the trial bench and defendant's right to speak in pleadings and to last statement have been ignored.

Article 371. Wrong application of the criminal statute

The following is considered to be wrong application of criminal statute, which entails reversing or changing the judgment (decision) concerned:
1) non-application by court of the criminal statute which had to be applied;

2) application of the criminal statute which cannot be applied;
3) wrong interpretation of the statute which is inconsistent with its accurate meaning.

Article 372. Imposed punishment inconsistent with the gravity of crime and the person of the convicted individual

Punishment inconsistent with the extent of gravity of a crime and with the person of the convicted individual refers to punishment which falls within the limits of sanction prescribed in the appropriate provision of the Criminal Code but is clearly unjust by its form and amount both in terms of leniency and severity.
(Article 372 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 373. Changing a judgment (decision) by the court of appeals

The court of appeals changes a judgment in the following cases:
1) mitigation of punishment when the court finds that imposed punishment, by its severity, does not commensurate with the gravity of crime and the person of convicted individual;
2) changing description of the crime and applying the criminal statute which prescribes less severe crime;
3) reducing sums to be recovered or increasing the same if such an increase does not affect the scope of charges and description of crime;
4) in other instances in so far as changing the judgment does not worsen the situation of the convicted person.
The court of appeals changes the decision on the enforcement of compulsory measures of educational or medical nature in the following cases:
1) change of the description of a socially dangerous act and application of the provision of the Criminal Code which provides for liability for a less grave act;
2) mitigation of the type of compulsory measure of educational or medical nature.

Article 374. Setting aside a judgment (decision) and remanding the case to prosecutor for a supplementary investigation or a new trial

The court of appeals sets aside a judgment (decision) and remands the case to prosecutor for a supplementary investigation or a new trial:
1) if, at the stage of inquiry or pre-trial investigation, essential breaks of the statute of criminal procedure have taken place and excluded the possibility of decreeing a judgment or decision;
2) when grounds are present to apply criminal statute for a more grave crime charges of the commission of which were not brought against the convicted person, whenever prosecutor or victim or his/her representative, based on these grounds, filed an appeal;
3) in so far as grounds are present to apply criminal statute which punishes more severe socially dangerous act in contrast to that established by pre-trial investigation, in cases related to the enforcement of compulsory measures of educational or medical nature;
4) whenever appellate trial of the case establishes that biased nature or incompleteness of inquiry or pre-trial investigation cannot be eliminated in court session.
The court of appeals sets aside a judgment (decision) and remands the case for a new trial in trial court if essential breaks of the statute of criminal procedure were committed during consideration of the case in trial court and excluded the possibility of decreeing a judgment or decision, in particular breaks referred to in Article 370, second paragraph, subparagraphs 2, 3, 4, 6 to 10, and 13, of the present Code.
When setting aside a judgment (decision), the court of appeals may not decide in advance issues relating to whether charges have been proved or not, evidence is reliable or unreliable, one proof prevails over others, application by trial court of a criminal statute and punishment.

The court of appeals may set aside a judgment (decision) and remand the case for supplementary investigation or a new trial in terms of charges, having maintained the remaining part of judicial decision provided that these charges had their own determination and may be considered in a separate proceeding.
If a judgment (decision) has been reversed based on breaks which took place during trial of the case in court, the case is referred for a new trial by the court which decreed the judgment, but in a new trial bench.
Whenever a judgment (decision) has been reversed with remanding the case for supplementary investigation, the case is transferred to prosecutor through court which decreed the judgment (decision).
Orders of the court which tried a case by way of appeal shall be binding on the inquiry and pre-trial investigation charged with supplementary investigation and trial court charged with a new trial of the case.

Article 375. How trial court considers the case after the judgment (decision) concerned has been reversed

After a judgment (decision) has been reversed by the court of appeals, trial court tries the case in accordance with Chapters 25 – 28 of the present Code.
During a new trial of the case, trial court may apply the provision which punishes more grave crime and imposes more severe punishment only if the judgment was reversed upon prosecutor or victim or his/her representative's appeal in connection with the need to apply the provision which punishes more grave crime or if, when reversing the judgment, it was found appropriate to impose more severe punishment, as well as if supplementary investigation of the case established that the accused had committed the crime of a higher severity or if the scope of charges has increased.
During a new trial of the case related to the enforcement of compulsory measures of educational or medical nature, the nature of a socially dangerous act may re-determined for a more serious one if prosecutor or victim or his/her representative has filed an appeal in this respect.

Article 376. Dismissing a case by the court of appeals

Having ascertained circumstances specified in Articles 6, 7, 7-1, 7-2, 8, 9, 10, and 11-1 of the present Code, the court of appeals reverses the judgment of conviction or acquittal and dismisses the case.
(Article 376 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 377. Contents of the court of appeals' ruling

The ruling of the court of appellate instance consists of introduction, decscriptive part and reasoning, and operative part which should state:
1) place where, and time when the ruling was passed;
2) name of the court and trial bench which decreed the ruling;
3) names of participants to the trial in court session of appellate court;
4) contents of the judgment (decision);
5) appellant;
6) substance of the appeal;
7) brief statement explanations given by participants to court session;
8) analysis of evidence examined during full or partial trial examination by the court of appeals and detailed motives for the decision taken;
9) results of trial.
If the appeal was dismissed, court of appeals' ruling should state grounds based on which the appeal was considered to be ill – founded.

Whenever the judgment (decision) concerned was reversed or changed, the ruling should state which provisions have been broken and in what such breaks or ill-founded nature of the judgment (decision) consist.
When remanding the case for supplementary investigation or a new trial, the court of appeals should state in its ruling circumstances to be ascertained. Concurrently, the court may specify investigative actions to be conducted for ascertaining these circumstances.

Article 378. Judgment (decision) of the court of appeals

Court of appeals reverses the judgment of trial court and decrees its own judgment in the following cases:
1) when it is necessary to apply the provision which punishes more grave crime or to increase the scope of charges provided that a charged was brought against the convicted person for his/her having committed a crime of a graver severity or of having committed a crime in such a scope and that the convicted person defended from these charges in trial court;
2) when it is necessary to impose more severe punishment;
3) if ill-founded judgment of acquittal of trial court is reversed;
4) so far as the convicted person has been incorrectly released from serving his/her sentence.
A judgment of trial court may be reversed and a new judgment decreed by the court of appeals in cases referred to in the first paragraph of the present Article provided that prosecutor, victim, or his/her representative in their appeal raised the issue of setting the judgment concerned aside based on such grounds.
Court of appeals' judgment should comply with Articles 332 – 335 of the present Code. In addition, judgment of the court of appeals should state contents of the trial court's judgment, substance of the appeal, and motives for the decision taken.
The court of appeals sets aside the decision to enforce compulsory measures of educational or medical nature and decrees its own decision in the following cases:
1) whenever it is necessary to describe a socially dangerous act as a more serious one if investigator stated the same in the decision on dismissal of the case and enforcement of compulsory measures of educational nature or on referral of the case to court for disposing the issue of enforcing compulsory measures of medical nature;
2) if a more severe type of compulsory measures of educational or medical nature is enforced;
3) in so far as ill-grounded court's decision to dismiss a case in respect of insane person or an underage is reversed based on that they have not committed a socially dangerous act.
A judgment of trial court may be reversed and a new judgment decreed by the court of appeals based on such grounds provided that prosecutor, victim, or his/her representative filed an appeal based on the same grounds.
Court of appeals' judgment with regard to enforcement compulsory measures of educational or medical nature should comply with Articles 420 and 448 of the present Code. In addition, judgment of the court of appeals should state contents of the trial court's judgment, substance of the appeal, and motives for the decision taken.

Article 379. Drawing up ruling, decision, judgment, announcing the ruling (decision), and pronouncing the judgment of the court of appeals

One of judges draws up ruling of the court of appeals. After the ruling has been drawn up and signed by all judges, the court returns into the courtroom where one of judges pronounces the ruling.
Whenever drawing up the ruling takes a lot of time, the court may limit itself to drawing up and pronouncing only operative part which should be signed by all judges. The full text of the ruling should be composed within five days from the date on which operative part has

been pronounced before participants to trial. Previously drawn up operative part should fix the time for the pronouncement of the full text of the ruling.
Judgment and ruling of the court of appeals shall be drawn up and signed as prescribed in Articles 332 and 339 of the present Code. The judgment is pronounced while the decision is announced in accordance with Article 341 of the present Code.
The judge of the court of appeals who, - during decreeing a judgment, taking a ruling or a decision,- has his/her own separate opinion, may state the same in written in the retiring room. This document is not subject to be announced but is attached to records of the case.

Article 380. Presentment of the court of appeals

With grounds referred to in Article 23-2 of this Code present, the court of appeals makes a presentment. Moreover, court's presentment can draw attention of the officials concerned to breaks of law committed during investigation and consideration of the case by trial court.

Article 381. Execution of a ruling, judgment, decision of the court of appeals

In order to execute the ruling of the court of appeals, the case is referred to trial court within three days after it has been considered and, in instances specified in Article 379 of the present Code – after drawing up and announcing the full text of the ruling. In view of execution of a judgment or decision of the court of appeals unless they were challenged before the cassation court, the case is referred to trial court within three days after the judgment or decision has taken legal effect.

If a convicted person should be released from custody based on the court of appeals' decision, the court discharges him/her from custody in the courtroom. Whenever such a decision was taken in the absence of the convicted person, a copy of the decision is forwarded, within one day, to the administration of the place of detention pending trial. Administration of the place of detention pending trial is required to inform trial court, within one day after the administration has received a copy of the decision, on the release of the persons concerned from custody.
Trial court shall have the duty to verify execution of the decision on the release from custody.

Article 382. The way in which court's rulings and judge's decisions are verified

Appellate verification of judicial decisions referred to in Article 347, second paragraph, of the present Code is conducted in compliance with the present Chapter. Trial examination is not carried out during verification of such decisions. Appeals against judge's decisions made as prescribed in Articles 52-5, 165-2, 165-3, 177, 205, 462, 463 of the present Code shall be considered within three days after their receipt by the court of appeals. Appeals against judge's decisions made as prescribed in Articles 236-2, 236-6, 236-8, 468 of the present Code shall be considered within seven days after their receipt by the court of appeals. The court of appeals without any delay directs to submit materials required for consideration of such appeals.
The court of appeals may not decree its own judgment having set aside trial court's ruling (decision) to dismiss the case or refer the case for supplementary investigation.
After appellate verification of a local court's decision made as prescribed in Article 236-8 of the present Code, records of the case:
1) are forwarded to the agency conducting pre-trial investigation unless decision to institute criminal proceedings has been reversed;
2) are kept in records judicial proceedings on the complaint if decision to institute criminal proceedings has been reversed and instituting criminal proceedings has been denied.
(Article 382 as amended by Law No 462-V (462-16) of 14.12.2006, No 2286-VI (2286-17) of

21.05.2010).

Chapter 31
CASSATION PROCEEDINGS

Article 383. Judicial decision which may be verified by way of cassation

Judgments and decisions the court of appeals has taken by way of appeal may be verified by way of cassation.
Judgments made by local courts, decisions (rulings) of these courts in cases related to the enforcement of compulsory measures of educational or medical nature, other decisions (rulings) which obstruct proceedings in a case, rulings the court of appeals passed in respect of these judgments, decisions (rulings) unless the court of appeals reversed the said decisions while the case was referred for a new investigation or a new trial, as well as rulings the court of appeals passed in respect of extradition, may also be verified by way of cassation.
(For official interpretation of the provision of paragraph 2 of Article 383 see Decision of the Constitutional Court of Ukraine No 11-рп/2007 (va11p710-07) of 11.12.2007)
(Article 383 as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 3323-IV (3323-15) of 12.01.2006, No 2286-VI (2286-17) of 21.05.2010, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 384. Persons who may challenge by way of cassation or file cassation complaint

Cassation complaints against judicial decisions referred to in Article 383, first paragraph, of the present Code may be filed by persons who are specified in Article 348 of the present Code.
Cassation complaints against judicial decisions referred to in Article 383, second paragraph, of the present Code may be filed by:
1) convicted person, his/her legal representative and defense counsel – in so far as interests of the convicted person are concerned;
2) acquitted person, his/her legal representative and defense counsel – in terms of motives and grounds for acquittal;
3) legal representative, defense counsel of an underage and the underage himself/herself in whose respect compulsory measure of educational nature has been enforced – in so far as interests of the underage are concerned;
4) legal representative and defense counsel of the person in whose respect the issue of enforcing compulsory measure of medical nature was decided;
5) the accused whose case is dismissed, his/her legal representative and defense counsel - in terms of motives and grounds for dismissing the case;
6) civil defendant or his/her representative – in so far as resolution of the claim is concerned;
7) victim and his/her representative - in so far as victim's interests are concerned but within the scope of claims brought in trial court;
8) civil plaintiff or his/her representative – in so far as disposition of the claim is concerned;
9) person in whose respect the court has made a presentment.
10) person who appealed in court against the court's ruling to deny instituting a criminal case, except for the cases stipulated by law, - in terms of motives and grounds to deny instituting a criminal case.
Cassation complaint against judicial decisions referred to in Article 383, first paragraph, of the present Code may be filed by the prosecutor who participated in the trial of the case by

trial or appellate court or prosecutor who approved the indictment.
Cassation complaint against judicial decisions referred to in Article 383, second paragraph, of the present Code may be filed by the prosecutor who participated in the trial of the case by trial or appellate court, as well as by Prosecutor General of Ukraine and his/her deputies, prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv and Sevastopol, prosecutors assimilated to them and their deputies within the scope of their competence – irrespectively of their participation in the trial by trial or appellate court.
Persons entitled to file cassation complaint, cassation submission should be given the possibility to review records of the case in court in order to decide whether it is appropriate to file cassation complaint or cassation submission.
(Article 384 as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 3323-IV (3323-15) of 12.01.2006, No 839-VI (839-17) of 13.01.2009, No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 385. Courts which try cases by way of cassation

