

LAW OF THE REPUBLIC OF INDONESIA

NUMBER 8 YEAR 1981

Concerning

THE LAW OF CRIMINAL PROCEDURE

WITH THE BLESSINGS OF GOD ALMIGHTY

THE PRESIDENT OF THE REPUBLIC OF INDONESIA,

CONSIDERING:

- a. that the state of the Republic of Indonesia is a nation governed by law based on the Pancasila and the Constitution of 1945 which upholds human rights and which guarantees that all its citizens shall have equal status in law and government and shall be obligated to respect law and government without exception;
- b. that in the interest of development in the field of law as set forth in the Broad Outlines of State Policy (Decree of the People's Consultative Assembly of the Republic of Indonesia Number IV/MPR/1978) it is necessary to undertake efforts to improve and perfect national law development by reforming the codification and unification, of law in the framework of the concrete implementation of the Archipelago Principle;
- c. that such development of national law in the field of criminal procedure law calls for society to observe its rights and obligations and for improvements in the fostering of the attitudes of law enforcement officials in accordance with their respective functions and authorities aimed at the upholding of law, justice and protection for the dignity and integrity of mankind, order and legal certainty to ensure the operation of a nation governed by law in accordance with the Constitution of 1945;
- d. that the law of criminal procedure as set forth in *Het Herziene Inlandsch Reglement (Staatsblaad 4 of 1941 Number 44)* in connection with and Law Number 1 Drt. (Urgency) of 1951 (State Gazette 5 of 1951 Number 9, Supplement State Gazette 6 Number 81) and all ancillary regulations there under and in the provisions of other legislation to the extent they concern the law of criminal procedure is no longer compatible With the goals of national law and as such needs to be repealed;
- e. that therefore it is necessary to enact a law on the law of criminal procedure for the administration of justice in the courts within the public judicial system and in the Supreme Court by regulating the rights and obligations of those persons involved in the criminal justice process, in such a way as to lay the main foundation for a nation governed by law.

GIVEN;

1. Article 5 Paragraph (1), Article 20 Paragraph (1) and Article 27 Paragraph (1) of the Constitution of 1945;
2. Decree of the People's Consultative Assembly of the Republic of Indonesia Number IV/MPR/1978;
3. Law Number 14 of 1970 on the Basic Provisions on the Powers of the Judiciary (State Gazette of 1970 Number 74, Supplement State Gazette Number 2951).

**WITH THE APPROVAL OF
THE PEOPLE'S REPRESENTATIVE COUNCIL
OF THE REPUBLIC OF INDONESIA**

HAS DECIDED:

REPEALING:

1. *Het Herziene Inlandsch Reglement (Staatsblaad of 1941 Number 44)* in connection with the Law Number 1 Drt. of 1951 (State Gazette of 1951 Number 9, Supplement State Gazette Number 81) and all ancillary regulations there under;
2. Provisions stipulated by other Jaws and regulations; only to the extent however which those stated in number 1 and number 2 concern the law of criminal procedure.

TO ENACT:

THE LAW ON CRIMINAL PROCEDURE

CHAPTER 1

GENERAL PROVISIONS

Article 1

That which is meant in this law by:

1. Investigator is an official of the state police of the Republic of Indonesia or a certain official of the civil service who by law is granted special authority to conduct an investigation.
2. Investigation is a series of acts by an investigator in matters and by means regulated in this law to seek and gather evidence with which to clarify whether an offense has occurred and to locate the suspect.
3. Assistant investigator an official of the state police of the Republic of Indonesia who by virtue of certain authority vested in him may carry out investigative tasks as regulated in this law.
4. Junior Investigator is an official of the state police of the Republic of Indonesia who is granted authority by this law to perform a preliminary investigation.
5. Preliminary Investigation is a series of acts by a junior investigator to seek and to find an event that is presumed to be an offense in order to determine whether or not an investigation may be carded out by means regulated in this law.
6.
 - a. Public Attorney is an official who is granted authority by this law to act as a public prosecutor and to execute a court judgment which has become final and binding.
 - b. Public prosecutor is a public attorney granted authority by this law to conduct a prosecution and to execute the rulings of a judge.
7. Prosecution is an act of the public prosecutor to bring a criminal action before a competent district court in matters and by means regulated in this law with the plea that it be heard and decided upon by the judge at trial.
8. Judge is an official of the state judiciary who is granted authority by law to adjudicate.
9. To adjudicate is a series of acts by a judge to accept, hear and judge a criminal action in adherence to the principles of independence, honesty and impartiality at trial in matters and by means regulated in this law.
10. Pretrial Review⁹ is the competence of the district court to hear and to judge by means regulated in this law, with regard to:
 - a. at the request of the suspect or his family or other party empowered by the suspect, whether an arrest and/or a detention is legal or not;
 - b. upon request for the sake of upholding the law and justice, whether the termination of an investigation or the termination of prosecution is legal or not;
 - c. a request for compensation or rehabilitation from a suspect or his family or other party empowered by him whose case has not been brought before the court.

11. Court Judgment is the pronouncement made by the judge in open trial, which may take the form of the imposition of a penalty, an acquittal or a dismissal of all charges in matters and by means regulated in this law.
12. Legal remedy is the right of an accused or a public prosecutor to reject the court judgment by contesting Or appeal or appealed to supreme court or the right of a Convicted person to submit a request for review in matters and by means regulated in this law.
13. Legal counsel is a person who has qualified under requirements set by or on the basis of law to provide legal assistance.
14. Suspect is a person who by virtue of his deeds or his condition, on the basis of preliminary evidence, can reasonably be presumed to have committed an offense.
15. Accused is a suspect who is charged, examined and adjudicated at trial.
16. Seizure is a series of acts by an investigator to take possession and/or to retain under his control movable or immovable goods, whether tangible or intangible, to be used for evidentiary purposes in investigation, prosecution and adjudication.
17. House search is an act by an investigator to enter a place or residence and other closed premises to carry out acts of inspection and/or seizure and/or arrest in matters and by means regulated in this law.
18. Search of the person is an act by an investigator to inspect the body and/or the clothes of a suspect to look for goods which are strongly presumed to be present on his body or carried with him, for seizure.
19. Apprehension in flagrante delicto is the apprehending of a person at the time he is committing an offense, or immediately after the time the offense was committed, or shortly after the general public has exclaimed that he is the one who has committed it, or if shortly thereafter a good is found on him which is strongly presumed to have been used to commit the offense which indicates that he¹⁰ is the perpetrator or an accomplice or an abettor of the offense.
20. Arrest is an act of an investigator to temporarily restrict the freedom of a suspect or accused if there is sufficient evidence for proposes of investigation or prosecution and/or adjudication hi matters and by means regulated in this law.
21. Detention is the placement of a suspect or accused in a certain place by an investigator or public prosecutor or a judge with a ruling therefore, in matters and by means regulated in this law.
22. Compensation is the right of a person to receive satisfaction of his claims in the form of payment of an amount of money by virtue of having been arrested, detained, prosecuted or tried without any reason based on law or due to an error regarding his person or the law which is applied by means regulated in this law.
23. Rehabilitation is the right of a person to have his rights restored to their capacity, status, dignity and integrity which is granted at the stage of investigation, prosecution or adjudication by virtue of having been arrested, detained, prosecuted or tried without any reason based on law or due to an error regarding his person or the law which is applied by means regulated in this law.
24. Report is the notification of a competent official submitted by a person by right or obligation based on law that a criminal event has occurred or in occurring or is expected to occur.
25. Complaint is the notification given to a competent official accompanied by a request from an interested party that legal action be taken against a person who has committed an offense-on-complaint which has caused him damage.
26. Witness is a person who can testify for purposes of investigation, prosecution and adjudication on a criminal case which he has himself heard, seen or experienced.
27. Testimony is one of the means of proof in a criminal case which takes the form of information from a witness concerning a criminal event which he has himself heard, seen or experienced stating the reasons for his knowledge.

28. Expert testimony is information provided by a person who has special expertise on matters required to elucidate a criminal case for purposes of examination.
29. Testimony of a minor is information provided by a minor on matters required to elucidate a criminal case for purposes of examination in matters and by means regulated in this law.
30. Family is those who have blood relationships to a certain degree or marital relationships to those involved in a criminal process as regulated in this law.
31. One day is twenty-four hours and one month is a period of thirty days.
32. Convicted Person is a person who has been penalized by a court judgment which has become final and binding.

CHAPTER II

APPLICABILITY OF THE LAW

Article 2

This law shall apply to the administration of justice in the public judicial system at all levels of justice.

CHAPTER III

THE BASIS OF JUSTICE

Article 3

Justice shall be carried out by means regulated in this law.

CHAPTER IV

INVESTIGATOR AND PUBLIC PROSECUTOR

Part One

Junior Investigator and Investigator

Article 4

A junior investigator shall be any official of the state police of the Republic of Indonesia.

Article 5

- (1) A junior investigator as intended by Article 4:
 - a. by virtue of his authority shall be competent:
 1. to accept a report or complaint from a person about the existence of an offense;
 2. to seek information and physical evidence;
 3. to order a person of whom he is suspicious to stop and to ask for and inspect his identification;
 4. to take other responsible acts in accordance with law.
 - b. by order of an investigator may take such acts as:
 1. arrest, restriction, of movement, search and seizure;
 2. inspection and seizure of letters;
 3. fingerprinting and photographing of a person;
 4. taking and bringing a person before an investigator.
- (2) A junior investigator shall prepare and submit reports to the investigator on the results of the acts as stated in Paragraph (1) point a and point b.

Article 6

- (1) An investigator shall be:
 - a. an official of the state police of the Republic of Indonesia
 - b. a certain official of the civil service who is granted special authority by law.

- (2) The conditions of rank for the officials as intended by Paragraph (1) shall be further regulated by government regulation.

Article 7

- (1) An investigator as intended by Article 6 Paragraph (1) point a by virtue of his authority shall be competent:
- a. to accept a report or complaint from a person about the existence of an offense;
 - b. to take the first steps at the place of occurrence;
 - c. to order a suspect to stop and examine the suspect's identification;
 - d. to carry out arrest, detention, search and seizure;
 - e. to carry out the examination and seizure of documents,
 - f. to fingerprint and photograph a person; .
 - g. to summon a person to be heard or examined as a suspect or a witness;
 - h. to call in an expert required in connection with the examination of a case;
 - i. to terminate an investigation;
 - j. to take other responsible acts in accordance with law.
- (2) An investigator as intended by Article 6 Paragraph (1) point b shall have the authority as vested by the pertinent underlying law and shall in carrying out his duties be under the coordination and supervision of the investigator referred to in Article 6 Paragraph (1) point a.
- (3) In carrying out the duties as intended by Paragraph (1) and Paragraph (2), the investigator shall be obligated to hold the prevailing law in high respect.

Article 8

- (1) The investigator shall prepare minutes of the execution of acts as intended by Article 7 without detracting from the other provisions of this law.
- (2) The investigator shall deliver the dossier of a case to the public prosecutor.
- (3) The delivery of the dossier of a case as intended by Paragraph (2) shall be accomplished as follows:
- a. at the first stage, the investigator shall deliver only the dossier of a case;
 - b. where the investigation is deemed to have been completed, the investigator shall cede responsibility for the suspect and the physical evidence to the public prosecutor.

Article 9

The junior investigator and Investigation as intended by Article 6 Paragraph (1) point a shall have the authority to perform their respective duties in general throughout the territory of Indonesia, in particular in the respective jurisdictions where they were appointed in accordance with the provisions of law.

Part Two

Assistant Investigator

Article 10

- (1) An assistant investigator shall be an official of the state police of the Republic of Indonesia who is appointed by the Head of the State Police of the Republic of Indonesia based on the conditions of rank in Paragraph (2) of this article.
- (2) The conditions of rank as intended by Paragraph (1) shall be regulated by government regulation.

Article 11

An assistant investigator shall have the authority as stated in Article 7 Paragraph (1), except with respect to detention that must be based on authority delegated by the investigator.

Article 12

An assistant investigator shall prepare minutes and deliver the dossier of a case to the investigator, except a case handled by summary proceedings that can be delivered directly to the public prosecutor.

Part Three

Public Prosecutor

Article 13

A Public prosecutor shall be a public attorney who is granted the authority by this law to conduct a prosecution and execute the rulings of a judge.

Article 14

The Public Prosecutor shall have the authority:

- a. to accept and examine the dossier of a case under investigation submitted by an investigator or an assistant investigator;
- b. to conduct pre-prosecution¹¹ if there are shortcomings in the investigation with due regard to Article 110 Paragraph (3) and Paragraph (4), by giving instructions to the investigator on ways to improve his investigation;
- c. to grant an extension of detention, to carry out a detention or a further detention and/or to change the status of a detainee after his case has been turned over to him by the investigator;
- d. to prepare bills of indictment;
- e. to bring actions before the court;
- f. to give notification to the accused of the day and time the case will be tried accompanied by summonses, both to the accused and to witnesses, to appear at the designated trial session;
- g. to conduct a prosecution;
- h. to close a case in the interest of law;
- i. to take other acts within the scope of his duties and responsibilities as a public prosecutor according to the provisions of this law;
- j. to execute rulings of a judge.

Article 15

The public prosecutor shall prosecute a criminal case occurring in his jurisdiction in accordance with the provisions of law.

CHAPTER V

ARREST, DETENTION, SEARCH OF THE PERSON, HOUSE ENTRY, SEIZURE AND EXAMINATION OF DOCUMENTS

Part One

Arrest

Article 16

- (1) For purposes of preliminary investigation, the junior investigator upon the order of the investigator shall have the authority to make an arrest.
- (2) For purposes of investigation, the investigator and assistant investigator shall have the authority to make an arrest.

Article 17

An arrest warrant shall be served on a person who is strongly presumed to have committed an offense based on sufficient preliminary evidence.

Article 18

- (1) The task of making an arrest shall be executed by officers of the state police of the Republic of Indonesia by showing their assignment letters and giving the suspect the arrest warrant which

contains the suspect's identity and states the reasons for arrest and a brief explanation of the criminal case of which he is suspect and the place where he is to be examined.

- (2) In cases of apprehension in flagrante delicto, the arrest shall be made without a warrant, provided that the arresting officer must immediately deliver the arrested person and any physical evidence to the nearest investigator or assistant investigator.
- (3) A copy of the arrest warrant as intended by Paragraph (1) shall be provided to his family immediately after the arrest is made.

Article 19

- (1) The arrest as intended by Article 17, Can be made for at most one day.
- (2) A person suspected of having committed a misdemeanor shall not be arrested, except when without valid reasons he has failed two consecutive times to comply with valid summons.

Part Two Detention

Article 20

- (1) For purposes of investigation, an investigator or assistant investigator on order of an investigator as Intended by Article 11 shall have the authority to make a detention.
- (2) For purposes of prosecution, the public prosecutor shall have the authority to make a detention or further detention.
- (3) For purposes of examination, the judge at trial shall have the authority to make a detention by his ruling.

Article 21

- (1) A warrant of detention or warrant of further detention shall be served on a suspect or an accused who is strongly presumed to have committed an offense based on, sufficient evidence, in cases where there are circumstances which give rise to concern that the suspect or the accused will escape, damage or destroy physical evidence and/or repeat the offense.
- (2) An investigator or public prosecutor shall detain or further detain a suspect or defendant by presenting a warrant of detention or the ruling of a judge which sets forth the Identity of the suspect or the accused and states the reason for detention and a brief explanation of the criminal case of which he is suspected or accused and his place of detention.
- (3) A copy of the warrant of detention or further detention or of the ruling of the judge as intended by Paragraph (2) must be provided to his family.
- (4) Said detention may only be applied to a suspect or an accused who has committed an offense and/or has attempted or abetted said offense where:

- a. the offense is liable to Imprisonment of five years or more;
- b. the offense is as intended by Article 282 Paragraph (3), Article 296, Article 335 Paragraph (1), Article 351 Paragraph (1), Article 353 Paragraph (I), Article 372, Article 378, Article 379a, Article 453, Article 454, Article 455, Article 459, Article 480 and Article 506 of the Kitab Undang-Undang Hukum Pidana¹², Article 25 and Article 26 of Rechten-ordonnantie (violations against the Ordinance on Customs and Excise, most recently amended by Staatsblad Number 471 of 1931), Article I, Article 2 and Article 4 of the Law on Immigration Offenses (Law Number 8 Drt. of 1955, Lembaran Negara Number 8 of 1955), Article 36 Paragraph (7), Article 41, Article 42, Article 43, Article 47, and Article 48 of law Number 9 of 1976 on Narcotics (Lembaran Negara Number 37 of 1976, Tambahan Lembaran Negara Number 3086).

Article 22

- (1) Types of detention may take the form of:
 - a. detention in a state detention house;
 - b. house arrest;
 - c. city arrest;

- (2) House arrest shall be effected at the home or residence of a suspect or an accused through the exercise of supervision over him to prevent anything which might create difficulties for investigation, prosecution or examination at trial.
- (3) City arrest shall be effected in the city where a suspect or an accused stays or resides, with an obligation on the suspect or the accused to report himself at specified times.
- (4) The period of arrest and/or detention shall be subtracted in full from the term of the penalty imposed.
- (5) For city arrest, said subtraction shall be one-fifth of the total length of the period of detention whereas for house arrest, it shall be one-third of the total length of the period of detention.

Article 23

- (1) An investigator or a public prosecutor or a judge shall have the authority to change the type of detention from one type to another type of detention as intended by Article 22.
- (2) A change in the type of detention shall be stated separately in a warrant issued by the investigator or the public prosecutor or a ruling of the judge, a copy of which shall be provided to the suspect or the accused and his family and the agency concerned.

Article 24

- (1) A warrant of detention issued by an investigator as intended by Article 20, shall only be valid for at most twenty days.
- (2) The period of time mentioned in Paragraph (1), if necessary for purposes of an examination which is not yet completed, may be extended by a competent public prosecutor for at most forty days.
- (3) The provisions as stated in Paragraph (1) and Paragraph (2) do not preclude the possibility of the suspect being released from detention prior to the end of the period of detention, if the purpose of the examination have been satisfied.
- (4) After said sixty day period, the investigator must have released the suspect from detention by operation of law.

Article 25

- (1) A warrant of detention issued by a public prosecutor as intended by Article 20 shall Only, be valid for at most twenty days.
- (2) The period of time as stated in Paragraph (1) if necessary for purposes of an examination which Is not yet completed, may be extended by the head of a competent district court for at most thirty days.
- (3) The provisions as stated in Paragraph (1) and Paragraph (2) do not preclude the possibility of the suspect being released from detention prior to the end of the period of detention, if the purposes of the examination have been satisfied.
- (4) After said fifty day period, the public prosecutor must have released the suspect from detention by operation of law.

Article 26

- (1) A judge of a district court who is adjudicating a case as intended by Article 84 Shall have the authority, for purposes of an examination, to issue a warrant of detention for at most thirty days.
- (2) The period of time as stated in Paragraph (1), if necessary for purposes of an examination that is not yet completed, may be extended by the head of the district court concerned for at most sixty days.
- (3) The provisions as stated in Paragraph (1) and Paragraph (2) do not preclude the possibility of the accused being released from detention prior to the end of the period of detention, if the purposes of the examination have been satisfied.
- (4) After the ninety day period, even though the case has not yet been decided, the accused must have been released from detention by operation of law.

Article 27

- (1) The judge of a high court¹³ who is adjudicating a case as intended by Article 87, for purposes of an examination on appeal, shall have the authority to issue a warrant of detention for a period of at most thirty days.
- (2) The period of time as stated in Paragraph (1), if necessary for purposes of an examination that is not yet completed, may be extended by the head of the high court concerned for at most sixty days.
- (3) The provisions as stated in Paragraph (1) and Paragraph (2) do not preclude the possibility of the accused being released from detention prior to the end of the period of detention, if the purposes of the examination have been satisfied.
- (4) After the ninety-day period, even though the case has not yet been decided, the accused must have been released from detention by operation of law.

Article 28

- (1) The Supreme Court Justice who is adjudicating a case as intended by Article 88, for purposes of an examination in cassation, shall have the authority to issue a warrant of detention for a period of at most fifty days.
- (2) The period of time as stated in Paragraph (1), if necessary for purposes of an examination that is not yet completed, may be extended by the Chief Justice of the Supreme Court for at most sixty days.
- (3) The provisions as stated in Paragraph (1) and Paragraph (2) do not preclude the possibility of the accused being released from detention prior to the end of the period of detention, if the purposes of the examination have been satisfied.
- (4) After the one hundred and ten day period, even though the case has not yet been decided, the defendant must have been released from detention by operation of law.

Article 29

- (1) In exception to the periods of detention as mentioned in Article 24, Article 25, Article 26, Article 27 and Article 28, for purposes of an examination, the detention of a suspect or an accused may be extended on the basis of proper and unavoidable reasons, because:
 - a. the suspect or the accused is suffering from a serious physical or mental disturbance, as evidenced by a doctor's certificate, or
 - b. the case being examined is liable to imprisonment of nine years or more.
- (2) The extension mentioned in Paragraph (1) shall be granted for at most thirty days and in the event such detention is still required, it may again be extended for at most thirty days.
- (3) Said extension of detention, based on a request and an examination report, at the stage of:
 - a. investigation and prosecution shall be granted by the head of a district court;
 - b. examination in district court shall be granted by the head of the high court;
 - c. examination on appeal shall be granted by the Supreme Court;
 - d. examination in cassation shall be granted by the Chief Justice of the Supreme Court;
- (4) The use of the authority for the extension of detention by the officials referred to in Paragraph (3) shall be effected in stages and with full responsibility.
- (5) The provision as stated in Paragraph (2) does not preclude the possibility of the suspect or the accused being released from detention before the end of said period of detention, if the purposes of an examination have been satisfied.
- (6) After the sixty-day period, even though the case in question is still being examined or has not yet been decided, the suspect or defendant must have been released from detention by operation of law.
- (7) With regard to the extension of the period of detention as stated in Paragraph (2), the suspect or the accused may submit objections at the stage of:

- a. investigation and prosecution to the head of the high court.
- b. examination by the district court and examination on appeal to the Chief Justice of the Supreme Court.

