刑事訴訟法中英文對照

2010 年 06 月 23 日修正

中英文對照版本：第 1-343 條 2003 年 02 月 6 日版

第 344-512 條 1967 年 01 月 28 日版

The Code of Criminal Procedure

(Articles 1-343 : 2003.02.06 Amended)

(Article 344-512: 1967.01.28 Amended)

本表中文條文資料來源：法務部全國法規資料庫 http://mojlaw.moj.gov.tw/

本表英文條文資料來源：康繼超，「英譯中華民國六法全書」第二冊，1967

聲明：本中英對照表係黃裕凱老師編輯，供輔大法律學生法學英文初階學習參考之用，不得作為其他用途

注意一：本表內容如與各法規主管機關之公布文字有所不同，以各主管機關公布為準

注意二：英譯文部分，全國法規資料庫有若干缺漏或錯誤之處，本表不擔保其正確性

本表編輯基準日：2010.11.15

目 次

第一編 總則	PART I General Provisions
第一章 法例	CHAPTER I Application Of The Code
第二章 法院之管轄	CHAPTER II Jurisdiction of Courts
第三章 法院職員之迴避	CHAPTER III Disqualification Of Court Officers
第四章 辯護人、輔佐人及代理人	CHAPTER IV Defense Attorneys, Assistants, and Agents
第五章 文書	CHAPTER V Documents
第六章 送達	CHAPTER VI Service
第七章 期日及期間	CHAPTER VII Dates and Periods
第八章 被告之傳喚及拘提	CHAPTER VIII Summons and Arrest of Accused
第九章 被告之訊問	CHAPTER IX Examination of Accused
第一○章 被告之羈押	CHAPTER X Detention of Accused
第一一章 搜索及扣押	CHAPTER XI Search and Seizure
第一二章 證據	CHAPTER XII Evidence
第一節 通則	Section 1 - General Provisions
第二節 人證	Section 2 – Witness
第三節 鑑定及通譯	Section 3 - Expert Witnesses and Interpreters
第四節 勘驗	Section 4 – Inspections
第五節 證據保全	Section 5 - Perpetuation of Evidence
第一三章 裁判	CHAPTER XIII Decisions
第二編 第一審	PART II Trial of The First Instance
第一章 公訴	CHAPTER I Public Prosecution
第一節 偵查	Section 1 - Investigation
第二節 起訴	Section 2 – Prosecution
第三節 審判	Section 3 – Trial
第二章 自訴	CHAPTER II Private Prosecution
第三編 上訴	PART III APPEAL
第一章 通則	Chapter I GENERAL PROVISIONS
第二章 第二審	Chapter II Second Trial
第三章 第三審	Chapter III Third Trial
第四編 抗告	PART IV Interlocutory Appeal
第五編 再審	PART V Retrial
第六編 非常上訴	PART VI Extraordinary Appeal
第七編 簡易程序	PART VII Summary Procedure
第七編之一 協商程序	
第八編 執行	PART VIII Execution
第九編 附帶民事訴訟	PART IX Supplementary Civil Action

2010年06月23日 現行法	中英對照 第1-343條 2003年02月6日版

2010年06月23日 現行法	2003年02月6日版	English
第一編 總則	第一編 總則	**PART I General Provisions**
第一章 法例	第一章 法例	**CHAPTER I Application Of The Code**
第1條 (犯罪追訴處罰之限制及本法之適用範圍)	第1條	**Article 1**
犯罪，非依本法或其他法律所定之訴訟程序，不得追訴、處罰。	犯罪，非依本法或其他法律所定之訴訟程序，不得追訴、處罰。	Criminal proceedings may not be initiated and punishment may not be imposed other than in conformity with the procedure specified in this Code or in other laws.
現役軍人之犯罪，除犯軍法應受軍事裁判者外，仍應依本法規定追訴、處罰。	現役軍人之犯罪，除犯軍法應受軍事裁判者外，仍應依本法規定追訴、處罰。	Crimes committed by military personnel in active service, except those military offenses subject to court-martial, shall be prosecuted and punished in accordance with this Code.
因受時間或地域之限制，依特別法所為之訴訟程序，於其原因消滅後，尚未判決確定者，應依本法追訴、處罰。	因受時間或地域之限制，依特別法所為之訴訟程序，於其原因消滅後，尚未判決確定者，應依本法追訴、處罰。	Where the criminal proceedings of a case were conducted pursuant to special laws owing to limitation of time or region and no final judgment has yet been rendered thereon, upon elimination of said limitation, the case shall be prosecuted and punished in accordance with this Code.
第2條 (有利不利一律注意)	第2條(有利不利一律注意)	**Article 2**
實施刑事訴訟程序之公務員，就該管案件，應於被告有利及不利之情形，一律注意。	實施刑事訴訟程序之公務員，就該管案件，應於被告有利及不利之情形，一律注意。	A public official who conducts proceedings in a criminal case shall give equal attention to circumstances both favorable and unfavorable to an accused.
被告得請求前項公務員，為有利於己之必要處分。	被告得請求前項公務員，為有利於己之必要處分。	An accused may request the public official specified in the preceding paragraph to take necessary measures favorable to the accused.
第3條(刑事訴訟之當事人)	第3條(刑事訴訟之當事人)	**Article 3**
本法稱當事人者，謂檢察官、自訴人及被告。	本法稱當事人者，謂檢察官、自訴人及被告。	The term "party" as used in this Code refers to a public prosecutor, a private prosecutor, or an accused.
第二章 法院之管轄	第二章 法院之管轄	**CHAPTER II Jurisdiction of Courts**
第4條(事物管轄)	第4條(事物管轄)	**Article 4**

地方法院於刑事案件，有第一審管轄權。但左列案件，第一審管轄權屬於高等法院：	地方法院於刑事案件，有第一審管轄權。但左列案件，第一審管轄權屬於高等法院：	The district court has the jurisdiction over the first instance of a criminal case, provided that the high court has the jurisdiction over the first instance of the following cases:
一、內亂罪。	一　內亂罪。	(1) An offense against the internal security of the State;
二、外患罪。	二　外患罪。	(2) An offense against the external security of the State;
三、妨害國交罪。	三　妨害國交罪。	(3) An offense of interference with relations with other States.
第 5 條(土地管轄)	第 5 條(土地管轄)	**Article 5**
案件由犯罪地或被告之住所、居所或所在地之法院管轄。	案件由犯罪地或被告之住所、居所或所在地之法院管轄。	A court of the place where an offense is committed or where an accused is domiciled, resides, or is located shall have jurisdiction over the case.
在中華民國領域外之中華民國船艦或航空機內犯罪者，船艦本籍地、航空機出發地或犯罪後停泊地之法院，亦有管轄權。	在中華民國領域外之中華民國船艦或航空機內犯罪者，船艦本籍地、航空機出發地或犯罪後停泊地之法院，亦有管轄權。	If an offense is committed on a vessel or an aircraft of the Republic of China outside the territory of the Republic of China, the court of the place where the vessel is registered or from which the aircraft departed or landed after the commission of the offense shall also have jurisdiction.
第 6 條(牽連管轄)	第 6 條(牽連管轄)	**Article 6**
數同級法院管轄之案件相牽連者，得合併由其中一法院管轄。	數同級法院管轄之案件相牽連者，得合併由其中一法院管轄。	If related cases are subject to the jurisdiction of several courts of the same level, one of such courts may combine them and take jurisdiction over the cases.
前項情形，如各案件已繫屬於數法院者，經各該法院之同意，得以裁定將其案件移送於一法院合併審判之；有不同意者，由共同之直接上級法院裁定之。	前項情形，如各案件已繫屬於數法院者，經各該法院之同意，得以裁定將其案件移送於一法院合併審判之；有不同意者，由共同之直接上級法院裁定之。	The cases specified in the preceding paragraph which are pending in several courts may, by mutual consent of such courts, be transferred by a ruling to one of such courts to be tried together; if there are disagreements, a ruling by the court immediate superior to all such courts shall determine jurisdiction.
不同級法院管轄之案件相牽連者，得合併由其上級法院管轄。已繫屬於下級法院者，其上級法院得以裁定命其移送上級法院合併審判。但第七條第三款之情形，不在此限。	不同級法院管轄之案件相牽連者，得合併由其上級法院管轄。已繫屬於下級法院者，其上級法院得以裁定命其移送上級法院合併審判。但第七條第三款之情形，不在此限。	Related cases that are subject to the jurisdiction of several courts of different levels may be combined and jurisdiction taken by the highest of such courts; related cases pending in lower courts may, by a ruling of the higher court, be transferred to it to be tried together, provided that the cases specified in Item 3 of Article 7 are not subject to the provisions of this paragraph.
第 7 條(相牽連案件)	第 7 條(相牽連案件)	**Article 7**
有左列情形之一者，為	有左列情形之一者，為	If one of the following circumstances exists,

相牽連之案件： 一、一人犯數罪者。 二、數人共犯一罪或數罪者。 三、數人同時在同一處所各別犯罪者。 四、犯與本罪有關係之藏匿人犯、湮滅證據、偽證、贓物各罪者。	相牽連之案件： 一　一人犯數罪者。 二　數人共犯一罪或數罪者。 三　數人同時在同一處所各別犯罪者。 四　犯與本罪有關係之藏匿人犯、湮滅證據、偽證、贓物各罪者。	the cases are considered to be related: (1) One person commits several offenses; (2) Several persons jointly commit one or several offenses; (3) Several persons separately commit offenses at the same time and place; (4) The commission of concealment of offenders, destruction of evidence, perjury, or receipt of stolen property is related to the instant offense.
第 8 條(管轄競合) 同一案件繫屬於有管轄權之數法院者，由繫屬在先之法院審判之。但經共同之直接上級法院裁定，亦得由繫屬在後之法院審判。	第 8 條(管轄競合) 同一案件繫屬於有管轄權之數法院者，由繫屬在先之法院審判之。但經共同之直接上級法院裁定，亦得由繫屬在後之法院審判。	**Article 8** If the same case is pending in several courts which have jurisdiction, the court in which the case was first pending shall try it, provided that by a ruling of a court immediately superior to all such courts the case may be tried by a court in which it was pending later in time.
第 9 條(指定管轄) 有左列情形之一者，由直接上級法院以裁定指定該案件之管轄法院： 一、數法院於管轄權有爭議者。 二、有管轄權之法院經確定裁判為無管轄權，而無他法院管轄該案件者。 三、因管轄區域境界不明，致不能辨別有管轄權之法院者。 案件不能依前項及第五條之規定，定其管轄法院者，由最高法院以裁定指定管轄法院。	第 9 條(指定管轄) 有左列情形之一者，由直接上級法院以裁定指定該案件之管轄法院： 一　數法院於管轄權有爭議者。 二　有管轄權之法院經確定裁判為無管轄權，而無他法院管轄該案件者。 三　因管轄區域境界不明，致不能辨別有管轄權之法院者。 案件不能依前項及第五條之規定，定其管轄法院者，由最高法院以裁定指定管轄法院。	**Article 9** The immediately superior court shall, by a ruling, determine the court to take jurisdiction in one of the following circumstances: (1) Several courts dispute jurisdiction; (2) A court which has jurisdiction is, determined by a final judgment, lack of jurisdiction, and there is no other court which can exercise jurisdiction over the case; (3) Uncertain judicial district boundaries make it impossible to determine which court has jurisdiction. If jurisdiction cannot be determined by applying the provisions of the preceding paragraph or Article 5, the Supreme Court shall, by a ruling, determine the court to take jurisdiction.
第 10 條(移轉管轄) 有左列情形之一者，由直接上級法院，以裁定將案件移轉於其管轄區域內與原法院同級之他法院： 一、有管轄權之法院因法律或事實不能行使審判權者。	第 10 條(移轉管轄) 有左列情形之一者，由直接上級法院，以裁定將案件移轉於其管轄區域內與原法院同級之他法院： 一　有管轄權之法院因法律或事實不能行使審判權者。	**Article 10** In one of the following circumstances, the immediate superior court shall, by a ruling, order the transfer of a case to another court within its judicial district and of the same level as the original court: (1) The court which has jurisdiction is unable to exercise its judicial power because of law or fact;