Cassation complaints against judicial decisions made by the Court of Appeals of the Autonomous Republic of Crimea, oblast appellate courts, appellate courts of the city of Kyiv and Sevastopol, judgments of rural district courts, urban district courts, city courts and city/ district courts are considered by panel of judges of the Chamber of High Civil and Criminal Court of Ukraine for Criminal Matters.
The panel of judges for trying a particular case is determined according to the procedure prescribed in paragraph 3 of Article 16-2 of this Code.
(Article 385 as amended by Law No 3323-IV (3323-15) of 12.01.2006, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 386. Time-limits for challenging by way of cassation and filing cassation submission

Cassation complaints and cassation submissions against judicial decisions referred to in Article 383, first paragraph, of the present Code may be filed within one month from the date on which the challenged judgment has been pronounced or ruling or decision announced while the convicted person kept in custody may file cassation complaint and cassation submission within the same time limit but computed from day on which he/she has been served a copy of the judgment or decision.
Cassation complaints and cassation submissions against judicial decisions referred to in Article 383, second paragraph, of the present Code may be filed within three months from the date on which such decisions has taken legal effect.
Nobody may direct the court which executes judicial decision to submit records of the case throughout the time-limit prescribed for challenging by way of cassation, except cassation court.
If the complaint or submission was filed after the expiration of time-limits specified in the first and second paragraphs of the present Article and the application for renewing this time limit was not lodged, the judge, in his/her decisions, finds that the complaint or submission as not subject to consideration. This time-limit may be renewed in cases and according to the procedure laid down in Article 353 of the present Code.
(Article 386 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the

procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 387. Procedure for challenging by way of cassation and filing cassation submission

Cassation complaints and cassation submissions against judicial decisions referred to in Article 383, first paragraph, of the present Code shall be filed through the court which decreed a judgment or made a ruling or decision while cassation complaints and cassation submissions against other decisions are directly lodge with cassation court. A complaint, submission should be attached copies thereof in the number sufficient to provide them to all interested participants of the trial. This rule does not apply to the convicted persons kept in custody. The complaint, submission against judicial decisions referred to in Article 383, second paragraph, of the present Code should be attached copies of the challenged judicial decisions.
Contents of cassation complaint and submission should comply with Article 350 of the present Code.
The court which decreed the challenged decision notifies of the receipt of a cassation complaint and submission against judicial decisions referred to in Article 383, first paragraph, of the present Code, as prescribed in Article 351 of the present Code.
(Article 387 as amended by Laws No 3323-IV (3323-15) of 12.01.2006, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 388. Processing a case in court of cassation

A case with cassation complaints and submissions against judicial decisions referred to in Article 383, first paragraph, of the present Code, are transferred for cassation trial after the court has received the case.
Cassation complaints and cassation submissions against judicial decisions referred to in Article 383, second paragraph, of the present Code are referred to a judge of cassation court who, within 15 days after they have been received, disposes the issue of requesting that records of the case be submitted. Records of the case are not requested if the complaint, submission - under Article 350, Article 383, second paragraph, Article 384, Article 386, second paragraph, Article 398, first paragraph, of the present Code – may not be considered by cassation court. The judge takes a motivated decision thereon and a copy of this decision is sent to the prosecutor or complainant. This decision may not be challenged. Denial to request submitting records of the case does not preclude requesting submitting records of the case when the submission or complaint is re-filed provided that deficiency specified in the court's decision are eliminated and the submission or complaint is filed within time limit fixed in Article 386 of the present Code or not later than one month after a copy of the decision to deny requesting submitting records of the case has been received. Concurrently with requesting submitting records of the case and with grounds present therefor, the judge may suspend executing judicial decision pending consideration of the submission or complaint by court, except decisions referred to in Article 383, first paragraph, of the present Code.
(Article 388 as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 3323-IV (3323-15) of 12.01.2006, No 2453-VI (2453-17) of 07.07.2010 – amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 389. Implications of the receipt of cassation complaints or submissions and the way in which they are assigned for cassation trial

Filing cassation complaints or submissions against judicial decisions referred to in Article 383, first paragraph, of the present Code suspends their taking legal effect.
Filing cassation complaints or submissions against judicial decisions referred to in Article 383, second paragraph, of the present Code does not suspend their taking legal effect.
After all requirements of Article 351 of the present Code have been complied with, the judge who made judicial decisions referred to in Article 383, first paragraph, of the present Code, within seven days, refers the case together with filed complaint, submission, and objections thereto to cassation court and fixes the date for trial and notifies all parties to the case thereon.
The judge of the cassation court who required submitting records assigns to trial cassation complaint referred to in Article 383, second paragraph, within 30 days after receiving the case. The judge informs the prosecutor and persons referred to in Article 384 of the present Code of assigning a trial and advises them that they have the right to file their objections to the submission of complaint or lodge their own submissions, complaint with regard to re-trial of the case by way of cassation.
(Article 389 as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 390. Supplementing, changing, and withdrawing cassations complaints and submissions

Prior to trial of the case in cassation court, the complainant, and persons referred to in Article 384, fourth paragraph, of the present Code – with regard to prosecutor within the scope of his/her positions – may supplement, change or withdraw them, as well as file their objections to the complaint, submission made by another participant to trial, in full respect with Article 355 of the present Code.
(Article 390 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 391. Persons who participate in the trial by way of cassation

Persons referred to in Article 384 of the present Code may participate in the session of cassation court which is held with the involvement of the prosecutor. If needed, the court may invite these persons to give explanations. Petition of the convicted person committed to custody, for citing him/her to give explanations during cassation verification of judicial decisions specified in Article 383, first paragraph, of the present Code if filed within the time-limit prescribed for challenging by way of cassation is obligatory for the court of cassation.
Participants to trial who appeared in court session may provide explanations.
(Article 391 as amended by Laws No 3323-IV (3323-15) of 12.01.2006).

Article 392. Time-limits for trial of a case in cassation court

Cassation submission, cassation complaint against judicial decisions referred to in Article 383, first paragraph, of the present Code are assigned for cassation trial within two months after they have been sent to cassation court while submission or complaint against judicial decisions referred to in Article 383, second paragraph, of the present Code are assigned for

cassation trial within two months after the decision to assign the case for cassation trial has been taken.
Notice of the time and place of trial should be placed in premises of cassation court at least three days before trial. In appropriate cases, trial of the case may be postponed by cassation court's ruling.
Cassation court well in advance notifies participants to trial that the date of trial has changed.
(Article 392 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 393. How cassation court accepts new materials

In order to confirm or deny arguments contained in a complaint or submission, the person who filed the complaint or submission may produce, to cassation court, documents which did not exist in records of the case. New materials may not be obtained through conducting investigative actions. The person who produces new materials should state how such materials had been obtained and what they mean for resolution of the case.
New materials may also be requested by cassation court.
(Article 393 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 394. Trial by cassation court

A case with cassation complaints and submissions against judicial decisions referred to in Article 383, first paragraph, of the present Code is considered with mandatory notification of the prosecutor and persons specified in Article 384 of the present Code.
(Paragraph 2 of Article 394 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
A case is considered by cassation court's trial bench composed of three judges with a prosecutor involved in compliance with the procedure prescribed in paragraphs 1, 2 and 3 of Article 362 of this Code. The court's trial bench considering court's decisions set forth in paragraph 2 of Article 383 of this Code, includes the judge who made a decision of requiring submitting the case and assigning for trial thereof.
Judges' deliberations should be held in compliance with Articles 322 and 325 of the present Code.
(Article 394 as amended by Laws No 3323-IV (3323-15) of 12.01.2006, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 395. Extent to which cassation court verifies a case

Cassation court verifies legality and validity of a court's decision based on records available in the case and additionally submitted materials to the extent it has been challenged.
Cassation court may go beyond cassation claims provided that situation of the convicted or acquitted person is not worsened thereby.
If satisfying a complaint or submission gives grounds for making a decision in favor of other convicted persons who have not filed complaints or in whose respect any submission has

been made, cassation court is required to make such a decision.
(Article 395 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 396. Results of trial by cassation court

After having considered a case by way of cassation, the court takes one of the following decisions:
1) maintains the judgment, decision, or ruling while dismissing cassation complaints or submission;
2) reverses the judgment, decision, or ruling and refers the case for a new investigation or a new trial by trial or appellate court;
3) reverses the judgment, decision, or ruling and dismisses the case;
4) changes the judgment, decision, or ruling.
Whenever cassations complaints or submissions are withdrawn, cassation court passes a ruling to dismiss cassation proceedings unless other participants to trial have challenged the decision by way of cassation.
(Article 396 as amended by Laws No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 397. Prohibition to worsen the situation of the convicted or acquitted person

Cassation court may not aggravate the punishment or apply the law which punishes for more serious crime.
When it is necessary to apply the law which punishes for more serious crime or imposes a more severe punishment, judgment of conviction decreed by appellate or local court, appellate court's ruling in respect of a local court's judgment may be set aside only if prosecutor filed an appropriate motion or the victim or his/her representative lodged an appropriate complaint.
Judgment of acquittal decreed by appellate or local court, appellate court's ruling in respect of a local court's judgment may be set aside only upon prosecutor's motion, complaint of the victim or his/her representative, as well as upon complaint of the acquitted person related to acquittal.
(Article 397 as amended by Laws No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 398. Grounds for reversing or changing a judgment, ruling, or decision

The following shall be grounds for reversing or changing a judgment, ruling, or decision:
1) essential break of the statute of criminal procedure;
2) wrong application of criminal statute;
3) imposed punishment inconsistent with the gravity of crime and the person of the convicted individual.
(Paragraph 4 of Article 398 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
Cassation court disposes the issue of whether grounds referred to in the first paragraph of

the present Article are present or not, being guided by Articles 370 – 372 of the present Code.
Cassation court may not reverse a judgment of acquittal or ruling, decision to dismiss the case only because rights of the accused have been essentially violated.
(Article 398 as amended by Laws No 2670-III (2670-14) of 12.07.2001, No 3323-IV (3323-15) of 12.01.2006).

Article 399. Cassation court's orders are binding

Orders of the court which has considered the case by way of cassation shall be binding upon the inquiry or pre-trial investigation when it comes to supplementary investigation and upon trial or appellate court in so far as re-trial of the case is concerned.

Article 400. Trial of a case after the judgment, decision, or ruling has been set aside

After the judgment, decision, or ruling has been set aside, the case should be tried in accordance with Article 23 – 30 of the present Code.
The punishment may be aggravated or the law which punishes more serious crime applied during a new trial of the case by trial court or appellate court only if the judgment has been set aside because the sanction imposed was lenient or if it is necessary to apply the law which punishes more serious crime upon prosecutor's motion or complaint of the victim or his/her representative, as well as if new investigation of the case has established that the accused has committed more grave crime or if the scope of charges increased.
(Article 400 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-1. Dismissal of the case by cassation court

Having ascertained circumstances referred to in Articles 6, 7, 7-1, 7-2, 8, 9, 10, and 11-1 of the present Code, cassation court sets aside the judgment of acquittal or decision and dismisses the case.
(Article 398 as amended by Laws No 2670-III (2670-14) of 12.07.2001).

Article 400-2. Cassation court's ruling

Cassation court's ruling is drawn up and read out in accordance with Articles 377, 379 of the present Code. In instances specified in Article 232 of the present Code, cassation court may make a presentment concurrently with decreeing the ruling.

Article 400-3. Executing the ruling

In order to execute cassation court's ruling, the case is referred to trial court within five days after it has been considered and, in cases specified in Article 379, second paragraph, of the present Code – after a motivated ruling has been drawn up and pronounced.
If a convicted person should be released from custody based on the cassation court's ruling, the court discharges him/her from custody in the courtroom. Whenever such a ruling was passed in the absence of the convicted person, a copy of the ruling is forwarded, within one day, to the administration of the place of detention pending trial for execution.
Administration of the place of detention pending trial is required to inform cassation court and trial court, within one day after the administration has received a copy of the ruling, on the release of the person concerned from custody.
Trial court is required to check execution of the ruling on the release of the prisoner from

custody.