Article 30

If the length of time of detention as mentioned in Article 24, Article 25, Article 26, Article 27 and Article 28 or of extension of detention as mentioned in Article 29 proves to be invalid, the suspect or the accused shall have the right to claim compensation in accordance with the provisions intended by Article 95 and Article 96.

Article 31

- (1) At the request of the suspect or the accused, an investigator or a public prosecutor or a judge, in accord with their respective authorities, may effect a postponement of detention with or without bail money or a personal guarantee, on the basis of stipulated conditions.
- (2) By virtue of their offices, an investigator or a public prosecutor or a judge 18 may from time to time withdraw the postponement of detention where the suspect or the accused fails to observe the conditions as intended by Paragraph (1).

Part Three

Search

Article 32

For purposes of investigation, an investigator may perform a house search or a search of clothes or a search Of the person according to procedures stipulated by this law.

Article 33

- (1) With a warrant from the head of the local district court, an investigator in carrying out an investigation may perform a house search as required.
- (2) Where required upon a written order front an investigator, an officer of the state police of the Republic of Indonesia may enter a house.
- (3) Each instance of entry of a house where the suspect or occupant has given his consent must be witnessed by two witnesses.
- (4) Each instance of entry of a house where the suspect or occupant has refused or is not present must be witnessed by the village head or the head of the neighborhood with two witnesses.
- (5) Within two days after entering and/or searching a house, minutes must be made and a copy thereof provided to the owner or occupant of the house concerned.

Article 34

- (1) In urgent and compelling circumstances, where an investigator must act immediately and can not possibly first ask for a warrant, without detracting from the provision of Article 33 Paragraph (5) the investigator may carry out a search:
 - a. in the yard of the house where the suspect resides, is staying or is present and of those things which may lie thereupon.
 - b. in every other place where the suspect resides, stays or is present. c. at the location where the offense was committed or where traces are found. d. in lodgings and other public places.
- (2) Where an investigator performs a search as intended by Paragraph (1), the investigator shall not be allowed to examine or to seize documents, books and other written materials which are not goods connected with the offense concerned, except goods which are connected to the offense concerned or are presumed to have been used in committing said offense and for which purpose he shall be obligated to immediately report to the head of the local district court to obtain his approval.

Article 35

Except in cases of apprehension in flagrante delicto, an investigator shall not be allowed to enter:

- a. a room where a meeting of the People's Consultative Assembly, the People's Representative Council or a Provincial People's Representative Council is in session;
- b. a place where a religious service and/or ceremony is taking place;
- c. a room where a trial is being held.

Article 36

In the event an investigator must conduct a house search outside of his jurisdiction, without detracting from the provision stated in Article 33, said search must be conducted with the knowledge of the head of the district court and in the company of the investigator from the jurisdiction where the search is conducted.

Article 37

- (1) At the time of arresting a suspect, a junior investigator shall only have the authority to search his clothes including goods carried with him, if there is a strong presumption based on sufficient reason that the suspect has goods on him that may be seized.
- (2) At the time of arresting a suspect or if the suspect as intended by Paragraph (1) is brought to an investigator, an investigator shall have the authority to search the clothes and/or to search the person of the suspect.

Part Four

Seizure

Article 38

- (1) Seizure may only be carried out by an investigator with a warrant from the head of the local district court.
- (2) In urgent and compelling circumstances, where an investigator must act immediately and cannot possibly first obtain a warrant, without detracting from the provision of Paragraph (1), the Investigator may only seize movable goods and for which purpose he shall be obligated to report immediately to the head of the local district court to obtain his approval.

Article 39

- (1) That which may be subject to seizure shall be:
 - a. goods or claims of the suspect or the accused of which all or part are presumed to have been obtained from an offense or as the result of an offense;
 - b. goods which have been directly used to commit an offense or in preparation therefore;
 - c. goods used to obstruct the investigation of an offense;
 - d. goods specially made and intended for the commission of an offense;
 - e. other goods which have a direct connection with the offense committed.
- (2) Goods, which have been seized due to a civil suit or due to bankruptcy, may also be seized for purposes of the investigation, prosecution and adjudication of a criminal case, insofar as they satisfy the provisions of Paragraph (1).

Article 40

In cases of apprehension in flagrante delicto, an investigator may seize goods and tools which obviously or which may reasonably be presumed to have been used to commit an offense or other goods which may be used as physical evidence.

Article 41

In cases of apprehension in flagrante delicto, an investigator shall have the authority to seize packages or documents or goods the transport or sending of which is handled by the post and telecommunication office, communication or transportation agency or enterprise, insofar as said packages, documents or goods are intended for the suspect or have originated from him and for this, the suspect and/or the official at the post and telecommunication office, communication or transportation agency or enterprise concerned must be provided with a receipt.

Article 42

- (1) An investigator shall have the authority to order a person in control of goods which may be seized, to surrender the goods to him for purposes of investigation and a receipt must be provided to the person surrendering said goods.
- (2) The surrender to an investigator of documents or other written materials may only be ordered if such documents or written materials originate from the suspect or the accused or are addressed to him or are His property or are intended for him or if said goods are means of committing an offense.

Article 43

The seizure of documents or other written materials from those who are obligated by law to keep them confidential, insofar as they do not concern state secrets, may only be carried out with their agreement or by special warrant from the head of the local district court except as may be otherwise provided by law.

Article 44

- (1) Seized goods shall be kept in a state storehouse for seized goods.'
- (2) The storage of seized goods shall be conducted in the best possible manner and the responsibility therefore shall rest with the official authorized in accordance with the stage of examination in the criminal justice process and the use of said goods by any person whomsoever shall be forbidden.

Article 45

- (1) In the event the seized goods consist of goods which are easily damaged or are dangerous, such that it is impossible to store them until the court judgment with respect to the case concerned has become final and binding or if the costs of storage of said goods would be excessive, as far as possible with the agreement of the suspect or his attorney-in-fact: the following acts may be taken:
 - a. if the case is still in the hands of the investigator or public prosecutor, said goods may be sold at auction or may be secured by the investigator or public prosecutor, witnessed by the suspect or his attorney-in-fact;
 - b. if the case is already in the hands of the court, then said goods may be secured or sold at auction by the public prosecutor with the permission of the judge who is hearing the case and witnessed by the suspect or his attorney-In-fact.
- (2) The proceeds from the auctioning of the goods concerned that is in the form of money shall be used as physical evidence.
- (3) Where possible, a small portion of the goods as indented by Paragraph (1) shall be set-aside for evidentiary purposes.
- (4) Seized goods that are contraband in nature or are banned from circulation shall be excluded from the provision as intended by Paragraph (I) and shall be confiscated to be used in the state interest or to be destroyed.

Article 46

- (1) Goods which are seized shall be returned to the person or to those from whom they have been seized, or to the person or those who are the most entitled to them, if,
 - a. they are no longer needed for the purpose of investigation and prosecution;
 - b. the case in question has not been prosecuted because of the absence of sufficient evidence or it has become Clear that it not constitute an offense,
 - c. the case in question has been put aside in the public interest or closed in the interest of law, except when the goods have resulted from a offense or have been used for committing a criminal offense.
- (2) If the case has been decided, the goods seized shall be returned to the person or to those persons mentioned in the judgment, except when according to the judgment the goods are to be confiscated for the state, in order to be destroyed or damaged in such a way as to be no

longer usable or if the goods concerned are still needed, to be used as physical evidence for another case.

Part Five

Examination of Documents

Article 47

- (1) An investigator shall have the right to open, examine and seize other documents sent through the post and telecommunication office, communication or transportation agency or enterprise, if the goods in question are, for good reason, suspected of having a connection with a criminal case currently being examined, with a special warrant issued for such purpose by the head of the district court.
- (2) For such purpose, the investigator may request the head of the post and telecommunication office, the head of the communication or other transportation agency or enterprise concerned to surrender the intended documents to him, for which a receipt must be provided.
- (3) The acts as intended in Paragraph (1) and Paragraph (2) of this article may be taken at all stages of examination in the criminal justice process in accordance with the provisions stipulated in said Paragraphs.

Article 48

- (1) If after having been opened and examined, it is evident that a document has relations with the case that being examined, said document should be enclosed in the dossier of the case.
- (2) If after having been examined, it is evident said document has no connection with said case, the document shall be neatly sealed and immediately returned to the post and telecommunication office, the communication and other transportation agency or enterprise concerned after having been stamped "opened by Investigator" and marked with the date, the signature and the identity of the investigator.
- (3). The investigator and the officials at all stages of examination in the criminal Justice process shall be obligated to assiduously maintain the confidentiality of the contents of the returned document by the strength of their oath of office.

Article 49

- (1) The investigator shall prepare minutes with regard to the acts as intended by Article 48 and Article 75.
- (2) Copies of said minutes shall be sent by the investigator to the head of the post and telecommunication office, the head of the communication or transportation agency or enterprise concerned.

CHAPTER VI

THE SUSPECT AND THE ACCUSED

Article 50

- (1) A suspect shall have the right to be examined promptly by an investigator and thereafter to have his case referred to the public prosecutor.
- (2) A suspect shall have the right to have his case promptly submitted to court by the public prosecutor.
- (3) An accused shall have the right to be promptly adjudicated by the court.

Article 51

In order to prepare a defense:

- a. a suspect shall have the right to be clearly informed in language which he understands about what he is suspected of at the time an examination begins;
- b. an accused shall have the right to be clearly informed in language which he understands about what he is accused of.

Article 52

In examinations at the stages of investigation and adjudication, a suspect or an accused shall have the right to freely give information to an investigator or judge.

Article 53

- (1) In examinations at the stages of investigation and adjudication, a suspect or an accused shall have the right at any time to have the assistance of an interpreter as intended by Article 177.
- (2) In case a suspect or an accused is deaf and/or dumb, the provision as intended by Article 178 shall apply.

Article 54

For purposes of defense, a suspect or an accused shall have the right to obtain legal assistance from one or more legal counsels during the period of and at every stage of examination; according to the procedures stipulated by this law.

Article 55

In order to obtain the legal counsel referred to in Article 54, a suspect or an accused shall have the right to make his own choice of legal counsel.

Article 56

- (1) In the event a suspect or an accused is suspected of or accused of having committed an offense which is liable to a death penalty or imprisonment of fifteen years or more or for those who are destitute who are liable to imprisonment of five years or more who do not have their own legal counsel, the official concerned at all stages of examination in the criminal justice process shall be obligated to assign legal counsel for them.
- (2) Any legal counsel who is assigned to act as intended by Paragraph (1) shall provide his assistance free of charge.

Article 57

- (1) A suspect or an accused who is subject to detention shall have the right to contact his legal counsel in accordance with the provisions of this law.
- (2) A suspect or an accused of foreign nationality who is subject to detention shall have the right to contact and speak with the legation of his country in facing the process of his case.

Article 58

A suspect or an accused who is subject to detention shall have the right to contact and to be visited by his personal doctor in the interest of his health, whether or not this has any connection with the process of the case.

Article 59

A suspect or an accused who is subject to detention shall have the right to have his family or other people in the same house as the suspect or the accused or other persons whose assistance is required by the suspect or the accused to obtain legal assistance or guarantee for his release on bail notified of his detention by the competent official, at all stages of examination in the criminal justice process.

Article 60

A suspect or an accused shall have the right to contact and receive visits from persons who have family or other relationships with the suspect or the accused in order to obtain guarantees for the release from detention on bail or for purposes of obtaining legal assistance.

Article 61

A suspect or an accused shall have the right, directly or through the intermediacy of his legal counsel, to contact and receive visits from his relatives for matters which have no connection with the case of the suspect or the accused for occupational concerns or for family concerns.

Article 62

- (1) A suspect or an accused shall have the right to send documents to his legal counsel, and to receive documents from his legal counsel and relatives at any time he requires, for which purpose stationery shall be provided to the suspect or accused.

- (2) Correspondence between a suspect or an accused and his legal counsel or relatives shall not be examined by an Investigator, public prosecutor, judge or official of a state house of detention, except when there is sufficient reason to presume that the correspondence is being abused.
- (3) In the event a document for a suspect or an accused is scrutinized or examined by an investigator, public prosecutor, judge or official of a state house of detention, the suspect or accused shall be informed about of such fact and said document returned to the sender after being stamped "scrutinized".

Article 63

A suspect or an accused shall have the right to contact and receive visits from a priest.

Article 64

An accused shall have the right to be adjudicated in a trial that is open to the public.

Article 65

A suspect or an accused shall have the right to seek and call a witness and/or a person with special expertise to provide testimony that is favorable to him.

Article 66

A suspect or an accused shall not bear the burden of proof.

Article 67

An accused or public prosecutor shall have the right to appeal against a judgment of a court of first instance except against a judgment of acquittal, a dismissal of all charges which relates to a matter of the inappropriate application of law and a judgment under express procedures.

Article 68

A suspect or an accused shall have the right to claim compensation and rehabilitation as Governed by Article 95 and so forth.

CHAPTER VII

LEGAL ASSISTANCE

Article 69

Legal counsel shall have the right to contact a suspect from the moment of his arrest or detention at all stages of examination according to the procedures stipulated by this law.

Article 70

- (1) Legal counsel as Intended by Article 69 shall have the right to contact and speak with the suspect at any stage of examination and at any time for purposes of the defense of his case.
- (2) If there is proof that said legal counsel is abusing his right in speaking with the suspect, then in accordance with the stage of examination, the investigator, public prosecutor or prison officer shall give a warning to the legal counsel.
- (3) If the warning is not heeded, then said contact shall be supervised by the official referred to in Paragraph (2).
- (4) If after supervision, the right is still abused, the said contact shall be witnessed by the official referred to in Paragraph (2) and if thereafter the violation continues, then the contact shall henceforth be prohibited.

Article 71

- (1) Legal counsel in contacting a suspect shall be supervised by the investigator, public prosecutor or prison officer, in accordance with the stage of examination, who shall refrain from listening to the content of the discussion.
- (2) In the event of a crime against state security, the officials referred to in Paragraph (1) may listen to the content of the discussion.

Article 72

At the request of a suspect or his legal counsel, the official concerned shall provide a copy of the minutes of the examination for purposes of his defense.

Article 73

Legal counsel shall have the right to send and receive documents from a suspect at any time he desires.

Article 74

The restrictions on the freedom of contact between legal counsel and a suspect as stated in Article 70 Paragraph (2), Paragraph (3), Paragraph (4) and Article 71 shall be prohibited, after the case has been submitted by the public prosecutor to the district court for adjudication, a copy of which letter shall be delivered to the suspect or his legal counsel as well as to the other parties in the process.

CHAPTER VIII

MINUTES

Article 75

- (1) Minutes shall be prepared for each of the following acts:
 - a. examination of a suspect;
 - b. arrest;
 - c. detention;
 - d. search;
 - e. house entry;
 - f. seizure of goods;
 - g. examination of documents;
 - h. examination of a witness;
 - i. examination at the place of occurrence;
 - j. execution of court rulings and judgments;
 - k. the carrying out of other acts in accordance with the provisions of this law.
- (2) Minutes shall be prepared by the official concerned with the taking of an act as stated in Paragraph (1) and prepared on the strength of the oath of office.
- (3) In addition to being signed by the official referred to in Paragraph (2), said minutes shall also be signed by all the parties involved in the acts stated in Paragraph (1).

CHAPTER IX

OATH OR AFFIRMATION

Article 76

- (1) In matters for which the taking of an oath or an affirmation is mandatory based on the provisions of this law, prevailing laws and regulations concerning oath or affirmation shall be used, both with respect to the content thereof and with respect to the procedure therefore.
- (2) If the provisions as intended by Paragraph (1) are not satisfied, said oath or affirmation shall be void by operation of law.

CHAPTER X

THE COMPETENCE OF THE COURT TO ADJUDICATE

Part One

Pretrial Review

Article 77

A district court shall be competent to examine and decide, in accordance with the provisions set forth in this law concerning:

- a. the legality or illegality of an arrest, detention, termination of investigation or termination of prosecution;
- b. Compensation and/or rehabilitation for a person whose criminal case is terminated at the stage of investigation or prosecution.

Article 78

- (1) The competence of the district court as intended by Article 77 shall be exercised in the context of pretrial review.
- (2) Pretrial review shall be chaired by a single judge assigned by the head of the district court and assisted by a clerk.

Article 79

The Suspect, his family or his attorney-in-fact to the head of the district court stating the reasons therefore shall submit a request for an examination of the legality or illegality of an arrest or detention.

Article 80

A request to examine the legality or illegality of a termination of an investigation or prosecution may be submitted by the investigator or public prosecutor or a third interested party to the head of the district court stating the reasons therefore.

Article 81

A request for compensation and or rehabilitation as the consequence of an illegal arrest or detention or as the result of the legal termination of an investigation or prosecution shall be submitted by a suspect or a third interested party to the head of the district court stating the reasons therefore.

Article 82

- (1) The pretrial review examination procedures in matters as intended by Article 79, Article 80 and Article 81 shall be stipulated as follows:
 - a. Within three days after receipt of the request, the assigned judge shall set the day of trial;
 - b. in examining and deciding on the legality or illegality of an arrest or detention, the legality or illegality of the termination of an investigation or prosecution, a request for compensation and/or rehabilitation as the consequence of an illegal arrest or detention, as the consequence of the legal termination of an investigation or prosecution and the existence of seized goods which do not constitute means of proof, the judge shall hear the testimony of both the suspect or the petitioner and of the competent official;
 - c. Said examination shall be carried out quickly and within seven days at the latest the judge must have passed his judgment;
 - d. in the event that a case has already begun to be examined at district court, whereas the examination of the request for pretrial review has not yet been completed, then said request shall fail;
 - e. a judgment in pretrial review at the stage of investigation shall not preclude the possibility of another examination in pretrial review being held at the stage of examination by the public prosecutor, if a new request is submitted therefore.
- (2) The judgment in pretrial review examination procedures with respect to matters as intended by Article 79, Article 80 and Article 81 must contain the basis and reasons therefore stated clearly.
- (3) In addition to containing the provisions ns intended by Paragraph (2), the judgment shall also contain the following matters:
 - a. where the judgment rules that an arrest or detention was illegal, then the investigator or the public prosecutor at their respective stages of examination must immediately release the suspect;

- b. where the judgment rules that a termination of an investigation or prosecution was illegal, the continuation of the investigation and prosecution of the suspect shall be mandatory;
 - c. where the judgment rules that an arrest or detention was illegal, then the amount of compensation and rehabilitation to be given shall be set forth in the judgment, whereas where a termination of an investigation or prosecution was legal and the suspect is not detained, the judgment shall set forth his rehabilitation.
 - d. where the judgment rules that the goods seized did not all constitute means of proof, then it shall be set forth in the judgment that said goods must immediately be returned to the suspect or (to the person) from whom such goods were seized.
- (4) Compensation may be requested, covering matters as intended by Article 77 and Article 95.

Article 83

- (1) No appeals may be lodged with respect to a judgment in pretrial review in matters as intended by Article 79, Article 80 and Article 81.
- (2) A judgment in pretrial review which rules that the termination of an investigation or prosecution was illegal shall be excluded from the provision of Paragraph (1), for which purpose a final judgment of the high court in the jurisdiction concerned may be requested.

Part Two

The District Courts

Article 84

- (1) A district court shall be competent to adjudicate all cases regarding offenses committed within its jurisdiction.
- (2) A district court in the jurisdiction of which an accused resides, most recently stayed, was discovered or detained, shall only be competent to adjudicate the case of said accused if the residences of most of the witnesses to be summoned are closer to that district court than to the district court in the area of which the offense was committed.
- (3) if an accused commits several offenses within the Jurisdictions of various district courts, each such district court shall individually be competent to adjudicate the criminal case.
- (4). Where several criminal cases are related to one another and were committed by an individual within the jurisdictions of various district courts, each district court shall adjudicate individually, provided however that the possibility of the joinder of said cases shall be open.

Article 85

In the event that the conditions in an area do not permit a district court to adjudicate a case, then upon the recommendation of the head of the district court or the head of the district office of the public attorney concerned, the Supreme Court shall recommend to the Minister of justice to determine or assign a district court other than that mentioned by Article 84 to adjudicate the case intended.

Article 86

If a person commits an offense abroad that may be adjudicated under the law of the Republic of Indonesia, then the District Court of Central Jakarta shall be competent to adjudicate the case.

Part Three

The High Courts

Article 87

A high court shall be competent to adjudicate cases that have been decided upon by a district court in its jurisdiction for which an appeal has been lodged.

Part Four

The Supreme Court

Article 88

The Supreme Court shall be competent to adjudicate all criminal cases for which cassation has been sought.

CHAPTER XI INTERCONNECTED JURISDICTIONS

Article 89

- (1) An offense committed together by those who belong to the public judicial system and to the military judicial system shall be examined and adjudicated by a court within the public judicial system, except where according to a decision of the Minister of Defense and Security with the concurrence of the Minister of Justice the case must be examined and adjudicated by a court within the military judicial system.
- (2) The investigation of a criminal case as intended by Paragraph (1) shall be carried out by a permanent team consisting of the investigator as intended by Article 6, the military police of the Armed Forces of the Republic of Indonesia and the military prosecutor 15 or high military prosecutor 16 in line With their respective authorities according to the law applicable to the investigation of criminal cases.
- (3) The team as intended by Paragraph (2) shall be constituted by a joint decision of the Minister of Defense and Security and the Minister of Justice.

Article 90

- (1) To determine whether a court within the public judicial system or a court within the military judicial system will adjudicate a criminal case as intended by Article 89 Paragraph (1), a joint research shall be undertaken by the public attorney or high public attorney and the military prosecutor or high military prosecutor based on the results of the investigation of the team referred to by Article 89 Paragraph (2).
- (2) The findings of said joint research shall be set forth in minutes which shall be signed by the parties as intended by Paragraph (1).
- (3) If in this joint research there are consistent findings on the court which is competent to adjudicate said case, then this fact shall be reported by the public attorney or the high public attorney to the Attorney General or by the military prosecutor or the high military prosecutor to the Prosecutor General of the Armed Forces of the Republic of Indonesia.