二、因特別情形由有管轄權之法院審判，恐影響公安或難期公平者。	二　因特別情形由有管轄權之法院審判，恐影響公安或難期公平者。	(2) Due to special circumstances, it is considered that a trial by a court that has jurisdiction will probably lead to the disturbance of public peace or unfairness.
直接上級法院不能行使審判權時，前項裁定由再上級法院為之。	直接上級法院不能行使審判權時，前項裁定由再上級法院為之。	Where the immediate superior court is unable to exercise its judicial power, the aforesaid ruling shall be made by the immediate higher court.
第 11 條(指定或移轉管轄之聲請)	**第 11 條(指定或移轉管轄之聲請)**	**Article 11**
指定或移轉管轄由當事人聲請者，應以書狀敘述理由向該管法院為之。	指定或移轉管轄由當事人聲請者，應以書狀敘述理由向該管法院為之。	A motion by a party to determine or transfer jurisdiction shall be in writing, set forth the reasons therefore, and be filed with a proper court.
第 12 條(無管轄權法院所為訴訟程序之效力)	**第 12 條(無管轄權法院所為訴訟程序之效力)**	**Article 12**
訴訟程序不因法院無管轄權而失效力。	訴訟程序不因法院無管轄權而失效力。	Proceedings shall not be void because of a court's lack of jurisdiction.
第 13 條(轄區外行使職務)	**第 13 條(轄區外行使職務)**	**Article 13**
法院因發見真實之必要或遇有急迫情形時，得於管轄區域外行其職務。	法院因發見真實之必要或遇有急迫情形時，得於管轄區域外行其職務。	A court may exercise its functions outside its judicial district if it is necessary to discover facts or in time of emergency.
第 14 條(無管轄權法院之必要處分)	**第 14 條(無管轄權法院之必要處分)**	**Article 14**
法院雖無管轄權，如有急迫情形，應於其管轄區域內為必要之處分。	法院雖無管轄權，如有急迫情形，應於其管轄區域內為必要之處分。	A court shall, in time of emergency, take necessary measures within its judicial district notwithstanding that it has no jurisdiction.
第 15 條(牽連管轄之偵查與起訴)	**第 15 條(牽連管轄之偵查與起訴)**	**Article 15**
第六條所規定之案件，得由一檢察官合併偵查或合併起訴；如該管他檢察官有不同意者，由共同之直接上級法院首席檢察官或檢察長命令之。	第六條所規定之案件，得由一檢察官合併偵查或合併起訴；如該管他檢察官有不同意者，由共同之直接上級法院首席檢察官或檢察長命令之。	The cases specified in Article 6 may be jointly investigated or prosecuted by one public prosecutor; if another public prosecutor who is concerned disagrees, the chief public prosecutor of the immediate superior public prosecutors' office or the public prosecutor general shall issue an order.
第 16 條(檢察官必要處分之準用規定)	**第 16 條(檢察官必要處分之準用規定)**	**Article 16**
第十三條及第十四條之規定，於檢察官行偵查時準用之。	第十三條及第十四條之規定，於檢察官行偵查時準用之。	The provisions of Article 13 and 14 shall apply mutatis mutandis to a public prosecutor in an investigation.

第三章 法院職員之迴避	第三章 法院職員之迴避	**CHAPTER III Disqualification Of Court Officers**
第 17 條(自行迴避事由)	第 17 條(自行迴避事由)	**Article 17**
推事於該管案件有左列情形之一者，應自行迴避，不得執行職務：	推事於該管案件有左列情形之一者，應自行迴避，不得執行職務：	In one of the following circumstances, a judge shall disqualify himself from the case concerned on his own motion and may not exercise his functions:
一、推事為被害人者。	一 推事為被害人者。	(1) The judge is the victim;
二、推事現為或曾為被告或被害人之配偶、八親等內之血親、五親等內之姻親或家長、家屬者。	二 推事現為或曾為被告或被害人之配偶、八親等內之血親、五親等內之姻親或家長、家屬者。	(2) The judge is or was the spouse, blood relative within the eighth degree of kinship, relative by marriage within the fifth degree of relationship, family head, or family member of the accused or victim;
三、推事與被告或被害人訂有婚約者。	三 推事與被告或被害人訂有婚約者。	(3) The judge has been betrothed to the accused or victim;
四、推事現為或曾為被告或被害人之法定代理人者。	四 推事現為或曾為被告或被害人之法定代理人者。	(4) The judge is or was the statutory agent of the accused or victim;
五、推事曾為被告之代理人、辯護人、輔佐人或曾為自訴人、附帶民事訴訟當事人之代理人、輔佐人者。	五 推事曾為被告之代理人、辯護人、輔佐人或曾為自訴人、附帶民事訴訟當事人之代理人、輔佐人者。	(5) The judge has acted as the agent, defense attorney, or assistant of the accused or as the agent or assistant of the private prosecutor or a party in the supplementary civil action;
六、推事曾為告訴人、告發人、證人或鑑定人者。	六 推事曾為告訴人、告發人、證人或鑑定人者。	(6) The judge has acted as the complainant, informer, witness or expert witness;
七、推事曾執行檢察官或司法警察官之職務者。	七 推事曾執行檢察官或司法警察官之職務者。	(7) The judge has exercised the functions of the public prosecutor or judicial police officer;
八、推事曾參與前審之裁判者。	八 推事曾參與前審之裁判者。	(8) The judge has participated in the decision at a previous trial.
第 18 條(聲請迴避(一)－事由)	第 18 條(聲請迴避(一)－事由)	**Article 18**
當事人遇有左列情形之一者，得聲請推事迴避：	當事人遇有左列情形之一者，得聲請推事迴避：	A party may motion to disqualify a judge in one of the following circumstances:
一、推事有前條情形而不自行迴避者。	一 推事有前條情形而不自行迴避者。	(1) Circumstances specified in the preceding article exist and the judge has not disqualified himself from the case concerned on his own motion;
二、推事有前條以外情形，足認其執行職務有偏頗之虞者。	二 推事有前條以外情形，足認其執行職務有偏頗之虞者。	(2) Circumstances other than those specified in the preceding article exist which are sufficient to justify the apprehension that the judge may be prejudiced in the exercise of his functions.

第 19 條(聲請迴避(二)－時期)	第 19 條(聲請迴避(二)－時期)	**Article 19**
前條第一款情形，不問訴訟程度如何，當事人得隨時聲請推事迴避。	前條第一款情形，不問訴訟程度如何，當事人得隨時聲請推事迴避。	A party may, at any stage of the proceedings, motion to disqualify a judge in the circumstances specified in Item 1 of the preceding article.
前條第二款情形，如當事人已就該案件有所聲明或陳述後，不得聲請推事迴避。但聲請迴避之原因發生在後或知悉在後者，不在此限。	前條第二款情形，如當事人已就該案件有所聲明或陳述後，不得聲請推事迴避。但聲請迴避之原因發生在後或知悉在後者，不在此限。	A party who has already made an explanation or a statement of his case may not subsequently make a motion to disqualify a judge as provided in Item 2 of the preceding article, provided that if the reasons for such motion occur or are discovered thereafter, this limitation shall not apply.
第 20 條(聲請迴避(三)－程序)	第 20 條(聲請迴避(三)－程序)	**Article 20**
聲請推事迴避，應以書狀舉其原因向推事所屬法院為之。但於審判期日或受訊問時，得以言詞為之。	聲請推事迴避，應以書狀舉其原因向推事所屬法院為之。但於審判期日或受訊問時，得以言詞為之。	A motion to disqualify a judge shall be in writing, set forth the reasons therefore, and be filed with the court to which the judge belongs, provided that such motion may be made verbally on the trial date or during examination.
聲請迴避之原因及前條第二項但書之事實，應釋明之。	聲請迴避之原因及前條第二項但書之事實，應釋明之。	Reasons for the motion to disqualify a judge and facts required by the proviso of the second section of the preceding article shall be set forth and explained.
被聲請迴避之推事，得提出意見書。	被聲請迴避之推事，得提出意見書。	A judge for whose disqualification a motion is made may file a written opinion.
第 21 條(聲請迴避(四)－裁定)	第 21 條(聲請迴避(四)－裁定)	**Article 21**
推事迴避之聲請，由該推事所屬之法院以合議裁定之，其因不足法定人數不能合議者，由院長裁定之；如並不能由院長裁定者，由直接上級法院裁定之。	推事迴避之聲請，由該推事所屬之法院以合議裁定之，其因不足法定人數不能合議者，由院長裁定之；如並不能由院長裁定者，由直接上級法院裁定之。	A motion to disqualify a judge shall be determined by a ruling of a panel of judges of the court to which the judge belongs; if a quorum of the panel is not present, the ruling shall be made by the president of the court; if it is impossible for the president to make the ruling, the court which is immediate superior to such court shall make it.
前項裁定，被聲請迴避之推事不得參與。	前項裁定，被聲請迴避之推事不得參與。	A judge for whose disqualification a motion is made shall not participate in the ruling specified in the preceding section.
被聲請迴避之推事，以該聲請為有理由者，毋庸裁定，即應迴避。	被聲請迴避之推事，以該聲請為有理由者，毋庸裁定，即應迴避。	If a judge for whose disqualification a motion is made considers that such motion is well-grounded, he shall thereupon disqualify himself without making a ruling.
第 22 條(聲請迴避(五)	第 22 條(聲請迴避(五)－	**Article 22**