Chapter 32
REOPENING CASES BASED ON NEWLY DISCOVERED CIRCUMSTANCES

(Title of Chapter 32 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

(Article 400-4 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-5. Grounds for reconsideration of court's decisions based on newly discovered facts

Court's decisions that have taken legal effect may be reconsidered based on newly discovered facts.
The following shall be considered to be newly discovered facts:
1) falsified proofs, wrong translation, testimonies of a witness, victim, accused, defendant, opinion and explanations of a court expert underlying the judgment concerned;
2) abuses the prosecutor, inquirer, investigator, or judges commit during proceedings in the case;
3) any other facts of which the court had no knowledge when decreeing its decision and which themselves or together with previously established facts show that conviction or acquittal of the defendant was a mistake.
Falsifying proofs, knowingly wrong translation, knowingly misleading testimonies of a witness, victim, knowingly wrong court's expert opinion and explanations, abuses of prosecutors, inquirers, investigators, and judges shall be grounds for reconsidering judicial decisions which have taken legal effect, by way of exceptional proceedings provided that they are established by a judgment which has taken legal effect and, if decreeing a judgment is impossible, - by records of the investigation.
(Article 400-5 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-6. Time-limits for reconsidering judicial decisions based on newly discovered facts

A judgment of acquittal, ruling or decision to dismiss a case upon discovery of new facts may be reconsidered only within statute of limitation prescribed by law for prosecution and not later than one year from the day on which new facts have been discovered.
The day when new facts have been discovered is considered to be the day on which court's judgment has taken legal effect as to the witness, victim, court expert, translator in connection with their knowingly misleading testimonies, knowingly wrong opinion, explanations, or translation; in respect of the prosecutor, inquirer, investigator, judge in connection with their abuses and with regard to other persons in connection with their falsifying proofs and, if decreeing a judgment appears to be impossible, - the day on which prosecutor has drawn, based on investigation records, a conclusion about presence of newly discovered facts.

The day when new facts in the form of acts by certain persons which do not have any indicia of crime and other facts have been discovered is considered to be the day on which prosecutor has drawn a conclusion that such facts are confirmed by records of investigation.
With evidence present which show that the person concerned has committed more grave crime than that for which he/she was convicted, the case may be reopened in connection with newly discovered facts only within statute of limitation for prosecution for more serious crime.
With evidence present which show that the convicted person is innocent or has committed less grave crime, reopening the case in connection with newly discovered facts is not limited by statute of limitation.
(Paragraph 6 of Article 400-6 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
Serving a sentence or death of the convicted person shall not preclude reopening his/her case in view of his/her discharge.
(Article 400-6 as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-7. Individuals who may raise the issue of reopening a case based on newly discovered facts

Prosecutor General of Ukraine and his/her deputies, prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv or Sevastopol, military prosecutor (who acts as oblast prosecutor) may file a submission to reopen a case upon discovery of new facts.
(Article 400-7 as amended by Law No 1876-VI (1876-17) of 11.02.2010, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-8. How prosecutor reopens a case upon discovery of new facts

Interested individuals, enterprises, institutions, organizations, and officials submit to prosecutor applications for reopening a case. Prosecutor may request the court to submit him/her records of the case for verification of the application.
In any case, prosecutor, when new facts come to his/her knowledge, is required to, personally or through the inquiry or investigators, conduct required investigation of such facts.
A decision to order investigation of new facts should be taken and such investigation is conducted in accordance with rules established in the present Code for the conduct of pre-trial investigation.
Having investigated newly discovered facts, district, city prosecutor, should grounds for reopening the case concerned be present, forwards the case - together with records of investigation or judgment res judicata, by which those guilty of falsifying proofs have been already convicted, and together with his/her conclusion - to, respectively, prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv or Sevastopol, military prosecutor (who acts as oblast prosecutor) who disposes the issue of filing an appropriate application with court of appeals.
Prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv or Sevastopol, military prosecutor (who acts as oblast prosecutor) forwards cases in

which the judgment has been decreed by court of appeals to Prosecutor General of Ukraine who disposes the issue of filing an appropriate application with cassation court based on newly discovered facts.
Whenever prosecutor finds no grounds for reopening a case upon newly discovered facts, he/she denies reopening the case concerned in his/her decision and informs thereon the applicants – enterprises, institutions, organizations. Such prosecutor's decision may be challenged before a higher prosecutor.
(Article 400-8 as amended by Law No 1876-VI (1876-17) of 11.02.2010, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-9. Raising the issue of reopening a case based on newly discovered facts

An application for reopening cases on the of newly discovered facts may be submitted to prosecutor by participant to the process and other persons entitled thereto under law.
(Article 400-9 as amended by Law No 1876-VI (1876-17) of 11.02.2010, as revised by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Article 400-10. Way in which cases are tried based on newly discovered facts

Appellate or cassation court considers the application for reopening a case upon discovery of new facts in accordance with rules prescribed for reconsideration of case by way of cassation.
Preliminary consideration of a case by way of appeal or cassation does not affect its consideration in the same court by way of reopening a case upon discovery of new facts.
(Paragraph 3 of Article 400-10 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
(Article 400-10 as amended by Laws No 1876-VI (1876-17) of 11.02.2010, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)

Chapter 32-1.
REVIEW OF JUDGMENTS BY THE SUPREME COURT OF UKRAINE

Article 400-11. Review of judgments by the Supreme Court of Ukraine

The Supreme Court of Ukraine reviews judgments in criminal cases exceptionally on the grounds and according to the procedure specified in the present Code.

Article 400-12. Grounds for reviewing of judgments by the Supreme Court of Ukraine

Grounds for reviewing of judgments by the Supreme Court of Ukraine which have taken legal effect are:
1) different application of the same norms of criminal law to similar socially dangerous acts (except for sentencing, release from punishment and criminal responsibility) by the court of cassation, that has caused delivery of judgments with different content;
2) finding of violation of international obligations by Ukraine in court's resolution of a case by international judicial agency, which jurisdiction is recognized by Ukraine.

Review of judgments on the grounds, prescribed by subparagraph 2 of paragraph 1 of this Article, in order to apply the law on more serious crime, to increase the extent of accusation or on other grounds to make the matters worse for convicted person and absolutory sentence, ruling or decision to close the case is not allowed.

Article 400-13. The right to apply for review of judgments by the Supreme Court of Ukraine

The range of persons which is defined in Article 384 of this Code shall be entitled to apply for review of judgment on the grounds prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code, after its review in the court of cassation.
Person, in favor of whom the decision was made by the international judicial agency, which jurisdiction is recognized by Ukraine, is entitled to submit the application for review of judgment on the grounds prescribed by subparagraph 2 of paragraph 1 of Article 400-12 of this Code.
The application for review of judgment by the Supreme Court of Ukraine in criminal cases may be submitted on the grounds prescribed by subparagraph 2 of paragraph 1 of Article 400-12 of this Code.
The application for review of rulings of the court of cassation, which don't obstruct execution of the case, cannot be submitted. Objections against such rulings may be included in the application for review of judgment, approved in consequence of cassation proceedings.

Article 400-14. The term of application submission for review of judgments

The application for review of judgment on the grounds prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code should be submitted within three months from the day of delivery of the judgment in respect of which the motion for review was made, or from the day of delivery of the judgment which is claimed for confirmation of the ground prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code, if it was provided later.
The application for review of judgment on the grounds prescribed by subparagraph 2 of paragraph 1 of Article 400-12 of this Code may be submitted within one month from the day when the person, in favor of whom the decision was made by the international judicial agency, which jurisdiction is recognized by Ukraine, got to know that this judgment had become final.
The review of absolutory sentence, ruling or decision on closing a case and other judgments in order to make the matters worse for convicted person on the ground prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code, is allowed only within the time limits for prosecution determined by law but not later than one year from the day of delivery of such judgment.
Serving the sentence or death of the convicted is not an obstacle to review the case for the benefit of his/her rehabilitation.

Article 400-15. The requirements for the application for review of judgments

The application for review of judgment by the Supreme Court of Ukraine should be submitted in written form.
The application for review of judgments should state the following:
1) name of the court;
2) person who submits the application and also his/her postal address, phone number, e-mail address if any;
3) specific different by content judgments in which different application by the court of cassation of the same norms of criminal law to similar socially dangerous acts are stated, if

the application was submitted on the ground prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code;
4) grounds for necessity of review of judgments in connection with the decision of international judicial agency, which jurisdiction is recognized by Ukraine, if the application was submitted on the ground prescribed by subparagraph 2 of paragraph 1 of Article 400-12 of this Code;
5) demands of the person who submits the application;
6) petition if needed;
7) list of materials which are attached.
The application should be signed by the person who submits it. Duly executed document which confirms the authority of the person who submits application in accordance with the requirements of this Code should be added to application.

Article 400-16. The order of application submission for review of judgments

The application for review of judgments should be submitted to the Supreme Court of Ukraine via the High Civil and Criminal Court of Ukraine. The following should be attached to the application:
1) copies of the application according to the quantity of parties to a suit (except for the event when the application is submitted by the person under custody);
2) copies of judgments for review of which the application was submitted;
3) copies of different by content judgments in which different application by the court of cassation of the same norms of criminal law to similar socially dangerous acts are stated, if the application is submitted on the ground prescribed by subparagraph 1 of paragraph 1 of Article 400-12 of this Code;
4) copy of the decision of international judicial agency, which jurisdiction is recognized by Ukraine, if the application for review of judgments is submitted on the ground prescribed by subparagraph 2 of paragraph 1 of Article 400-12 of this Code.

Article 400-17. Test of the application compliance with the present Code requirements by High Civil and Criminal Court of Ukraine

An application for reopening cases submitted to High Civil and Criminal Court of Ukraine is registered on the day of its receipt and is forwarded not later than the subsequent day to the judge-rapporteur designated by the procedure established in paragraph 3 of Article 16-2 of the present Code.
The judge-rapporteur carries out the test of the application compliance with the present Code requirements within three days. In case the application is submitted without compliance with the requirements of Articles 400-15 and 400-16 of the present Code, a notice is served on the applicant concerning the application deficiency and the period within which it should be eliminated.
The applicant having eliminated the application deficiency within the established period, the application is considered submitted the day of its original submission to High Civil and Criminal Court of Ukraine.
The application is returned to the applicant in case:
1) the applicant has not eliminated the application deficiency within the established period;
2) the application is submitted by the person not entitled to such an application submission;
3) the application is submitted on behalf of the person without appropriate powers;
4) there is High Civil and Criminal Court of Ukraine decision which is adopted on similar grounds and concerns refusal of taking jurisdiction due to the consequences of the case consideration.
The application return based on the grounds mentioned in paragraph 4 of this Article does not preclude the second appeal in case of the proper application execution or on other

grounds different from those having been matter at issue.

Article 400-18. Taking jurisdiction by High Civil and Criminal Court of Ukraine

The solution for taking jurisdiction is carried out by the chamber composed of five judges from High Civil and Criminal Court of Ukraine without the participation of the judges having taken the decision being appealed against and by the procedure established in paragraph 3 of Article 16-2 of the present Code.
High Civil and Criminal Court of Ukraine decides on taking jurisdiction or its refusal within the 15-days-period since the day of the application receipt. The decision is adopted in the decision room in compliance with the requirements of Articles 322 and 325 of the present Code without summoning the persons participating in the case. The decision on taking jurisdiction or its refusal should be motivated.
The decision on taking jurisdiction jointly with the review of judgment application and the enclosed documents is dispatched to the Supreme Court of Ukraine within five days since its adoption. The copy of the decision on taking jurisdiction jointly with the copy of the application is dispatched to the persons established in Article 384 of the present Code; in the case of refusal it is dispatched to the applicant.

Article 400-19. Case preparation for the Supreme Court of Ukraine consideration

The decision on taking jurisdiction jointly with the review of judgment application and the enclosed documents is registered on the day of its receipt and is forwarded not later than the subsequent day to the judge-rapporteur designated by computerized court document control system. The judge-rapporteur passes a ruling on taking jurisdiction within three days and dispatches its copies to the persons participating in the case.
The judge-rapporteur carries out the case preparation for the Supreme Court of Ukraine consideration within the 15-days-period since the day of the proceedings commencement:
1) he passes a ruling on vindication of the case papers and directs it to the appropriate court;
2) he establishes order of proceedings (meetings in curia or in camera in the cases designated by the present Code);
3) he entrusts the appropriate experts of the Supreme Court of Ukraine research advisory board with the scientific conclusion preparation concerning the sanction of criminal law differently applied by the appeal instance court as for the similar socially dangerous actions;
4) he determines the bodies of state authority the representatives of which can provide explanations useful for the case solution in the court, and gives orders for their summoning;
5) he carries out other measures necessary for the solution of differences elimination concerning substantive enforcement.
Based on the results of preparatory acts being carried out, the judge-rapporteur prepares the report and passes a ruling on preparation conclusion and case assignment for the Supreme Court of Ukraine consideration.