Article 91

- (1) If according to the findings as intended by Article 90 Paragraph (3) the onus of the damage caused by the offense falls on the public interest and therefore the criminal case must be adjudicated by a court within the public judicial system, then the officer bringing the case shall immediately prepare a decision to surrender the case to be delivered to the public prosecutor through the military prosecutor or the high military prosecutor to form the basis for submitting the case to the competent district court.
- (2) If according to the findings the onus of the damage caused by the offense falls on the military interest such that the criminal case must be adjudicated by a court within the military judicial system, then the findings as intended by Article 90 Paragraph (3) shall form the basis for the Judge-Advocate General of the Republic of Indonesia to recommend to the Minister of Defense and Security that, with the concurrence of the Minister of Justice, a decision of the Minister of Defense and Security should be issued which determines that said criminal case shall be adjudicated by a court in the military judicial system.
- (3) The decision referred to by Paragraph (2) shall form the basis for the officer bringing the case and the public attorney or the high public attorney to submit the case to the military tribunal or the high military tribunal.

Article 92

- (1) If the case is submitted to the district court as intended by Article 91 Paragraph (1), the minutes of the examination prepared by the team as intended by Article 89 Paragraph (2) shall be marked with a note by the public prosecutor submitting the case, that said minutes have been taken over by him.

- (2) The provision as intended in Paragraph (1) shall also apply to the military prosecutor or high military prosecutor if said case is to be submitted to a court within the military judicial system.

Article 93

- (1) If in the research as intended by article 90 Paragraph (1) there is a difference of opinion between the public prosecutor and the military prosecutor or high military prosecutor, each of them shall report in writing on the difference of opinion, accompanied by the dossier of the case concerned through the high public attorney, to the Attorney General and Prosecutor General of the Armed Forces of the Republic Indonesia.
- (2) The Attorney General and the Prosecutor General of the Armed Forces of the Republic of Indonesia shall consult to reach a decision in order to end the difference of opinion as Intended by Paragraph (1).
- (3) In case there is a difference of opinion between the Attorney General and the Prosecutor General of the Armed Forces of the Republic of Indonesia, the opinion of the Attorney General shall prevail.

Article 94

- (1) Where a criminal case as intended by Article 89 Paragraph (1) is adjudicated by a court within the public judicial system or within the military judicial system, the case shall be adjudicated by a panel of judges consisting of at least three judges.
- (2) Where a court within the public judicial system adjudicated a criminal case as intended by Article 89 Paragraph (1), the panel of judges shall consist of a chief judge from the public judicial system and member judges respectively and evenly chosen from the public judicial system and the military judicial system.
- (3) Where a court within the military judicial system adjudicates a criminal case as intended by Article 89 Paragraph (1), the panel of judges shall consist of a chief judge from the military judicial system and member judges respectively and evenly chosen from the military judicial system and from the public judicial system who shall be given titular military rank.
- (4) The provisions mentioned in Paragraph (2) and (3) shall apply also to appellate courts.
- (5) The Minister of Justice and the Minister of Defense and Security shall reciprocally propose the appointment of member judges as intended in Paragraph (2), Paragraph (3) and Paragraph (4) and officer judges as intended in Paragraph (3) and Paragraph (4).

CHAPTER XII

COMPENSATION AND REHABILITATION

Part One

Compensation

Article 95

- (1) A suspect, an accused or a convicted person shall have the right to demand compensation for the harm of having been arrested, detained, prosecuted and adjudicated or subjected to other acts, without reason founded on law or due to a mistake with regard to his identity or to the applicable law.
- (2) A demand for compensation from a suspect or His heir for arrest or detention and other acts without reason founded on law or due to a mistake with regard to identity or the applicable law as intended by Paragraph (1.) whose case has not been submitted to the district court, shall be decided upon in pretrial review as intended by Article 77.
- (3) A demand for compensation as intended by Paragraph (1) shall be submitted by a suspects. an accused, a convicted person or his heir to the court which is competent to adjudicate the case concerned.
- (4) The head of the court shall to the extent possible assign the same judge who has handled the criminal case concerned to examine and decide upon the case of a demand for compensation referred to in Paragraph (1).

- (5). Examination with respect to compensation as referred to in Paragraph (4) shall follow the procedures for pretrial review.

Article 96

- (1) A judgment granting compensation shall take the form of a ruling.
- (2) The ruling as intended by Paragraph (1) shall set forth in full all matters considered as reasons for said Judgment.

Part Two

Rehabilitation

Article 97

- (1) A Person shall be entitled to obtain rehabilitation if the court has acquitted him or dismissed all charges against him by a judgment which has become final and binding.
- (2) Said rehabilitation shall at once be granted and set forth in the court judgment as intended by Paragraph (1)
- (3) A request for rehabilitation founded on law or (due to) a mistake with regard to identity Or the applicable law as intended by Article 95 Paragraph (1) whose case has not been submitted to the district court shall be decided by a judge in pretrial review as intended by Article 77.

CHAPTER XIII

JOINDER OF CASES OF CLAIMS FOR COMPENSATION

Article 98

- (1) If an act that forms the basis of an accusation in the examination of a criminal case by a district court causes harm to another person, the head judge at trial may at the request of said person decide to join the civil suit for compensation with the criminal case.
- (2) The request as intended by Paragraph (1) may only be made at the latest prior to the submission of requisitory charges by the public prosecutor. Where a public prosecutor is not present, the request shall be submitted at the latest prior to the rendering of judgment by the judge.

Article 99

- (1) If the injured party seeks joinder of his claim with the criminal case as intended by Article 98, the district court concerned shall consider its competence to adjudicate said claim, the veracity of the basis of the claim and the order requiring reimbursement of costs expended by said injured party.
- (2) Except where the district court declares its Incompetence to adjudicate a claim as intended by Paragraph (1) or a claim is declared to be unacceptable, the judgment of the judge shall only set forth the ruling on the order requiring reimbursement of costs expended by said injured party.
- (3) A judgment on compensation shall become final and binding in and of itself, when the criminal judgment has also become final and binding.

Article 100

- (1) Where there is a joinder of a civil suit and a criminal case, then said Joinder shall continue at the level of examination on appeal in and of itself.
- (2) Where no appeal is lodged with respect to the criminal case, then a request for an appeal regarding a judgment on compensation shall not be allowed.

Article 101

Provisions of the rules of civil procedure shall apply to claims for compensation insofar as this law does not stipulate otherwise.

CHAPTER XIV

INVESTIGATION

Part One

Preliminary Investigation

Article 102

- (1) A junior investigator who knows receives a report or a complaint about the occurrence of an event that may reasonably be presumed to be an offense shall be obligated to promptly take the necessary steps for a preliminary investigation.
- (2) In cases of apprehension in flagrante delicto, the junior investigator without awaiting an order by the investigator shall promptly take the necessary steps in the framework of a preliminary investigation as intended by Article 5 Paragraph (1) point b.
- (3) With regard to the steps taken as referred to by Paragraph (1) and Paragraph (2), the junior investigator shall be obligated to prepare minutes and to report same to the investigator in his jurisdiction.

Article 103

- (1) A report or complaint made in writing must be signed by the reporting party or the complainant.
- (2) A report or complaint made verbally must be recorded by the junior investigator and signed by the reporting party or the complainant and the junior investigator.
- (3) Where the reporting party or the complainant is unable to write, this fact must be stated as a note to said report or complaint.

Article 104

In performing preliminary investigative duties, a junior investigator shall be obligated to show his identity card.

Article 105

In performing preliminary investigative duties, a junior investigator shall be coordinated, supervised and instructed by the investigator referred to in Article 6 Paragraph (1) point a.

Part Two

Investigation

Article 106

An investigator who knows, receives a report or a complaint about the occurrence of an event which may reasonably be presumed to be an offense shall be obligated to promptly take the necessary steps for an investigation.

Article 107

- (1) For purposes of investigation, the investigator referred to by Article 6 Paragraph (1) point a shall give instructions to the investigator referred to by Article 6 Paragraph (1) point b and give the necessary investigative assistance.
- (2) Where an event which may reasonably be presumed to be an offense is under investigation by the investigator mentioned by Article 6 Paragraph (1) point b and thereafter strong evidence is found for submittal to the public prosecutor, the investigator referred to by Article 6 Paragraph (1) point b shall report this matter to the investigator referred to by Article 6 Paragraph (1) point a.
- (3) Where the investigation of an offense has been completed by the investigator referred to by Article 6 Paragraph (1) point b, he shall promptly hand over the results of his investigation to the public prosecutor through the investigator referred to by Article 6 Paragraph (1) point a.

Article 108

- (1) Any person who experiences, sees, observes and/or become a victim of an event that constitutes an offense shall have the right to submit a report or a complaint to the junior investigator and/or the investigator either verbally or in writing.

- (2) Any person who knows about a conspiracy to commit an offense against the public tranquility and security or against life or against property shall be obligated to report said fact to the junior investigator or the investigator without any delay whatsoever.
- (3) Any civil servant who in the scope of carrying out his duties knows about the occurrence of an event which constitutes an offense shall be obligated to promptly report this fact to the junior investigator or the investigator.
- (4) A report or complaint that is submitted in writing must be signed by the reporting party or complainant.
- (5) A report or complaint that is submitted verbally shall be recorded by the investigator and signed by the reporting party or the complainant and the investigator.
- (6) After receiving a report or a complaint, the junior investigator or the investigator shall provide the person concerned with a receipt for the report or complaint.

Article 109

- (1) Where an investigator has begun the investigation of an event that constitutes an offense, the investigator shall inform the public prosecutor of this fact.
- (2) Where an investigator terminates an investigation because of the absence of sufficient evidence or it has become clear that said event did not constitute an offense or the investigation has been terminated by virtue of law, the investigator shall inform the public prosecutor, the suspect or his family of this fact.
- (3) Where the termination referred to in Paragraph (2) is effected by an investigator as intended by Article 6 Paragraph (1) letter b, notification of this fact shall promptly be delivered to the investigator and the public prosecutor.

Article 110

- (1) Where an investigator has finished conducting an investigation, the investigator shall be obligated to promptly surrender the dossier of the case concerned to the public prosecutor.
- (2) Where the public prosecutor believes that the results of said investigation remain incomplete, the public prosecutor shall promptly return the dossier of the case to the investigator with instructions for its completion.
- (3) Where the public prosecutor returns the results of the investigation for completion, the investigator shall be obligated to promptly conduct a supplemental investigation in accordance with the instructions of the public prosecutor.
- (4) An investigation shall be considered closed if within fourteen days the public prosecutor has not returned the results of the investigation or if before the end of said time limit, there has been notification concerning the fact from the public prosecutor to the investigator.

Article 111

- (1) In cases of apprehension in flagrante delicto, any person shall have the right, whereas any person having authority for the public order, tranquility and security shall be obligated, to arrest a suspect to be turned over to the junior investigator or the investigator with or without physical evidence.
- (2) After taking custody of a suspect as intended by Paragraph (1), the junior investigator or the investigator shall be obligated to promptly carry out an examination and other acts in framework of an investigation.
- (3) A junior investigator and an investigator who having received a report promptly proceed to the place of occurrence may prohibit anyone from leaving that place until completion of the examination at the site.
- (4) Any person violating said prohibition might be forced to remain at that place until completion of the examination intended above.

Article 112

- (1) An investigator conducting an examination shall have the authority to summon a suspect and a witness deemed necessary to be examined by the issuance of a valid summons, stating clearly

the reasons for the summons, being careful to allow for a reasonable time limit between receipt of the summons and the day that person is required to comply with said summons.

- (2) The person summoned shall be obligated to appear before the investigator and if he fails to appear, the investigator shall once again issue a summons, with an order to the officer to bring the person to him.

Article 113

A suspect or witness who has been summoned provides a fitting and proper reason why he is unable to appear before the investigator conducting an examination, the investigator shall go to his place of residence.

Article 114

A person is suspected of having committed an offense before an examination commenced by an investigator, the investigator shall be obligated to notify him his right to obtain legal assistance or that it is obligatory for him to be assisted his case by legal counsel as intended by Article 56.

Article 115

Where an investigator is in the process of conducting the examination of a suspect legal counsel may follow the course of the examination by watching and listening to the examination.

In the ease of a crime against the security of the state, legal counsel may be present to watch but not to listen to the examination of the suspect.

Article 116

A witness shall be examined without an oath being administered, except when there is sufficient reason to presume that he will be unable to attend the examination at trial.

A witness shall be examined separately, but one may be confronted with another and they shall be obligated to testify to the truth.

In an examination a suspect shall be asked whether he wants a witness to be heard who may be favorable to him and if such be the case this fact shall be recorded In the minutes.

In a case as intended by sanction (3), the investigator shall be obligated to summon and examine said witness.

Article 117

- (1) The testimony of a suspect and/or a witness to an investigator shall be given without pressure from anyone whomsoever and/or in any form whatsoever.
- (2) Where a suspect testifies about what he has actually done in connection with file offense of which he is suspected, the investigator shall record it in the minutes as carefully as possible in the words used by the suspect himself.

Article 118

- (1) The testimony of a suspect and/or a witness shall be recorded in minutes which shall signed by the investigator and by the person giving the statement after they have approved the content.
- (2) Where the suspect and/or the witness is not willing to affix his signature, the investigator shall record this fact in the minutes stating the reasons therefore.

Article 119

Where a suspect and/or a witness whose testimony must be heard stays or resides outside the jurisdiction of the investigator conducting the investigation, the examination of the suspect and/or witness may be imposed upon the investigator at the place where said suspect and/or witness stays or resides.

Article 120

- (1) Where an investigator deems it necessary, he may seek the opinion of an expert or a person having special expertise.
- (2) Said expert shall take an oath or affirmation before the investigator that he will give testimony to the best of his knowledge except when due to his dignity and integrity, occupation or

position lie is obligated to maintain confidentiality he may refuse to give the requested testimony.

Article 121

The investigator by the strength of his oath or office shall promptly prepare minutes which shall be dated and shall set forth the suspected offense, stating the time, place and the circumstances at tile time the offense was committed the name and residence of the suspect and/or witness, their testimony, notes regarding deeds and/or goods and anything which is deemed necessary for purposes of solving the case.

Article 122

Where a suspect is detained, an investigator must commence the examination within one day after the warrant of detention concerned is executed.

Article 123

- (1) A suspect, his family or legal counsel may file an objection to the detention of or the type of detention of the suspect with the investigator conducting the detention.
- (2) For this purpose, the investigator may grant said request by considering whether or not it is necessary that the suspect remain in detention or remain in a certain type of detention.
- (3) If within three days said the investigator has not granted request, the suspect, his family or legal counsel may submit the matter to the investigator's superior.
- (4) For this purpose, the investigator's superior may pant said request by considering whether or not it is necessary that the suspect remain in detention or remain in a certain type of detention.
- (5) The investigator or the investigator's superior as intended by the Paragraph above may grant the request with or without conditions.

Article 124

With respect to whether or not under the law a detention is legal or illegal, a suspect, his family or legal counsel may submit the matter to the local district court for pretrial review in order to obtain a judgment on whether the detention of said suspect is legal or illegal according to this law.

Article 125

Where an investigator conducts a house search, he shall first show his identity card to the suspect or his family, thereafter the provisions as intended by Article 33 and Article 34 shall apply.

Article 126

- (1) The investigator shall prepare minutes of the conduct and results of the house search as intended by Article 33 Paragraph (5).
- (2) The investigator shall first read out the minutes of the house search to those concerned, which minutes shall thereafter be dated and signed by the investigator and by the suspect or his family and/or the village head or the head of the neighborhood with two witnesses. (3) Where the suspect or his family is unwilling to affix his signature, this fact shall be recorded in the minutes stating the reasons therefore;

Article 127

- (1) For the sake of security and order in a house search, an investigator may arrange for the stationing of a guard or the closure of the premises concerned.
- (2) In this respect, the investigator shall have the right to order any person deemed necessary not to leave the premises during the progress of the search.

Article 128

Where an investigator makes a seizure, he shall first show his identity card to the person from whom the goods are seized.

Article 129

- (1) The investigator shall show the goods to be seized to the person from whom the goods are to be seized or to his family and may request information about the goods to be seized in the presence of the village head or the head of the neighborhood and two witnesses.

- (2) The investigator shall prepare minutes about the seizure which shall first be read out to the person from whom the goods have been seized or to his family, which minutes shall thereafter be dated and signed by the investigator and by the suspect or his family and/or the village head or the head of the neighborhood with two witnesses.
- (3) Where the person from whom the goods have been seized or his family is unwilling to affix his signature, this fact shall be recorded in the minutes stating the reasons therefore.
- (4) Copies of the minutes shall be delivered by the investigator to his superior, the person from whom the goods have been seized or his family and the village head.

Article 130

- (1) Prior to their being wrapped up, the weight and/or number of each respective type, characteristics and special features of the seized goods, the place, day and date of seizure, the identity of the person from whom the goods have been seized, etc., shall be recorded and then sealed, officially stamped and signed by the investigator.
- (2) Where it is not possible to wrap up the seized goods, the investigator shall draw up the records as intended by Paragraph (1), which shall be written on labels affixed to and/or appended to said goods.

Article 131

- (1) Where an offense is of such nature as to give a strong reason to believe that information about it may be obtained from various documents, books or texts, registers, etc., the investigator shall promptly proceed to the suspected premises to conduct a search, examine documents, books or texts, registers, etc. and if necessary to make seizure thereof.
- (2) The seizure shall be executed according to the provision as stipulated by Article 129 of this law.

Article 132

- (1) Where a complaint is received that a document or writing is fake or falsified or presumed by the investigator to be fake, then for purposes of examination, the investigator may request the testimony of an expert with regard to such fact.
- (2) Where there is a strong presumption that a document is fake or falsified, the investigator with the written permission of the head of the local district court may come or request that the public official uncharged with keeping the original document, who shall be obligated to comply, send the original document in his keeping to him to be used for purposes of comparison.
- (3) Where a document considered necessary for an examination forms part of and is inseparable from a register as intended by Article 131, the investigator may request that the entire register be sent to him for examination for a period stipulated in the request, for which he shall provide a receipt.
- (4) Where a document as intended by Paragraph (2) does not form part of a register, the keeper shall prepare a copy of it as a substitute until the original document has been returned, noting on the bottom of the copy why the copy has been made.
- (5) Where the document or register is not sent within the time stipulated in the request, without a valid reason, the investigator shall have the authority to fetch it.
- (6) All expenses for the settlement of matters referred to by this article shall constitute and be borne as costs of the case.

Article 133

- (1) Where an investigator for the sake of justice handles a victim, whether he is injured, poisoned or dead presumably because of an event constituting an offense, he shall have the authority to submit a request for expert testimony from a doctor of forensic medicine or a doctor and/or other expert.
- (2) The request for expert testimony as intended by Paragraph (1) shall be made in writing, stating explicitly therein whether the request is for the examination of an injury or the examination of a corpse and/or an autopsy.

- (3) A corpse sent to a specialist in forensic medicine or a physician in a hospital shall be treated properly with due respect for said corpse and shall be provided with a label stating the identity of the corpse which, sealed with an official stamp, shall be attached to the large toe or other part of the body of the corpse.

Article 134

- (1) Where absolutely necessary for purposes of evidence it is impossible to avoid an autopsy, the investigator shall be obligated to first notify the family of the victim.
- (2) Where the family objects, the investigator shall be obligated to explain in the clearest possible way the object and purpose of conducting said autopsy.
- (3) If within two days there is no response whatsoever from the family or the party to be informed has not been found, the investigator shall promptly execute the provision as intended by Article 133 Paragraph (3) of this law.

Article 135

Where the investigator, for the sake of justice, must disinter a corpse, it shall be executed in accordance with the provisions as intended by Article 133 Paragraph (2) and Article 134 Paragraph (1) of this law.

Article 136

All costs expended for purposes of examination, as intended by Part Two of Chapter XIV shall be borne by the state.

CHAPTER XV

PROSECUTION

Article 137

A public prosecutor shall have the authority to carry out the prosecution of anyone who is accused of committing an offense within his jurisdiction by bringing the case before a court that is competent to adjudicate.

Article 138

- (1) A public prosecutor after having received the results of an investigation from an investigator shall promptly study and research them and within seven days shall be obligated to inform the investigator whether the results of the investigation are complete or incomplete.
- (2) Where the results of the investigation are evidently incomplete, the public prosecutor shall return the dossier of the case to the investigator accompanied by instructions on what must be done to make it complete and within fourteen days after the receiving date of the dossier, the investigator shall be obligated to have returned the dossier of the case to the public prosecutor.

Article 139

After the public prosecutor has received or accepted the return of a complete investigation from the investigator, he shall promptly determine whether or not the dossier of the case has met requirements to be brought to court.

Article 140

- (1) Where the public prosecutor is of the opinion that a prosecution may be conducted from the results of the investigation, he shall as soon as possible prepare a bill of indictment.
- (2)
 - a. Where the public prosecutor decides to cease prosecution because of the absence of sufficient evidence or it has become clear that said event did not constitute an offense or the case has been closed in the interest of law, the public prosecutor shall set this forth in written decision.
 - b. The content of said written decision shall be made known to the suspect and if he is detained, he shall be released immediately.
 - c. Copies of the written decision must be sent to the suspect or his family or legal counsel, the official of the state house of detention, the investigator and the judge.
 - d. If thereafter a

new. reason should become evident, the public prosecutor may conduct a prosecution against the suspect.

Article 141

A public prosecutor may effect the joinder of cases and cover them in one bill of indictment, if at the same time or almost simultaneously he receives several dossiers of cases on:

- a. several offenses committed by the same person and the interests of the examination do not pose an obstacle to joinder;
- b. several offenses Which are interrelated one with the other;
- c. several offenses which are not interrelated one with the other, but which do have some connection with one another, such that joinder is necessary for purposes of examination.