－效力)	效力)	
推事被聲請迴避者，除因急速處分或以第十八條第二款為理由者外，應即停止訴訟程序。	推事被聲請迴避者，除因急速處分或以第十八條第二款為理由者外，應即停止訴訟程序。	If a motion is made for the disqualification of a judge, the proceedings shall be suspended except for emergency measures or in the case where the motion is based upon Item 2 of Article 18.
第 23 條(聲請迴避(六)－裁定駁回之救濟)	第 23 條(聲請迴避(六)－裁定駁回之救濟)	**Article 23**
聲請推事迴避經裁定駁回者，得提出抗告。	聲請推事迴避經裁定駁回者，得提出抗告。	If a motion to disqualify a judge is dismissed by a ruling, an interlocutory appeal may be made.
第 24 條(職權裁定迴避)	第 24 條(職權裁定迴避)	**Article 24**
該管聲請迴避之法院或院長，如認推事有應自行迴避之原因者，應依職權為迴避之裁定。	該管聲請迴避之法院或院長，如認推事有應自行迴避之原因者，應依職權為迴避之裁定。	A court or its president concerned with a motion to disqualify a judge shall muto proprio make a ruling requiring such disqualification if it is considered that reasons exist which require the judge to disqualify himself on his own motion.
前項裁定，毋庸送達。	前項裁定，毋庸送達。	The ruling specified in the preceding section need not be served.
第 25 條(書記官、通譯迴避之準用)	第 25 條(書記官、通譯迴避之準用)	**Article 25**
本章關於推事迴避之規定，於法院書記官及通譯準用之。但不得以曾於下級法院執行書記官或通譯之職務，為迴避之原因。	本章關於推事迴避之規定，於法院書記官及通譯準用之。但不得以曾於下級法院執行書記官或通譯之職務，為迴避之原因。	The provisions of this chapter relating to the disqualification of a judge shall apply mutatis mutandis to a court clerk or interpreter, provided that the previous service as a clerk or interpreter in a lower court shall not be a reason for the disqualification.
法院書記官及通譯之迴避，由所屬法院院長裁定之。	法院書記官及通譯之迴避，由所屬法院院長裁定之。	The disqualification of a court clerk or interpreter shall be determined by a ruling of the president of the court to which he is attached.
第 26 條(檢察官、辦理檢察事務書記官迴避之準用)	第 26 條(檢察官、辦理檢察事務書記官迴避之準用)	**Article 26**
第十七條至第二十條及第二十四條關於推事迴避之規定，於檢察官及辦理檢察事務之書記官準用之。但不得以曾於下級法院執行檢察官、書記官或通譯之職務，為迴避之原因。	第十七條至第二十條及第二十四條關於推事迴避之規定，於檢察官及辦理檢察事務之書記官準用之。但不得以曾於下級法院執行檢察官、書記官或通譯之職務，為迴避之原因。	The provisions of Articles 17 through 20 and Article 24 concerning the disqualification of a judge shall apply mutatis mutandis to a public prosecutor or a clerk attached to the public prosecutors' office, provided that previous service as a public prosecutor, clerk, or interpreter in a lower court shall not be a reason for the disqualification.
檢察官及前項書記官	檢察官及前項書記官之	A motion to disqualify a public prosecutor or

之迴避，應聲請所屬首席檢察官或檢察長核定之。	迴避，應聲請所屬首席檢察官或檢察長核定之。	clerk, which is specified in the preceding section, shall be made to the chief public prosecutor or public prosecutor general concerned for appraisal and decision.
首席檢察官之迴避，應聲請直接上級法院首席檢察官或檢察長核定之；其檢察官僅有一人者亦同。	首席檢察官之迴避，應聲請直接上級法院首席檢察官或檢察長核定之；其檢察官僅有一人者亦同。	A motion to disqualify a chief public prosecutor shall be made to the chief public prosecutor of the immediately superior public prosecutors' office or public prosecutor general for appraisal and decision; the same rule shall apply if there is only one public prosecutor.
第四章 辯護人、輔佐人及代理人	第四章 辯護人、輔佐人及代理人	**CHAPTER IV Defense Attorneys, Assistants, And Agents**
第 27 條(辯護人之選任)	第 27 條	**Article 27**
被告得隨時選任辯護人。犯罪嫌疑人受司法警察官或司法警察調查者，亦同。	被告得隨時選任辯護人。犯罪嫌疑人受司法警察官或司法警察調查者，亦同。	An accused may at any time retain defense attorneys. The same rule shall apply to a suspect being interrogated by judicial police officers or judicial policemen.
被告或犯罪嫌疑人之法定代理人、配偶、直系或三親等內旁系血親或家長、家屬，得獨立為被告或犯罪嫌疑人選任辯護人。	被告或犯罪嫌疑人之法定代理人、配偶、直系或三親等內旁系血親或家長、家屬，得獨立為被告或犯罪嫌疑人選任辯護人。	A statutory agent, spouse, lineal blood relative, collateral blood relative within the third degree of kinship, family head, or family member may independently retain defense attorneys for the accused or suspect.
被告或犯罪嫌疑人因智能障礙無法為完全之陳述者，應通知前項之人得為被告或犯罪嫌疑人選任辯護人。但不能通知者，不在此限。	被告或犯罪嫌疑人因智能障礙無法為完全之陳述者，應通知前項之人得為被告或犯罪嫌疑人選任辯護人。但不能通知者，不在此限。	In case an accused or a suspect is unable to make a complete statement due to unsound mind, the persons listed in the preceding section shall be notified of the same, provided that the said notification is not required if it can not be made practically.
第 28 條(辯護人(二)－人數限制)	第 28 條(辯護人(二)－人數限制)	**Article 28**
每一被告選任辯護人，不得逾三人。	每一被告選任辯護人，不得逾三人。	An accused may not retain more than three defense attorneys.
第 29 條(辯護人(三)－資格)	第 29 條(辯護人(三)－資格)	**Article 29**
辯護人應選任律師充之。但審判中經審判長許可者，亦得選任非律師為辯護人。	辯護人應選任律師充之。但審判中經審判長許可者，亦得選任非律師為辯護人。	A defense attorney shall be a lawyer, provided that if permission is obtained from the presiding judge at trial, a person who is not a lawyer may be retained as a defense attorney.
第 30 條(辯護人(四)－	第 30 條(辯護人(四)－選	**Article 30**

選任程序) 選任辯護人，應提出委任書狀。 前項委任書狀，於起訴前應提出於檢察官或司法警察官；起訴後應於每審級提出於法院。	任程序) 選任辯護人，應提出委任書狀。 前項委任書狀，於起訴前應提出於檢察官或司法警察官；起訴後應於每審級提出於法院。	The retention of a defense attorney shall be in the form of a power of attorney. The power of attorney for the retention of a defense attorney specified in the preceding section shall be submitted to the public prosecutor or judicial police officer before initiation of prosecution or to the courts of different levels thereafter.
第 31 條(強制辯護案件與指定辯護人)	**第 31 條**	**Article 31**
最輕本刑為三年以上有期徒刑或高等法院管轄第一審案件或被告因智能障礙無法為完全之陳述，於審判中未經選任辯護人者，審判長應指定公設辯護人或律師為其辯護；其他審判案件，低收入戶被告未選任辯護人而聲請指定，或審判長認有必要者，亦同。	**最輕本刑為三年以上有期徒刑或高等法院管轄第一審案件或被告因智能障礙無法為完全之陳述，於審判中未經選任辯護人者，審判長應指定公設辯護人或律師為其辯護；其他審判案件，低收入戶被告未選任辯護人而聲請指定，或審判長認有必要者，亦同。**	In cases where the minimum punishment is no less than three years imprisonment, where a high court has jurisdiction over the first instance, or where the accused is unable to make a complete statement due to unsound mind, the presiding judge shall appoint a public defender or a lawyer to defend the accused if no defense attorney has been retained; in other cases, if no defense attorney has been retained by an accused with low income and a request for appointing one has been submitted, or if it is considered necessary, the same rule shall apply.
前項案件選任辯護人於審判期日無正當理由而不到庭者，審判長得指定公設辯護人。	**前項案件選任辯護人於審判期日無正當理由而不到庭者，審判長得指定公設辯護人。**	If in the case specified in the preceding section a retained defense attorney fails to appear without good reason on the trial date, the presiding judge may appoint a public defender.
被告有數人者，得指定一人辯護。但各被告之利害相反者，不在此限。	**被告有數人者，得指定一人辯護。但各被告之利害相反者，不在此限。**	One public defender may be appointed to defend several defendants unless their interests conflict.
指定辯護人後，經選任律師為辯護人者，得將指定之辯護人撤銷。	**指定辯護人後，經選任律師為辯護人者，得將指定之辯護人撤銷。**	After a public defender has been appointed, such appointment may be cancelled upon the retention of a lawyer as a defense attorney.
被告因智能障礙無法為完全之陳述，於偵查中未經選任辯護人者，檢察官應指定律師為其辯護。		
第二項至第四項之規定於前項之指定，準用之。		
第 32 條(數辯護人送達文書之方法)	第 32 條(數辯護人送達文書之方法)	**Article 32**
被告有數辯護人者，送	被告有數辯護人者，送	If an accused has several defense attorneys, documents shall be served upon them

達文書應分別為之。	達文書應分別為之。	separately.
第 33 條(辯護人之閱卷、抄錄、攝影權) 辯護人於審判中得檢閱卷宗及證物並得抄錄或攝影。 無辯護人之被告於審判中得預納費用請求付與卷內筆錄之影本。但筆錄之內容與被告被訴事實無關或足以妨害另案之偵查，或涉及當事人或第三人之隱私或業務秘密者，法院得限制之。	**第 33 條(辯護人之閱卷、抄錄、攝影權)** **辯護人於審判中得檢閱卷宗及證物並得抄錄或攝影。**	**Article 33** A defense attorney may examine the case file and exhibits and make copies or photographs thereof.
第 34 條(辯護人之接見、通信權) 辯護人得接見羈押之被告，並互通書信。非有事證足認其有湮滅、偽造、變造證據或勾串共犯或證人者，不得限制之。 辯護人與偵查中受拘提或逮捕之被告或犯罪嫌疑人接見或互通書信，不得限制之。但接見時間不得逾一小時，且以一次為限。接見經過之時間，同為第九十三條之一第一項所定不予計入二十四小時計算之事由。 前項接見，檢察官遇有急迫情形且具正當理由時，得暫緩之，並指定即時得為接見之時間及場所。該指定不得妨害被告或犯罪嫌疑人之正當防禦及辯護人依第二百四十五條第二項前段規定之權利。	**第 34 條(辯護人之接見、通信權)** **辯護人得接見犯罪嫌疑人及羈押之被告，並互通書信。但有事實足認其有湮滅、偽造、變造證據或勾串共犯或證人之虞者，得限制之。**	**Article 34** A defense attorney may interview and correspond with a suspect or an accused under detention, provided that if facts exist sufficient to justify an apprehension that such defense attorney may destroy, fabricate, or alter evidence or form a conspiracy with a co-offender or witness, such interviews or correspondence may be limited.
第 34-1 條 限制辯護人與羈押之被告接見或互通書		

信，應用限制書。
限制書，應記載下列事項：
一、被告之姓名、性別、年齡、住所或居所，及辯護人之姓名。
二、案由。
三、限制之具體理由及其所依據之事實。
四、具體之限制方法。
五、如不服限制處分之救濟方法。
第七十一條第三項規定，於限制書準用之。
限制書，由法官簽名後，分別送交檢察官、看守所、辯護人及被告。
偵查中檢察官認羈押中被告有限制之必要者，應以書面記載第二項第一款至第四款之事項，並檢附相關文件，聲請該管法院限制。但遇有急迫情形時，得先為必要之處分，並應於二十四小時內聲請該管法院補發限制書；法院應於受理後四十八小時內核復。檢察官未於二十四小時內聲請，或其聲請經駁回者，應即停止限制。
前項聲請，經法院駁回者，不得聲明不服。