Article 400-20. Order of proceedings in the Supreme Court of Ukraine

The case is tried by the Supreme Court of Ukraine in court session.
The session of the Supreme Court of Ukraine is plenipotentiary provided two thirds of judges of the panel of the Supreme Court of Ukraine are present as prescribed by law. The Prosecutor General of Ukraine or his/her deputy participates in court session.
Opening of court session, advising persons engaged in the case of their rights and duties, announcing the bench of the court and advising of the right to disqualify are carried out as provided by the rules of Section III, Chapter 25 of this Code.
Upon legal proceedings referred to in paragraph 3 of this Article and consideration of

petitions of participants in the case, the reporting judge reports the necessary information on requirements of the claim before the Supreme Court of Ukraine, as well as preparatory work effected.
The person who files a claim to the Supreme Court of Ukraine, as well as persons who joined him/her, have the right to give explanations in respect of merits of the asserted claim if they are present at the hearing. Where these claims are filed by both parties, prosecution is the first to give explanations. Explanations of governmental authorities' representatives may be heard to clarify a rule of criminal law.
Non-appearance of participants in the case who were duly informed of date, time and place of hearing of the case in order to take part in the court session does not preclude the hearing of the case.
Having heard explanations of the parties referred to in paragraph 5 of this Article, the bench goes to the retiring room for adoption of the court's judgment.
The judges' deliberation is held in compliance with requirements as prescribed by Articles 322 and 325 of the present Code.
Time period for consideration of the case by the Supreme Court of Ukraine may not exceed one month from the date of the opening of proceedings.

Article 400-21. Powers of the Supreme Court of Ukraine

After considering the case one of the following decisions is taken by majority of the panel of judges:
on complete or partial satisfaction of the claim;
on dismissal of the claim.
Judges who disagree with the decision, may pass their opinion which is added to the decision.
The decision of the Supreme Court of Ukraine is final and cannot be appealed except as prescribed by sub-paragraph 2 of paragraph 1 of Article 400-12 of the present Code.

Article 400-22. Decision of the Supreme Court of Ukraine on satisfaction of claim

The Supreme Court of Ukraine satisfies the claim in case one of the grounds provided by paragraph 1 of Article 400-12 of this Code is present.
Where the Supreme Court of Ukraine finds that the court's judgment in the case submitted to a new trial is illegal, the judgment is overturned in whole or in part and the case is referred for a new investigation to the court of cassation.
Where the court's judgment in the case is reconsidered on the grounds prescribed by sub-paragraph 2 of paragraph 1 of Article 400-12 of the present Code, the Supreme Court of Ukraine overturns the challenged judgment in whole or in part and refers the case for a new investigation to the court which made the challenged judgment.
The decision of the Supreme Court of Ukraine on satisfaction of the claim must be reasoned.

Article 400-23. Decision of the Supreme Court of Ukraine on dismissal of claim

The Supreme Court of Ukraine dismisses the claim if circumstances resulting in reopening the case were not confirmed.
The decision on dismissal of claim must be reasoned.

Article 400-24. Notification of taking decision and execution thereof

The decision of the Supreme Court of Ukraine must be executed and sent to parties referred to in Article 384 of the present Code within five days after completion of consideration of the case.

Article 400-25. Binding nature of court's judgments of the Supreme Court of Ukraine

The decision of the Supreme Court of Ukraine taken following the investigation of the claim on reconsideration of the court's judgment because of unequal application of the same rules of criminal law regarding similar socially dangerous acts by the court of cassation, is binding for all the subjects of the governmental powers applying the specified rule of law, as well as for all the courts of Ukraine.
Neglect of court's judgments entails the responsibility as prescribed by law.
(Section IV is added by Chapter 32-1 by Law No 2453-VI (2453-17) of 07.07.2010 - amendments regarding introduction of automated electronic document management system in courts shall come into force on 01.01.2011, and changes to the procedure of execution of power by the Supreme Court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010 }

(Section IV as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, Laws No 2464-XII (2464-12) of 17.06.92, No 2857-XII (2857-12) of 15.12.92, No 3129-XII (3129-12) of 22.04.93, No 3780-XII (3780-12) of 23.12.93, No 4018-XII (4018-12) of 24.02.94, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001)

Section V
EXECUTION OF COURT'S JUDGMENT, RULING, AND DECISION

Chapter 33
EXECUTION OF COURT'S JUDGMENT, RULING, AND DECISION

Article 401. Legal effect of a judgment and its execution

Local court's judgment takes legal effect after the expiration of time-limit for appeals while appellate court's judgment takes legal effect after the expiration of time-limit for cassation complaint, cassation submission unless it has been challenged or a submission made against it. Should appeals, cassation complaint or cassation submission be filed, a judgment, unless it has been reversed, takes legal effect after the trial of the case by appellate or cassation court, respectively, unless the present Code prescribes otherwise.
When only a part of judgment has been challenged or if several defendants have been convicted while the judgment is challenged in respect of one of them, other parts of judgment or judgment in respect of other convicted persons does not take legal effect till appellate or cassation court passes a ruling.
Judgment of conviction is enforced after it has taken legal effect.
The convicted individual who is kept in custody may not be moved in places of confinement located in another area till the judgment takes legal effect.
Judgment of acquittal and judgment which discharges the defendant from punishment is enforced immediately after it has been pronounced. Whenever the defendant is committed to custody, the court releases him/her from custody in courtroom.
(Article 401 as amended by Law No 2857-XII (2857-12) of 15.12.92, as revised by Law No 2553-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 402. How court's ruling and decision takes effect and are executed

Trial court's ruling and decision, unless the present Code provides otherwise, takes legal

effect and are executed after the expiration of time-limit for appeals while appellate court's ruling and decision takes legal effect after the expiration of time-limit for cassation complaint, cassation submission. Unless these decisions have been appealed against, or cassation complaints or submission have been filed against them and unless they have been reversed, they take legal effect and are executed after they are considered by appellate or cassation court, unless the present Code prescribes otherwise.
Rulings and decisions of appellate and cassation court takes legal effect immediately after they have been pronounced, unless the present Code prescribes otherwise.
Unchallengeable court's ruling and decision take legal effect and are executed immediately after they have been decreed.
(Article 402 as amended by Law No 2857-XII (2857-12) of 15.12.92, as revised by Law No 2553-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 403. Binding nature of court's judgment, ruling, and decision

Court's judgment, ruling, and decision which have taken legal effect shall be binding upon all public and civil society enterprises, institutions, organizations, officials, and citizens and should be enforced throughout the entire territory of Ukraine.
(Article 403 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2857-XII (2857-12) of 15.12.92).

Article 404. Way in which a judgment is enforced

A judgment which has taken legal effect is enforced by the court which has decreed the judgment, within three days after it has taken legal effect or after the case has returned from appellate or cassation court.
Together with its order to enforce the judgment of conviction, the court forwards a copy of the judgment to the agency which has been assigned enforcement of the judgment.
To ensure educational impact of the judgment, the court, as appropriate, sends its copy to the enterprise, institution, organization where the convicted individual was employed.
If a convicted person is released on probation under Articles 75 and 104 of the Criminal Code of Ukraine (2341-14), the court sends a copy of the judgment to the agency in charge of enforcing sentences in the place or residence of the convicted person and, if it comes to an underage, - to the Service in charge of Juveniles either, for control of his/her behavior, and, when convicted servicemen are concerned, - to commanders of military units who, under Article 76, second paragraph, of the Criminal Code of Ukraine, shall control such convicted persons' behavior.
Whenever documents, valuables, and other effects have been seized from an acquitted person or individual whose case has been dismissed or if assets of such persons have been attached, a copy of the judgment which has taken legal effect or appellate or cassation court's ruling is sent to appropriate agencies for releasing back seized documents, valuables, and other effects, as well as for revoking attachment of assets.
A judgment may not be enforced or being enforced in so far as conviction for an act which became non-punishable under a new criminal statute is concerned.
The judge or president of the court that decreed the judgment is responsible for the timely enforcement of the judgment which has taken legal effect.
Agencies in charge of enforcing the judgment, decision, or ruling notify the issuing court of the execution of the judgment, decision, or ruling concerned.
(Article 404 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2547-XII (2547-12) of 07.07.92, as revised by Law No 2533-III (2533-14) of 21.06.2001 - effective from 29.06.2001, as amended

by Law No 2670-III (2670-14) of 12.07.2001).

(Article 405 is omitted by Law No 2670-III (2670-14) of 12.07.2001).

Article 405-1. Way in which the law releasing from punishment or mitigating punishment is executed

Convicted person may be released from punishment or his/her punishment may be mitigated under Article 74, second and third paragraphs, of the Criminal Code of Ukraine, by court upon convicted person's petition or submission of the prosecutor or agency in charge of enforcing sentences.
Court's ruling with regard to release from punishment or mitigation of punishment should be based but on circumstances of the case as established by court during decreeing the judgment and on their legal evaluation by court.
(Article 405-1 is added by Law No 2547-XII (2547-12) of 07.07.92, as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 406. Crediting the time the convicted person spent in a health institution to the length of sentence

If a person imprisoned upon court's judgment is placed, during the service of his/her sentence, in a health institution in connection with a mental or any other disease, the time spent by prisoner in this health institution is credited to the length of sentence.

Article 407. Granting parole and replacing unserved portion of sentence with more lenient sentence

Parole and replacement of unserved portion of sentence with more lenient sentence under Articles 81 and 82 of the Criminal Code of Ukraine may be granted by judge of district (city) court in the place of service of the sentence upon joint submission of agency responsible for execution of sentences and supervisory board or Service in charge of Juveniles.
(Paragraph 2 of Article 407 is omitted by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010)
The said submissions should be considered by court within 10 days after the receipt of such submissions without requesting records of the case and with participation of the prosecutor, representative of the agency in charge of execution of sentences, and, as a rule, of the convicted person.
When it comes to joint submission of the agency responsible for execution of sentences and the supervisory board of the Service in charge of Juveniles, the court notifies them of the time when, and place where, such submission will be considered.
Whenever the court denies parole or replacement of unserved portion of sentence with more lenient sentence, a new submission as to persons sentenced for grave and especially grave crimes for imprisonment of up to five years may be considered in one year after the decision on denial has been made, and, as far as persons sentenced for other crimes and juveniles are concerned, - not earlier than in six months.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced. Filing an appeal by prosecutor precludes execution of the said decision.
(Article 407 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) 30.08.71, No 862-VIII (862-08) of 21.07.72, No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 –

effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001).

Article 407-1. Releasing pregnant women and women having children up to three years old from the service of their sentences

Pregnant women and women having children up to three years old are released from the service of their sentences, under Article 83 of the Criminal Code of Ukraine, by judge of district (city) court in the place of service of the sentence upon joint submission of agency responsible for execution of sentences and supervisory board.
(Article 407-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77; as amended by Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, as revised by Law No 2670-III (2670-14) of 12.07.2001).

Article 408. Releasing from punishment in connection with a disease

With grounds referred to in Article 84 of the Criminal Code of Ukraine present, judge of district (city) court in the place of service of the sentence considers submission of the agency responsible for execution of sentences and opinion of medical commission and releases the convicted person concerned from the punishment or further service of the sentence.
When releasing a prisoner who fell ill of a chronic mental disease from the further service of sentence, the judge may impose compulsory measures of medical nature under Articles 92 – 95 of the Criminal Code of Ukraine.
If a person sentenced to correctional or public works or a fine falls ill of a mental or any other serious disease, judge takes a decision to release him/her from serving the remaining portion of his/her sentence.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
(Article 408 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 487-IV (487-15) of 06.02.2003).

Article 408-1. Releasing from probation after expiration of probation period

A convicted person is released from his/her punishment based on grounds referred to in Article 78, first paragraph, of the Criminal Code of Ukraine (2341-14) by judge of district (city) court in the place of convicted person's residence upon petition of the convicted person or submission of the prosecutor or agency responsible for execution of sentences.
(Article 408-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, as revised by Law No 2670-III (2670-14) of 12.07.2001).

Article 408-2. Revoking release of probation

Release on probation granted by court's judgment under Articles 75 and 104 of the Criminal Code of Ukraine is revoked by judge of district (city) court in the place of convicted person's residence upon submission of the agency responsible for execution of sentences and, when it comes to juveniles – upon joint submission of the agency responsible for execution of sentences and the Service in charge of Juveniles, with grounds referred to in Article 78,

second paragraph, of the Criminal Code of Ukraine present.
(Second paragraph of Article 408-2 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Third paragraph of Article 408-2 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
Issues referred to in the present Article are considered in court session with participation of representatives from agencies which are responsible for execution of sentences and which, under Article 76 of the Criminal Code of Ukraine, control behavior of such convicted persons.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
(Article 408-2 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (1784018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001).

Article 408-3. Revoking release of pregnant women and women having children up to three years old from the service of their sentences

With grounds referred to in Article 83, fourth and fifth paragraphs, of the Criminal Code of Ukraine present, judge of district (city) court, upon submission of the body of criminal executive system in the place of residence of the woman concerned, considers the issue related to her release from serving the sentence or replacement of her sentence with more lenient one or sending her for serving the sentence imposed.
(Second paragraph of Article 408-3 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
The said submission are sent to court together with materials which support circumstances referred to in Article 83, fourth and fifth paragraphs, of the Criminal Code of Ukraine and considered by judge within ten days after they have been received by court, with participation of prosecutor, representative of the agency which is responsible for execution of sentences or control of the convicted person's behavior and, as a rule, of the convicted person herself.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
(Article 408-3 is added by Law No 137/94-BP (137/94-BP) of 27.07.94, as amended by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 1254-VI (1254-17) of 14.04.2009).