Article 142

Where the public prosecutor receives a dossier of a case containing several offenses committed by several suspects that are not subject to the provisions of article 141, the public prosecutor may conduct a prosecution against each of the defendants separately.

Article 143

- (1) A public prosecutor shall bring an action before a district court with a request that the case be promptly adjudicated accompanied by a bill of indictment.
- (2) A public prosecutor shall prepare a bill of indictment which shall be dated and signed and which shall contain:
 - a. the full name, place of birth, age or date of birth, gender, nationality, address, religion and occupation of the suspect.
 - b. an accurate, clear and complete explanation of the offense of which accusation is made, stating the time and place where the offense was committed.
- (3) A bill of indictment that does not satisfy the provisions as intended by Paragraph (2) point b shall be void by operation of law.
- (4) Copies of the letter bringing the action and of the bill of indictment shall be sent to the suspect or his attorney in-fact or his legal counsel and the investigator, at the same time that the letter bringing the action is submitted to the district court.

Article 144

- (1) A public prosecutor may change a bill of indictment before the day of trial is set, whether with the aim to improve or to discontinue the prosecution.
- (2) A change in the bill of indictment may only be effected once at the latest seven days before the trial begins.
- (3) Where a public prosecutor changes a bill of indictment, he shall send copies of it to the suspect or his legal counsel and the investigator.

CHAPTER XVI

EXAMINATION AT TRIAL

Part One

Summons and Accusations

Article 145

- (1) A notification to attend a trial shall be validly made, If It is conveyed by a written summons to the accused at his address or if his address is unknown, at his most recent place of residence.
- (2) If the accused is not present at his address or at his most recent place of residence the summons shall be conveyed through the village head whose jurisdiction includes the address or the most recent place of residence of the accused.
- (3) Where the accused is in detention the summons shall be conveyed to him through the official of the state house of detention.

- (4) Receipt of a summons by the accused himself or by another person or through another person, shall be effected by a written receipt.
- (5) If the address or the most recent place of residence is unknown, the summons shall be posted on the billboard in the building of the court which is competent to adjudicate the case.

Article 146

- (1) A summons issued by a public prosecutor to an accused shall contain the date, day, and hour of the trial and the case for which he is summoned and shall have been received by the person concerned at the latest three days before the trial begins.
- (2) A summons issued by the public prosecutor to a witness shall contain the date, day and hour of the trial and the case for which he is summoned and shall have been received by the person concerned at the latest three days before the trial begins.

Part Two

Resolution of Disputes on Competence to Adjudicate

Article 147

After the district court has received the letter bringing an action from the public prosecutor, the head shall study whether the case falls within the competence of the court which he heads.

Article 148

- (1) Where the head of the district court is of the opinion that the offense does not fall within the competence of the court which he heads, but rather falls within the competence of another district court, he shall turn over said letter bringing an action to the other district court which is deemed to be competent to adjudicate the case, with a written ruling stating the reasons therefore.
- (2) Said letter bringing an action shall be returned to the public prosecutor and the office of the public attorney concerned shall submit it to the office of the public attorney at the place where the district court referred to in the written ruling is located.
- (3) Copies of the written ruling as intended by Paragraph (1) shall be delivered to the accused or his legal counsel and the investigator.

Article 149

- (1) Where the public prosecutor objects to the written ruling of the district court as intended by Article 149, then:
 - a. he shall submit a challenge to the high court concerned within seven days after receipt of said ruling;
 - b. failure to observe the time limit referred to above shall render the challenge invalid;
 - c. said challenge shall be delivered to the head of the district court as intended by Article 148 where it shall be registered by the clerk of the court;
 - d. within a period of seven days the district court shall be obligated to forward the challenge to the high court concerned.
- (2) The high court within a period of fourteen days at most after receiving said challenge may sustain or reject the challenge by a written ruling.
- (3) Where the high court sustains the challenge of the public prosecutor, then by written ruling it shall order the district court concerned to try said case. (4) If the high court sustains the opinion of the district court, it shall send the dossier of said criminal case to the district court concerned. (5) A copy of the written ruling of the high court as intended by Paragraph (3) and Paragraph (4) shall be sent to the public prosecutor.

Article 150

A dispute on the competence to adjudicate arises:

- a. if two or more courts declare their competence to adjudicate the same case;
- b. if two or more courts declare their incompetence to adjudicate the same case.

Article 151

- (1) A high court shall resolve a dispute on competence to adjudicate between two or more district courts in its jurisdiction.
- (2) The Supreme Court shall resolve in the first and last instance all disputes on competence to adjudicate:
 - a. between a court from one judicial system and a court from another judicial system;
 - b. between two district courts located in the jurisdictions of different high courts;
 - c. between two or more high courts.

Part Three

Ordinary Examination Procedures

Article 152

- (1) Where a district court receives a letter bringing an action and is of the opinion that the case is within its competence, the head of the court shall assign a judge who is to try the case and the assigned judge shall determine the day of trial.
- (2) The judge in determining the day of trial as intended by Paragraph (1) shall order the public prosecutor to summon the accused and witnesses to come and attend the trial.

Article 153

- (1) On the day determined according to article 152 the court shall hold trial.
 - (2) a. The head judge at trial shall lead the examination at trial that shall be conducted orally in Indonesia language that is understood by the accused and witness.
 - b. He shall be obligated to ensure that nothing shall be done or that no question shall be asked which would cause the accused or witness to give his answer involuntarily.
- (3) For the purpose of examination, the head judge at trial shall open the trial and declare it open to the public except in a case concerned with morals or where the accused is a minor.
- (4) Failure to meet the provisions of Paragraph (2) and Paragraph (3) shall result in the judgment being void by operation of law. * (5) The head judge at trial may determine that minors who have not yet reached the age of seventeen years are not allowed to attend trial.

Article 154

- (1) The head judge at trial shall order that the accused be summoned to enter and if he is in detention, that he be brought before the court in freedom.
- (2) If in the examination of a case the accused who is not in detention fails to be present on the designated day of trial, the head judge at trial shall research whether the accused was legally summoned.
- (3) If the accused was summoned illegally, the head judge at trial shall postpone the trial and order that the accused be summoned again to be present at the next day of trial.
- (4) If in fact the accused was legally summoned, but failed to be present at trial without a valid reason, the examination of the case cannot be continued and the head judge at trial shall order that the accused be summoned once again.
- (5) If in a case there are more than one accused and not all of the accused are present on the day of the trial, the examination of those accused present may be continued.
- (6) The head judge at trial shall order that the accused that is not present without valid reason after he has been legally summoned for the second time be forced to be present in the next following trial session.
- (7) The clerk of court shall record the report of the public prosecutor concerning the implementation as intended by Paragraph (3) and Paragraph (6) and deliver it to the head judge at trial.

Article 155

- (1) At the outset of a trial, the head judge at trial shall ask the accused his complete name, place of birth, age or date of birth, gender, nationality, address, religion and occupation and remind the accused to pay attention to all that he hears and observes at the trial.
- (2) a. Thereafter the head judge at trial shall ask the public prosecutor to read out his bill of indictment.
b. The head judge at trial shall then ask the accused whether he has truly understood, and if in fact he has not understood, the public prosecutor at the request of the head judge at trial shall be obligated to provide explanations as necessary.

Article 156

- (1) Where the accused or legal counsel raises an objection that the court is not competent to adjudicate his case or that the indictment cannot be accepted or that the bill of indictment must be revoked, the judge, after giving the public prosecutor an opportunity to state his opinion, shall consider the objection and then make his decision.
- (2) If the judge declares the objection sustained, the case shall not be examined further; whereas where rejected or where the judge believes that the matter may only be decided upon completion of the examination, the trial shall be continued.
- (3) Where the public prosecutor objects to said decision, he may submit a challenge with the high court through the district court concerned.
- (4) Where a challenge submitted by an accused or his legal counsel is accepted by a high court, and then within fourteen days, the high court shall by written ruling invalidate the judgment of the district court and order a competent district court to examine the case. .
- (5) a. Where a challenge is submitted together with an appeal by an accused or his legal counsel to the high court, then within fourteen days after having received the case and having found the challenge of the accused to be correct, the high court shall by decision invalidate the judgment of the district court concerned and assign a competent district court.
b. The high court shall deliver a copy of its decision to the competent district court and to the district court which first tried the case concerned together with the dossier of the case to be forwarded to the office of the public attorney which brought the action.
- (6) If the competent court as intended by Paragraph (5) is located in the jurisdiction of another high court, the office of the public attorney shall send the case to the office of the public attorney in the jurisdiction of the competent district court in that place.
- (7) The head judge at trial by virtue of his office, despite there being no challenge, may, after hearing the opinion of the public prosecutor and the accused, by written ruling declare the court to be incompetent stating the reasons therefore.

Article 157

- (1) A judge shall be obligated to withdraw from the adjudication of a certain case if he is tied by a blood relationship or kinship to the third degree, by a marital relationship despite having been divorced with the head judge at trial, one of the member judges, the public prosecutor or the clerk of court.
- (2) A head judge at trial, a member judge, a public prosecutor or a clerk of court shall be obligated to withdraw from the handling of a case if he is tied by a blood relationship or kinship to the third degree or by a marital relationship despite having been divorced with the accused or with legal counsel.
- (3) If the provisions in Paragraph (1) and (2) are met, those who have withdrawn must be replaced and if the provisions are not met or replacements not made whereas the case has been decided, then the case must be retried with a different composition.

Article 158

A judge shall be prohibited from displaying an attitude or issuing a statement at trial about his conviction regarding the guilt of innocence of the accused.

Article 159

- (1) The head judge at trial shall thereafter examine whether all the witnesses summoned are present and shall issue an order to prevent witnesses from communicating with one another prior to testifying at trial.
- (2) Where a witness is not present, despite having been legacy summoned and the head judge at trial has sufficient reason to suspect that the witness does not intend to attend, the head judge at trial may order that the witness be brought before the court at trial.

Article 160

- (1)
 - a. Witnesses shall be called into the trial room one by one in a succession which is considered best by the head judge at trial after hearing the opinion of the public prosecutor, the accused or legal counsel.
 - b. The first to be heard shall be the victim who is a witness.
 - c. The head judge at trial shall be obligated to hear the testimony of a witness, where such witness, whether one exonerating or one incriminating tile accused, is referred to in the letter bringing the action and/or is requested by the accused or legal counsel or the public prosecutor in the course of trial or before the rendering of judgment.
- (2) The head judge at trial shall ask the witness about His full name, place of birth, age or date of birth, gender, nationality, address, religion and occupation, and thereafter whether he knew the accused before the accused committed the act which represents the basis for the indictment and whether he has any blood relationship or kinship and to what degree with the accused, or whether he is the husband or wife of the accused despite having been divorced or is bound by any employment relationship with the accused.
- (3) Before testifying witnesses shall be obligated to take an oath or affirmation according to their respective religions, that he will testify to the truth and nothing but the truth.
- (4) If deemed necessary by the court, a witness or expert may be obligated to take the oath or affirmation after the witness or expert has testified.

Article 161

- (1) Where a witness or expert without any valid reason refuses to take an oath or affirmation as intended by Article 160 Paragraph (3) and Paragraph (4), examination of the witness or expert shall continue, however he may, by written ruling of the head judge at trial, be confined in the state house of detention for at most fourteen days.
- (9) Where the time limit for such confinement has expired and the witness or expert continues to refuse to take an oath or affirmation, then the testimony that has been given shaft constitute testimony that may reinforce the conviction of the judge.

Article 162

- (1) If a witness after testifying during an investigation dies or because of a valid reason is unable to be present at trial or is not summoned because of the distance of his address or his place of residence or because of another reason connected with the interests of the state, the testimony which has been given shall be read out.
- (2) If such testimony was previously given under oath, then such testimony shall be considered equal in value to the testimony spoken by a witness under oath at trial.

Article 163

If the testimony of a witness at trial differs from his testimony found in the minutes, the head judge at trial shall remind the witness of this fact and shall request testimony explaining the existing differences that shall be noted down in the minutes of the examination at trial.

Article 164

- (1) Each time a witness has Finished testifying, the head judge at trial shall (?) ask the accused about his opinion of the testimony.
- (2) The public prosecutor or legal counsel through the head judge at trial shall be given an opportunity to put questions to the witness and the accused.

- (3) The head judge at trial may reject a question put by the public prosecutor or legal counsel to a witness or the accused stating his reasons therefore.

Article 165

- (1) The head judge at trial and a member judge may request a witness to provide any and all testimony deemed necessary to find the truth.
- (2) The public prosecutor, the accused or legal counsel through the head judge at trial shall be given an opportunity to put questions to witness.
- (3) The head judge at trial may reject a question put by the public prosecutor, the accused or legal counsel to a witness stating his reasons therefore.
- (4) Judges and the public prosecutor or the accused or legal counsel through the head judge at trial, may confront witnesses with one another to test the truth of each of their testimonies.

Article 166

Leading questions may not be addressed to either the accused or witnesses.

Article 167

- (1) After a witness has testified, he shall continue to be present at trial until the head judge at trial gives permission to leave.
- (2) Such permission shall not be given if the public prosecutor or the accused or legal counsel makes a request that the witness remain present at trial.
- (3) Witnesses shall not be allowed to speak to one another during trial.

Article 168

Except as provided otherwise in this law, no testimony may be heard from and withdrawal as a witness is possible for:

- a. family related by blood or kinship directly to the third degree up or down to the accused or to someone also accused;
- b. a sibling of the accused or of someone also accused, a sibling of the mother or a sibling of the father, also those who are related by marriage and the children of siblings of the accused to the third degree; ·
- c. the husband or wife despite having been divorced of the accused or of someone also accused.

Article 169

- (1) Where those persons intended by Article 168 so desire and the public prosecutor and the accused explicitly agree, they may testify under oath.
- (2) Without the agreement as intended by Paragraph (1), they shall be allowed to testify without taking an oath.

Article 170

- (1) Those who because of their occupation, dignity or office are obligated to maintain confidentiality, may ask to be excused from the obligation to testify as witnesses, specifically concerning matters entrusted to them.
- (2) The judge shall determine the validity or invalidity of any and all reasons for such requests.

Article 171

Those who may be examined to testify without an oath are:

- a. a minor who is not yet fifteen years of age and has never married;
- b. the insane or the mentally ill, even though their sanity may occasionally return.

Article 172

- (1) After a witness has testified, the accused or legal counsel or the public prosecutor may request the head judge at trial that those among the witnesses whose presence is not desired by them, be removed from the courtroom, so that other witnesses be called in by the head judge and

their testimony heard, whether one by one or together without the presence of the witnesses ordered to leave.

- (2) If it is regarded as necessary, the judge by virtue of his office may ask that a witness whose testimony has been heard leave the courtroom in order to thereafter hear the testimony of another witness.

Article 173

The head judge at trial may hear the testimony of a witness on certain matters without the presence of the accused, for which purpose he shall request the accused to leave the courtroom, however the examination of the case may not thereafter be continued until the accused has been informed of all that has happened during the time of his absence.

Article 174

- (1) If the testimony of a witness at trial is suspected to be false, the head judge at trial shall seriously warn him to testify to the truth and make known to him the criminal penalties which may be incurred if he continues to give false testimony.
- (2) If the witness insists upon his testimony, the head judge at trial by virtue of his office or at the request of the public prosecutor or the accused may issue an order for the detention of the witness to thereafter be prosecuted on the accusation of perjury.
- (3) In such a case the clerk of the court shall promptly prepare minutes of the examination at trial which shall contain the testimony of the witness stating the reason for the suspicion that the testimony of the witness is false, which minutes shall be signed by the head judge at trial and the clerk and promptly delivered to the public prosecutor to be concluded according to the provisions of this law.
- (4) If necessary the head judge at trial shall postpone the trial of the original case until the examination of the criminal case involving the witness has been concluded.

Article 175

If the accused declines to answer or refuses to answer a question addressed to him, the head judge at trial shall suggest that he answer and thereafter the examination shall be continued.

Article 176

- (1) If an accused behaves improperly so as to disturb the orderliness of the trial, the head judge at trial shall admonish him and if the admonition is not needed, he shall order that the accused be removed from the courtroom, after which the examination of the case shall at that time be continued without the presence of the accused.
- (2) Where an accused continuously behaves improperly so as to disturb the orderliness of the trial, the head judge at trial shall endeavor to seek a solution so that a judgment may still be rendered with the accused present.

Article 177

- (1) If the accused or a witness does not understand the Indonesian language, the head judge at trial shall assign an interpreter who under oath or affirmation will truly and accurately translate all that must be translated.
- (2) Where a person is not allowed to serve as a witness in a case, he shall also not be allowed to serve as interpreter in that case.

Article 178

- (1) If an accused or witness is dumb and/or deaf and is unable to write, the head judge at trial shall assign a person as translator who is skilled at communicating with the accused or witness.
- (2) If an accused or witness is dumb and or deaf but is able to write, the head judge at trial shall address all questions or admonitions to him in writing and said accused or witness shall be ordered to write his answers; after which all questions and answers must be read out.

Article 179

- (1) Any person who is asked for his opinion as a doctor of forensic medicine or as a physician or other expert shall be obligated to give expert testimony in the interest of justice.
- (2) All the aforesaid provisions with regard to witnesses shall also apply to those who give expert testimony provided however that they shall take an oath or affirmation to testify to the truth and to the best of their knowledge in their field of expertise.

Article 180

- (1) Where it is necessary to 'clarify the nature of an issue arising at trial, the head judge at trial may ask for expert testimony and may also ask for the presentation of new materials by the interested party.
- (2) Where a well-founded objection is raised by the accused or his legal counsel to the results of the expert testimony as intended by Paragraph (1) the judge shall order that research on the matter be repeated.
- (3) The judge by virtue of his office may order that the research be repeated as intended by Paragraph (2).
- (4) The repeat research as intended by Paragraph (2) and Paragraph (3) shall be performed by the original agency with a different composition of personnel and another agency having the competence therefore.

Article 181

- (1) The head judge at trial shall show any. and all physical evidence to the accused and shall ask trim whether he recognizes the goods heeding(?) the provisions as intended by Article 45 of this law.
- (2) If necessary the goods shall also be shown to a witness by the head judge at trial.
- (3) If deemed necessary for evidentiary purposes, the head judge at trial shall read out or show a document or minutes to the accused or a witness and ask for the necessary testimony with respect there to.

Article 182

- (1)
 - a. After an examination has been declared concluded, the public prosecutor shall submit his requisitory charges.
 - b. The accused and/or legal counsel shall submit his defenses which may be replied to by the public prosecutor, provided however that that accused or legal counsel shall always have the last turn.
 - c. Charges, defenses and replies to the defenses shall be made in writing and after having been read out shall be delivered promptly to the head judge at trial and copies thereof to the interested parties.
- (2) If the procedure referred to in Paragraph (1) has been concluded, the head judge at trial shall declare the examination to be closed, provided however that he may reopen it once again, whether by authority of the head judge at trial by virtue of his office, or at the request of the public prosecutor or the accused or the legal counsel stating the reason therefore.
- (3) Thereafter, the judges shall hold final consultations to reach a decision and if necessary such consultations shall be held after the accused, legal counsel, public prosecutor and those present have left the courtroom.
- (4) The consultations referred to in Paragraph (3) must be based. on the bill of indictment and all that has been proven in the examination at trial.
- (5) In said consultations, the head judge of the panel shall ask questions starting with the youngest judge and ending with the eldest judge, whereas the last to state his opinion shall be the head judge of the panel and all opinions shall be accompanied by considerations and the reasons therefore.
- (6) In principle the judgment of the panel in the consultation shall be the' result of a unanimous agreement except when' this after earnest endeavors cannot be achieved, in which case the following provisions shall apply:

- a. judgment shall be made by a majority vote;
 - b. if the provision referred to in point a also cannot be realized, then the judgment adopted shall be the opinion of the judge which is most favorable to the accused.
- (7) The conduct of Judgment making as intended by Paragraph (6) shall be recorded in the compilation of judgments that is especially provided for that purpose and the contents of which compilation shall be secret in nature.
 - (8) The judgment of the district court may be rendered and announced on the same day or on another day of which the public prosecutor, the accused or legal counsel must be informed in advance.

Part Four

Evidence and Judgments Under Ordinary Examination Procedures

Article 183

A judge shall not impose a penalty upon a person except when with at least two legal means of proof he has come to the conviction that an offense has truly occurred and that it is the accused who is guilty of committing it.

Article 184

- (1) Legal means of proof shall be:
 - a. the testimony of a witness;
 - b. the testimony of an expert;
 - c. a document;
 - d. an indication;
 - e. the testimony of the accused.
- (2) Matters that are generally known need not be proven.

Article 185

- (1) The testimony of a witness as a means of proof is what the witness has stated at trial.
- (2) The testimony of one witness alone is not sufficient to prove that an accused is guilty of that act of which he is accused.
- (3) The provision as intended by Paragraph (2) shall not apply if accompanied by another legal means of proof.
- (4) Separate testimonies of several witnesses concerning an event or circumstance may be used as legal means of proof if such testimonies are related to one another in such a way as to confirm the occurrence of a certain event or the existence of a certain circumstance.
- (5) An opinion or a conjecture, derived from thoughts alone, does not constitute the testimony of a witness.
- (6) In judging the truth of the testimony of a witness, a judge must seriously take into account:
 - a. the consistency between the testimony of one witness with that of another;
 - b. the consistency between the testimony of a witness with another means of proof;
 - c. the reasons which could possibly have been used by a witness to testify in a certain way.
 - d. the way of life and the morality of a witness and any and all matters which normally may influence whether or not testimony can be believed.
- (7) The testimonies of witnesses not under oath, despite consistency among them, do not constitute means of proof, but if such testimony is consistent with the testimony of a witness under oath, then it may be used as another supplemental legal means of proof.