第 35 條(輔佐人之資格及權限)	**第 35 條**	**Article 35**
被告或自訴人之配偶、直系或三親等內旁系血親或家長、家屬或被告之法定代理人於起訴後，得向法院以書狀或於審判期日以言詞陳明為被告或自訴人之輔佐人。	被告或自訴人之配偶、直系或三親等內旁系血親或家長、家屬或被告之法定代理人於起訴後，得向法院以書狀或於審判期日以言詞陳明為被告或自訴人之輔佐人。	A spouse, lineal blood relative, collateral blood relative within the third degree of kinship, family head, or family member of an accused or private prosecutor or a statutory agent of an accused may, after initiation of prosecution, apply to the court in writing, or verbally on the trial date, for permission to act as the assistant of the accused or private prosecutor.
輔佐人得為本法所定	輔佐人得為本法所定之	The assistant may take actions provided in

之訴訟行為，並得在法院陳述意見。但不得與被告或自訴人明示之意思相反。	訴訟行為，並得在法院陳述意見。但不得與被告或自訴人明示之意思相反。	this code, and may state his opinion in court not inconsistent with the expressed opinion of the accused or the private prosecutor.
被告或犯罪嫌疑人因智能障礙無法為完全之陳述者，應有第一項得為輔佐人之人或其委任之人或主管機關指派之社工人員為輔佐人陪同在場。但經合法通知無正當理由不到場者，不在此限。	被告或犯罪嫌疑人因智能障礙無法為完全之陳述者，應有第一項得為輔佐人之人或其委任之人或主管機關指派之社工人員為輔佐人陪同在場。但經合法通知無正當理由不到場者，不在此限。	In cases an accused or a suspect is unable to make a complete statement due to unsound mind, he shall be accompanied by one of the qualified assistant, under the first section of this article, or his authorized agent, or a social worker appointed by a governmental agency in charge thereof; provided that if, upon being properly served, the persons who shall accompany the accused or suspect fail to appear without good reason, the provision of this section shall not apply.
第 36 條(被告得委任代理人者)	第 36 條(被告得委任代理人者)	**Article 36**
最重本刑為拘役或專科罰金之案件，被告於審判中或偵查中得委任代理人到場。但法院或檢察官認為必要時，仍得命本人到場。	最重本刑為拘役或專科罰金之案件，被告於審判中或偵查中得委任代理人到場。但法院或檢察官認為必要時，仍得命本人到場。	In cases where maximum punishment is detention or a fine only, an accused may, at trial or in the investigation, authorize an agent to appear before the court or public prosecutor, provided that if the court or public prosecutor considers it necessary, the accused may be ordered to appear in person.
第 37 條(自訴人得委任代理人者)	第 37 條	**Article 37**
自訴人應委任代理人到場。但法院認為必要時，得命本人到場。	自訴人應委任代理人到場。但法院認為必要時，得命本人到場。	A private prosecutor shall authorize an agent to appear before the court by a power of attorney, provided that if the court considers it necessary, the private prosecutor may be ordered to appear in person.
前項代理人應選任律師充之。	前項代理人應選任律師充之。	The agent referred to in the preceding section shall be a lawyer.
第 38 條(代理人之人數、選任、送達與權利之準用)	第 38 條	**Article 38**
第二十八條、第三十條、第三十二條及第三十三條之規定，於被告或自訴人之代理人準用之；第二十九條之規定，於被告之代理人並準用之。	第二十八條、第三十條、第三十二條及第三十三條之規定，於被告或自訴人之代理人準用之；第二十九條之規定，於被告之代理人並準用之。	The provisions of Articles 28, 30, 32, 33 shall apply mutatis mutandis to an agent of an accused or private prosecutor, and the provision of Article 29 shall also apply to an agent of an accused mutatis mutandis.
第五章 文書	第五章 文書	**CHAPTER V Documents**

第 39 條(公文書制作之程序)

文書，由公務員制作者，應記載制作之年、月、日及其所屬機關，由制作人簽名。

第 39 條(公文書制作之程序)

文書，由公務員制作者，應記載制作之年、月、日及其所屬機關，由制作人簽名。

Article 39

A document prepared by a public official shall bear the date and name of the public office concerned and the signature of the official preparing it.

第 40 條(公文書之增刪附記)

公務員制作之文書，不得竄改或挖補；如有增加、刪除或附記者，應蓋章其上，並記明字數，其刪除處應留存字跡，俾得辨認。

第 40 條(公文書之增刪附記)

公務員制作之文書，不得竄改或挖補；如有增加、刪除或附記者，應蓋章其上，並記明字數，其刪除處應留存字跡，俾得辨認。

Article 40

A document prepared by a public official may not be changed by erasing, cutting out, or pasting over; if a character is added, crossed out, or appended, a seal must be affixed and the number of characters recorded; a trace must remain of a character crossed out so that it is recognizable.

第 41 條(訊問筆錄之制作)

訊問被告、自訴人、證人、鑑定人及通譯，應當場制作筆錄，記載左列事項：

一、對於受訊問人之訊問及其陳述。

二、證人、鑑定人或通譯如未具結者，其事由。

三、訊問之年、月、日及處所。

前項筆錄應向受訊問人朗讀或令其閱覽，詢以記載有無錯誤。

受訊問人請求將記載增、刪、變更者，應將其陳述附記於筆錄。

筆錄應命受訊問人緊接其記載之末行簽名、蓋章或按指印。

第 41 條(訊問筆錄之制作)

訊問被告、自訴人、證人、鑑定人及通譯，應當場制作筆錄，記載左列事項：

一　對於受訊問人之訊問及其陳述。

二　證人、鑑定人或通譯如未具結者，其事由。

三　訊問之年、月、日及處所。

前項筆錄應向受訊問人朗讀或令其閱覽，詢以記載有無錯誤。

受訊問人請求將記載增、刪、變更者，應將其陳述附記於筆錄。

筆錄應命受訊問人緊接其記載之末行簽名、蓋章或按指印。

Article 41

In examining an accused a private prosecutor, witness, expert witness, or interpreter, records shall be made, then and there, of the following matters:

(1) The questions asked of the person examined and his statements;

(2) The reason a witness, expert witness, or interpreter does not sign an affidavit to tell the truth;

(3) The date and place of examination.

The records specified in the preceding section shall be read aloud to the person examined or he shall be permitted to read them; he shall then be asked whether there are mistakes.

If the person examined requests an addition, a crossing out, or a change, his statement shall be added to the records.

The person examined shall be ordered to affix his signature, seal, or fingerprint on the records immediately following the last line.

第 42 條(搜索、扣押、勘驗筆錄之制作)

搜索、扣押及勘驗，應制作筆錄，記載實施之年、月、日及時間、處所並其他必要之事項。

扣押應於筆錄內詳記扣押物之名目，或制作

第 42 條(搜索、扣押、勘驗筆錄之制作)

搜索、扣押及勘驗，應制作筆錄，記載實施之年、月、日及時間、處所並其他必要之事項。

扣押應於筆錄內詳記扣押物之名目，或制作目

Article 42

Records shall be made of a search, seizure, or inspection recording date, time, place, and other necessary facts.

Things seized shall be enumerated in detail in the records, or a separate inventory shall be

目錄附後。
勘驗得制作圖畫或照片附於筆錄。
筆錄應令依本法命其在場之人簽名、蓋章或按指印。

錄附後。
勘驗得制作圖畫或照片附於筆錄。
筆錄應令依本法命其在場之人簽名、蓋章或按指印。

appended.
A drawing or photograph may be made in an inspection and appended to the records.
Persons ordered by this Code to be present shall be ordered to affix his signature, seal, or fingerprint on records.

第 43 條(筆錄之製作)
前二條筆錄應由在場之書記官製作之。其行訊問或搜索、扣押、勘驗之公務員應在筆錄內簽名；如無書記官在場，得由行訊問或搜索、扣押、勘驗之公務員親自或指定其他在場執行公務之人員製作筆錄。

第 43 條
前二條筆錄應由在場之書記官製作之。其行訊問或搜索、扣押、勘驗之公務員應在筆錄內簽名；如無書記官在場，得由行訊問或搜索、扣押、勘驗之公務員親自或指定其他在場執行公務之人員製作筆錄。

Article 43
The records referred to in the preceding two articles shall be prepared by a clerk who is present; the public official who asks questions or conducts the search, seizure, or inspection shall affix his signature on the records; in the absence of a clerk, the public official who asks questions or conducts the search, seizure, or inspection may either personally prepare the records, or appoint another on duty public official who is present to do it.

第 43-1 條(詢問、搜索、扣押之準用)
第四十一條、第四十二條之規定，於檢察事務官、司法警察官、司法警察行詢問、搜索、扣押時，準用之。
前項犯罪嫌疑人詢問筆錄之製作，應由行詢問以外之人為之。但因情況急迫或事實上之原因不能為之，而有全程錄音或錄影者，不在此限。

第 43-1 條
第四十一條、第四十二條之規定，於檢察事務官、司法警察官、司法警察行詢問、搜索、扣押時，準用之。
前項犯罪嫌疑人詢問筆錄之製作，應由行詢問以外之人為之。但因情況急迫或事實上之原因不能為之，而有全程錄音或錄影者，不在此限。

Article 43- 1
The provisions of Article 41 and Article 42 shall apply mutatis mutandis to a public prosecuting affairs official, a judicial police officer, and a judicial policeman in conducting interrogation, search and seizure.
The interrogation records of a suspect as referred to in the preceding section shall be prepared by a person other than the one conducting the interrogation; provided that if the said can not be followed due to emergency or practical difficulty and if the proceeding has been audio or video recorded, it shall not be subject to the provision of the preceding paragraph.

第 44 條(審判筆錄之製作)
審判期日應由書記官製作審判筆錄，記載下列事項及其他一切訴訟程序：
一、審判之法院及年、月、日。
二、法官、檢察官、書記官之官職、姓名及自訴人、被告或其代理人並辯護人、輔佐人、通譯之姓名。

第 44 條
審判期日應由書記官製作審判筆錄，記載下列事項及其他一切訴訟程序：
一　審判之法院及年、月、日。
二　法官、檢察官、書記官之官職、姓名及自訴人、被告或其代理人並辯護人、輔佐人、通譯之姓名。

Article 44
On the trial date, trial records shall be prepared by a clerk, which shall include the following items and the entire proceedings:
(1) The court and the date of trial;
(2) The title and full name of the judge, public prosecutor and clerk and the full name of the private prosecutor, accused, agent, defense attorney, assistant, and interpreter;