Article 409. Court which disposes issues related to judgment execution

The court which has decreed the judgment disposes various doubts and controversies which can arise during execution of the judgment, including application of retroactive criminal statute, in accordance with Article 5, second and third paragraphs, of the Criminal Code of Ukraine.
When a judgment is executed outside the area of operation of the district court which has decreed the judgment, such issues are disposed by judge of district, city district, city or interdistrict court and, in the place where the judgment is executed.
A judgment as to persons serving their sentences is aligned with a new law which releases from punishment or mitigates the same, as prescribed in Article 5, second and third paragraphs, of the Criminal Code of Ukraine, by a ruling of the court operating in the place where the sentence is served.
The issue related to releasing a convicted person from the service of his/her sentence in connection with a disease under Article 408 of the present Code is disposed by judge of district, city district, city or interdistrict court operating in the place where the sentence is

served, whatever court has decreed the judgment.
(Fifth paragraph of Article 409 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Article 409 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX 179 (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 2547-XII (2547-12) of 07.07.92, No 4018-XII (4018-12) of 24.02.94, No 2670-III (2670-14) of 12.07.2001, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

(Article 409-1 is omitted by Law No 2670-III (2670-14) of 12.07.2001).

Article 410. Substituting punishment in the form of public works for a fine, fine for correctional works, official restrictions for restriction or deprivation of liberty, service in a disciplinary battalion for imprisonment

(First paragraph of Article 410 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
Judge of district (city) court, upon submission of the agency responsible for execution of sentences or upon petition of the collective, disposes the issue of substituting punishment in the form of public works for a fine under Article 53, fourth paragraph, of the Criminal Code of Ukraine; a fine for correctional works under Article 57, third paragraph, of the Criminal Code of Ukraine; service in a disciplinary battalion for imprisonment under Article 62, first paragraph, of the Criminal Code of Ukraine; official restrictions for restriction or deprivation of liberty under Article 58, first paragraph, of the Criminal Code of Ukraine.
All issues referred to in the present Article are considered by court operating in the place where the sentence is executed, with participation of prosecutor, representative of the agency which is responsible for execution of sentences and, as a rule, of the convicted person himself/ herself.
If the court considers a case upon submission of the administration of penitentiary institution as agreed with supervisory board or the Service in charge of Juveniles, the court notifies the appropriate supervisory board of the time when, and the place where, the submission will be considered.
After the report on the case, the court hears explanations of the cited persons and prosecutor's conclusion and thereafter takes a decision in the retiring room.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
(Seventh paragraph of Article 410 is omitted by Law No 2670-III (2670-14) of 12.07.2001).
(Article 410 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 - eff. 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2377-IV (2377-15) of 20.01.2005).

Article 410-1. Provisionally keeping a convicted person in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine or in prison and transferring from a penitentiary institution in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine

Issues related to the situation when a person sentenced to imprisonment with the service of his/her sentence in a penitentiary institution, disciplinary battalion should be kept in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine, as well as issues related to provisionally transferring the convicted person from a penitentiary institution in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine if it

is necessary to conduct investigative actions in a case related to crime committed by another person are decided by the investigator or inquiry agency upon sanction of the prosecutor of the Autonomous Republic of Crimea, oblast prosecutor, prosecutor of the city of Kyiv as well as prosecutors assimilated to them in cases when the convicted person should be kept or transferred for the period of up to two months, upon sanction of a deputy of the Prosecutor General of Ukraine – for the period of up to four months, and upon sanction of the Prosecutor General of Ukraine – up to six months.
Whenever provisionally keeping a convicted person in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine or transferring him/her from a penitentiary institution in investigation isolation ward of the military detention facility of the Military Justice Service of the Armed Forces of Ukraine are necessary in connection with trial of a case, these issues are disposed by court which proceeds the case.
(Article 410-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2857-XII (2857-12) of 15.12.92, No 743-IV (743-15) of 15.05.2003, No 2377-IV (2377-15) of 20.01.2005).

Article 411. Way in which issues related to execution of a judgment are disposed

Issues related to execution of a judgment are disposed by court in court session with participation of prosecutor.
Typically, the convicted person and, upon his/her petition, defense counsel are cited in court session. If the issue relates to execution of judgment in so far as civil claim is concerned, civil plaintiff and civil defendant are also cited as appropriate. Non – appearance of these persons does not affect trial of the case.
When the court disposes the issue of releasing from the service of sentence in connection with a disease of the convicted person, presence of the representative of medical commission which issued the opinion on the state of health of the convicted person is necessarily required.
Trial of the case starts with judge's report; thereafter explanations of those who appeared in court session and prosecutor's opinion are heard. Then the judge retires in the deliberation room to make a decision.
The record of court session is kept when the court disposes issues related to execution of judgment.
(Article 411 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada of 10.09.62, No 1851-IX (1851-09) of 23.03.77, by Laws No 2464-XII (2464-12) of 17.06.92, No 2670-III (2670-14) of 12.07.2001, No 3150-IV (3150-15) of 30.11.2005).

Article 411-1. Court's imposing compulsory medical treatment on convicted persons who are alcoholics or drug addicts and revoking such measure

The issue of compulsory medical treatment of convicted persons who are alcoholics or drug addicts and serve their sentence in a penitentiary institution, unless such treatment was prescribed in court's judgment under Article 96 of the Criminal Code of Ukraine is disposed by judge of district (city) court operating in the place where these persons serve their sentences, upon submission of penitentiary institution's administration and based on the opinion of medical commission.
The issue of terminating compulsory medical treatment from alcoholism or drug addiction, which was ordered under Article 96 of the Criminal Code of Ukraine (2341-14) is disposed by judge of district (city) court operating in the place where the person concerned serves his/her sentence or health institution where the convicted person undergoes medical treatment, upon submission of penitentiary institution's administration or management of medical institution and based on the opinion of medical commission.

The judge considers issues referred to in the present Article with participation of the prosecutor, representative of penitentiary institution's administration or management of medical institution which filed the submission, representative of medical commission which issued the opinion and, as a rule, of the convicted person. Prosecutor's non – appearance does not preclude consideration of these issues by the judge.
After judge's report; explanations of those cited in court session and prosecutor's opinion are heard. Then the judge retires in the deliberation room to make a decision.
Prosecutor, prisoner may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
(Article 411-1 is added by virtue of the Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 2281-IX (2281-09) of 01.07.77, as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2377-IV (2377-15) of 20.01.2005).

(Article 412 is omitted under Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71).

Article 413. Imposing a punishment in case of several judgments

Whenever a judgment exists in respect of a convicted person which has not been executed and of which the court which decreed the last by time judgment was unaware, the court operating in the place where its judgment is executed is required to define the way in which all sentences should be served under Article 71 of the Criminal Code of Ukraine (2341-14).
This issue is disposed as prescribed in Article 411 of the present Code: by decision of the judge of district, city district, city and interdistrict court if all judgments were decreed by single judges; by decision of the judge of district, city district, city and interdistrict court if at least one of the judgments was decreed by panel of judges in a district, city district, city and interdistrict court; ruling of the Court of Appeals of the Autonomous Republic of Crimea, oblast appellate courts, appellate courts of the city of Kyiv and Sevastopol if at least one judgment was decreed by the Court of Appeals of the Autonomous Republic of Crimea, oblast appellate courts, appellate courts of the city of Kyiv and Sevastopol.
(Article 413 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by Law No 4018-XII (4018-12) of 24.02.94, as amended by Law No 2670-III (2670-14) of 12.07.2001, as revised by Law No 2453-VI (2453-17) of 07.07.2010 –changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Article 414. Court's considering the application for quashing criminal record

Applications of persons who have served their sentences and of collective of enterprise, institution, or organization for early quashing criminal record under Article 91 of the Criminal Code of Ukraine are considered by judge of district (city) court operating in place of permanent residence of persons on whose respect applications have been lodged.
Application for quashing criminal record is considered with participation of the applicant and, when application is filed by the collective of an enterprise, institution, or organization, - with participation of the representative of the latter. The judge considers these applications without requesting that records of the case be submitted. If appropriate, the judge may request submitting required documents.
Prosecutor participated in consideration of these applications. Prosecutor's non – appearance in court session does not affect consideration of applications by the judge.

Having considered applications, the judge takes a motivated decision in the retiring room. Judge's decision is read out in court session and a copy thereof is served to the individual in whose respect the issue of canceling or early quashing criminal record was decided. Prosecutor, the convicted person may challenge the decision taken on issues referred to in the present Article before court of appeals within seven days after such decision has been pronounced.
If the judge denies early quashing criminal record, next application may be filed not earlier than in one year from the date on which the first application has been dismissed.
(Article 414 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Laws No 2464-XII (2464-12) of 17.06.92, No 4018-XII (4018-12) of 24.02.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 1276-VI (1276-17) of 16.04.2009).

(Article 414-1 is omitted by Law No 2377-IV (2377-15) of 20.01.2005).

Article 415. Supervising legality of judgments and other judicial decisions execution

Prosecutor supervises observance of legality during execution of judicial decisions made in criminal cases, as well as during enforcement of other compulsory measures consisting in restriction of personal freedom of an individual.
Prosecutor's orders concerning execution of judgments, rulings, and decisions are binding upon all bodies and officials that execute the same.
(Article 415 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Section VI
IMPOSING COMPULSORY MEASURES OF MEDICAL NATURE

Chapter 34
IMPOSING COMPULSORY MEASURES OF MEDICAL NATURE

Article 416. Grounds for imposing compulsory measures of medical nature

Compulsory measures of medical nature stipulated in Article 94 of the Criminal Code of Ukraine shall be imposed on persons defined in Article 93 of the Criminal Code of Ukraine upon court's ruling or judge's decision.
Compulsory measures of medical nature are only ordered against persons who are socially dangerous.
(Article 416 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 417. Pre-trial investigation in cases of insane persons or persons with limited criminal capacity

Pre-trial investigation in cases related to socially dangerous acts committed by insane persons or persons with limited criminal capacity, as well as to crimes committed by insane persons who fell ill of a mental disease prior to a judgment has been decreed is conducted by pre-trial investigation agencies in accordance with Articles 111 – 130, 148 – 222 of the present Code.
All required investigative actions are conducted during pre-trial investigation in order to thoroughly and completely ascertain circumstances of the socially dangerous act concerned and the person who committed the same, as well as circumstances which characterize these person and his/her mental disease.
If after the completion of pre-trial investigation the person who has committed socially dangerous act is found to be insane or having limited criminal capacity, a decision is drawn up to refer the case to court so that the latter disposes the issue of imposing compulsory

measures of medical nature. The decision should state all circumstances with confirm that this persons did commit socially dangerous act, as well as should contain all details which confirm that this persons did fall ill of a mental disease. This decision together with record of the case is forwarded to prosecutor.
(Article 417 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, by Law No 2670-III (2670-14) of 12.07.2001).

Article 418. How prosecutor acts in cases of insane persons or persons with limited criminal capacity

Having received records of the case together with decision drawn up in accordance with Article 417 of the present Code, prosecutor:
1) approves the decision, if agrees therewith, and refers the case to court;
2) having found that psychiatric examination and other evidence in the case are insufficient to come to a conclusion about state of mental health of the accused or that evidence in the case are insufficient to prove that socially dangerous act with whose regard pre-trial investigation has been conducted has been really committed by the person concerned, returns the case to the investigator with his/her written instruction for supplementary investigation.
(Article 418 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 419. Consideration of cases related to the imposition of compulsory measures of medical nature

People's judge or president of the court, if agrees with investigator's decision, submits cases referred to court by prosecutor as prescribed in Article 418 of the present Code, directly to court session.
Such cases are considered in open court with mandatory participation of the prosecutor and defense counsel according to provisions of chapters 25 and 26 of the present Code. Participation of the person in whose respect the case is tried is not necessarily required and may take place only if the nature of his/her disease does not preclude such participation. In court session, witnesses are examined and evidence which proves or denies committing by the person concerned socially dangerous act is verified, as well as are verified other circumstances of essential importance for disposition of the issue of imposing compulsory measures of medical nature. As the case may be, an expert is cited in court session. Whenever the person in whose respect the case is tried is cited in court session, the court hears his/her explanations and then expert's findings. After trial examination has been completed, prosecutor and then defense counsel expresses his/her opinion.
(Article 419 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 420. Issues to be disposed by court in cases related to the imposition of compulsory measures of medical nature

Having heard opinion of the prosecutor and defense counsel, the court retires in deliberation room where it decrees a ruling and disposes the following issues:
1) whether socially dangerous act based on which proceedings have been instituted did take place;
2) whether this act has been committed by the person in whose respect the case is tried;
3) whether the said act has been committed the person in the state of insanity or limited criminal capacity, whether this person did fall ill of a mental disease which precludes his/her punishment;
4) whether it is appropriate to impose measures of medical nature on this person and, if so, which measures exactly.

(Article 420 as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 421. Court's decision in cases related to the imposition of compulsory measures of medical nature

Whenever it is established that the person concerned has committed a socially dangerous act being in state of insanity of limited criminal capacity or that, after having committed the crime, he/she fell ill of a mental disease which precludes punishment, the court, if finds it necessary, passes a ruling while the judge makes a decision to impose compulsory measures of medical nature on such person and states therein which measures exactly. If the court finds it inappropriate to impose compulsory measures of medical nature, the case should be dismissed and an appropriate ruling (decision) made.
In so far as insanity or limited criminal capacity of the person at the time of the commission of a socially dangerous act or at the time of trial of the case has not been established, the court passes a ruling while the judge makes a decision to remand the case for pre-trial investigation in accordance with regular procedure.
If the commission of a socially dangerous act by the person in whose respect the case is tried in not proved, the court passes a ruling while the judge makes a decision to dismiss the case.
(Article 421 as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 2670-III (2670-14) of 12.07.2001).