Article 186

Expert testimony is what an expert states at trial.

Article 187

A document as intended by Article 184 Paragraph (1) point c, made under an oath of office or strengthened by an oath, shall be:

- a. minutes and other documents made in official form by or in front of a competent public official, which contain testimony about an event or a circumstance which he himself has heard, seen or experienced, accompanied by clear and explicit reasons for such testimony;
- b. a document made in accordance with the provisions of legislation or a document which is made by an official concerning a matter which falls within the scope of duties for which he is responsible and which is provided as evidence of a fact or a circumstance;
- c. written testimony of an expert which contains an opinion based on his expertise concerning a fact or a circumstance which has been officially requested of him;
- d. other documents which are only valid if they have a connection with the contents of the other means of proof.

Article 188

- (1) An indication is an act, event or circumstance which because of its consistency, whether between one and the other, or with the offense itself, signifies that an offense has occurred and who the perpetrator is.
- (2) An indication as intended by Paragraph (1) may only be obtained from: a. the testimony of a witness; b. a document; c. the testimony of the accused.
- (3) Evaluation by the judge of the evidentiary strength of an indication in any particular circumstance shall be wise and prudent, after he has accurately and carefully conducted an examination on the basis of his conscience.

Article 189

- (1) Testimony of the accused is what an accused states at trial concerning acts which he has committed or which he has known of or experienced himself.
- (2) Testimony of the accused given outside of trial may be used to help find evidence during a trial, provided such testimony is corroborated by a legal means of proof regarding the matter of which he is accused.
- (3) Testimony of the accused may only be used with respect to himself.
- (4) Testimony of the accused alone is not sufficient to prove that he is guilty of the act of which he is accused, but must rather be accompanied by another means of proof.

Article 190

- a. During an examination at trial, if the accused is not detained, the court may by a written ruling order the detention of the accused where the provisions of Article 21 have been satisfied and there is sufficient reason therefore.
- b. Where an accused is detained, the court may by written ruling order the release of the accused, if there is sufficient reason therefore heeding the provisions of Article 30.

Article 191

- (1) If the court is of the opinion that from the results of examination at trial, the guilt of the accused for the acts of which he has been accused has not been legally and convincingly proven, the accused shall be declared acquitted.
- (2) If the court is of the opinion that the act of which the accused has been accused has been proven, but such acts do not constitute an offense, all charges against the accused shall be dismissed.
- (3) In cases such as those intended by Paragraph (1) and Paragraph (2), an accused who is under detention shall be ordered to be released without any delay whatsoever, except when there is another legal reason because of which the accused need to be detained.

Article 192

- (1) The order to release an accused, as the public attorney shall execute intended by Article 191 Paragraph (3) promptly after the judgment has been pronounced.
- (2) A written report on the execution of said order with the release order attached thereto, shall be delivered to the head of the court concerned within three times twenty-four hours at the latest.

Article 193

- (1) If the court believes that an accused is guilty of having committed the offense of which he has been accused the court shall impose a penalty.
- (2)
 - a. The court in rendering a judgment if the accused is not detained may order that the accused be detained, if the provisions of Article 21 have been satisfied and there is sufficient reason therefore.
 - b. If the accused is detained, the court in rendering its judgment, may stipulate that the accused remain under detention or that he be released, if there is sufficient reason therefore.

Article 194

- (1) In the case of a judgment imposing a penalty or an acquittal or the dismissal of all charges, the court shall stipulate that physical evidence which was seized be delivered to the party most entitled to receive them back whose claim shall be set forth in said judgment except when according to the provisions of law said physical evidence must be confiscated in the state interest or destroyed or damaged so that it may no longer be utilized.
- (2) Except when there is a valid reason, the court shall stipulate that physical evidence be delivered promptly after conclusion of the trial.
- (3) An order for the delivery of physical evidence shall be effected without any conditions whatsoever, except when the court judgment has not yet become final and binding.

Article 195

All court judgments shall only be valid and have the force of law if they are pronounced at a trial that is open to the public.

Article 196

- (1) A court shall decide a case with the accused present except where this law provides otherwise.
- (2) Where there are more than one accused in a case, the judgment may be pronounced in the presence of those accused in attendance.
- (3) Promptly after the judgment has been pronounced, the head judge at trial shall be obligated to inform the accused of any and all matters which are his rights, namely:
 - a. the right to promptly accept or to promptly reject the judgment;
 - b. the right to study the judgment before declaring acceptance or rejection of the judgment, within a time limit determined by this law;
 - c. the right to request a postponement in the execution of the judgment for a time limit determined by law in order to be able to seek a pardon, where he has accepted the judgment.
 - d. the right to request the examination of his case on appeal within a time limit determined by this law, where he has rejected the judgment; e. the right to withdraw a statement as intended under point a within a time limit determined by this law.

Article 197

- (1) A punitive written judgment shall contain:
 - a. the heading of the judgment shall be written to read: "FOR THE SAKE OF JUSTICE BASED ON BELIEF IN GOD AL MIGHTY"; .
 - b. the complete name, place of birth, age or date of birth, gender, nationality, address, religion and occupation of the accused;

- c. the accusation, as found in the bill of indictment; -
 - d. considerations, compiled in brief regarding the facts and circumstances and the means of proof obtained during the examination at trial which served as the basis for the determination of the guilt of the accused;
 - e. the requisitory charges, as referred to in the bill of charges 21;
 - f. the articles of legislation forming the basis for the imposition of the penalty or the measures and the articles of legislation forming the basis for the judgment, accompanied by aggravating and mitigating circumstances for the accused;
 - g. the day and date of consultations by the panel of judges except when the case was examined by a single judge;
 - h. a declaration of the guilt of the accused, a declaration that all elements in the formulation of the offense have been satisfied accompanied by any qualifications thereto and of the penalty or measures imposed;
 - i. provisions on who shall bear the costs of the case stating the exact amount thereof and provisions regarding physical evidence;
 - j. an explanation that the entirety of a document is evidently false or an explanation of where the falsification is to be found, if there are authentic documents deemed to be false;
 - k. an order that the accused be detained or remain in detention or be released.
 - l. the day and date of the judgment, the name of the public prosecutor, the names of the deciding judges and the name of the clerk of the court;
- (2) Failure to meet the provisions in Paragraph (1) points a, b, c, d, e, f, h; j, k, and l of this article shall render the judgment void by operation of law.
- (3) The judgment shall be executed promptly in accordance with the provisions of this law.

Article 198

- (1) Where a judge or a public prosecutor is incapacitated, the head of the court or a competent official of the office of the public attorney shall be obligated to promptly assign an official as substitute for the incapacitated official.
- (2) Where the legal counsel is incapacitated, he shall assign his substitute and if the substitute does not attend or is also incapacitated, then the trial shall continue.

Article 199

- (1) A non-punitive written judgment shall contain:
- a. the provisions as intended by Article 197 Paragraph (1) except points e, f and h;
 - b. a declaration that the accused is acquitted or that all charges are dismissed, stating the reasons and the articles of legislation which form the basis for the judgment;
 - c. an order that the accused be promptly released if he is detained.
- (2) The provisions as intended by Article 197 Paragraph (2) and Paragraph (3) shall also apply to this article.

Article 200

The judges shall sign the written judgment and the clerk without any delay after the judgment has been pronounced.

Article 201

- (1) Where a document is found to be false or falsified, the clerk shall attach to the document an excerpt of the judgment which he has signed which contains the explanation as intended by Article 197 Paragraph (1) point j and said false: or falsified document shall be marked with a note referring to the excerpt of the judgment.

- (2) No first copy or copy-of the false or falsified original document shall be given except after the clerk has added a note to the note as intended by Paragraph (1) accompanied by a copy of the excerpt of the judgment.

Article 202

- (1) The clerk of the court shall prepare minutes of the trial taking into account the necessary requirements and setting forth all that has happened during the trial in connection with the examination.
- (2) The minutes of the trial as intended by Paragraph (1) shall also contain important matters from the testimonies of the witnesses, the accused and experts except where the head judge at trial declares that it is sufficient to refer to the testimony in the minutes of examination stating the differences between the one and the other.
- (3) At the request of the public prosecutor, the accused or legal counsel the head judge at trial shall be obligated to order the clerk to make a special note concerning a circumstance or testimony.
- (4) The minutes of the trial shall be signed by the head judge at trial and the clerk except when either of them is incapacitated, which fact shall be stated in said minutes.

Part Five

Summary Examination Procedures

Article 203

- (1) Cases of crimes or misdemeanors, which do not fall under the provisions of Article 205 and for which the evidence and application of law is according to the public prosecutor, simple and straightforward, shall be examined according to summary examination procedures.
- (2) In cases as intended by Paragraph (1), the public prosecutor shall present the accused together with the required witnesses, experts, interpreters and physical evidence.
- (3) The provisions of Part One, Part Two and Part Three of this Chapter shall apply to these procedures insofar as such regulations are not contrary to the following provisions:
- a.
 1. the public prosecutor shall, promptly after the accuse at trial has answered all the questions as intended by Article 155 Paragraph (1), by consulting his notes verbally inform the accused of the offense of which he is accused explaining the time, the place and the circumstances at the time such offense was committed;
 2. this notification shall be recorded in the minutes of the trial and shall constitute a substitute for a bill of indictment;
 - b. where the judge considers supplemental examination to be necessary, supplemental examination shall be held within a period of fourteen days at the most and if within said time the public prosecutor has not yet been able to complete the supplemental examination, the judge shall order the case to be submitted for trial under ordinary procedures;
 - c. for purposes of defense, the judge may, at the request of the accused and/or legal counsel, postpone the examination for at most seven days;
 - d. the judgment shall not be prepared specially, but shall be recorded in the minutes of the trial;
 - e. the judge shall provide a document containing the grounds for the judgment; f. the contents of said document shall have the same force of law as a court judgment under ordinary procedures.

Article 204

If from examination at trial it becomes evident that a case being examined under summary procedures is clear and minor in nature, which should properly be examined under express procedures, the judge may with the agreement of the accused proceed with such an examination.

Part Six

Express Examination Procedures

Paragraph I

Procedures for Examination of Minor Offenses

Article 205

- (1) Cases threatened with a penalty of at most three months imprisonment or confinement and or a fine of at most seven thousand five hundred rupiah and minor defamation except as provided by Paragraph 2 of this Part shall be examined according to procedures for examination of minor offenses.
- (2) In cases as intended by Paragraph (1), the investigator, under power of attorney from the public prosecutor, shall, within three days after completion of the minutes of the examination, present the accused together with the physical evidence, witnesses, experts and or interpreters before the court.
- (3) In examination procedures as intended by Paragraph (1), the court shall adjudicate at the first and last stage through a single judge, except when a penalty is rendered depriving liberty the accused may lodge an appeal.

Article 206

The court shall set certain days within seven days for the adjudication of cases under the procedures for examination of minor offenses.

Article 207

- (1)
 - a. The investigator shall inform the accused in writing of the day, date, hour and place where he must be present for trial and this shall be properly recorded by the investigator, which record together with the dossier shall thereafter be forwarded to the court.
 - b. A case under the procedures for examination of minor offenses which is received must be promptly tried on that very same trial day.
- (2)
 - a. The judge concerned shall order the clerk to record all cases which he receives in the register.
 - b. The register shall contain the complete name, place of birth, age or date of birth, gender, nationality, address, and religion and occupation of the accused.

Article 208

A witness under procedures for the examination of minor offenses shall not make an oath or affirmation except, as the judge may deem necessary.

Article 209

- (1) The judgment shall be recorded by the judge in the list of case records and thereafter recorded by the clerk in the register and signed by the judge concerned and the clerk.
- (2) Minutes of the examination procedures at trial shall not be prepared except when during such examination it becomes evident that there are matters which are not in accord with the minutes of examination prepared by the investigator.

Article 210

The provisions of Part One, Part Two and Part Three of this Chapter shall continue to apply insofar as such regulations are not contrary to this Paragraph.

Paragraph 2

Procedures for Examination of Traffic

Violation Cases

Article 211

Cases involving certain violations of laws and regulations governing traffic shall be examined according to the procedures for examination of this Paragraph.

Article 212

No minutes of examination are required for cases of traffic violations, and therefore the record as intended by Article 207 Paragraph (1) point a shall be promptly submitted to the court at the latest on the next following trial day.

Article 213

An accused may, in writing, assign a person to represent him at trial.

Article 214

- (1) If an accused or his representative is not present at trial, the examination of the case shall be continued.
- (2) Where a judgment is pronounced outside the presence of the accused, a document stating the holdings of the judgment shall be promptly delivered to the convicted.
- (3) Proof that the document stating the holdings of the judgment has been delivered by the investigator to the convicted person shall be submitted to the clerk to be recorded in the register.
- (4) Where a judgment is rendered outside the presence of the accused and the judgment constitutes a penalty depriving liberty, the accused may lodge a challenge.
- (5) Within seven days after a judgment has validly been made known to the accused, he may lodge a challenge at the court that rendered the judgment.
- (6) By such a challenge, the judgment outside the presence of the accused shall be vacated.
- (7) After the clerk has informed the investigator of the challenge, the judge shall set a trial day for the reexamination of the case.
- (8) If the judgment after the challenge still constitutes a penalty as intended by Paragraph (4), the accused may lodge an appeal with respect to the judgment.

Article 215

The return of seized goods shall be effected without conditions to the person most entitled, promptly after the judgment has been rendered if the convicted person has complied with the substance of the holdings of the judgment.

Article 216

The provision of Article 210 shall continue to apply insofar as such regulation is not contrary to this Paragraph.

Part Seven

Miscellaneous Provisions

Article 217

- (1) The head judge at trial shall lead the examination and maintain rules of order during trial.
- (2) Any and all things ordered by the head judge at trial to maintain rules of order during trial shall be executed promptly and precisely.

Article 218

- (1) In the courtroom, anyone whosoever shall be obligated to show respect for the court.
- (2) Anyone whosoever who during trial displays an attitude unbefitting the dignity of the court and does not observe the rules of order, after having been warned by the head judge at trial, shall by His order be removed from the courtroom.
- (3) Where a violation of the rules of order as intended by Paragraph (2) is in the nature of an offense, this shall not reduce the possibility for the prosecution of the perpetrator.

Article 219

- (1) Anyone whosoever shall be prohibited from bringing fire-arms, sharp weapons, explosives or devices or goods which may endanger the security of the trial and whoever brings them shall be obligated to deposit them at a place especially provided for that purpose.

- (2) Without a warrant, the court security officer by virtue of the duties of his office may carry out a body search to ensure that a person shall not be present in the courtroom carrying arms, materials or devices or goods as intended by Paragraph (1) and if such are found the officer shall invite the person concerned to deposit them.
- (3) If the person concerned intends to leave the courtroom, the officer shall be obligated to return the deposited goods.
- (4) The provisions of Paragraph (1) and Paragraph (2) shall not reduce the possibility of a prosecution being conducted if it becomes evident that the control of said goods would constitute an offense.

Article 220

- (1) No judge whatsoever shall be allowed to adjudicate a case in which he himself has an interest, whether directly or indirectly.
- (2) In matters as intended by Paragraph (1), the judge concerned shall be obligated to withdraw either by his own choice or at the request of the public prosecutor, the accused or his legal counsel.
- (3) If there is doubt or a difference of opinion regarding tile matters as intended by Paragraph (1), tile competent court official shall decide.
- (4) The provision as intended by the meaning of the foregoing Paragraphs shall likewise apply to the public prosecutor.

Article 221

Where considered necessary, a judge at trial by his own choice or at the request of the accused or his legal counsel may give an explanation of the applicable law.

Article 222

- (1) Anyone who is convicted shall bear the expenses of his case and in the event of an acquittal or a dismissal of all charges, the expenses of the case shall be borne by the state.
- (2) Where the accused has previously submitted an application for exemption from the payment of the expenses of the case on the basis of certain conditions with the approval of the court, the expenses shall be borne by the state.

Article 223

- (1) If a judge orders a person to make an oath or affirmation outside the trial, the judge may postpone the examination of the case until another trial day.
- (2) Where the oath or affirmation is made as intended by Paragraph (1), the judge shall assign the clerk to attend the making of said oath or affirmation and to take minutes thereof.

Article 224

All written court judgments shall be kept in the archives of the court which adjudicated the case in the first instance and may not be transferred except as otherwise provided by law.

Article 225

- (1) The clerk of court shall keep a register for all cases.
- (2) In such register shall be recorded the name and identity of the accused, the offense of which he is accused, the date the case was received, the date on which the accused began to be detained if he is in detention, the date and contents of the judgment in brief, the date of receipt of the application for and the judgment on appeal or cassation, the date of the application for and the granting of a pardon, amnesty, abolition or rehabilitation, and other matters which are closely related to the process of the case.

Article 226

- (1) An excerpt of the written court judgment shall be given to the accused or his legal counsel promptly after the judgment has been pronounced.

(2)

A copy of the written court judgment shall be given to the public prosecutor and the investigator, whereas to the accused or his legal counsel (a copy) shall be given upon request.
(3) A copy of the written court judgment may only be given to other persons with the permission of the head of the court after considering the purpose of such request.

Article 227

- (1) All types of notifications or summons by the competent authority at all levels of examination to the accused, witnesses or experts shall be delivered at the latest three days before the date set for their attendance, at their addresses or at their most recent places of residence.
- (2) The officer who carries out a summons must meet personally with and talk directly to the person summoned and shall make a record that the summons has been received by the person concerned marked with the date and signature, either by the officer or the person summoned and if the summoned person does not sign, the officer shall record the reason therefore.
- (3) Where the person summoned is not to be found at one of the places as intended by Paragraph (1), the summons shall be delivered through the village head or an official and if abroad, through the legation of the Republic of Indonesia in the place where the summoned person usually resides and if it still cannot be delivered, the summons shall be posted on the billboard of the office of the official who has issued said summons.

Article 228

A period of time or a time limit according to this law shall be counted as from the next following day.

Article 229

- (1) A witness or an expert who is present in compliance with a summons in the framework of testifying at all levels of examination, shall be entitled to be reimbursed for expenses according to prevailing laws and regulations.
- (2) The official carrying out the summons shall be obligated to inform the witness or expert of his right as intended by Paragraph (1).

Article 230

- (1) Trials shall be held in a courthouse in a courtroom.
- (2) In the courtroom, the judge, the public prosecutor, the legal counsel and the clerk shall wear trial robes and their respective attributes.
- (3) The courtroom as intended by Paragraph (1) shall be lay out according to the following provisions:
 - a. the place for the judges' bench and chairs shall be located higher than the places for the public prosecutor, the accused, the legal counsel and the spectators;
 - b. the place for the clerk shall be located behind the right hand side of the head judge at trial;
 - c. the place for the public prosecutor shall be located on the right hand side in front of the place for the judges;
 - d. the place for the accused and legal counsel shall be located on the left hand side in front of the place for the judges and the place of the accused shall be located at the right beside the place of legal counsel;
 - e. the place for the examination chair for the accused and witnesses shall be located in front of the place for the judges;
 - f. the place for the witnesses or experts who have been heard shall be located behind the examination chair;
 - g. the place for spectators shall be located behind the place for witnesses who have been heard.
 - h. the National flag shall be placed on the right of the judges' bench and the Pengayoman banner 22 on the left of the judges' bench whereas the symbol of the State shall be placed on the upper part of the wall behind the judges' bench;

- i. the place for religious leaders shall be located on the left beside the place for the clerk;
 - j. the places as intended by point a through point i shall be provided with identification marks;
 - k. the place for the Security officer shall be inside the main entrance of the courtroom and at other places as deemed necessary.
- (4) When a trial is held outside the courthouse, the layout of the place shall as far as possible conform to the provisions of Paragraph (3) referred to above.
 - (5) If it is impossible to observe the provisions of Paragraph (3), then at least the National flag must be present.

Article 231

- (1) The type, form and color of trial robes and attributes and other matters related to the attire and equipment as intended by Article 230 Paragraph (2) and Paragraph (3) shall be regulated by government regulation.
- (2) Further regulation of the rules of order for trials as intended by Article 217 shall be determined by decision of the Minister of Justice.

Article 232

- (1) Before a trial commences, the clerk, public prosecutor, legal counsel and spectators already present, six all are seated in their respective places in the courtroom.
- (2) At the time that the judge enters or leaves the trial room, all those present shall stand up to pay their respects.
- (3) While the trial is in progress, any person who leaves or enters the courtroom shall be obligated to pay his respects.

CHAPTER XVII

ORDINARY LEGAL REMEDIES

Part One

Examinations at The Appellate Level

Article 233

- (1) A request for an appeal as Intended by Article 67 may be lodged with a high court by the accused or someone especially empowered therefore or the public prosecutor.
- (2) Only a request for an appeal as intended by Paragraph (1) may be accepted by a clerk of a district court within seven days after a judgment has been rendered or after the judgment has been made known to the accused who was not present as intended by Article 196 Paragraph (2).
- (3) The clerk shall prepare a statement concerning such request that shall be signed by him and also by the applicant and a copy thereof shall be given to the applicant concerned.
- (4) Where the applicant is unable to appear, this fact must be recorded by the clerk accompanied by the reasons therefore and the record must be attached to the dossier of the case and must also be entered into the register of criminal cases.
- (5) Where a district court receives a request for an appeal, whether lodged by file public prosecutor or the accused or lodged by both the public prosecutor and the accused, the clerk shall be obligated to make the request of the one party known to the other party.

Article 234

- (1) If the time limit as intended by Article 233 Paragraph (2) has expired without a request for an appeal being lodged by the person concerned, then the person concerned shall be deemed to have accepted the judgment.
- (2) In cases as intended by Paragraph (1), the clerk shall record and prepare a deed with respect to such facts attaching said deed to the dossier of the case.

Article 235

- (1) So long as an appeal case has not yet been decided by a high court, the request for the appeal may be withdrawn at any time and where it has been withdrawn, a request for an appeal in that case may not again be lodged.
- (2) If the examination of a case has commenced but it has not yet been decided, while in the meantime the appellant Withdraws his request for an appeal, the appellant shall bear the expenses for the case incurred by the high court until the moment of withdrawal.