三、被告不出庭者，其事由。	三　被告不出庭者，其事由。	(3) The reason for the nonappearance of the accused;
四、禁止公開者，其理由。	四　禁止公開者，其理由。	(4) The reason for in camera proceedings;
五、檢察官或自訴人關於起訴要旨之陳述。	五　檢察官或自訴人關於起訴要旨之陳述。	(5) The principal points of the opening statements made by the public prosecutor or private prosecutor;
六、辯論之要旨。	六　辯論之要旨。	(6) The principal points of the arguments;
七、第四十一條第一項第一款及第二款所定之事項。但經審判長徵詢訴訟關係人之意見後，認為適當者，得僅記載其要旨。	七　第四十一條第一項第一款及第二款所定之事項。但經審判長徵詢訴訟關係人之意見後，認為適當者，得僅記載其要旨。	(7) The matter specified in Items 1 and 2 of Section I of Article 41. However, the presiding judge may, after consulting the persons concerned, order the inclusion of the principal point only if the judge deems proper;
八、當庭曾向被告宣讀或告以要旨之文書。	八　當庭曾向被告宣讀或告以要旨之文書。	(8) The document read or explained in principle points to the accused in open court;
九、當庭曾示被告之證物。	九　當庭曾示被告之證物。	(9) The exhibit shown to the accused in open court;
一○、當庭實施之扣押及勘驗。	一○　當庭實施之扣押及勘驗。	(10) The seizure or inspection made in open court;
一一、審判長命令記載及依訴訟關係人聲請許可記載之事項。	一一　審判長命令記載及依訴訟關係人聲請許可記載之事項。	(11) The items recorded by the presiding judge's order and upon motion of the parties concerned with the approval of the presiding judge;
一二、最後曾與被告陳述之機會。	一二　最後曾與被告陳述之機會。	(12) The opportunity of making the final statement of the accused;
一三、裁判之宣示。	一三　裁判之宣示。	(13) The decision pronounced.
受訊問人就前項筆錄中關於其陳述之部分，得請求朗讀或交其閱覽，如請求將記載增、刪、變更者，應附記其陳述。	受訊問人就前項筆錄中關於其陳述之部分，得請求朗讀或交其閱覽，如請求將記載增、刪、變更者，應附記其陳述。	A person examined may request that parts of the record specified in the preceding section related to his statement be read aloud or that he be permitted to read it; if he requests an addition, crossing out, or alteration, his statements shall be recorded.
第 44-1 條(審判錄音錄影之製作及使用)	**第 44-1 條**	**Article 44- 1**
審判期日應全程錄音；必要時，並得全程錄影。	審判期日應全程錄音；必要時，並得全程錄影。	The entire proceeding on the trial date shall be recorded in audio, and if necessary, in video.
當事人、代理人、辯護人或輔佐人如認為審判筆錄之記載有錯誤或遺漏者，得於次一期日前，其案件已辯論終結者，得於辯論終結後七日內，聲請法院定期播放審判期日錄音或錄影內容核對更正之。其經法院許可者，亦得於法院指定之期	當事人、代理人、辯護人或輔佐人如認為審判筆錄之記載有錯誤或遺漏者，得於次一期日前，其案件已辯論終結者，得於辯論終結後七日內，聲請法院定期播放審判期日錄音或錄影內容核對更正之。其經法院許可者，亦得於法院指定之期間內，依據	If parties, agent, defense attorney, or assistant has suspicion about mistakes or missing in trial records, he may make a motion prior to the next court session, or within seven days thereafter in the case the court argument has been completed, to request the playing of the audio or video records for the purpose of comparing and correcting the contents thereof. With the court's approval, the persons named in the preceding sentence may within the time period specified by the court, reduce

間內，依據審判期日之錄音或錄影內容，自行就有關被告、自訴人、證人、鑑定人或通譯之訊問及其陳述之事項轉譯為文書提出於法院。

前項後段規定之文書，經書記官核對後，認為其記載適當者，得作為審判筆錄之附錄，並準用第四十八條之規定。

審判期日之錄音或錄影內容，自行就有關被告、自訴人、證人、鑑定人或通譯之訊問及其陳述之事項轉譯為文書提出於法院。

前項後段規定之文書，經書記官核對後，認為其記載適當者，得作為審判筆錄之附錄，並準用第四十八條之規定。

the contents of the examination of the accused, private prosecutor, witness, expert witness, or interpreter and their statements to writing, based on the contents of the audio or video records recorded at the trial date, and present them to the court.

The contents of the documents specified in the last sentence of the preceding section, after affirmed by the clerk and deemed to be proper, may be made an appendix to the trial records. In such a case, the provision of Article 48 shall apply mutatis mutandis to it.

第 45 條(審判筆錄之整理)

審判筆錄，應於每次開庭後三日內整理之。

第 45 條(審判筆錄之整理)

審判筆錄，應於每次開庭後三日內整理之。

Article 45

Trial records shall be put in proper order within three days after each session.

第 46 條(審判筆錄之簽名)

審判筆錄應由審判長簽名；審判長有事故時，由資深陪席推事簽名；獨任推事有事故時，僅由書記官簽名；書記官有事故時，僅由審判長或推事簽名；並分別附記其事由。

第 46 條(審判筆錄之簽名)

審判筆錄應由審判長簽名；審判長有事故時，由資深陪席推事簽名；獨任推事有事故時，僅由書記官簽名；書記官有事故時，僅由審判長或推事簽名；並分別附記其事由。

Article 46

Trial records shall be signed by the presiding judge; if the presiding judge is unavailable, the records shall be signed by the senior associate judge; if the single judge who tried the case is unavailable, the records shall be signed by the clerk; if the clerk is unavailable, the records shall be signed by the presiding judge or other judges; the reason for the aforesaid unavailability shall be noted respectively.

第 47 條(審判筆錄之效力)

審判期日之訴訟程序，專以審判筆錄為證。

第 47 條(審判筆錄之效力)

審判期日之訴訟程序，專以審判筆錄為證。

Article 47

Trial records shall be the exclusive proof of the proceedings of the trial.

第 48 條(審判筆錄內引用文件之效力)

審判筆錄內引用附卷之文書或表示將該文書作為附錄者，其文書所記載之事項，與記載筆錄者，有同一之效力。

第 48 條(審判筆錄內引用文件之效力)

審判筆錄內引用附卷之文書或表示將該文書作為附錄者，其文書所記載之事項，與記載筆錄者，有同一之效力。

Article 48

If trial records incorporate a document as a part thereof or refer to it as appended thereto, matters recorded in such document have the same validity as the trial records.

第 49 條(辯護人攜同速記之許可)

第 49 條(辯護人攜同速記之許可)

Article 49

辯護人經審判長許可，得於審判期日攜同速記到庭記錄。

辯護人經審判長許可，得於審判期日攜同速記到庭記錄。

With the permission of the presiding judge, a defense attorney may bring a stenographer to the court on the trial date.

第 50 條(裁判書之制作)

裁判應由推事制作裁判書。但不得抗告之裁定當庭宣示者，得僅命記載於筆錄。

第 50 條(裁判書之制作)
裁判應由推事制作裁判書。但不得抗告之裁定當庭宣示者，得僅命記載於筆錄。

Article 50

A decision shall be made in writing by a judge, but a ruling pronounced in open court from which an interlocutory appeal may not be taken may be recorded only in the records.

第 51 條(裁判書之程式)

裁判書除依特別規定外，應記載受裁判人之姓名、性別、年齡、職業、住所或居所；如係判決書，並應記載檢察官或自訴人並代理人、辯護人之姓名。

裁判書之原本，應由為裁判之推事簽名；審判長有事故不能簽名者，由資深推事附記其事由；推事有事故者，由審判長附記其事由。

第 51 條(裁判書之程式)
裁判書除依特別規定外，應記載受裁判人之姓名、性別、年齡、職業、住所或居所；如係判決書，並應記載檢察官或自訴人並代理人、辯護人之姓名。

裁判書之原本，應由為裁判之推事簽名；審判長有事故不能簽名者，由資深推事附記其事由；推事有事故者，由審判長附記其事由。

Article 51

A written decision, unless otherwise specifically provided, shall give the full name, sex, age, occupation, and domicile or residence of the person tried; if the written decision is in the form of a judgment, the name of the public prosecutor or private prosecutor, agent, and defense attorney shall be recorded.

The original of a written decision shall be signed by the trial judges; if the presiding judge is unavailable and unable to sign, the senior associate judge shall make a note of the reason; if a judge is unavailable, the presiding judge shall make a note of the reason.

第 52 條(裁判書、起訴書、不起訴處分書正本之制作)

裁判書或記載裁判之筆錄之正本，應由書記官依原本制作之，蓋用法院之印，並附記證明與原本無異字樣。

前項規定，於檢察官起訴書及不起訴處分書之正本準用之。

第 52 條(裁判書、起訴書、不起訴處分書正本之制作)
裁判書或記載裁判之筆錄之正本，應由書記官依原本制作之，蓋用法院之印，並附記證明與原本無異字樣。

前項規定，於檢察官起訴書及不起訴處分書之正本準用之。

Article 52

A true copy of a written decision or the records containing such decision shall be made from the original by the clerk with the seal of the court and the following words thereon: "It is certified that this is an exact copy of the original."

The provisions of the preceding section shall apply mutatis mutandis to an indictment or a written ruling not to prosecute by a public prosecutor.

第 53 條(非公務員自作文書之程式)

文書由非公務員制作者，應記載年、月、日並簽名。其非自作者，應由本人簽名，不能簽名者，應使他人代書姓名，由本人蓋章或按指

第 53 條(非公務員自作文書之程式)
文書由非公務員制作者，應記載年、月、日並簽名。其非自作者，應由本人簽名，不能簽名者，應使他人代書姓名，由本人蓋章或按指

Article 53

A written document made by a person, other than a public official, shall be dated and signed; where it is not made by such person himself, he shall affix his signature thereon; where he cannot sign his name, he shall have someone else print his name for him and then

印。但代書之人，應附記其事由並簽名。	印。但代書之人，應附記其事由並簽名。	affix his seal or fingerprint on the document, provided that the person printing his name for him shall indicate the reason thereof and sign his own name.
第 54 條(卷宗之編訂與滅失之處理)	第 54 條(卷宗之編訂與滅失之處理)	**Article 54**
關於訴訟之文書，法院應保存者，由書記官編為卷宗。	關於訴訟之文書，法院應保存者，由書記官編為卷宗。	Case documents which the court should preserve shall be filed by the clerk.
卷宗滅失案件之處理，另以法律定之。	卷宗滅失案件之處理，另以法律定之。	Disposition of case involving loss of court files shall be separately prescribed by law.
第六章 送達	第六章 送達	**CHAPTER VI Service**
第 55 條(應受送達人與送達處所之陳明)	第 55 條	**Article 55**
被告、自訴人、告訴人、附帶民事訴訟當事人、代理人、辯護人、輔佐人或被害人為接受文書之送達，應將其住所、居所或事務所向法院或檢察官陳明。被害人死亡者，由其配偶、子女或父母陳明之。如在法院所在地無住所、居所或事務所者，應陳明以在該地有住所、居所或事務所之人為送達代收人。	被告、自訴人、告訴人、附帶民事訴訟當事人、代理人、辯護人、輔佐人或被害人為接受文書之送達，應將其住所、居所或事務所向法院或檢察官陳明。被害人死亡者，由其配偶、子女或父母陳明之。如在法院所在地無住所、居所或事務所者，應陳明以在該地有住所、居所或事務所之人為送達代收人。	An accused, private prosecutor, complainant, party to a supplementary civil action, agent, defense attorney, assistant, or victim of the case, shall, for the purpose of service, give his domicile, residence or office address to the court or public prosecutor; in case the victim died, the same shall be done by his spouse, children, or parents; if he has no domicile, residence or office address within the judicial district of the court, a person having a residence or office within such district shall be delegated to receive service for him.
前項之陳明，其效力及於同地之各級法院。	前項之陳明，其效力及於同地之各級法院。	The addresses specified in the preceding section shall be valid for courts of all levels in the same district.
送達向送達代收人為之者，視為送達於本人。	送達向送達代收人為之者，視為送達於本人。	Service on the person delegated shall be considered to be service on the principal.
第 56 條(囑託送達)	第 56 條(囑託送達)	**Article 56**
前條之規定，於在監獄或看守所之人，不適用之。	前條之規定，於在監獄或看守所之人，不適用之。	The provisions of the preceding article shall not apply to a person in prison or detention house.
送達於在監獄或看守所之人，應囑託該監所長官為之。	送達於在監獄或看守所之人，應囑託該監所長官為之。	If a person to be served is in a prison or detention house, the service shall be entrusted to the officer in charge of such prison or detention house.
第 57 條(郵寄送達)	第 57 條	**Article 57**