Article 422. Revoking or changing compulsory measures of medical nature

Compulsory measures of medical nature ordered by court may be revoked or changed only upon ruling of the court or decision of the judge that imposed such measures or upon ruling of the court operating in the area of medical treatment.
Compulsory measures of medical nature may be revoked or changed when the person who committed a socially dangerous act in the state of insanity or limited criminal capacity has recovered or if measures of medical nature as earlier imposed have become unnecessary as a result of changes in the state of health of the person concerned.
The issue of revoking or changing compulsory measures of medical nature is considered in accordance with Article 419 of the present Code upon submission of the chief physiatrist of the health authority to which medical institution where the person concerned is treated is subordinated. Opinion of the psychiatrist commission should be enclosed to such submission.
(Article 422 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 5397-XI (5397-11) of 10.02.88, by Laws No 2464-XII (2464-12) of 17.06.92, No 2670-III (2670-14) of 12.07.2001).

Article 423. Reopening criminal case against the person in whose respect compulsory measures of medical nature have been ordered

If the person - in whose respect compulsory measures of medical nature have been imposed as a result of his/her mental disease which occurred after the commission of the crime – recovers, the court, based on the opinion of medical commission and under Article 419 of the present Code, passes a ruling while the judge makes a decision to revoke the imposed measure of medical nature and refer the case for pre-trial investigation or trial if trial examination established insanity or limited criminal capacity of the person concerned. The time spent in a medical institution whenever the person has been sentenced to imprisonment or correctional works is credited to the length of service of punishment.
Ruling (decision) to reopen a case may be passed within statute of limitation for prosecution.
(Article 423 as amended by Law No 2464-XII (2464-12) of 17.06.92, No 2670-III (2670-14)

of 12.07.2001).

Article 424. Challenging judge or court's ruling, decision to impose, revoke, or change compulsory measures of medical nature

Prosecutor may challenge ruling, decision made by a judge or court as prescribed in the present Section by way of appeal or cassation or may file appellate or cassation submission according to regular procedure.
(Article 424 as revised by Laws No 2857-XII (2857-12) of 15.12.92, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, as amended by Law No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Section VII
PROTOCOL FORM OF PRE-TRIAL PREPARATION OF MATERIALS

(Section VII is added by virtue of the Decree of the Presidium of the Verkhovna Rada of 24.01.67; titles of the Section VII and Chapter 35 are changed by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85)

Chapter 35
PROTOCOL FORM OF PRE-TRIAL PREPARATION OF MATERIALS

Article 425. Conducting proceedings according to protocol form of pre-trial preparation of materials

The way in which proceedings in cases related to crimes punishable under paragraph 1 of Article 133, Article 164, paragraph 1 of Article 185, paragraph 1 of Article 186, paragraph 1 of Article 190, paragraph 1 of Article 194, paragraph 1 of Article 194-1, paragraph 1 of Article 202, paragraph 1 of Article 203, paragraph 1 of Article 205, paragraph 1 of Article 212, paragraph 1 of Article 212-1, paragraph 1 of Article 213, paragraph 1 of Article 225, paragraph 1 of Article 226, paragraph 1 of Article 245, Articles 246, 247, paragraph 1 of Article 248, paragraph 1 of Article 249, Article 250, paragraph 1 of Article 296, Article 395 of the Criminal Code of Ukraine (2341-14) are conducted is defined by general rules of the present Code with exceptions specified in the present Chapter.
(Article 425 as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 704-XI (704-11) of 01.08.85, by Laws No 1255-XII (1255-12) of 25.06.91, No 2547-XII (2547-12) of 07.07.92, No 2703-XII (2703-12) of 16.10.92, No 3888-XII (3888-12) of 28.01.94, No 299/94-BP (299/94-BP) of 16.12.94, No 44/97-BP (44/97-BP) of 05.02.97, No 1945-III (1945-14) of 14.09.2000, No 1981-III (1981-14) of 21.09.2000; as revised by Law No 2670-III (2670-14) of 12.07.2001; as amended by Laws No 2598-IV (2598-15) of 31.05.2005, No 3108-IV (3108-15) of 17.11.2005, No 270-VI (270-17) of 15.04.2008).

Article 426. Forwarding materials to court

In crime cases specified in Article 425 of the present Code, inquiry agency, within ten days, establishes circumstances of the crime and the person of offender, obtains explanations from the offender, eyewitnesses, and other persons, directs appropriate authority to submit a reference on offender's criminal record, a reference from the place of his/her employment or study, and other materials of importance for trial of the case. On exceptional basis, when it appears impossible to collect required materials, this time-limit may be extended by the

appropriate prosecutor but not more than for twenty days.
The offender undertakes to appear upon summons of inquiry agencies and court's citation and inform them on any change in his/her place of residence.
A record of circumstances of crime is drawn up which should state: place where, and time when, it was drawn up; details on the offender; place where, and time when, the crime was committed, ways in which the crime was committed, motives, implications, and other essential circumstances; facts which confirm presence of crime and the guilt of offender; legal determination of the nature of crime under Criminal Code of Ukraine. All materials and the list of persons to be cited in court are attached to the record.
The record shall be approved by inquiry agency chief and thereafter all records are produced to the offender for review and appropriate note thereof is entered in the record, such note being certified by offender's signature. The record together with materials is sent to prosecutor.
(Article 426 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 838-XII (838-12) of 18.03.91, by Laws No 299/94-BP (299/94-BP) of 16.12.94, No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 427 is omitted by Law No 3351-XII (3351-12) of 30.06.93).

(Article 428 is omitted by Law No 3351-XII (3351-12) of 30.06.93).

(Article 429 is omitted by virtue of the Decree of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77).

Article 430. Prosecutor initiates criminal proceedings

Having found that records related to crimes specified in Article 425 of the present Code are sufficient for considering the case in court session, prosecutor makes a decision to initiate criminal proceedings, imposes a measure of restraint on the offender if appropriate, draws up an indictment and refers the case to court or remands records of the case for pre-trial investigation, and, if grounds for initiating criminal proceedings are not present, denies initiating criminal proceedings.
(Article 430 as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, as amended by Laws No 2464-XII (2464-12) of 17.06.92, No 3351-XII (3351-12) of 30.06.93, as revised by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 431. Trial

Crime cases specified in Article 425 of the present Code shall be tried within ten days after records of the case have been received by court. When considering such cases, the court may remand the same for pre-trial investigation if there is a need to ascertain essential new circumstances which may not be established in court session.
(Article 431 as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 8627-X (8627-10) of 20.03.85, as amended by Law No 3351-XII (3351-12) of 30.06.93).

Section VIII
PROCEEDINGS IN JUVENILE CRIME CASES

(Section VIII is added under Decree of the Presidium of the Verkhovna Rada No 117-VIII (117-08) of 30.08.71)

Chapter 36
SPECIFIC NATURE OF PROCEEDINGS IN JUVENILE CRIME CASES

Article 432. Proceedings in juvenile crime cases

The way in which juvenile crime cases are proceeded is defined by general rules of the present Code and by Articles of the present Chapter.
Provisions of the present Chapter apply to crimes committed by persons who have not attained 18 at the time of criminal proceedings.

Article 433. Circumstances to be ascertained in juvenile crime cases

During pre-trial investigation and trial of a juvenile crime case, in addition to circumstances referred to in Article 64 of the present Code, it is necessary to ascertain:
1) juvenile's age (date, month and year of birth);
2) state of health and level of development of the juvenile concerned. If there are data that the juvenile suffers oligophrenia which is not attributable to a mental disease, it also necessary to find out whether he/she was able to realize what he/she was doing and to what extent could direct his/her actions;
3) characterization of the persons of juvenile;
4) conditions in which a juvenile lives and is brought up;
5) circumstances which negatively affected juvenile's education;
6) existence of adult instigators and other persons who involved the juvenile in criminal activities.
Juvenile's parents and other persons who can report required information should be examined and necessary documents should be requested and other investigative and judicial actions conducted to ascertain abovementioned circumstances.
In case of need, in order to find out the level of juvenile's development, extent of his/her oligophrenia and to establish whether he/she was able to fully realize what he/she was doing and to what extent could direct his/her actions, an expert examination should be carried out by specialists in the field of child and youth psychology (psychologist, pedagogue) or the said issues may be assigned to an expert – psychiatrist for resolution.

Article 434. Apprehending and committing a juvenile to custody

A juvenile may be apprehended and committed to custody only in exceptional situations when such a measure of restraint is justified by the severity of the crime incriminated to the juvenile concerned, with grounds present and in accordance with Articles 106, 148, 150, 155, and 157 of the present Code.
Parents and persons who replace them are necessarily informed on the apprehension and placement of the juvenile in custody.
(Article 434 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 3084-IX (3084-09) of 16.02.78, 6834-X (6834-10) of 16.04.84, by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

(Article 435 is omitted under the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 436. Committing a juvenile to supervision of his/her parents, custodians, caretakers or administration of children care institution

In addition to measures of restraint referred to in Article 149 of the present Code, an accused juvenile may be committed to supervision of his/her parents, custodians, or caretakers and juveniles who are brought up in a children care institution may committed to supervision of the administration of such institution.

In such cases, parents, custodians, caretakers or administration of children care institution undertake in written to ensure juvenile's appropriate behavior and his/her appearance before investigator, prosecutor, and court. These persons are informed on the nature of charges brought against the juvenile concerned and admonished of their liability for juvenile's non-appearance before investigator, prosecutor, or court.
Disrespect of this obligation may entail imposing a fine on parents, custodians, and caretakers in the amount of up to two hundred minimum non-taxable incomes of citizens as prescribed in Article 153 of the present Code.
(Article 436 as amended by Law No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001).

Article 437. Summoning a juvenile

Typically, an accused juvenile is summoned to appear before investigator, prosecutor, or court through his/her parents or any other legal representative. Another summoning procedure is permitted only when it is justified by circumstances of the case.
A juvenile kept in custody is summoned through the administration of the pre-trial detention facility concerned.

Article 438. Bringing charges against, and interrogating a juvenile

Charges are brought against and the juvenile is interrogated as prescribed in Articles 140, 141, 142, and 143 of the present Code in the presence of a defense counsel.
When it comes to the juvenile who has not attained 16 or if the juvenile has been found mentally retarded, a pedagogue or a doctor, parents and other legal representatives of the juvenile may be present, upon discretion of the investigator or prosecutor and defense counsel's request, during bringing charges and interrogating the juvenile.
Investigator advises the pedagogue or the doctor, parents and other legal representatives of the juvenile who are present during bringing charges and interrogating the juvenile of their right to ask the accused questions and state their comments.
Questions asked by the said persons and their comments should be entered in the record of interrogation. Investigator may dismiss a question but such question should be entered in the record.

Article 439. Disjoining proceedings in a juvenile crime case

Whenever a juvenile participated in the commission of crime together with an adult, in each instance, there should be ascertained the possibility of disjoining proceedings at the stage of pre-trial investigation, in compliance with Article 26 of the present Code.
If an accused juvenile is prosecuted together with an adult in the same case, provisions of the present Chapter should apply to the juvenile.

Article 440. Producing records of the case to an accused juvenile

Informing an accused juvenile that pre-trial investigation has completed and producing him/her records of the case for review are made in accordance with Articles 218, 219, 220, 221, and 222 of the present Code, with participation of defense counsel.
Legal representative of the juvenile may be present, upon investigator's consent, at the time when the accused juvenile is informed that pre-trial investigation has completed and when he/she is produced records of the case for review.

Article 441. Participation of a legal representative of the juvenile defendant in trial

Parents or any other legal representatives of the juvenile defendant are cited in court session.

Defendant's legal representative may propose disqualifications and submit petitions, produce evidence, participate in examination of evidence. The said rights are explained to the defendant's legal representative during preparatory part of court session.
If it is necessary to examine parents or any other legal representatives of the juvenile as witnesses, the court hears their testimonies. Defendant's legal representatives stay in courtroom throughout the whole trial.
On exceptional basis, when participation of a legal representative in court session can prejudice interests of the juvenile defendant, the court may, by its motivated ruling, limit participation of the legal representative in a part of court session or debar him/her from trial and admit another legal representative of the juvenile defendant.
Non-appearance of defendant's legal representative does not preclude trial unless the court finds that his/her participation is required.