Article 236

- (1) At the latest within fourteen days after a request for an appeal has been lodged, the clerk shall send a copy of the judgment of the district court concerned and the dossier of the case plus the documents of proof to the high court.
- (2) For seven days before the sending of the dossier of the case to the high court, an appellant shall be given the opportunity to study the dossier of said case at the district court.
- (3) Where the appellant has stated clearly in writing that he will study said dossier at the high court, it shall be obligatory that he be given the opportunity to do so at the earliest seven days after the dossier of the case has been received by the high court.
- (4) It shall be obligatory that every appellant be given the opportunity at any time to examine the authenticity of the dossier of his case which is already at the high court.

Article 237

So long as a high court has not yet begun to examine a case at the appellate level, either the accused or his attorney-in-fact or the public prosecutor may submit an appeal brief or a counter-appeal brief to the high court.

Article 238

- (1) The examination at the appellate level shall be conducted by a high court with a minimum of three judges on the basis of the dossier of the case received from the district court which shall consist of the minutes of the examination from the investigator, the minutes of the examination at trial in the district court, together with all documents which were introduced at trial which are connected with the case and the judgment of the district court.
- (2) The authority to determine detention shall devolve to the high court from the moment that an application to appeal is lodged.
- (3) Within three days after receipt of the dossier of a case on appeal from a district court, the high court shall be obligated to study it in order to determine whether or not the accused must still be detained, either by virtue of the authority of its office or at the request of the accused. (4) If it is regarded as necessary, the high court shall itself hear the testimony of the accused or witnesses or the public prosecutor by explaining in brief in a written summons to them what it is that it wishes to know.

Article 239

- (1) The provisions as regulated by Article 157 and article 220 Paragraph (1), Paragraph (2) and Paragraph (3) shall also apply to the examination of cases at the appellate level.
- (2) A family relationship as intended by Article 157 Paragraph (1) shall also apply to that between judges and or clerks at the appellate level, and judges or clerks who adjudicated the same case at the level of first instance.
- (3) If a judge who has decided a case at the level of first instance subsequently becomes a judge in a high court, said judge shall be prohibited from examining the same case at the appellate level.

Article 240

- (1) If the high court is of the opinion that in the examination at first instance level there has evidently been negligence in the application of the law of procedure or a mistake or there is something incomplete, the high court may by a decision order the district court to correct these matters or the high court may do so itself.

- (2) If necessary the high court may by a decision annul the judgment of the district court before the judgment of the high court is rendered.

Article 241

- (1) After all matters as intended by the provisions referred to above have been considered and executed, the high court shall decide, uphold or amend and in case of annulment of the judgment of a district court, the high court shall render its own judgment.
- (2) In case the judgment of a district court is so annulled because it was not competent to examine the case, then the provisions referred to in Article 148 shall apply.

Article 242

If in an examination at the appellate level an accused who has been convicted is in detention, the high court shall in its judgment stipulate whether the accused should still be detained or be released.

Article 243

- (1) A copy of the written judgment of the high court together with the dossier of the case shall within seven days after said judgment has been rendered be sent to the district court that rendered judgment in the first instance.
- (2) The accused and the public prosecutor shall promptly be notified by the clerk of the district court of the contents of the written judgment after it has been recorded in the register and thereafter said notification shall be noted on the copy of the written judgment of the high court.
- (3) The provisions regarding judgments of a district court, as intended by Article 226 shall also apply to judgments of a high court.
- (4) Where the accused resides outside the jurisdiction of the district court, the clerk shall ask the assistance of the clerk of the district court in whose jurisdiction the accused resides to notify him of the contents of the written judgment.
- (5) Where the address of the accused is not known or he resides abroad, the contents of the written judgment as intended by Paragraph (2) shall be delivered through a village head or official or through the legation of the Republic of Indonesia, where the accused usually resides and if it still cannot be delivered, the accused shall be summoned two times in succession through two newspapers published in the jurisdiction of the district court itself or in a jurisdiction nearby that jurisdiction.

Part Two

Examination in Cassation

Article 244

An accused or the public prosecutor may lodge a request for an examination in cassation to the Supreme Court with regard to a judgment in a criminal case rendered at last resort by a court other than the Supreme Court, except with regard to an acquittal.

Article 245

- (1) A petition for cassation shall be delivered by the petitioner to the clerk of the court which judged his case in the first instance, within fourteen days after the judgment for which cassation is requested has been made known to the accused.
- (2) Said request shall be written down by the clerk in a statement which shall be signed by the clerk and the petitioner, and recorded in a list attached to the dossier of the case.
- (3) Where the district court receives a petition for cassation, whether submitted by the public prosecutor or the accused or submitted by both the public prosecutor and the accused, the clerk shall be obligated to make the request of the one party known to the other party.

Article 246

- (1) If the time limit as intended by Article 245 Paragraph (1) has expired without a petition for cassation being submitted by the person concerned, then the person concerned shall be deemed to have accepted the judgment.
- (2) If within the time limit as Intended by Paragraph (1), the petitioner is tardy in lodging a petition for cassation, the fight therefore shall be forfeited.
- (3) In cases as intended by Paragraph (1) or Paragraph (2), the clerk shall record and prepare a deed with respect to such facts attaching said deed to the dossier of the case.

Article 247

- (1) So long as a case of petition for cassation has not yet been decided by the Supreme Court, the petition for cassation may be withdrawn any time and where it has been withdrawn, a petition for cassation in that case may not again be submitted.
- (2) If Withdrawal is effected before the dossier of the case has been sent to the Supreme Court, said dossier shall not be sent.
- (3) If the examination of a case has commenced but it has not yet been decided, while in the meantime the petitioner withdraws his petition for cassation, the petitioner shall bear the expenses for the case incurred by the Supreme Court until the moment of withdrawal.
- (4) A petition for cassation may only be made once.

Article 248

- (1) A petitioner for cassation shall be obligated to submit a cassation brief which contains the reasons for his request for cassation and which must have been delivered to the clerk within fourteen days after lodging said request who shall issue a receipt therefore.
- (2) Where a petitioner for cassation is an accused with a poor understanding of the law, the clerk at the time of receiving the petition for cassation shall be obligated to inquire as to the reasons for which he is lodging said petition and for this purpose the clerk shall prepare a cassation brief.
- (3) Reasons as referred to in Paragraph (1) and Paragraph (2) shall be as intended by article 253 Paragraphs (1) of this law.
- (4) If within the time limit as intended by Paragraph (1), the petitioner is tardy in submitting the cassation brief, then Ms right to submit a petition for cassation shall be forfeited.
- (5) The provisions as regulated by Article 246 Paragraph (3) shall also apply to Paragraph (4) of this article.
- (6) A copy of the cassation brief submitted by one of the parties, shall be delivered by the clerk to the other party which is entitled to submit a counter-cassation brief. ·
- (7) Within the time limit as intended by Paragraph (1), the clerk shall convey a copy of the counter-cassation brief to the party which originally submitted the cassation brief.

Article 249

- (1) Where one of the parties is of the opinion that something must be added to the cassation brief or the counter-cassation brief, he shall be given the opportunity to submit such addenda within the time limit as intended by Article 248 Paragraph (1).
- (2) The addenda as intended by Paragraph (1) shall be delivered to the clerk of the court.
- (3) At the latest within fourteen days after the time limit referred to in Paragraph (1), the complete petition for cassation shall be delivered by the clerk of the court to the Supreme Court.

Article 250

- (1) After the clerk of the district court has received the brief and or counter-brief as intended by Article 248 Paragraph (1) and Paragraph (4), he shall be obligated to promptly send the dossier of the case to the Supreme Court.
- (2) After the clerk of the Supreme Court has received the dossier of said case, he shall at once record it in the agenda of documents, the register of cases and on an index card.

- (3) It is obligatory that the register of cases as referred to in Paragraph (2) be worked upon, closed and signed by the clerk on every working day and also be signed for acknowledgment by the Chief Justice of the Supreme Court by virtue of his office.
- (4) Where the Chief Justice of the Supreme Court is prevented, the Deputy Chief Justice of the Supreme Court shall do the signing and if both of them are prevented, the member judge with the most seniority in office shall be assigned by a decision of the Chief Justice of the Supreme Court.
- (5) The clerk of the Supreme Court shall thereafter issue a document as proof of receipt the original of which shall be sent to the clerk of the district court concerned, with copies thereof sent to the parties.

Article 251

- (1) The provisions as regulated by Article 157 shall also apply to the examination of a case at the level of cassation.
- (2) Family relationships as intended by Article 157 Paragraph (1) shall also apply between judges and or clerks at the level of cassation with judges and or clerks at the appellate level and the level of first instance, who have adjudicated the same case.
- (3) If a judge, who has adjudicated a case at the level of first instance or at the appellate level, subsequently becomes a judge or a clerk of the Supreme Court, they shall be prohibited from serving as a judge or clerk for the same case at the level of cassation.

Article 252

- (1) The provisions as regulated by Article 220 Paragraph (1) and Paragraph (2) shall also apply to the examination of a case at the level of cassation.
- (2) If there is doubt or a difference of opinion regarding the matters referred to, in Paragraph (1), then at the level of cassation:
 - a. the Chief Justice of the Supreme Court by virtue of his office shall act as the official who is competent to decide;
 - b. where the Chief Justice of the Supreme Court himself is involved, the competent party to decide shall be a committee consisting of three persons elected by and from among the member judges, one of whom must be the member judge who has the most seniority in office.

Article 253

- (1) Examination at the level of cassation shall be conducted by the Supreme Court at the request of the parties as intended by Article 244 and article 248 in order to decide:
 - a. whether it is true that a legal rule has not been applied or has been applied in an improper manner;
 - b. whether it is true that the method of adjudication was not conducted according to the provisions of law;
 - c. whether it is true that the court exceeded the limits of its competence.
- (2) Examinations as intended by Paragraph (1) shall be conducted by a minimum of three judges on the basis of the dossier of a case received from a court other than the Supreme Court, which shall consist of the minutes of the examination from the investigator; the minutes of the examination at trial all documents introduced at trial in connection with the case and the judgment of a court of first instance and or at last resort.
- (3) If considered necessary for purposes of the examination as intended by Paragraph (1), the Supreme Court may itself hear the testimony of the accused or witnesses or the public prosecutor by explaining in brief in a summons to them what it is that it wishes to know or the Supreme Court may also order the court as intended by Paragraph (2) to hear their testimony, by the same method of summons.
- (4) The competence to determine detention shall devolve to the Supreme Court from the submission of the petition for cassation.

- (5)
- a. Within three days after receiving 'the dossier of the case in causation as intended by Paragraph (2), the Supreme Court shall be obligated to study it in order to decide whether or not it is necessary that the accused still be detained, either by virtue of its office or at the request of the accused;
 - b. Where the accused is still detained, then within fourteen days from the ruling on detention the Supreme Court shall be obligated to examine said case.

Article 254

Where the Supreme Court examines · petition for cassation because of its compliance with the provisions as Intended by Article 245, Article 246 and Article 247, the Supreme Court may decide to reject or grant the petition for cassation with respect to the law thereof.

Article 255

- (1) Where a judgment is annulled because a legal rule has not been applied or has been applied improperly, the Supreme Court shall itself adjudicate said case.
- (2) Where a judgment is annulled because the adjudication was not conducted in accordance with the provisions of law, the Supreme Court shall stipulate and give instructions to the effect that the court which decided the case concerned shall reexamine the part annulled, or for certain reasons the Supreme Court may stipulate that the case be examined by another court of the same level.
- (3) Where a judgment is annulled because the court or judge concerned is not competent to adjudicate the case, the Supreme Court shall stipulate another court or judge to adjudicate said case.

Article 256

If the Supreme Court shall annul the court judgment upon which cassation has been Supreme Court shall annul the court judgment upon which cassation has been requested and in this event the provisions of Article 255 shall apply.

Article 257

The provisions as regulated by Article 226 and Article 243 shall also apply to judgments of the Supreme Court in cassation, except that the time limit for sending the copy of the judgment and the dossier of the case concerned to the court that judged it in the first instance shall be seven days.

Article 258

The provisions as referred to in Article 244 through Article 257 shall apply to the procedure for petitions for cassation with regard to the judgment of a court in the military justice system.

CHAPTER XVIII

EXTRAORDINARY LEGAL REMEDIES

Part One

Examination at the Level of Cassation in The Interest of Law

Article 259

- (1) The Attorney General may submit an one occasion a petition for cassation in the interest of law with respect to all judgments which have become final and binding from courts other than the Supreme Court.
- (2) A judgment in cassation in the interest of law may not damage the interested parties.

Article 260

- (1) A petition for cassation in the interest of law shall be submitted in writing by the Attorney General to the Supreme Court through the clerk of the court which decided the case in the first instance, accompanied by a narrative containing the reasons for the petition.
- (2) A copy of the narrative as intended by Paragraph (1) shall promptly be conveyed by the clerk to the interested parties.
- (3) The head if the court concerned shah promptly forward the request to the Supreme Court.

Article 261

- (1) A copy. of the judgment in cassation in the interest of law shall be delivered by the Supreme Court to the Attorney General and to the court concerned together with the dossier of the case.
- (2) The provisions as intended by Article 243 Paragraph (2) and Paragraph (4) shall also apply in this matter.

Article 262

The provisions as intended by Article 259, Article 260 and Article 261 shall also apply to the procedures for petitions for cassation in the interest of law with regard to a judgment of a court In the military justice system.

Part Two

Reconsideration of a Judgment

Which has Become Final and Binding

Article 263

- (1) A convicted person or his heirs may submit a submit a request to the Supreme Court for reconsideration with regard to a judgment which has become final and binding, except a judgment of acquittal or the dismissal of charges.
- (2) A request for reconsideration may be made on the basis that:
 - a. if there are found to be new circumstances which give rise to a strong presumption that if such circumstances had been known at the time the trial was still in progress, the outcome would have been a judgment of acquittal or dismissal of all charges or the charges of the public prosecutor would not have been acceptable or that less severe criminal provisions would have been applied to the case;
 - b. if in various judgments there are found to be statements the something has been proven, but the matters or circumstances which form the basis and reason for the judgment declared to have been proven, are evidently mutually contradictory;
 - c. if a judgment clearly displays a mistake of the judge or a manifest error.
- (3) For the same reasons as referred to in Paragraph (2), a request for reconsideration may be submitted with regard to a judgment which has become Final and binding, if in that judgment there is an alleged act which has been declared proven, but which is not followed up by the imposition of a penalty.

Article 264

- (1) A request for reconsideration by a petitioner as intended by Article 263 Paragraph (1) shall be submitted to the clerk of the court which decided the case in the first instance clearly stating the reasons therefore.
- (2) The provisions as intended by Article 245 Paragraph (2) shall also apply to a request for reconsideration.
- (3) A request for reconsideration shall not be limited to a certain period of time.
- (4) Where the petitioner for reconsideration is a convicted person who has a poor understanding of the law the clerk at the time of receiving the request for reconsideration shall be obligated to inquire as to the reasons for which he is submitting said request and for this purpose the clerk shall draw up the written request for reconsideration.
- (5) The head of the court shall promptly send the written request for reconsideration together with the dossier of the case to the Supreme Court, accompanied by explanatory notes.

Article 265

- (1) The head of the court after receiving a request for reconsideration as intended by Article 263 Paragraph (1) shall assign a judge who did not examine the original case for which

reconsideration has been requested to examine whether the request for reconsideration satisfies the reasons as intended by Article 263 Paragraph (2).

- (2) In the examination as intended by Paragraph (1) the petitioner and the public attorney shall be present and may state their opinions.
- (3) Minutes of said examination shall be prepared which shall be signed by the judge, the public attorney, the petitioner and the clerk and based on these minutes, minutes shall be prepared of the opinions signed by the judge and the clerk.
- (4) The head of the court shall promptly submit the request for reconsideration together with the dossier of the original case, the minutes of examination and the minutes of opinions to the Supreme Court with copies of the cover letter sent to the petitioner and the public attorney.
- (5) If a case for which reconsideration has been requested constitutes a judgment of an appellate court, copies of the cover letter must be accompanied by copies of the minutes of examination and the minutes of opinions and delivered to the appellate court concerned.

Article 266

- (1) Where a request for reconsideration does not satisfy the provisions as intended by Article 263 Paragraph (2). the Supreme Court shall declare that the request for reconsideration is unacceptable stating the underlying reasons therefore.
- (2) Where the Supreme Court Is of the opinion that the request for reconsideration may be accepted for examination, the following provisions shall apply:
 - a. if the Supreme Court does not verify the reasons of the petitioner, the Supreme Court shall reject the request for reconsideration by ruling that the judgment for which reconsideration has been requested shall remain in effect accompanied by the basis of its considerations;
 - b. if the Supreme Court verifies the reasons of the petitioner, the Supreme Court shall annul the judgment for which reconsideration has been requested and render a judgment which may take the form of:
 1. a judgment of acquittal;
 2. a judgment dismissing all charges;
 3. a judgment that the charges of the public prosecutor are unacceptable;
 4. a judgment applying a less severe criminal provision.
- (3) A penalty imposed by a judgment in reconsideration may not exceed the penalty imposed In the original judgment.

Article 267

- (1) A copy of the judgment of the Supreme Court in reconsideration together with the dossier of the case shall within seven days after the judgment has been rendered be sent to the court that had forwarded the request for reconsideration.
- (2) The provisions as intended by Article 243 Paragraph (2), Paragraph (3), Paragraph (4) and Paragraph (5) shall also apply to judgments of the Supreme Court with regard to reconsideration.

Article 268

- (1) A request for reconsideration of a judgment shall not postpone or discontinue the execution of said judgment.
- (2) If the Supreme Court has accepted a request for reconsideration and in the meantime the petitioner has died, it shall be the choice of the heirs whether or not said reconsideration is to be continued.
- (3) A request for reconsideration of a judgment may only be made once.

Article 269

The provisions as referred to in Article 263 through Article 268 shall apply to the procedures for requesting the reconsideration of a judgment of a court in the military justice system.

CHAPTER XIX

THE EXECUTION OF JUDGMENTS

Article 270

The execution of a judgment that has become final and binding shall be carried out by the public attorney, for which purpose a copy of the judgment shall be sent to him by the clerk.

Article 271

In the case of a death penalty the execution shall take place out of the public view and according to the provisions of law.

Article 272

If a convicted person has been penalized to imprisonment or confinement and subsequently is subject to a similar penalty before he has served the penalty previously imposed, the penalties shall be served in succession starting with the penalty first imposed.

Article 273

- (1) If a judgment imposes a fine, the convicted person shall be given a period of one month to pay said Fine except for judgments in express examination procedures that must be paid in full without any delay.
- (2) Where there is a strong reason, the time limit as referred to in Paragraph (1) may be extended for at most one month.
- (3) If a judgment also stipulates that the physical evidence shall be confiscated for the state, with the exception referred to by Article 46, the public attorney shall entrust the goods to the state auction office in order to be sold by auction within three months, the proceeds of which shall be deposited in the state treasury for and on behalf of the public attorney.
- (4) The time limit as referred to in Paragraph (3) may be extended for at most one month.

Article 274

Where the judgment also renders a judgment for compensation as intended by Article 99, the execution thereof shall be carried out according to methods for judgments in civil suits.

Article 275

If more than one person is convicted in one case, the expenses of the case and or compensation, as intended by Article 27 shall be borne by them jointly in equal proportions.

Article 275

Where a court imposes a conditional sentence, the execution thereof shall be carried out with serious efforts of supervision and observation and according to the provisions of law.

CHAPTER XX

SUPERVISION AND OBSERVATION IN THE EXECUTION OF JUDGMENTS

Article 277

- (1) In every court there must be a judge who is given the special duty of assisting the head in carrying out the supervision and observation with regard to judgments that impose penalties depriving liberty.
- (2) The judge as intended by Paragraph (1) who shall be called the judge for supervision and observation, shall be assigned by the head of the court for at most two years.

Article 278

The public attorney shall send a copy of the minutes on the execution of the judgment signed by himself, by the head of the corrections agency and by the convicted person, to the court which decided the case in the first instance and the clerk shall record it in the register of supervision and observation.

Article 279

The register of supervision and observation as referred to by Article 278 shall be worked upon, closed and signed by the clerk every working day and for acknowledgment it shall also be signed by the judge as intended by Article 277.

Article 280

- (1) The judge for supervision and observation shall exercise supervision in order to obtain certainty that the judgment is being properly executed.
- (2) The judge for supervision and observation shall carry out observations to obtain study material in the interest of a beneficial correctness in the imposition of penalties, obtained from the behavior of inmates or the guidance of the corrections agency and the reciprocal effects on inmates during the serving of their sentences.
- (3) The observation as intended by Paragraph (2) shall be continued after the convicted person has finished serving his sentence.
- (4) The supervision and observation as intended by Article 277 shall also apply to conditional sentences.

Article 281

At the request of the judge for supervision and observation, the head of the corrections agency shall periodically or at any time provide information about the behavior of certain inmates who are under the observation of said judge.

Article 282

If considered necessary for the sake of effective observation, the judge for supervision and observation may discuss with the head of the corrections agency methods of guidance for certain inmates.

Article 283

The judge for supervision and observation to the head of the court shall report the result of supervision and observation periodically.

CHAPTER XXI

TRANSITIONAL PROVISIONS

Article 284

- (1) Provisions of this law shall as far as possible be applied to cases which were in existence prior to the coming into effect of this law.
- (2) Within two years after the promulgation of this law all cases shall be subject to the provisions of this law, with temporary exception for special provisions on criminal procedure as referred to in certain laws, until they are amended and or are declared to no longer be in effect.

CHAPTER XXII

CONCLUDING PROVISIONS

Article 285

This law shall be called the Code of Criminal Procedure.²³

Article 286

This law shall take effect on the date it is promulgated.