應受送達人雖未為第五十五條之陳明，而其住所、居所或事務所為書記官所知者，亦得向該處送達之；並得將應送達之文書掛號郵寄。	應受送達人雖未為第五十五條之陳明，而其住所、居所或事務所為書記官所知者，亦得向該處送達之；並得將應送達之文書掛號郵寄。	If an address has not been given as provided in article 55, service may nevertheless be made at the domicile, residence, or office address of a person if it is known to the clerk; a document may also be served at such address by registered mail.
第 58 條(對檢察官之送達)	**第 58 條(對檢察官之送達)**	**Article 58**
對於檢察官之送達，應向承辦檢察官為之；承辦檢察官不在辦公處所時，向首席檢察官為之。	對於檢察官之送達，應向承辦檢察官為之；承辦檢察官不在辦公處所時，向首席檢察官為之。	The public prosecutor to be served shall be the public prosecutor in charge of the case concerned. When such public prosecutor is not in the office, service shall be made on the chief public prosecutor.
第 59 條(公示送達(一)－事由)	**第 59 條(公示送達(一)－事由)**	**Article 59**
被告、自訴人、告訴人或附帶民事訴訟當事人，有左列情形之一者，得為公示送達： 一、住、居所、事務所及所在地不明者。 二、掛號郵寄而不能達到者。 三、因住居於法權所不及之地，不能以其他方法送達者。	被告、自訴人、告訴人或附帶民事訴訟當事人，有左列情形之一者，得為公示送達： 一　住、居所、事務所及所在地不明者。 二　掛號郵寄而不能達到者。 三　因住居於法權所不及之地，不能以其他方法送達者。	Service may be made on an accused, private prosecutor, complainant, or party to a supplementary civil action by publication under one of the following circumstances: (1) The domicile, residence, office, and location are unknown; (2) Service is made by registered mail, but such mail cannot be delivered; (3) Residence is in a place outside the jurisdiction, and no other method of service can be found.
第 60 條(公示送達(二)－程序與生效期)	**第 60 條(公示送達(二)－程序與生效期)**	**Article 60**
公示送達應由書記官分別經法院或檢察長、首席檢察官或檢察官之許可，除將應送達之文書或其節本張貼於法院牌示處外，並應以其繕本登載報紙，或以其他適當方法通知或公告之。 前項送達，自最後登載報紙或通知公告之日起，經三十日發生效力。	公示送達應由書記官分別經法院或檢察長、首席檢察官或檢察官之許可，除將應送達之文書或其節本張貼於法院牌示處外，並應以其繕本登載報紙，或以其他適當方法通知或公告之。 前項送達，自最後登載報紙或通知公告之日起，經三十日發生效力。	Service by publication shall be executed by a clerk with the permission of the court, public prosecutor general, chief public prosecutor, or public prosecutor. In addition to posting a document to be served or its abbreviated copy on the bulletin board of the court, the clerk shall publish it in a newspaper or give notification or publish it by other appropriate methods. The service by publication specified in the preceding section shall be effective thirty days after the last publication in a newspaper, posting, or notification.
第 61 條(送達人送達)	**第 61 條**	**Article 61**
送達文書由司法警察或郵政機關行之。 前項文書為判決、裁	送達文書由司法警察或郵政機關行之。 前項文書為判決、裁	A document shall be served by a judicial policeman, or through the post office. If the document aforesaid is a judgment,

定、不起訴或緩起訴處分書者，送達人應作收受證書、記載送達證書所列事項，並簽名交受領人。	定、不起訴或緩起訴處分書者，送達人應作收受證書、記載送達證書所列事項，並簽名交受領人。	ruling, decision not to prosecute, or decision to defer the prosecution, the person making service thereof shall prepare a certificate of acceptance listing therein particulars of a certificate of service and sign his name thereon before giving it to the acceptor.
第 62 條(民事訴訟法送達規定之準用) 送達文書，除本章有特別規定外，準用民事訴訟法之規定。	**第 62 條(民事訴訟法送達規定之準用)** 送達文書，除本章有特別規定外，準用民事訴訟法之規定。	**Article 62** Unless otherwise provided by special provisions in this Chapter, the provisions of the Code of Civil Procedure shall apply mutatis mutandis to the service of a document.
第七章 期日及期間	**第七章 期日及期間**	**CHAPTER VII Dates and Periods**
第 63 條(期日之傳喚通知義務) 審判長、受命推事、受託推事或檢察官指定期日行訴訟程序者，應傳喚或通知訴訟關係人使其到場。但訴訟關係人在場或本法有特別規定者，不在此限。	**第 63 條(期日之傳喚通知義務)** 審判長、受命推事、受託推事或檢察官指定期日行訴訟程序者，應傳喚或通知訴訟關係人使其到場。但訴訟關係人在場或本法有特別規定者，不在此限。	**Article 63** If a hearing date has been designated by a presiding judge, commissioned judge, requisitioned judge, or public prosecutor for the commencement of legal proceedings, the persons concerned shall be summoned or notified to appear, provided that this rule shall not apply if the persons concerned are present, or it is otherwise provided by special provisions in this Code.
第 64 條(期日之變更或延展) 期日，除有特別規定外，非有重大理由，不得變更或延展之。 期日經變更或延展者，應通知訴訟關係人。	**第 64 條(期日之變更或延展)** 期日，除有特別規定外，非有重大理由，不得變更或延展之。 期日經變更或延展者，應通知訴訟關係人。	**Article 64** A fixed date shall not be changed or postponed unless there is an important reason or otherwise provided by special provisions. If a hearing date is changed or postponed, the persons concerned shall be informed.
第 65 條(期間之計算) 期間之計算，依民法之規定。	**第 65 條(期間之計算)** 期間之計算，依民法之規定。	**Article 65** The calculation of periods shall be according to the provisions of the Civil Code.
第 66 條(在途期間之扣除) 應於法定期間內為訴訟行為之人，其住所、居所或事務所不在法院所在地者，計算該期間時，應扣除其在途之	**第 66 條(在途期間之扣除)** 應於法定期間內為訴訟行為之人，其住所、居所或事務所不在法院所在地者，計算該期間時，應扣除其在途之期	**Article 66** Time occupied in travel shall not be counted against a person who is required to perform procedural acts within a period prescribed by law whose domicile, residence or office is not within the judicial district of the court.

期間。	間。	
前項應扣除之在途期間，由司法行政最高機關定之。	前項應扣除之在途期間，由司法行政最高機關定之。	The time not counted as specified in the preceding section shall be determined by the highest judicial administrative agency.
第 67 條(回復原狀(一)－條件)	**第 67 條(回復原狀(一)－條件)**	**Article 67**
非因過失，遲誤上訴、抗告或聲請再審之期間，或聲請撤銷或變更審判長、受命推事、受託推事裁定或檢察官命令之期間者，於其原因消滅後五日內，得聲請回復原狀。	非因過失，遲誤上訴、抗告或聲請再審之期間，或聲請撤銷或變更審判長、受命推事、受託推事裁定或檢察官命令之期間者，於其原因消滅後五日內，得聲請回復原狀。	A person who without negligence fails to file within the prescribed time an appeal, interlocutory appeal, motion for retrial, motion for dismissal or change of a ruling made by a presiding judge, commissioned judge, requisitioned judge or of an order made by a public prosecutor may motion for restoration of original condition within five days after the disappearance of the reason.
許用代理人之案件，代理人之過失，視為本人之過失。	許用代理人之案件，代理人之過失，視為本人之過失。	In a case in which an agent is permitted, negligence of the agent shall be considered to be negligence of the principal.
第 68 條(回復原狀(二)－聲請之程序)	**第 68 條(回復原狀(二)－聲請之程序)**	**Article 68**
因遲誤上訴或抗告或聲請再審期間而聲請回復原狀者，應以書狀向原審法院為之。其遲誤聲請撤銷或變更審判長、受命推事、受託推事裁定或檢察官命令之期間者，向管轄該聲請之法院為之。	因遲誤上訴或抗告或聲請再審期間而聲請回復原狀者，應以書狀向原審法院為之。其遲誤聲請撤銷或變更審判長、受命推事、受託推事裁定或檢察官命令之期間者，向管轄該聲請之法院為之。	A person who fails within the prescribed time to file an appeal, interlocutory appeal, or motion for retrial and who motions for restoration of original condition shall submit a motion in writing to the original court. A person who fails within the prescribed time to file a motion for dismissal or change of a ruling made by a presiding judge, commissioned judge, or requisitioned judge, or of an order made by a public prosecutor shall make such motion to a court having jurisdiction.
非因過失遲誤期間之原因及其消滅時期，應於書狀內釋明之。	非因過失遲誤期間之原因及其消滅時期，應於書狀內釋明之。	The reason for failure without negligence to comply with the time limit and the date of its disappearance shall be stated in the written motion.
聲請回復原狀，應同時補行期間內應為之訴訟行為。	聲請回復原狀，應同時補行期間內應為之訴訟行為。	If a motion for restoration of original condition is made, all necessary procedural acts which should have been performed within the lapsed period shall be made up at the time of the motion.
第 69 條(回復原狀(三)－聲請之裁判)	**第 69 條(回復原狀(三)－聲請之裁判)**	**Article 69**
回復原狀之聲請，由受聲請之法院與補行之訴訟行為合併裁判	回復原狀之聲請，由受聲請之法院與補行之訴訟行為合併裁判之；如	The court to which a motion is made shall make a joint decision both on the motion for restoration of original condition and the