Article 442. Participation of representatives of the Service in charge of Juveniles and militia in charge of juveniles in trial

The court communicates time and place of trial involving a juvenile to the Service in charge of Juveniles and militia in charge of juveniles. The court may cite representatives of the Service in charge of Juveniles and militia in charge of juveniles to appear in court session. In court session, representative of the Service in charge of Juveniles may submit motions, put questions to the defendant, his/her legal representatives, victim, witnesses, court expert, and specialist, express his/her opinion about the most appropriate form of re-education of the defendant. Representative of the Service in charge of Juveniles is advised of the said rights during preparatory part of court session.
Representative of the militia in charge of juveniles may be present in courtroom and may give explanations upon court's permission.
Persons referred to in the present Article may be examined as witnesses should the need arise.
(Article 442 as revised by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84, as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 443. Participation of representatives of enterprises, institutions, and organizations in trial

The court communicates time and place of trial involving a juvenile to the enterprise, institution, and organization where the juvenile worked or studied and, if necessary, other organizations as well. The court may cite in court session representatives of these organizations and representatives of social organizations in the place of employment of defendant's parents, custodian, or caretaker.
Representatives of these organizations may be present in courtroom and may give explanations upon court's permission. If appropriate, they may be examined as witnesses.
(Article 443 as amended by virtue of the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 444. Removing a juvenile defendant from the courtroom

The court, having heard the opinion of the defense counsel and legal representative of the defendant, and prosecutor, may, by its ruling, remove the juvenile from courtroom for the time necessary to ascertain circumstances which can negatively affect the juvenile. If circumstances which were ascertained in the absence of the juvenile relate to charges brought against him/her, presiding judge informs the defendant thereon after the juvenile has returned to the courtroom.
(Article 444 as amended by Law No 2857-XII (2857-12) of 15.12.92).

Article 445. Issues to be disposed by court when decreeing a judgment

When decreeing a judgment, in addition to issues referred to in Article 324 of the present Code, the court is required to discuss the appropriateness of appointing a public educator for the juvenile if he/she is released on probation or if a punishment other than imprisonment is imposed on him/her.
(Article 445 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, as revised by Law No 2670-III (2670-14) of 12.07.2001).

Article 446. Contents of a judgment

Judgment in a juvenile case, in addition to what is prescribed by Articles 333, 334, and 335 of the present Code, should state:
In statement of reasons – grounds based on which the court finds it appropriate to appoint a public educator;
In findings – that it is necessary to appoint a public educator for the juvenile in instances when he/she is imposed a punishment other than imprisonment or released on probation under Article 104 of the Criminal Code of Ukraine.
(Article 446 as amended by virtue of the Decrees of the Presidium of the Verkhovna Rada No 1851-IX (1851-09) of 23.03.77, No 6834-X (6834-10) of 16.04.84, by Law No 2670-III (2670-14) of 12.07.2001).

(Article 446-1 is omitted under the Decree of the Presidium of the Verkhovna Rada No 6834-X (6834-10) of 16.04.84).

Article 447. Imposing compulsory measures of educational nature on a juvenile

If, when considering a criminal case which was referred to court with an indictment, the court comes to the conclusion that correction of the juvenile who has committed a crime of minor or moderate severity is possible without criminal punishment, the court passes a ruling while the judge takes a decision to dismiss criminal case and disposes the issue of imposing on the juvenile one of the compulsory measures of educational nature referred to in Article 105, second paragraph, of the Criminal Code of Ukraine.
When it comes to the case which was referred to court by prosecutor as prescribed in Article 7-3 or 9 of the present Code, people's judge or president of the court, whenever he/she agrees with investigator or prosecutor's decision, assigns the case for trial in court session within ten days or, whenever he/ she disagrees with investigator or prosecutor's decision, - remands the case to prosecutor by its motivated decision.
Cases referred to in the second paragraph of the present Article are considered in open court with necessarily required participation of prosecutor and defense counsel. Explanations of the juvenile, his/her legal representative are heard, proofs which confirm or deny the commission of a socially dangerous act by the person concerned are verified as are verified other circumstances of essential importance for disposition of the issue of imposing a compulsory measure of educational nature. Record of court session is kept during trial. Prosecutor and then defense counsel expresses his/her views after judicial verification has been completed.
With sufficient grounds present to believe that the person who should, upon court's ruling, be sent to a special educational institution would continue unlawful behavior, as well as to ensure execution of its ruling, the court may temporarily place this person in the receiving/ distributing center for juveniles for up to 30 days, such center being required to bring the person concerned to the special educational institution.
(Article 447 as amended by Laws No 2464-XII (2464-12) of 17.06.92, 3787-XII (3787-12)

of 23.12.93, No 2670-III (2670-14) of 12.07.2001).

Article 448. Issues to be disposed by court in cases related to imposition of compulsory measures of educational nature

Having heard in court session opinions of the prosecutor and defense counsel with regard to the case which was referred under Article 232-1, first paragraph, the court retires in the deliberation room to pass a ruling or take a decision and disposes the following issues:
1) whether the socially dangerous act in whose connection pre-trial investigation was conducted did take place;
2) whether the person in whose respect the case is tried is really guilty thereof;
3) which exactly compulsory measure of educational nature out of those referred to in Article 105 of the Criminal Code of Ukraine should be imposed on this person.
Having considered these issues, the court passes a ruling.
(Article 448 is added by Law No 3787-XII (3787-12) of 23.12.93, as amended by Law No 2670-III (2670-14) of 12.07.2001).

Article 449. Challenging court's ruling, decision to impose compulsory measures of educational nature and prosecutor's filing a submission against such ruling, decision
According to regular procedure, an appeal may be filed or prosecutor's appellate submission lodged against the ruling, decision made by court as prescribed in Articles 447 and 448 of the present Code.
(Article 449 is added by Law No 3787-XII (3787-12) of 23.12.93, as amended by Laws No 2533-III (2533-14) of 21.06.2001 – effective from 29.06.2001, No 2670-III (2670-14) of 12.07.2001, No 2670-III (2670-14) of 12.07.2001, No 2453-VI (2453-17) of 07.07.2010 – changes to the procedure of execution of power by the Supreme court of Ukraine and High Civil and Criminal Court of Ukraine come into force after High Civil and Criminal Court of Ukraine starts its work – from 01.11.2010).

Section IX
SURRENDER OF THE PERSON (EXTRADITION)

Chapter 37
SURRENDER OF THE PERSON (EXTRADITION)

Article 450. Definition of terms

Surrender of the person (extradition) - surrender of the person to the state by which competent bodies this person is searched with the aim of bringing to criminal liability or serving of a sentence. The extradition includes official request on surrender of the person, identification of this person in the territory of one state, check of circumstances which can interfere with surrender, and also decision-making on the request and actual surrender of such person to other state, which competent bodies have made the request on surrender.
Extradition check - activity of the bodies, defined by the law, concerning establishment and study circumstances, defined by the international treaty of Ukraine, other acts of the legislation of Ukraine, which can interfere with surrender of the person (extradition) who has committed a crime.
Extradition arrest - taking of the person into custody for providing of surrender of such person (extradition).
Temporary arrest - taking of the person, arrested on suspicion of committing a crime outside of Ukraine, into custody for the term defined by this Code or the international treaty of Ukraine, before reception of request on surrender (extradition).
Temporary surrender - surrender for certain period of the person serving a sentence in the territory of one state to other state for carrying out of legal proceedings with participation

of such person and bringing to criminal liability for the purpose of prevention of the termination of time limitation or loss of proofs in criminal case.

Article 451. The general provisions for surrender of the person (extradition)

The request on surrender of the person (extradition) is sent provided that under the law of Ukraine at least for one of crimes, in connection with which surrender is requested, it is provided punishment in the form of imprisonment for the maximum term of not less than one year or the person is condemned to punishment in the form of imprisonment and unserved term makes not less than four months.
The request of competent body of the foreign state on surrender can be considered only in case of observance of the requirements provided by paragraph 1 of this article.
Requests on temporary surrender and transit transportation (convoying) are sent and considered according to the same procedure as requests on surrender of the person (extradition).

Article 452. The central bodies on surrender of the person (extradition)

The central bodies on surrender of the person (extradition), except as otherwise provided by the international treaty of Ukraine, are the Prosecutor General's Office of Ukraine and the Ministry of Justice of Ukraine accordingly.
The Prosecutor General's Office of Ukraine is the central body on surrender (extradition) of accused (suspected) in cases at a stage of prejudicial inquiry.
The Ministry of Justice of Ukraine is the central body on surrender (extradition) of culprits (condemned) in cases at a stage of cognizance (legal proceedings) or serving of a sentence.
According to this Code the central bodies on surrender of the person (extradition):
1) address to the competent bodies of foreign states with requests on surrender of the person (extradition), temporary surrender or transit transportation (convoying);
2) consider requests of the competent bodies of foreign states on surrender (extradition), temporary surrender or transit transportation (convoying) and make the decision on them;
3) organize carrying out of extradition checks;
4) organize reception-transfer of persons on the basis of passed decisions on surrender (extradition), temporary surrender or transit transportation (convoying) of such person;
5) execute other powers defined by this title or the international treaty on surrender of the person (extradition).

Article 453. Procedure for document preparation and submission of requests

Documents on surrender of the person to Ukraine are prepared by the body of prejudicial inquiry or court which considers a criminal case or which passes sentence with observance of requirements provided by this Code and the corresponding international treaty of Ukraine.
Documents are drawn in written and shall contain data on the person who is requested to be surrendered, circumstances and qualification of the crime, committed by such person.
Documents are attached with:
1) a copy of judge's ruling on taking of the person into custody or on issue of the permission to apprehend such person and to convoy to the court or a copy of a sentence with acknowledgement of entry into force of such sentence;
2) a copy of ruling on brining of the person as accused if the sentence is not passed in the case;
3) a copy of ruling on retrieval of the person;
4) the text of article of the Criminal code of Ukraine (2341-14) according to which a committed crime is qualified;
5) documents on citizenship of the searched person;

6) the inquiry on a part of unserved sentence if surrender of the person, who has already served a part of the established punishment, is requested;
7) other data provided by the international treaty of Ukraine, which also is applied in the foreign state in which territory the searched person is established.
Documents are signed by the investigator or the judge, are sealed with the seal of the corresponding body and translated into the language provided by the international treaty of Ukraine.
Documents on surrender of the person (extradition) are transferred to the corresponding central body through public prosecutor's office in Autonomous republic Crimea, in oblast, in cities of Kiev and Sevastopol, military public prosecutor's office in the region of Ukraine and the Navies of Ukraine (hereinafter in this title – public prosecutor's office in oblast) within ten days term from the date of detention of the person in the territory of foreign state.
Within the specified term documents on surrender of the person (extradition) of investigatory subsections of the Ministry of Internal Affairs of Ukraine, Security Service of Ukraine, the State tax administration of Ukraine are transferred directly to the Prosecutor General's Office of Ukraine.
In case of existence of the bases provided by the international treaty of Ukraine, the central body submits to the competent body of foreign state the request on surrender of the person to Ukraine. The request on surrender is submitted by the head of the central body or his deputy within five days from the date of reception of documents from the body of prejudicial inquiry or court.

Article 454. Limits of the criminal liability of the surrendered person

The person extradited to Ukraine, can be brought to the criminal liability or can sentence of the court can be served against him only for those crimes, for which surrender (extradition) is executed.
The restrictions, stated by the competent body of foreign state at decision-making on surrender of the person to Ukraine, have binding character at passing of corresponding procedural decisions by the body of prejudicial inquiry, the public prosecutor or court.
If warnings of the competent body of foreign state concerning restrictions on surrender of the person relate to serving of a sentence, the court, which has passed a sentence, shall pass decision on its carry into effect only for those actions for which surrender was executed.
In case of commitment by a person before his surrender (extradition) of other crime not being specified by request on surrender, such person can be brought to the criminal liability or a court sentence for this crime can be executed only after reception of the consent of the competent body of foreign state extraditing the person.
The request on such consent is prepared and sent according to the procedure provided by article 453 of this Code for request on surrender of the person (extradition).
In case of brining of the person to the criminal liability for a crime, committed by such person after extradition, reception of such consent is not required.

Article 455. Inclusion of the term of detention into custody of the extradited person

Term of detention into custody of the person in territory of foreign state, and also his term of transportation under guard are included to the general term of servicing of the punishment established by a sentence of court.

Article 456. Notification on results of proceedings regarding the person that was extradited.

The central body informs competent body of the foreign state, which has made the decision on surrender (extradition), on results of proceedings regarding the person that was

extradited.

Article 457. Temporary surrender

In case of need of prevention of the termination of time limitation of bringing to criminal liability or loss of proofs in criminal case the investigator or the court considering a criminal case (where a criminal case is pending), prepares documents on temporary surrender. The specified documents as well as the request on temporary surrender prepared on their basis are sent to the competent body of foreign state according to the procedure provided by article 453 of this Code.
In case of execution by the competent body of foreign state of the request on temporary surrender such person shall be returned to the corresponding foreign state within the agreed period.
In case of need the body of prejudicial inquiry or court considering a criminal case (where a criminal case is pending), prepares documents on extension of term of temporary surrender which are sent to the corresponding central body not later than twenty days before the termination of term of temporary surrender.

Article 458. Features of detention into custody
The decision of the competent body of foreign state on taking of the person into custody or establishing of punishment for such person in the form of imprisonment is the basis for detention into custody in the territory of Ukraine of the person who:
1) are transported by territory of Ukraine;
2) temporarily extradited to Ukraine.

Article 459. Features of participation of the defender in the course of surrender of the person (extradition)

Searched by the foreign state person has the right to the defender at any stage of his surrender (extradition), but not later than from the moment of detention.
From the moment of admission of the defender to participation in a case, he has the rights provided by subparagraphs 1, 2, 3, 6, 10, 11, 12 of paragraph 2 of article 48 of this Code.
Execution of the rights of defender provided by subparagraphs 7, 8, 13 of paragraph 2 of article 48 of this Code as well as the duties of the defender provided by this Code, is carried out within the limits connected with consideration and making of decision on request on surrender of the person (extradition).
The body of inquiry, which has detained such person, can appoint the defender in cases and according to the procedure, provided by this Code, through bar association. The requirement on appointment of the defender is binding for the head of bar association.