In order that every person may be informed thereof, promulgation of this law is ordered through placement in the State Gazette of the Republic of Indonesia.

Ratified in Jakarta on 31 December 1981

PRESIDENT OF THE REPUBLIC OF INDONESIA

sgd. SOEHARTO.

Promulgated in Jakarta on 31 December 1981

MINISTER/STATE SECRETARY REPUBLIC OF INDONESIA

sgd.

SUDHARMONO S.H.

STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER 76 of 1981

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ELUCIDATION
ON THE LAW OF THE REPUBLIC OF INDONESIA
NUMBER 8 YEAR 1981
CONCERNING
THE CODE OF CRIMINAL PROCEDURE

I. GENERAL

1. The regulation which formed the basis for the execution of the law of criminal procedure in the public judicial system prior to the coming into effect of this law was the "Revised Indonesian Regulation" also known under the name "Het Herziene Inlandsch Reglement" or H.I.R. (Staatsblad of 1941 Number 44) which based on Article 6 Paragraph (1) of Law Number 1 Drt. of 1951, was as far as was possible to have been taken as a guide to procedure in civilian criminal cases by all courts and offices of the public attorney in the territory of the Republic of Indonesia, except for a few amendments and supplements. Law Number 1 Drt. of 1951 was intended to achieve the unification of the law of criminal procedure, which had previously consisted of a law of criminal procedure for the landraad and a law of criminal procedure for the raad van justitie.

The presence of these two types of criminal procedure law was the direct consequence of the differentiation of courts for indigenous inhabitants and courts for European nationals during the Dutch East Indies period which continued to be maintained, despite the fact that the old "Indonesian Regulation" (Staatsblad of 1848 Number 16) had been reformed by the Revised Indonesian Regulation (R.I.B.), because the goal of this reform was not intended to achieve a unity in the law of criminal procedure, but was rather intended to improve the criminal procedure law of the raad van justitie.

Even though Law Number 1 Drt. of 1951 stipulated that there should only be one law of criminal procedure applicable throughout Indonesia, namely the R.I.B., the provisions set forth therein were evidently not yet adequate to guarantee the protection of human rights, the protection of the dignity and integrity of mankind as is properly possessed by a nation governed by law. In particular, the R.I.B. contained no regulations on legal assistance during examinations by an investigator or public prosecutor nor did it contain any provisions on the right to obtain compensation.

Therefore, for the sake of development in the field of law and in the context of the matters explained above, it was necessary to revoke "Het Herziene Inlandsch Reglement" (Staatsblad of 1941 Number 44) in its relation to and Law Number 1 Drt. of 1951 (State Gazette of 1951 Number 59, Supplement to the State Gazette Number 81) and all ancillary regulations there under and the provisions governed by other laws and regulations, to the extent they dealt with the law of criminal procedure, because they were not in accordance with the aspirations of national law and to replace them with a new law of criminal procedure which would have codifying and unifying features based on the Pancasila and the 1945 Constitution.

2. The 1945 Constitution clearly explains that the Indonesian State is based on law (rechtsstaat), not based on mere power (machtsstaat). This means that the Republic of Indonesia is a democratic nation governed by law based on the Pancasila and the 1945 Constitution, which upholds human rights and guarantees equal status in law and government for all its citizens, and which is obligated to respect the law and government without exception.

It is clear that the observance, practice and implementation of human rights as well as the rights and obligations of citizens to uphold justice is a must for every citizen, every state administrator, every state institution and social organization whether in the capitol or the provinces and which must be realized in and by the presence of this law of criminal procedure.

Furthermore, as set forth in, the Broad Outlines of State Policy (Decree of the People's Consultative Assembly of the Republic of Indonesia Number IV/MPR/1978) the insight for

the achievement of the goals of national development is the Archipelago Principle which in the field of law declares that the entire Indonesian archipelago is one unified legal entity in the sense that there is only one national law serving the national interest.

For this purpose it is necessary that law be developed and reformed through the improvement of legislation and that the efforts towards the codification and the unification of law be continued and improved in certain fields taking into account the growth of legal awareness in a society which is developing towards modernization in line with the level of progress achieved in development in all fields.

Such developments in the field of criminal procedure law is aimed at enabling society to observe its rights and obligations and to achieve and foster the attitudes of law enforcement officials in accordance with their respective functions and authority towards a true upholding of law, justice and protection which constitute the shelter for the nobility, dignity and integrity of mankind, as well as legal order and certainty in upholding the Republic of Indonesia as a nation governed by law in accordance with the Pancasila and the 1945 Constitution.

3. Therefore, this law which regulates the national law of criminal procedure must be based on the philosophy/view of life of the nation and the foundation of the state and should properly reflect in the substantive provisions of its articles or Paragraphs protection for human rights and the obligations of citizens as explained above as well as the principles which will be stated hereunder.

The principle which governs the protection of the nobility, dignity and integrity of mankind which has been set forth in the Law, on the Basic Provisions of the Powers of the Judiciary, namely Law Number 14 of 1970 must be upheld in and by this law.

Said principle represents, among other things:

- a. Equal treatment for every one before the law without any discrimination.
- b. Arrests, detentions, searches and seizures may only be conducted on the basis of written warrants by officials who are authorized by law and only in case and by means which are regulated by law.
- c. Anyone who is suspected, arrested, detained, prosecuted or brought before a court, must be regarded as innocent until there is a court judgment which declares his guilt and which has become final and binding.
- d. A person who is arrested, detained, prosecuted or tried without a basis in law and/or because of a mistake regarding his person or the law to be applied shall be entitled to obtain compensation and rehabilitation from the level of investigation and law enforcement officials who deliberately or because of their negligence have caused the violation of said principle of law shall be liable to prosecution, penalty and/or administrative discipline.
- e. Adjudication, which must be carried out quickly, simply and at a low cost in a free, honest and impartial manner, must be realized consistently at all levels of justice.
- f. Anyone who is involved in a case must be given an opportunity to obtain legal assistance which is provided solely in the interest of his defense.
- g. A suspect, from the of his arrest and/or detention, must be informed of the accusations against him and of the legal basis for what is charged, as well as of his rights, including the right to contact and obtain the assistance of legal counsel.
- h. A court shall try a criminal case in the presence of the accused.
- i. Examinations at trial shall be open to the public, except where otherwise regulated by law.
- j. Control of the execution of the court judgment in a criminal case shall be conducted by the head of the district court concerned.

4.

With a foundation as described above in a perfect and integrated whole, reform is made in the law of criminal procedure which is at once intended as an effort to compile the provisions of criminal procedure which are at present found in various laws into one law governing the national law of criminal procedure in accordance with the goal of codification and unification. It is on the basis of these considerations that this law on criminal procedure law is called the "Code of Criminal Procedure," abbreviated K.U.H.A.P.

This Code does not only contain provisions on the procedures in a criminal process, but this code also contains the rights and obligations of those involved in a criminal process and contains further the criminal procedure of the Supreme Court after the revocation of the Law on the Supreme Court (Law Number I of 1950) by Law Number 13 of 1965.

II. ARTICLE BY ARTICLE

Article 1

Sufficiently clear.

Article 2

- a. The scope of this law follows the principles adhered to by Indonesian criminal law.
- b. That which is meant by "public judicial system" includes the specializations as set forth in the elucidation to the last paragraph of Article 10 Paragraph (1) of Law Number 14 of 1970.

Article 3

Sufficiently clear.

Article 4

Sufficiently clear.

Article 5

Paragraph (1)

Point a

Number I through 3

Sufficiently clear.

Number 4

That which is meant by "other acts" are acts taken by a junior investigator for purposes of investigation provided that such acts: a) are not contrary to a rule of law; b) are consistent with the legal obligation which compels the taking of such official acts; c) are proper and reasonable and within the scope of his office; d) are considered suitable in compelling circumstances; e) respect human rights.

Point b

Sufficiently clear.

Article 6

Paragraph (1)

Sufficiently clear.

Paragraph (2)

The status and rank of an investigator as regulated by government regulation shall be made consistent with and equivalent to the status and rank of a public prosecutor and a judge in the public judicial system.

Article 7

Paragraph (1)

Points a through h

Sufficiently clear.

Point i

See Article 109 Paragraph (2).

Point j

See the elucidation to Article 5 Paragraph (1) point a number 4.

Paragraph (2)

That which is meant by "investigator in this Paragraph" is for instance a customs and excise official, an immigration official and a forestry official, who carries out investigative duties in accordance with the special authority granted by the law which constitutes the respective legal basis therefore. .

Paragraph (3)

Sufficiently clear.

Article 8

Sufficiently clear.

Article 9

In urgent and compelling circumstances, an immigration official, upon the written instruction of the Minister of Justice, may, for certain duties for purposes of investigation, perform his duties in accordance with the provisions of prevailing laws.

Article 10

Paragraph (1)

That which is meant by "an official of the state police of the Republic of Indonesia" includes certain civil servants within the state police of the Republic of Indonesia.

Paragraph (2)

Sufficiently clear.

Article 11

The delegation of the authority to detain to an assistant investigator may only be granted when a warrant from an investigator is not possible due to very compelling matters and circumstances or where there are obstacles to communications in isolated areas or in places who do not yet have an investigator and or in other cases which can reasonably be accepted.

Article 12

Sufficiently clear.

Article 13

Sufficiently clear.

Article 14

Points a through h

Sufficiently clear.

Point i

That which is meant by "other acts" includes among other things the researching of the identity of a suspect, physical evidence with strict attention paid to the limits of the competency and functions of the investigator, the public prosecutor and the court.

Point j

Sufficiently clear.

Article 15

Sufficiently clear.

Article 16

Paragraph (1)

That which is meant by "upon the order of the investigator" also includes the assistant investigator as intended in the elucidation to Article 11.

The intended order constitutes a written warrant separately prepared, issued before the arrest is made.

Paragraph (2)

Sufficiently clear.

Article 17

That which is meant by "sufficient preliminary evidence" is preliminary evidence to presume that there has been an offense in accordance with the language of Article 1 point 14. This Article demonstrates that an arrest warrant cannot be carried out arbitrarily, but is aimed at those who have actually committed an offense.

Article 18

Paragraph (1)

A written arrest warrant is issued by a competent official of the state police of the Republic of Indonesia while conducting an investigation within his jurisdiction.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Article 19

Sufficiently clear.

Article 20

Sufficiently clear.

Article 21

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Point a

Sufficiently clear.

Point b

A suspected or accused narcotic addict should as far as possible be detained in a certain place which at the same time constitutes a place of treatment.

Article 22

Paragraph (1)

So long as there is no state detention house in the place concerned, detainees may be kept at the state police office, at the district office of the public attorney, at the corrections agency, at a hospital and in compelling circumstances, at other places.

Paragraph (2) and Paragraph (3)

A suspect or an accused may only leave a house or a town with the permission of the investigator, public prosecutor or judge Who issued the warrant of detention.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Article 23

Sufficiently clear.

Article 24

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Any extension of detention may only be granted by an official competent to do so on the basis of reasons and a resume of the results of examination which are submitted to him.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Article 25

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Any extension of detention may only be granted by an official competent to do so on the basis of reasons and a resume of the results of examination which are submitted to him.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Article 26

Sufficiently clear.

Article 27

Sufficiently clear.

Article 28

Sufficiently clear.

Article 29

Paragraph (1)

That which is meant by "purposes of an examination" is an examination which could not be completed within the stipulated detention period. That which is meant by "serious physical or mental disturbance" is the condition of a suspect or an accused which makes it impossible for him to be examined for physical or mental reasons.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Sufficiently clear.

Paragraph (7)

- a. Although the dossier of a case has not yet been submitted to a district court, objections to the legality of a detention at the level of investigation or prosecution that has been extended on the basis of Article 29, may be filed with the head of a high court to be examined and decided.
- b. With regard to an extension of detention at the level of examination in cassation as referred to in Paragraph (2) and Paragraph (3), no objection may be filed because the Supreme Court represents the final level of justice and the body exercising the highest control over the actions of other courts.

Article 30

Sufficiently clear.

Article 31

That which is meant by "stipulated conditions" is the obligation to report, not to leave a house or town.

The period of suspended detention for a suspect or an accused is not included in the period of his status as detainee.

Article 32

Sufficiently clear.

Article 33

Paragraph (1)

To carry out a house search, an investigator must have written permission from the head of a district court in order to guarantee the rights of a person in his home.

Paragraph (2)

If it is not the investigator himself who conducts the search, then the other police officer must be able to show not only written permission from the head of a district court but also a written order from the investigator.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

That which is meant by "two witnesses" are members of the local community concerned.

That which is meant by "head of the neighborhood" is the head or deputy head of a village, the head or deputy head of a neighborhood, the head or deputy head of a locality, the head or deputy head of an equivalent institution.

Paragraph (5)

Sufficiently clear.

Article 34

Paragraph (1)

"Urgent and compelling circumstances" exist when at a place to be searched it is strongly presumed that there is a suspect or an accused present who is reasonably likely to soon escape or to repeat an offense or that there are goods present which could be seized or which may soon be destroyed or moved whereas written permission from a district court is impossible to obtain in a suitable way and in a short' time.

Paragraph (2)

Sufficiently clear.

Article 35

Sufficiently clear.

Article 36

Sufficiently clear.

Article 37

A body search covers the examination of body cavities, for women to be conducted by a female official. Where an Investigator is of the opinion that it is necessary to conduct an examination of body cavities, the investigator shall request the assistance of a health official.

Article 38

Sufficiently clear.

Article 39

Sufficiently clear.

Article 40

Sufficiently clear.

Article 41

That which is meant by "documents" includes cables, telexes and other such things containing a message.

Article 42

Sufficiently clear.

Article 43

Sufficiently clear.

Article 44

Paragraph (1)

So long as there is not yet a state storehouse for seized goods in the place concerned, the seized goods may be kept at an office of the state police of the Republic of Indonesia, at the district office of the public attorney, at the office of a district court, in a government bank building or, in compelling circumstances, in another place of storage or remaining at the place where the goods were originally seized.

Paragraph (2)

Sufficiently clear.

Article 45

Paragraph (1)

That which is meant by goods which may be secured are, among others, goods which are easily flammable, readily explosive, which therefore must be guarded and specially marked or goods which may endanger the people's health and the environment. Auctions are performed by a state auction office after consultations have been held with the local investigator or public prosecutor or judge concerned in accordance with the level of examination in the process of justice and with an agency expert in determining the nature of goods which may be easily damaged.

Paragraph (2) and Paragraph (3)

Goods for evidentiary purposes which by their nature may be easily damaged may be sold at auction and the money proceeds of the auction may be used as a replacement to be submitted at trial, while a small portion of such goods shall be set aside to serve as physical evidence.

Paragraph (4)

That which is meant by "goods confiscated for the state" are goods which must be surrendered to the department concerned, in accordance with the provisions of the prevailing laws and regulations.

Article 46

Paragraph (1)

Goods that are subject to seizure are required for examination as physical evidence. As long as an examination continues, it can be ascertained whether or not such goods are still required. Where an investigator or public prosecutor is of the opinion that such seized goods are no longer required for evidentiary purposes, then said goods may be returned to the interested party or the owner. In returning seized goods, the human aspect should as far as possible be taken into account by giving priority to the return of goods which constitute a source of Livelihood.

Paragraph (2)

Sufficiently clear.

Article 47

Paragraph (1)

That which is meant by "other documents" is documents which have no direct connection with the offense being examined but are suspected for good reason.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Article 48

Sufficiently clear.

Article 49

Sufficiently clear.

Article 50

The granting of rights to a suspect or an accused in this article is intended to avoid the possibility of a person suspected of having committed an offense facing an uncertain fate, especially those subjected to detention, to prevent their being held at length without being examined, such that they may feel that there is no legal certainty, that they are being arbitrarily and improperly treated.

Additionally this is intended to give substance to justice conducted simply, quickly and inexpensively.

Article 51

Point a

By having the person suspected of having committed a crime informed and made to understand what he has been suspected of, he will feel his interest in making preparations for a defense is guaranteed. Consequently he will know the seriousness of the suspicion against him so that he may thereafter be able to consider the level or kind of defense needed, for instance whether or not he will seek legal assistance for the defense.

Point b

In order to avoid the possibility of an accused being examined and adjudicated at trial for an act he is accused of having committed but which he does not understand and because a trial is the most important place for an accused to defend himself, since it is there that he can freely state anything which he needs for his defense, the court provides interpreters for this purpose for accused persons of foreign nationality or who do not command the Indonesian language.

Article 52

In order that an examination may achieve a result which does not deviate from the truth, a suspect or an accused must be kept away from the feeling of fear. Therefore, the application of force or pressure against a suspect or an accused must be prevented.

Article 53

Not all suspects or accused persons understand the Indonesian language well, especially foreigners, so that they do not understand what they really are suspected or accused of. Therefore, they have the right to have the assistance of an interpreter.

Article 54

Sufficiently clear.

Article 55

Sufficiently clear.

Article 56

Paragraph (1)

Recognizing the principle that justice must be conducted simply, quickly and inexpensively and considering that those who are threatened with a penalty of less than five years are not subject to detention except for the offenses referred to in Article 21 Paragraph (4) point b, for those who are threatened with a penalty of five years or more, but less than fifteen years, the assigning of legal counsel shall be adjusted to the development and the availability of legal counsel at the place concerned.

Paragraph (2)

Sufficiently clear.

Article 57

Sufficiently clear.

Article 58

Sufficiently clear.

Article 59

Sufficiently clear.

Article 60

Sufficiently clear.

Article 61

Sufficiently clear.

Article 62

Sufficiently clear.

Article 63

Sufficiently clear.

Article 64

Sufficiently clear.

Article 65

Sufficiently clear.

Article 66

This provision is a manifestation of the principle of "presumption of innocence."

Article 67

Sufficiently clear.

Article 68

Sufficiently clear,

Article 69

Sufficiently clear.

Article 70

Sufficiently clear.

Article 71

Sufficiently clear.

Article 72

That which is meant by "for purposes of his defense" is that they are obligated to keep the content of the minutes for themselves.

That which is meant by "copy" may be a photocopy.

That which is meant by "examination" in this article is examination at the level of investigation, for the examination of a suspect only.

At the level of prosecution means the entire dossier of the case including the bill of indictment. Examination at trial level means the entire dossier of the case including the court judgment.

Article 73

If it is proven that there has been an abuse of this article, the provisions of Article 70 Paragraph (2), Paragraph (3) and Paragraph (4) shall apply.

Article 74

Sufficiently clear.

Article 75

Sufficiently clear.

Article 76

Sufficiently clear.

Article 77

"Termination of prosecution" does not include the setting aside of a case in the public interest which lies within the competence of the Attorney General.

Article 78

Sufficiently clear.

Article 79

Sufficiently clear.

Article 80

This Article is intended to uphold the law, justice and the truth by means of horizontal supervision.

Article 81

Sufficiently clear.

Article 82

Sufficiently clear.

Article 83

Sufficiently clear.

Article 84

Sufficiently clear.

Article 85

That which is meant by "the conditions in an area do not permit" is among other things regional insecurity or the occurrence of a natural disaster.

Article 86

Our Penal Code adheres to the principle of active personality and the principle of passive personality, which opens the possibility for an offense ' committed abroad to be tried in accordance with the Penal Code of the Republic of Indonesia. To facilitate and ensure smoothness in the adjudication of criminal cases, the Central Jakarta District Court has been assigned as the competent court to adjudicate.

Article 87

Sufficiently clear.

Article 88

Sufficiently clear.

Article 89

Sufficiently clear.

Article 90

Sufficiently clear.

Article 91

Sufficiently clear.

Article 92

Sufficiently clear.

Article 93

Sufficiently clear.

Article 94

Sufficiently clear.

Article 95

Paragraph (1)

That which is meant by "the harm of having been subjected to other acts" is the harm caused by an entry into a house, a search and seizure which are not valid under the law. Included in detention without reason is detention which is longer than the penalty imposed.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Article 96

Sufficiently clear.

Article 97

Sufficiently clear.

Article 98

Paragraph (1)

That which is meant by joinder of a civil suit with a criminal case is so that the civil suit may be examined and judged at the same time as the criminal case concerned. That which is meant by "harm to another person" includes harm to a victim.

Paragraph (2)

The absence of a public prosecutor is in an express examination procedure,

Article 99

Sufficiently clear.

Article 100

Sufficiently clear.

Article 101

Sufficiently clear.

Article 102

Sufficiently clear.

Article 103

Sufficiently clear.

Article 104

Sufficiently clear.

Article 105

Sufficiently clear.

Article 106

Sufficiently clear.

Article 107

Paragraph (1)

The investigator as intended by Article 6 Paragraph (I) point a, whether requested or not, is obligated on the basis of his responsibility to give assistance to tilt investigator as intended by Article 6 Paragraph (1) point b. For this purpose, the investigator referred to in Article 6 Paragraph (1) point b is obligated to inform the investigator referred to in Article 6 Paragraph (1) point a about the investigation from the outset.

Paragraph (2)

The investigator as intended by Article 6 action (1) point b in investigating a criminal case is obligated to report this fact to the investigator as intended by Article 6 Paragraph (I) point a. This is necessary in the framework of coordination and supervision.

Paragraph (3)

The report from the investigator as intended by Article 6 Paragraph (1) point b to the investigator as intended by Article 6 Paragraph (1) point a is to be accompanied by minutes of the examination which are to be sent to the public prosecutor. This also applies when the criminal case is not turned over to the public prosecutor.

Article 108

Sufficiently clear.

Article 109

The notification by the investigator referred to in Article 6 Paragraph (1) point b shall be made through the investigator referred to in Article 6 Paragraph (1) point a.

Article 110

Sufficiently clear.

Article 111

Sufficiently clear

Article 112

Paragraph (1)

The summons referred to must be made by a valid written summons, namely, a written summons signed by a competent official/investigator.

Paragraph (2)

Sufficiently clear.

Article 113

Sufficiently clear.