之；如原審法院認其聲請應行許可者，應繕具意見書，將該上訴或抗告案件送由上級法院合併裁判。	原審法院認其聲請應行許可者，應繕具意見書，將該上訴或抗告案件送由上級法院合併裁判。	supplementary procedural acts. If the original court considers that the motion should be approved, the appeal or interlocutory appeal shall be forwarded by the original court with a written opinion to the higher court for a joint decision.
受聲請之法院於裁判回復原狀之聲請前，得停止原裁判之執行。	受聲請之法院於裁判回復原狀之聲請前，得停止原裁判之執行。	The court to which a motion is made may suspend the execution of the original decision before passing upon such motion.
第 70 條(回復原狀(四)－聲請再議期間之回復)	**第 70 條(回復原狀(四)－聲請再議期間之回復)**	**Article 70**
遲誤聲請再議之期間者，得準用前三條之規定，由原檢察官准予回復原狀。	遲誤聲請再議之期間者，得準用前三條之規定，由原檢察官准予回復原狀。	If a motion for review of a decision not to prosecute is not filed within the prescribed period of time, the original public prosecutor may grant restoration of original condition in accordance with the provisions of the preceding three articles, mutatis mutandis.
第八章 被告之傳喚及拘提	**第八章 被告之傳喚及拘提**	**CHAPTER VIII Summons and Arrest of Accused**
第 71 條(書面傳喚)	**第 71 條(書面傳喚)**	**Article 71**
傳喚被告，應用傳票。	傳喚被告，應用傳票。	A summons shall be issued for the appearance of an accused.
傳票，應記載左列事項：	傳票，應記載左列事項：	A summons shall contain the following matters:
一、被告之姓名、性別、年齡、籍貫及住所或居所。	一　被告之姓名、性別、年齡、籍貫及住所或居所。	(1) Full name, sex, age, native place and domicile or residence of the accused;
二、案由。	二　案由。	(2) Offense charged;
三、應到之日、時、處所。	三　應到之日、時、處所。	(3) Date, time, and place for appearance;
四、無正當理由不到場者，得命拘提。	四　無正當理由不到場者，得命拘提。	(4) That a warrant of arrest may be ordered if there is a failure to appear without good reason.
被告之姓名不明或因其他情形有必要時，應記載其足資辨別之特徵。被告之年齡、籍貫、住所、或居所不明者，得免記載。	被告之姓名不明或因其他情形有必要時，應記載其足資辨別之特徵。被告之年齡、籍貫、住所、或居所不明者，得免記載。	If the name of an accused is unknown or other circumstances make it necessary, special identifying marks or characteristics must be included; if the age, native place, domicile or residence of an accused is unknown, it does not need to be included.
傳票，於偵查中由檢察官簽名，審判中由審判長或受命推事簽名。	傳票，於偵查中由檢察官簽名，審判中由審判長或受命推事簽名。	A summons shall be signed by a public prosecutor during the stage of investigation or by a presiding or commissioned judge during the stage of trial.
第 71-1 條(到場詢問通	**第 71-1 條(到場詢問通**	**Article 71- 1**

知書)	知書)	
司法警察官或司法警察，因調查犯罪嫌疑人犯罪情形及蒐集證據之必要，得使用通知書，通知犯罪嫌疑人到場詢問。經合法通知，無正當理由不到場者，得報請檢察官核發拘票。	司法警察官或司法警察，因調查犯罪嫌疑人犯罪情形及蒐集證據之必要，得使用通知書，通知犯罪嫌疑人到場詢問。經合法通知，無正當理由不到場者，得報請檢察官核發拘票。	A judicial police officer or judicial policeman, for the necessity of investigating a suspect's involvement in a crime and collecting relevant evidence, may call by a notice the suspect to appear for interrogation. If the suspect, without good reason, fails to appear after a notice has been legally served, the public prosecutor may be sought to issue an arrest warrant.
前項通知書，由司法警察機關主管長官簽名，其應記載事項，準用前條第二項第一款至第三款之規定。	前項通知書，由司法警察機關主管長官簽名，其應記載事項，準用前條第二項第一款至第三款之規定。	The notice specified in the preceding section shall be signed by the head of the judicial police office. Item 1 through Item 3 of section II of the preceding Article shall apply mutatis mutandis to the matters to be stipulated in the notice.
第 72 條(口頭傳喚)	第 72 條(口頭傳喚)	**Article 72**
對於到場之被告，經面告以下次應到之日、時、處所及如不到場得命拘提，並記明筆錄者，與已送達傳票有同一之效力；被告經以書狀陳明屆期到場者，亦同。	對於到場之被告，經面告以下次應到之日、時、處所及如不到場得命拘提，並記明筆錄者，與已送達傳票有同一之效力；被告經以書狀陳明屆期到場者，亦同。	The fact that an accused has appeared and is personally informed of the date, time, and place for his next appearance and that an arrest warrant may be ordered if he fails to appear, all of which is made a matter of record, shall have the same effect as the service of a summons. The same rule shall apply if an accused states in writing that he will appear at the appointed time.
第 73 條(對在監所被告之傳喚)	第 73 條(對在監所被告之傳喚)	**Article 73**
傳喚在監獄或看守所之被告，應通知該監所長官。	傳喚在監獄或看守所之被告，應通知該監所長官。	If an accused who is to be summoned is in a prison or detention house, the officer in charge of such prison or detention house shall be notified thereof.
第 74 條(傳喚之效力(一)－按時訊問)	第 74 條(傳喚之效力(一)－按時訊問)	**Article 74**
被告因傳喚到場者，除確有不得已之事故外，應按時訊問之。	被告因傳喚到場者，除確有不得已之事故外，應按時訊問之。	An accused who appears when summoned shall be examined at the scheduled time unless there are circumstances which make such examination impossible.
第 75 條(傳喚之效力(二)－拘提)	第 75 條(傳喚之效力(二)－拘提)	**Article 75**
被告經合法傳喚，無正當理由不到場者，得拘提之。	被告經合法傳喚，無正當理由不到場者，得拘提之。	An accused, who without good reason fails to appear after he has been legally summoned, may be arrested with a warrant.
第 76 條(逕行拘提事由)	第 76 條(逕行拘提事由)	**Article 76**

被告犯罪嫌疑重大，而有左列情形之一者，得不經傳喚逕行拘提：	被告犯罪嫌疑重大，而有左列情形之一者，得不經傳喚逕行拘提：	If an accused is strongly suspected of having committed an offense, and if one of the following circumstances exists, he may be arrested with a warrant without first being served with a summons:
一、無一定之住所或居所者。	一　無一定之住所或居所者。	(1) He has no fixed domicile or residence;
二、逃亡或有事實足認為有逃亡之虞者。	二　逃亡或有事實足認為有逃亡之虞者。	(2) He has absconded or there are facts sufficient to justify an apprehension that he may abscond;
三、有事實足認為有湮滅、偽造、變造證據或勾串共犯或證人之虞者。	三　有事實足認為有湮滅、偽造、變造證據或勾串共犯或證人之虞者。	(3) There are facts sufficient to justify an apprehension that he may destroy, forge, or alter evidence, or conspire with a co-offender or witness;
四、所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪者。	四　所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪者。	(4) He has committed an offense punishable with death penalty or life imprisonment, or with a minimum punishment of imprisonment for no less than five years.
第 77 條(拘提－拘票)	第 77 條	**Article 77**
拘提被告，應用拘票。	拘提被告，應用拘票。	An arrest warrant is required to execute the arrest of an accused.
拘票，應記載左列事項：	拘票，應記載左列事項：	An arrest warrant shall contain the following matters:
一、被告之姓名、性別、年齡、籍貫及住、居所。但年齡、籍貫、住、居所不明者，得免記載。	一　被告之姓名、性別、年齡、籍貫及住、居所。但年齡、籍貫、住、居所不明者，得免記載。	(1) Full name, sex, age, native place, and domicile or residence of the accused. If the age, native place, domicile or residence is unknown, it does not need to be included;
二、案由。	二　案由。	(2) Offense charged;
三、拘提之理由。	三　拘提之理由。	(3) Reason for the arrest;
四、應解送之處所。	四　應解送之處所。	(4) Place to which the accused is to be taken.
第七十一條第三項及第四項之規定，於拘票準用之。	第七十一條第三項及第四項之規定，於拘票準用之。	The provisions of sections III and IV of Article 71 shall apply mutatis mutandis to an arrest warrant.
第 78 條(拘提(二)－執行機關)	第 78 條(拘提(二)－執行機關)	**Article 78**
拘提，由司法警察或司法警察官執行，並得限制其執行之期間。	拘提，由司法警察或司法警察官執行，並得限制其執行之期間。	An arrest warrant shall be executed by a judicial policeman or judicial police officer, and the period for making such an arrest may be prescribed.
拘票得作數通，分交數人各別執行。	拘票得作數通，分交數人各別執行。	Several copies of an arrest warrant may be issued and given to several persons for execution.
第 79 條(拘提(三)－執行程序)	第 79 條(拘提(三)－執行程序)	**Article 79**
拘票應備二聯，執行拘提時，應以一聯交被告	拘票應備二聯，執行拘提時，應以一聯交被告	An arrest warrant shall consist of two slips, and in making an arrest one slip thereof shall

或其家屬。	或其家屬。	be handed to the accused or members of his family.
第 80 條(拘提(四)－執行後之處置) 執行拘提後，應於拘票記載執行之處所及年、月、日、時；如不能執行者，記載其事由，由執行人簽名，提出於命拘提之公務員。	第 80 條(拘提(四)－執行後之處置) 執行拘提後，應於拘票記載執行之處所及年、月、日、時；如不能執行者，記載其事由，由執行人簽名，提出於命拘提之公務員。	**Article 80** After an arrest with a warrant is made, the place, date, and time of execution shall be noted on such warrant; if no arrest can be made, the reason therefor shall be noted, and the warrant shall be signed by the person who executed the arrest warrant and forwarded to the public official who ordered the arrest.
第 81 條(警察轄區外之拘提) 司法警察或司法警察官於必要時，得於管轄區域外執行拘提，或請求該地之司法警察官執行。	第 81 條(警察轄區外之拘提) 司法警察或司法警察官於必要時，得於管轄區域外執行拘提，或請求該地之司法警察官執行。	**Article 81** If it is necessary, a judicial policeman or judicial police officer may make an arrest with a warrant outside his judicial district or request a judicial police officer of that place to make the arrest.
第 82 條(囑託拘提) 審判長或檢察官得開具拘票應記載之事項，囑託被告所在地之檢察官拘提被告；如被告不在該地者，受託檢察官得轉囑託其所在地之檢察官。	第 82 條(囑託拘提) 審判長或檢察官得開具拘票應記載之事項，囑託被告所在地之檢察官拘提被告；如被告不在該地者，受託檢察官得轉囑託其所在地之檢察官。	**Article 82** A presiding judge or public prosecutor may specify the matters which should be contained in a warrant and request the public prosecutor of a place where the accused may be found to make an arrest with a warrant; if the accused is not at such place, the requisitioned public prosecutor of such place may in turn entrust the matter to the public prosecutor of the place where the accused may be found.
第 83 條(對現役軍人之拘提) 被告為現役軍人者，其拘提應以拘票知照該管長官協助執行。	第 83 條(對現役軍人之拘提) 被告為現役軍人者，其拘提應以拘票知照該管長官協助執行。	**Article 83** If the accused is in active service in the military, his arrest shall be executed by informing his superior officer of the warrant and requesting the officer's assistance in executing it.
第 84 條(通緝(一)－法定原因) 被告逃亡或藏匿者，得通緝之。	第 84 條(通緝(一)－法定原因) 被告逃亡或藏匿者，得通緝之。	**Article 84** If an accused has absconded or is in hiding, a circular order may be issued for his arrest.
第 85 條(通緝(二)－通緝書) 通緝被告，應用通緝書。	第 85 條(通緝(二)－通緝書) 通緝被告，應用通緝書。	**Article 85** A circular order for the arrest of an accused must be in writing.