Article 460. Features of participation of the translator in the course of surrender of the person (extradition)

At any stage of surrender of the person (extradition) body of inquiry which has detained such person, the court or body which carries out extradition check, can engage the translator if such person does not know language by which proceedings are carried out, or there is a necessity for providing of translation of documents.

Article 461. Features of detention of the person who has committed a crime outside of Ukraine
Detention in territory of Ukraine of the person searched by the foreign state in connection with commitment of a crime is carried out by body of inquiry.
The public prosecutor, inspecting the observance of laws by body of inquiry which has carried out detention, is notified therewith on detention. The notice to the public prosecutor

being attached with the copy of the report on detention shall contain the detailed information concerning the bases and motives of detention.
The public prosecutor, having received the notice, examines legality of detention of the person being searched by the competent bodies of foreign states and immediately notifies the public prosecutor's office in oblast.
Within seventy two hours after detention the public prosecutor's office in oblast notifies on detention of such persons the corresponding central body which notifies the competent body of foreign state within three days.
The public prosecutor's office in oblast also notifies the Ministry of Foreign Affairs of Ukraine on each case of detention of the national of foreign state who has committed a crime outside of Ukraine.
The detained person shall be released immediately in case if:
1) within seventy two hours from the moment of detention the reasoned judgment of court on application of temporary or extradition arrest is not served to such person;
2) circumstances are found out under which surrender (extradition) is not executed. The procedure of detention of such persons and consideration of complaints on their detention is carried out according to article 106 of this Code taking into account the features established by this title.

Article 462. Temporary arrest

The temporary arrest for 40 days or another established by the corresponding international treaty of Ukraine term is applied against the detained person who has committed a crime outside of Ukraine till the receipt of request on surrender of such person.
If the maximum term of temporary arrest provided by paragraph 1 of this article, expires, and the request on surrender of such person is not received, the person shall be immediately released from arrest.
The body of inquiry, which has detained the person, files upon the consent of the public prosecutor to court (located in a region of detention) a petition on application of temporary arrest. The public prosecutor has the right to file such petition.
The petition is attached with:
1) the report of detention of the person;
2) documents containing the data on commitment by the person of a crime in the territory of foreign state and establishing a preventive measure against such person by the competent body of foreign state;
3) documents confirming identity of the detained person.
Petition shall be considered within seventy two hours from the moment of detention of the person.
Considering a petition the judge establishes the identity of the detained person, proposes him to make the statement, checks out existence of the documents provided by subparagraph 2 of paragraph 3 of this article, hears the opinion of the public prosecutor, other participants and passes resolution on:
1) application of temporary arrest;
2) refusal in application of temporary arrest if for its choosing there are no bases.
The resolution of the judge can be appealed by the public prosecutor, the person against whom temporary arrest is applied, his defender or the lawful representative before the court of appeal within three days from the date of passing of the resolution. Appeal against the resolution of the judge does not cease entry into force of such resolution and its execution. The ruling of the court of appeal is not subject to appeal; it can not be appealed by cassation petition of the public prosecutor.
Discharge of the person from temporary arrest in connection with untimely receipt by the central body of request on surrender does not interfere with application to such person of extradition arrest in case of reception subsequently of such request.
In case of receipt of the request on surrender of the person (extradition) before the

termination of term of temporary arrest established by the court, the resolution of the judge on application of temporary arrest becomes invalid from the moment of passing by the court of ruling on application extradition arrest against this person.

Article 463. Extradition arrest

After receipt of request of the competent body of foreign state on surrender of the person by order (application) of the central body, the public prosecutor files petition on extradition arrest of such person to court in which jurisdiction the person is holding in custody.

Besides the petition the following documents are submitted to court:
1) a copy of request of the competent body of foreign state on surrender of the person (extradition), certified by the central body;
2) documents on citizenship of the person;
3) available materials of extradition check.
Materials, submitted to the court, shall be translated into state language or other language provided by the international treaty of Ukraine.
After reception of petition the judge establishes identity of the person, proposes him to make the statement, checks out request on surrender and available materials of extradition check, hears the opinion of the public prosecutor, other participants and passes resolution on:
1) application extradition arrest;
2) refusal in application of extradition arrest if for its choosing there are no bases.
Considering the petition the judge does not examine question on culpability and does not check legality of the procedural decisions passed by the competent bodies of foreign state in the case against the person the request on surrender is received for.
The resolution of the judge can be appealed by the public prosecutor, the person against whom temporary arrest is applied, his defender or the lawful representative before the court of appeal within three days from the date of passing of the resolution. Appeal against the resolution of the judge does not cease entry into force of such resolution and its execution. The ruling of the court of appeal is not subject to appeal; it can not be appealed by cassation petition of the public prosecutor.
Extradition arrest is applied to the decision of a question on surrender of the person (extradition) and his actual transfer, but cannot be more than eighteen months.
Within this term the judge of jurisdiction the person is holding in custody checks out existence of the bases for further holding of the person in custody or for discharging of such person upon the petition of the public prosecutor at least once in two months.
Upon the complaint of the person against whom temporary arrest is applied, his defender or the lawful representative the judge of jurisdiction the person is holding in custody checks out existence of the bases for discharging of such person not more than once in a month.
If the maximum term of extradition arrest provided by paragraph 7 of this article expires, and a question concerning surrender of the person (extradition) and its actual surrender is not solved by the central body, the person shall be immediately discharged.
Discharging of the person from extradition arrest by the court does not interfere with its reapplication for the purpose of actual surrender of the person to foreign state for execution of the decision on surrender except as otherwise provided by the international treaty of Ukraine.
In case of discharging of the person by the court, the public prosecutor in oblast or his deputy by agreement with the corresponding central body passes ruling on application of other necessary measures aimed at prevention of flight of the person and providing of his surrender.
Such measures shall be sufficient to guarantee the possibility of execution of decision on surrender of the person (extradition), and can provide, in particular, bail, establishment of restrictions for movement of the person and the control over the place of stay of such

person. Application of bail and establishment of restrictions for movement of the person are carried out according to the procedure provided by articles 981, 151 and 154-1 of this Code, taking into account features of this title.
The public prosecutor in oblast or his deputy notifies the person against whom resolution is passed, his defender or the lawful representative on passing the resolution.
The public prosecutor in oblast or his deputy can be charged by body of inquiry with execution of resolution.

Article 464. Temporary or extradition arrest

Temporary or extradition arrest are withheld if:
1) within the terms provided by the international treaty of Ukraine the central body does not receive request on surrender of the person (extradition);
2) in course of extradition check circumstances are found out under which surrender of the person (extradition) is not carried out;
3) the competent body of foreign state refuses to request surrender of the person;
4) the central body passes decision on refusal in surrender of the person (extradition).
Discharging of the person from custody is carried out by the public prosecutor in oblast or its deputy by order (application) of the central body, and in a case, provided by subparagraph 2 of paragraph 1 of this article, by agreement with the corresponding central body. The copy of resolution on discharge from custody is sent to the chief of a place of temporary detention and court which passed the ruling on application of temporary or extradition arrest.

Article 465. Carrying out of extradition check

Extradition check of circumstances which can interfere with surrender of the person is carried by the central body or by its order (application) it is carried by public prosecutor's office in oblast.
Extradition check is carried out within thirty days. This term can be extended by the corresponding central body.
Materials of extradition checks together with an opinion concerning such check are sent to the corresponding central body.

Article 466. Refusal in surrender of the person (extradition)

The surrender of the person to foreign state can be denied if:
1) the person for whom the request on surrender is received, according to laws of Ukraine for the period of decision-making on surrender (extradition) is the citizen of Ukraine or the person without citizenship being a permanent resident of Ukraine;
2) the crime for which surrender is requested, does not provide punishment in the form of imprisonment according to the law of Ukraine;
3) time limitations provided by the law of Ukraine for brining of the person to the criminal liability for a crime for which surrender is requested expire;
4) upon request of the central body the competent body of foreign state does not provide additional materials or data, without which decision-making on request on surrender (extradition) is impossible;
5) surrender of the person (extradition) contradicts obligations of Ukraine under the international treaties of Ukraine;
6) other bases provided by the international treaty of Ukraine are available.
The person having the status of the refugee, cannot be surrendered to foreign state where health, life or freedom of such person is in danger because of features of race, denomination (religion), nationality, citizenship (nationality), belonging to certain social group or political convictions, except the cases provided by the international treaty of

Ukraine.
In case of refusal of surrender on the bases of motives of citizenship and presence of the status of the refugee or in case of existence of other bases which do not exclude proceedings in the case, upon the petition of the competent body of foreign state Prosecutor General's Office of Ukraine charges the body of prejudicial inquiry with investigation of criminal case against this person according to the procedure provided by this Code.

Article 467. The decision on request on surrender of the person (extradition)

Having studied materials of extradition check the central body passes the decision on surrender of the person (extradition) or refusal of surrender (extradition) to foreign state. Decisions are passed by head of the central body or his deputy.
The central body notifies the competent body of foreign state on its decision as well as the person concerning whom it is passed.
In case of passing the decision on surrender (extradition), its copy is served to such person. If within seven days the specified decision is not appealed before the court, actual surrender of this person to the competent bodies of foreign state is organized.

Article 468. Procedure for appeal of the decision on surrender of the person (extradition)

The decision on surrender of the person (extradition) can be appealed by the person concerning whom it is passed, his defender or the lawful representative before local court jurisdiction the person is holding in custody.
If the appeal against the decision on surrender is lodged by the person being in custody the chief of a place of the temporary detention immediately sends the appeal to the court and notifies on it public prosecutor's office in oblast.
After acceptance to proceedings of the appeal against the decision on surrender (extradition) the court sets such appeal to consideration and notifies on it the corresponding central body and public prosecutor's office in oblast.
Upon the request of the court the public prosecutor's office in oblast sends materials confirming legality and validity of the decision on surrender of the person.
Consideration of appeal is carried out by the judge at his sole discretion within ten days from the date of its receipt by the court. Cognizance is carried with participation of the public prosecutor, the person concerning whom decision on surrender is passed, his defender or the lawful representative if he takes part in case.
Considering appeal the judge does not examine a question on culpability and does not check legality of the procedural decisions passed by the competent bodies of foreign state in the case against the person the request on surrender is received for.
By results of consideration the judge passes reasoned resolution, which:

1) does not allow an appeal;
2) allows an appeal and cancels the decision on surrender (extradition).

After entry into force of the resolution of the judge on cancellation of the decision on surrender (extradition) the person is immediately discharged from custody.
The resolution of the judge can be appealed before the court of appeal by the public prosecutor who participated in consideration of the case by court of original jurisdiction, the person concerning whom the decision is passed, his defender or the lawful representative within seven days from the date of passing the resolution. Appeal against the resolution of the judge cancels entry into force of such resolution and its execution.
The judgment of the court of appeal is not subject to appeal, but it can be appealed by cassation petition of the public prosecutor on the basis of motives of wrong application by the court of provisions of the international treaties of Ukraine if cancellation of the decision on surrender (extradition) interferes with the further proceedings in the case against the

person whose surrender is request by foreign state.

Article 469. Delay of surrender

After passing the decision on surrender of the person (extradition) the central body can delay actual surrender of the person to foreign state if:
1) the person concerning whom decision on surrender (extradition) is passed, is brought to the criminal liability or serves punishment in the form of deprivation or restriction of liberty for other crime committed in the territory of Ukraine - till the termination of prejudicial inquiry or assize, serving of punishment or discharging from punishment because any lawful bases;
2) the person concerning whom the request on surrender is received, is infirm person and because of a state of health cannot be extradited without harm to his health - till his recover.
After passing the decision to delay the surrender of the person (extradition) the public prosecutor's office in oblast by order (application) of the central body monitors the process of serving by the person of punishment or controls a course of treatment of such person.
In case of absence of the bases for delay of actual surrender of the person provided by paragraph 1 of this article, the public prosecutor's office in oblast ensures application of extradition arrest according to the procedure defined by article 463 of this Code.
If within the period of delay circumstances which can interfere with surrender of the person arise, the central body shall have the right to reconsider its decision on surrender (extradition).

Article 470. Actual surrender of the person

For the purpose of actual surrender of the person concerning whom decision on surrender (extradition) is passed, after entering into force of this decision the central body charges the competent bodies of Ukraine with the corresponding orders (submits application).
Surrender of the person shall be carried out within fifteen (15) days from the date established for his surrender. This term can be extended by the central body up to thirty (30) days then the person shall be discharged from the custody.
If the competent body of foreign state from not circumstances dependent on it cannot receive such person, the central body establishes a new date of surrender within the terms provided by paragraph 2 of this article.
In course of actual surrender of the person the competent body of foreign state is notified on term of holding of such person into custody in Ukraine.
(Section IX is added to the Code by Law No 2286-VI (2286-17) of 21.05.2010)

(article 1 - article 93-1(1001-05)
(article 94 - article 236-6 (1002-05)