Article 114

To uphold human rights, the suspect shall be informed from the stage of investigation that he has the right to be assisted by legal counsel during examination at trial.

Article 115

Paragraph (1)

Legal counsel shall follow the course of the examination passively.

Paragraph (2)

Sufficiently clear.

Article 116

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

That which is meant by a witness who may be favorable to the suspect is among others a witness a decharge.

Paragraph (4)

Sufficiently clear.

Article 117

Sufficiently clear.

Article 118

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Where a witness is unwilling to sign the minutes, he must give a good reason.

Article 119

If the original investigator conducts the investigation outside the jurisdiction, it is obligatory that the investigator accompany him from the jurisdiction where the investigation is conducted.

Article 120

Sufficiently clear.

Article 121

Sufficiently clear.

Article 122

Sufficiently clear.

Article 123

Paragraph (1)

With respect to detention of the suspect by the investigator, the suspect, his family or his legal counsel may state their objections to such detention to the investigator, or to the agency concerned, accompanied by the reasons therefore.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Article 124

Sufficiently clear.

Article 125

This Article is to avoid arbitrary actions from being taken against a person.

Article 126

Sufficiently clear.

Article 127

Sufficiently clear.

Article 128

Sufficiently clear.

Article 129

Sufficiently clear.

Article 130

This Article is to prevent confusion with other goods which have no connection with the particular case for which the goods have been seized.

Article 131

Sufficiently clear.

Article 132

Paragraph (1)

Sufficiently clear.

Paragraph (2)

That which is meant by the public official uncharged with keeping is among others a competent official of the state archives, the civil registration office, the house of probate, a notary in accordance with prevailing laws and regulations.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Sufficiently clear.

Article 133

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Testimony given by a doctor of forensic medicine is referred to as expert testimony, whereas testimony given by a doctor who is not an expert in forensic medicine is referred to as testimony.

Paragraph (3)

Sufficiently clear.

Article 134

Sufficiently clear.

Article 135

That which is meant by "disinterment of a corpse" includes the recovery of a corpse from all types of places and means of burial

Article 136

Sufficiently clear.

Article 137

Sufficiently clear.

Article 138

That which is meant by "research" is the acts of the public prosecutor in preparing a prosecution, whether a person and or a good mentioned in the results of an investigation accords with or satisfies the conditions of proof which are conducted in the framework of giving guidelines to the investigator.

Article 139

Sufficiently clear.

Article 140

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

The new reason referred to is obtained by the public prosecutor from the investigator which originates from the testimony of the suspect, witnesses, goods or indicators which are only subsequently found or learned of.

Article 141

Point a

Sufficiently clear.

Point b

That which is meant by "offenses which are interrelated one with the other" is when said offenses are committed:

1. by more than one person in cooperation and are committed at the same time;
2. more than one person at different times and places, but which constitute the carrying out of a criminal conspiracy previously made by them;
3. more than one person with the aim to obtain a tool to be used to commit another offense or to avoid the imposition of a penalty because of another offense.

Point c

Sufficiently clear.

Article 142

Sufficiently clear.

Article 143

That which is meant by the "letter bringing the action" is the letter bringing the action itself together with the bill of indictment and the dossier of the case.

Article 144

Sufficiently clear.

Article 145

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

That which is meant by "another person" is family or legal counsel.

Paragraph (5)

Sufficiently clear.

Article 146

Sufficiently clear.

Article 147

Sufficiently clear.

Article 148

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Where it is the office of the public attorney which receives the intended letter bringing the action from the original office of the public attorney, he shall prepare a new letter bringing (an action) to be delivered to the district court specified in the ruling.

Paragraph (3)

Sufficiently clear.

Article 149

Sufficiently clear.

Article 150

Sufficiently clear.

Article 151

Sufficiently clear.

Article 152

Paragraph (1)

That which is meant by "the assigned judge" is a panel of judges or a single judge. .

Paragraph (2)

The public prosecutor validly conducts the summoning of the accused or witnesses by written summons that must have been received by the accused within a period of at least three days before the trial is to begin.

Article 153

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4) .

The application of the guarantee as provided for in Paragraph (3) above has been strengthened, as is evidenced by the incurring of legal consequences if the principle of open trial is not observed.

Paragraph (5)

To ensure that the minds of underage children are not influenced by acts committed by the accused, especially in cases of serious felonies, the judge may stipulate that children under the age of seventeen years, except those who are or have ever been married, shall not be allowed to attend the trial.

Article 154

Paragraph (1)

That which is meant by "in freedom" is a condition of not being enchained without diminishing the provision of guards.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

The presence of the accused at trial is an obligation of the accused, and does not constitute his right, therefore the accused must be present at trial.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

Where despite serious efforts to obtain his presence in a proper manner, the presence of the accused has not been obtained, Then tile accused may be forced to be present.

Paragraph (7)

Sufficiently clear.

Article 155

Paragraph (1)

Sufficiently clear.

Paragraph (2)

In order to guarantee protection of the right of the accused to present his defense, the public prosecutor shall provide an explanation of the accusation, however this explanation may only be made at the outset of the trial.

Article 156

Sufficiently clear.

Article 157

Sufficiently clear.

Article 158

Sufficiently clear.

Article 159

Paragraph (1)

That which is intended by this Paragraph is to prevent witnesses from influencing one another, such that the witnesses are unable to testify freely.

Paragraph (2)

To become a witness is one of the obligations of every person. A person who becomes a witness after having been summoned to a trial to testify but who refuses to meet this obligation may be subject to criminal penalty based on prevailing provision of law. The same shall apply to experts.

Article 160

Sufficiently clear.

Article 161

Paragraph (1)

Sufficiently clear.

Paragraph (2)

The testimony of a witness or expert, who has not taken an oath or affirmation, may not be regarded as a valid means of proof, but merely as testimony which may strengthen the conviction of the judge. Article 162 Sufficiently clear. Article 163 Sufficiently clear.

Article 164

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

A judge is authorized to remind both the public prosecutor and legal counsel, if the questions posed are not relevant to the case. Article 165 Sufficiently clear. Article 166 If in a question mention is made of an offense which has not been acknowledged as having been committed by the accused or has not been stated by a witness, but is made to appear as if it had been acknowledged or stated, such a question is regarded as a leading question.

This Article is important because such a leading question may not only not be posed to the accused, but also may not be posed to a witness.

This is in accordance with the principle that the testimony of an accused or a witness must be given freely at all levels of examination.

In an examination, an investigator or public prosecutor may not use pressure in any way whatsoever, especially in an examination at trial. Such pressure, for example a threat and so forth that causes an accused or a witness to testify to things that differ from things that may be regarded as free expression of his thoughts.

Article 167

Paragraph (1)

To facilitate the examination of witnesses, the head judge at trial may at times find that a witness whose testimony has been heard will be harmful to the next witness to give testimony, such that it is necessary that said first witness leave the court room while the testimony of the next witness is being heard.

Paragraph (2)

The accused or the public prosecutor may at times object to the removal of a witness from the court room as intended by Paragraph (1), the presence of said witness being necessary for example so that he may listen to the testimony given by the next witness to be heard for the sake of the completeness of the results of the testimony of the witnesses.

Paragraph (3)

Sufficiently clear.

Article 168

Sufficiently clear.

Article 169

Sufficiently clear.

Article 170

Paragraph (1)

An occupation or office that calls for an obligation to maintain confidentiality shall be stipulated by legislation.

Paragraph (2)

If there are no legislative provisions governing the intended office or occupation, then as stipulated by this Paragraph, it shall be the judge who determines whether or not a reason given for obtaining such an exemption is valid.

Article 171

Considering the fact that children under fifteen years of age, as well as people who are insane, mentally ill, mad even though only occasionally, who in psychiatry are referred to as psychopaths, cannot be held fully responsible under criminal law, no oath or affirmation may be taken for their testimonies, and therefore their testimony may only be used as an indication.

Article 172

Sufficiently clear.

Article 173

When in the opinion of a judge, a witness will feel under pressure or not free to testify if the accused is present at trial, the judge may, to avoid undesired consequences, order the accused to temporarily leave the court room while the judge poses questions to the witness.

Article 174

Sufficiently clear.

Article 175

Sufficiently clear.

Article 176

Sufficiently clear.

Article 177

Sufficiently clear.

Article 178

Sufficiently clear.

Article 179

Sufficiently clear.

Article 180

Sufficiently clear.

Article 181

Sufficiently clear.

Article 182

Paragraph (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Where the accused cannot write, the clerk shall record his defense.

Paragraph (2)

The reopening of a trial is intended to allow for the collection of additional data to serve as material for the consultations of the judges.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

If there is not a unanimous agreement, the other opinion of one of the judges on the panel shall be recorded in the minutes of the session of the panel which shall be confidential.

Paragraph (7)

Sufficiently clear.

Paragraph (8)

Sufficiently clear.

Article 183

This provision is to guarantee that truth, justice and legal certainty will be upheld for a person.

Article 184

In express examination procedures, it is sufficient that the conviction of a judge be supported by one valid means of proof.

Article 185

Paragraph (1)

The testimony of a witness shall not include information obtained from another person or testimonium de auditur.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Paragraph (6)

The intent of this Paragraph is to remind the judge to ensure that a witness's testimony is given in a truly free, honest and objective manner.

Paragraph (7)

Sufficiently clear.

Article 186

Such expert testimony may also have been given at the time of examination by the investigator or public prosecutor which is contained in the form of a report and prepared in light of the oath the time he accepted his office or occupation. If such was not given at the time of examination by the investigator or public prosecutor, then during examination at trial he shall be requested to testify and this shall be recorded in the minutes of examination.

Said testimony shall be given after he has taken an oath or affirmation before the judge.

Article 187

Point a

Sufficiently clear.

Point b

That which is meant by a document prepared by an official, shall include documents issued by a panel competent for that purpose.

Point c

Sufficiently clear.

Point d

Sufficiently clear.

Article 188

Sufficiently clear.

Article 189

Sufficiently clear.

Article 190

Sufficiently clear.

Article 191

Paragraph (1)

That which is meant by "the acts of which he has been accused has not been legally and convincingly proven" is that there is not sufficient evidence in the judge's estimation of the basis of proof employing means of proof according to the provisions of this law on criminal procedure.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

If the accused is still kept in detention for other valid reasons, such reasons shall be clearly explained to the head of the district court as the supervisor and observer of the execution of court judgments.

Article 192

Sufficiently clear.

Article 193

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Point a

The intended order for the detention of the accused is when the judge of the court of first instance which has rendered the judgment is of the opinion that such detention must be carried out due to the concern that so long as the judgment has not yet become final and binding, the accused will escape, damage or destroy the physical evidence or repeat another offense.

Point b

Sufficiently clear.

Article 194

Paragraph (1)

Sufficiently clear.

Paragraph (2)

A ruling on the delivery of such goods for example where they are essential to earn a living, such as vehicles, agricultural tools, etc.

Paragraph (3)

The delivery of such physical evidence may be made even though the judgment has not yet become final and binding, but must be accompanied by certain conditions, among others, that said goods may at any time be brought before the court intact.

Article 195

Sufficiently clear.

Article 196

Paragraph (1)

This Paragraph is taken from the principle contained in Article 16 of Law Number 14 of 1970. Since provisions on "examination" have been regulated earlier, this Paragraph only regulates the aspect of "deciding a case".

Paragraph (2)

After its pronouncement, said judgment becomes effective for the accused, whether or not he is present. This Paragraph is intended to protect the interests of the accused who are present and to guarantee overall legal certainty in such a case.

Paragraph (3)

The intent of this notification is to make the accused aware of his rights.

Article 197

Paragraph (1)

Point a

Sufficiently clear.

Point b

Sufficiently clear.

Point c

Sufficiently clear.

Point d

That which is meant by "facts and circumstances" here is all that there is and that is found at trial by the parties to the proceeding,

among others the public prosecutor, witnesses, experts, the accused, legal counsel and testifying victims.

Paragraph (2)

Except for that which is referred to in points a, e, f and h, when there is an oversight and or mistake in writing, the oversight and or mistake in writing or typing shall not cause the judgment to be void by operation of law.

Paragraph (3)

Sufficiently clear.

Article 198

Sufficiently clear.

Article 199

Sufficiently clear.

Article 200

This provision is to give certainty to the accused in order that the time for obtaining said written judgment will not be prolonged, in the framework of his making use of legal remedies.

Article 201

This provision is to give certainty as to the possibility of a false or falsified document being used as physical evidence, where legal remedies are made use. In addition, said provision is intended to ensure the careful handling of the dossier of the case by the clerk.

Article 202

Sufficiently clear.

Article 203

Sufficiently clear.

Article 204

Sufficiently clear.

Article 205

Paragraph (1)

The offense of "minor defamation" is also grouped here by being referred to separately, since it is minor in nature even though it may be liable for imprisonment of at most four months.

Paragraph (2)

That which is meant by "under power of attorney" of the public prosecutor to the investigator is by operation of law. Where the public prosecutor is present, this does not reduce the value of said "under power of attorney."

Paragraph (3)

Sufficiently clear.

Article 206

Sufficiently clear.

Article 207

Paragraph (1)

Point a

The intent of said notification is so that the accused may meet his obligation to come to the trial on the designated day, date, hour and place.

Point b

In accordance with express examination procedures, examination is conducted on the very same day.

Paragraph (2)

Point a

Because of their speedy settlement, cases judged according to the express examination procedures are noted down at the same time in the register with each of them given a number so that they may be settled in succession.

Point b

This provision gives certainty that in adjudication according to the express examination procedures there is no need for a written indictment prepared by a public prosecutor as in ordinary examination procedures, rather the offense charged need only be entered into the register referred to in point a.

Article 208

Sufficiently clear.

Article 209

The provision in this article is intended to accelerate the settlement of cases, which nevertheless are to be handled most carefully.

Article 210

Sufficiently clear.

Article 211

That which is meant by "cases involving certain violations" is:

- a. the use of the road in a way which may obstruct or endanger traffic order or safety or which may give rise to damage of the road;
- b. the driving of motor vehicles without being able to show a driver's license, a vehicle registration, a valid certificate of vehicle inspection or other certificates required by provisions of traffic laws and regulations or if these can be shown but have expired;
- c. letting or allowing a motor vehicle, to be driven by a person who has no driver's license;
- d. failure to meet the provisions of traffic laws and regulations concerning the numbering, lighting, equipment, fixtures, loading of vehicles and the requirements for coupling with another vehicle;
- e. allowing a motor vehicle to be on the road without a valid vehicle number plate, in accordance with the certificate of registration for the vehicle concerned;
- f. violation of an order given by a road traffic officer and/or traffic control signals, lights or signs on the edge of the road;
- g. violation of provisions on allowable measurements and loads, methods of picking up and dropping off passengers and/or methods of loading and unloading goods;
- h. violation of route permits, types of vehicles allowed to operate on designated roads.

Article 212

Sufficiently clear.

Article 213

Differing from the examination under ordinary procedures, in examinations under examination procedures for traffic violation cases, the accused may Send a representative to trial.

Article 214

Sufficiently clear.

Article 215

In accordance with the meaning contained in the express examination procedures, that everything shall proceed quickly and conclusively, seized goods shall be returned to the party most entitled at the time the holdings of the judgment have been satisfied.

Article 216

Sufficiently clear.

Article 217

Sufficiently clear.

Article 218

The task of a court is a noble one, as it is responsible not only to the law, its fellow men and itself, but also to God Almighty. Therefore, everyone is obligated to respect the dignity of this institution, especially those who are present in the courtroom while a trial is in progress that should show the proper respect and politeness and not engage in behavior that could disturb or obstruct the trial.

Article 219

That which is meant by "security officer" in this article is an official of the state police of the Republic of Indonesia and without detracting from his authority in the performance of his duties, he is obligated to carry out the instructions of the head of the district court concerned.

Article 220

Sufficiently clear.

Article 221

Sufficiently clear.

Article 222

Sufficiently clear.

Article 223

Sufficiently clear.

Article 224

The safekeeping of the written court judgment covers the entire dozier of the case concerned.

Article 225

Sufficiently clear.

Article 226

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Copies of the written judgment may be provided free of charge.

Paragraph (3)

The Paragraph may not be applied in such a way as to constitute an additional penalty as intended by the Criminal Code.

Article 227

Sufficiently clear.

Article 228

Each period stipulated by this law shall always be counted from the day following the day that an announcement, order or ruling is issued.

Article 229

Sufficiently clear.

Article 230

Sufficiently clear.

Article 231

Sufficiently clear.

Article 232

Sufficiently clear.

Article 233

Paragraph (1)

Sufficiently clear.

Paragraph (2)

By taking into account Article 233 Paragraph (1) and Article 234 Paragraph (1), the clerk shall be forbidden to accept a request for the appeal of a case which cannot be appealed or a request for appeal which is lodged after the stipulated time limit has expired.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Paragraph (5)

Sufficiently clear.

Article 234

Sufficiently clear.

Article 235

Sufficiently clear.

Article 236

Paragraph (1)

The purpose of providing a time limit of fourteen days is so that cases on appeal will not pile up in the district court and will be promptly forwarded to the high court.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

Sufficiently clear.

Paragraph (4)

Sufficiently clear.

Article 237

Sufficiently clear.

Article 238

Paragraph (1)

Sufficiently clear.

Paragraph (2)

When in a criminal case the accused may, according to law, be detained, then once the request for appeal has been lodged, it shall be file high court which shall determine whether or not he is to be detained. If the detention imposed on an appellant has reached a duration which is the same as the penalty which was imposed on him by the district court. he must be released immediately.

Paragraph (3)

Sufficiently clear.

Article 239

Sufficiently clear.

Article 240

Paragraph (1)

Improvements in the examination where there has been error in the application of the law of procedure must be conducted by the district court concerned itself.

Paragraph (2)

Sufficiently clear.

Article 241

Sufficiently clear.

Article 242

Sufficiently clear.

Article 243

Sufficiently clear.

Article 244

Sufficiently clear.

Article 245

Sufficiently clear.

Article 246

Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

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Sufficiently clear.

Article 257

Sufficiently clear.

Article 258

Sufficiently clear.

Article 259

Sufficiently clear.

Article 260

Sufficiently clear.

Article 261

Sufficiently clear.

Article 262

Sufficiently clear.

Article 263

This Article contains a reason to be used in a limitative way to request the reconsideration of the judgment in a criminal case which has become final and binding.

Article 264

Sufficiently clear.

Article 265

Sufficiently clear.

Article 266

Sufficiently clear.

Article 267

Sufficiently clear.

Article 268

Sufficiently clear.

Article 269

Sufficiently clear.

Article 270

Sufficiently clear.

Article 271

Sufficiently clear.

Article 272

The provisions intended by this Article are that the convicted person in succession, one following upon the other in unbroken continuity, must serve penalties imposed in succession.

Article 273

Paragraph (1)

Sufficiently clear.

Paragraph (2)

Sufficiently clear.

Paragraph (3)

The period of three months in this Paragraph is intended to take into account matters which cannot possibly be arranged within a short time.

Paragraph (4)

Care should be taken so that the extension of time as referred to in this Paragraph does not result in a postponement of the holding of the auction.

Article 274

Sufficiently clear.

Article 275

Since the accused in cases intended by this article are jointly penalized having been found guilty of committing offenses in the same case, it is fitting that the costs of the case and/or compensation be borne jointly and proportionally.

Article 276

Sufficiently clear.

Article 277

Sufficiently clear.

Article 278

Sufficiently clear.

Article 279

Sufficiently clear.

Article 280

Sufficiently clear.

Article 281

The information intended by this article shall be set forth in a stipulated form.

Article 282

Sufficiently clear.

Article 283

Sufficiently clear.

Article 284

Paragraph (1)

Sufficiently clear.

Paragraph (2)

- a. That which is meant by all cases are cases which have been brought to the court.
- b. That which is meant by "special provisions on criminal procedure as referred to in certain laws" are the special provisions on criminal procedure stated in, among others:
 1. The law on the investigation, prosecution and trial of economic offenses (Law Number 7 Drt. of 1955);
 2. The law on the eradication of offenses of corruption. (Law Number 3 of 1971),

With the proviso that all special provisions on criminal procedure as stated in certain laws will be reviewed, amended or revoked within the shortest possible time.

Article 285

This Code of Criminal Procedure shall be abbreviated "K.U.H.A.P."

Article 286

Sufficiently clear.

**SUPPLEMENT TO THE STATE GAZETTE OF THE REPUBLIC OF INDONESIA NUMBER
3209**

Date: DECEMBER 31, 1981 (JAKARTA)

Reference: LN 1981/76; TLN NO. 3209

NOTE

1. Negara Hukum of Rechtstaat.
2. The Five Principles: Indonesia's State Philosophy.
3. Wawasan Nusantara.
4. The State Gazette of the Netherlands East Indies
5. The State Gazette of the Republic of Indonesia.
6. The Supplement to the State Gazette of the Republic of Indonesia.
7. Jaksa
8. Pengadilan Negeri: the Court of First Instance in the three-tiered structure of the Indonesian courts of general competence referred to in this translation as the public judicial system.
9. Praperadilan.
- 10 ia. The third person pronoun in the Indonesian language is not gender specific and thus can mean either he or she. For simplicity's sake, masculine references are used throughout this translation, but should be understood to mean he/she, him/her and his/hers.
11. Prapenuntutan.
12. The Criminal Code.
13. Pengadilan Tinggi: the Court of Appeals, the second level in the three tiered structure of the Indonesian courts of general competence referred to in this translation as the public Judicial system.
14. Koneksitas or Connexitelt
15. Oditur Militer.
16. Oditur Militer Tinggi
17. Oditur Jenderal Angkatan Bersenjata Republik Indonesia.
18. tuntutan hukum
19. tuntutan pidana.
20. Harkat martabat - in this sense, meaning the dignity of a priest or religious leader
21. surat tuntutan.
22. Pengayoman - The Banyan tree symbol of the Department of Justice representing justice and protection
23. Kitab Undang-undang Hukum Acara Pidana

Source: Reprinted State Gazette 1981