<table>
<tr><td>通緝書，應記載左列事項：
一、被告之姓名、性別、年齡、籍貫、住所或居所，及其他足資辨別之特徵。但年齡、籍貫、住所或居所不明者，得免記載。
二、被訴之事實。
三、通緝之理由。
四、犯罪之日、時、處所。但日、時、處所不明者，得免記載。
五、應解送之處所。
通緝書，於偵查中由檢察長或首席檢察官簽名，審判中由法院院長簽名。</td><td>通緝書，應記載左列事項：
一　被告之姓名、性別、年齡、籍貫、住所或居所，及其他足資辨別之特徵。但年齡、籍貫、住所或居所不明者，得免記載。
二　被訴之事實。
三　通緝之理由。
四　犯罪之日、時、處所。但日、時、處所不明者，得免記載。
五　應解送之處所。
通緝書，於偵查中由檢察長或首席檢察官簽名，審判中由法院院長簽名。</td><td>A circular order shall contain the following matters:
(1) Full name, sex, native place, domicile or residence, and other identifying marks or characteristics of the accused. If the age, native place, domicile or residence is unknown, it needs not be included;
(2) Facts charged;
(3) Reason for the circular order;
(4) Date, time, and place of the commission of the offense unless unknown;
(5) Place to which the accused is to be taken;
A circular order for the arrest of an accused shall be signed by the public prosecutor general or the chief public prosecutor during the stage of investigation and by the president of a court during the stage of the trial.</td></tr>
<tr><td><u>第 86 條</u>(通緝(三)－方法)</td><td>第 86 條(通緝(三)－方法)</td><td>Article 86</td></tr>
<tr><td>通緝，應以通緝書通知附近或各處檢察官、司法警察機關；遇有必要時，並得登載報紙或以其他方法公告之。</td><td>通緝，應以通緝書通知附近或各處檢察官、司法警察機關；遇有必要時，並得登載報紙或以其他方法公告之。</td><td>Public prosecutors and judicial police officers of neighboring or other judicial districts shall be informed of the issuance of a circular order; if it is necessary, the order may be published in a newspaper or via other mediums.</td></tr>
<tr><td><u>第 87 條</u>(通緝(四)－效力及撤銷)</td><td>第 87 條(通緝(四)－效力及撤銷)</td><td>Article 87</td></tr>
<tr><td>通緝經通知或公告後，檢察官、司法警察官得拘提被告或逕行逮捕之。</td><td>通緝經通知或公告後，檢察官、司法警察官得拘提被告或逕行逮捕之。</td><td>After notice has been given of the issuance of a circular order or it has been published, a public prosecutor or judicial police officer may arrest the accused with or without a warrant.</td></tr>
<tr><td>利害關係人，得逕行逮捕通緝之被告，送交檢察官、司法警察官或請求檢察官、司法警察官逮捕之。</td><td>利害關係人，得逕行逮捕通緝之被告，送交檢察官、司法警察官或請求檢察官、司法警察官逮捕之。</td><td>An interested party may arrest an accused designated in a circular order to arrest and turn him over to the public prosecutor or judicial police officer or request the public prosecutor or judicial police officer to arrest him.</td></tr>
<tr><td>通緝於其原因消滅或已顯無必要時，應即撤銷。</td><td>通緝於其原因消滅或已顯無必要時，應即撤銷。</td><td>When the reason for the issuance of a circular order to arrest no longer exists or a circular order to arrest is apparently unnecessary, the order shall be canceled immediately.</td></tr>
<tr><td>撤銷通緝之通知或公告，準用前條之規定。</td><td>撤銷通緝之通知或公告，準用前條之規定。</td><td>Provisions of the preceding Article shall apply mutatis mutandis to the notification or publication of the cancellation of a circular</td></tr>
</table>

		order to arrest.
第 88 條(現行犯與準現行犯)	第 88 條(現行犯與準現行犯)	**Article 88**
現行犯，不問何人得逕行逮捕之。	現行犯，不問何人得逕行逮捕之。	A person in flagrante delicto may be arrested without a warrant by any person.
犯罪在實施中或實施後即時發覺者，為現行犯。	犯罪在實施中或實施後即時發覺者，為現行犯。	A person in flagrante delicto is a person who is discovered in the act of committing an offense or immediately thereafter.
有左列情形之一者，以現行犯論：	有左列情形之一者，以現行犯論：	A person is considered to be in flagrante delicto under one of the following circumstances:
一、被追呼為犯罪人者。	一 被追呼為犯罪人者。	(1) He is pursued with cries that he is an offender;
二、因持有兇器、贓物或其他物件、或於身體、衣服等處露有犯罪痕跡，顯可疑為犯罪人者。	二 因持有兇器、贓物或其他物件、或於身體、衣服等處露有犯罪痕跡，顯可疑為犯罪人者。	(2) He is found in possession of a weapon, stolen property, or other items sufficient to warrant a suspicion that he is an offender or his body, clothes and the like show traces of the commission of an offense sufficient to warrant such suspicion.
第 88-1 條(逕行拘提)	第 88-1 條(逕行拘提)	**Article 88- 1**
檢察官、司法警察官或司法警察偵查犯罪，有左列情形之一而情況急迫者，得逕行拘提之：	檢察官、司法警察官或司法警察偵查犯罪，有左列情形之一而情況急迫者，得逕行拘提之：	In investigating an offense when one of the following circumstances exists and it is exigent, a public prosecutor, judicial officer, or judicial policeman may arrest without a warrant:
一、因現行犯之供述，且有事實足認為共犯嫌疑重大者。	一 因現行犯之供述，且有事實足認為共犯嫌疑重大者。	(1) The person who is implicated to be a co-offender by one in flagrante delicto and there are facts sufficient to warrant the strong implication;
二、在執行或在押中之脫逃者。	二 在執行或在押中之脫逃者。	(2) The person who has escaped from the execution of punishment or from detention;
三、有事實足認為犯罪嫌疑重大，經被盤查而逃逸者。但所犯顯係最重本刑為一年以下有期徒刑、拘役或專科罰金之罪者，不在此限。	三 有事實足認為犯罪嫌疑重大，經被盤查而逃逸者。但所犯顯係最重本刑為一年以下有期徒刑、拘役或專科罰金之罪者，不在此限。	(3) The person who is strongly suspected of having committed an offense by facts sufficient in themselves and runs away when being interrogated, provided that this rule shall not apply if the offense committed is obviously punishable with maximum punishment of imprisonment for not more than one year, or detention, or sole fine;
四、所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪，嫌疑重大，有事實足認為有逃亡之虞者。	四 所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪，嫌疑重大，有事實足認為有逃亡之虞者。	(4) The person who is strongly suspected of having committed an offense punishable with death penalty or life imprisonment, or with minimum punishment of imprisonment for not less than five years, and there are facts sufficient to justify an apprehension that he may abscond.
前項拘提，由檢察官親	前項拘提，由檢察官親	The arrest specified in the preceding section,

自執行時，得不用拘票；由司法警察官或司法警察執行時，以其急迫情況不及報告檢察官者為限，於執行後，應即報請檢察官簽發拘票。如檢察官不簽發拘票時，應即將被拘提人釋放。	自執行時，得不用拘票；由司法警察官或司法警察執行時，以其急迫情況不及報告檢察官者為限，於執行後，應即報請檢察官簽發拘票。如檢察官不簽發拘票時，應即將被拘提人釋放。	when executed by a public prosecutor in person, may be made without a warrant. If the arrest is executed by a police officer or judicial policeman, it may be made without a warrant only when the circumstance is too urgent to report to a public prosecutor; an application for the issuance of an arrest warrant shall be made to a public prosecutor immediately after the arrest. If the public prosecutor rejects to issue a warrant, the arrestee shall be released immediately.
第一百三十條及第一百三十一條第一項之規定，於第一項情形準用之。但應即報檢察官。	第一百三十條及第一百三十一條第一項之規定，於第一項情形準用之。但應即報檢察官。	The provisions of Article 130 and section I of Article 131 shall apply mutatis mutandis to the section I hereof, provide that the public prosecutor should be reported immediately.
檢察官、司法警察官或司法警察，依第一項規定程序拘提之犯罪嫌疑人，應即告知本人及其家屬，得選任辯護人到場。	檢察官、司法警察官或司法警察，依第一項規定程序拘提之犯罪嫌疑人，應即告知本人及其家屬，得選任辯護人到場。	A public prosecutor, judicial officer or judicial policeman, who arrests a suspect in accordance with the procedure as stipulated in section I hereof, shall notify the arrestee and his family member immediately that a defense attorney may be retained to be present.
第 89 條(拘捕之注意)	**第 89 條(拘捕之注意)**	**Article 89**
執行拘提或逮捕，應注意被告之身體及名譽。	執行拘提或逮捕，應注意被告之身體及名譽。	In executing an arrest with or without a warrant, due care shall be taken of the person and reputation of the accused.
第 90 條(強制拘捕)	**第 90 條(強制拘捕)**	**Article 90**
被告抗拒拘提、逮捕或脫逃者，得用強制力拘提或逮捕之。但不得逾必要之程度。	被告抗拒拘提、逮捕或脫逃者，得用強制力拘提或逮捕之。但不得逾必要之程度。	If an accused resists the arrest made with or without a warrant or if he escapes, he may be arrested by force with or without a warrant, but such force may not be excessive.
第 91 條(拘捕被告之解送)	**第 91 條**	**Article 91**
拘提或因通緝逮捕之被告，應即解送指定之處所；如二十四小時內不能達到指定之處所者，應分別其命拘提或通緝者為法院或檢察官，先行解送較近之法院或檢察機關，訊問其人有無錯誤。	拘提或因通緝逮捕之被告，應即解送指定之處所；如二十四小時內不能達到指定之處所者，應分別其命拘提或通緝者為法院或檢察官，先行解送較近之法院或檢察機關，訊問其人有無錯誤。	If an accused is arrested with a warrant or because of a circular order to arrest without a warrant, he shall be brought immediately to the place designated; if such a place cannot be reached within twenty four hours, the arrestee shall be brought to the nearest court or public prosecutor's office, depending on whether the arrest warrant or circular order to arrest was ordered by the former or the latter, for examination to determine whether there has been mistakes as to his identity.

第 92 條(逮捕現行犯之解送)	第 92 條	Article 92
無偵查犯罪權限之人逮捕現行犯者，應即送交檢察官、司法警察官或司法警察。	無偵查犯罪權限之人逮捕現行犯者，應即送交檢察官、司法警察官或司法警察。	When a person who has no authority to investigate an offense arrests without a warrant a person in flagrante delicto, he shall immediately hand the arrestee over to a public prosecutor, judicial police officer, or judicial policeman.
司法警察官、司法警察逮捕或接受現行犯者，應即解送檢察官。但所犯最重本刑為一年以下有期徒刑、拘役或專科罰金之罪、告訴或請求乃論之罪，其告訴或請求已經撤回或已逾告訴期間者，得經檢察官之許可，不予解送。	司法警察官、司法警察逮捕或接受現行犯者，應即解送檢察官。但所犯最重本刑為一年以下有期徒刑、拘役或專科罰金之罪、告訴或請求乃論之罪，其告訴或請求已經撤回或已逾告訴期間者，得經檢察官之許可，不予解送。	A judicial police officer or judicial policeman who arrests without a warrant or receives a person in flagrante delicto shall immediately send the arrestee to a public prosecutor. If the offense committed is punishable with maximum punishment of imprisonment for no more than one year, or detention, or sole fine, or if the offense committed is one that prosecution may be instituted only upon complaint or request and that the time period to initiate such compliant or request has lapsed, then with the public prosecutor's approval, the arrestee needs not be sent to a public prosecutor.
對於第一項逮捕現行犯之人，應詢其姓名、住所或居所及逮捕之事由。	對於第一項逮捕現行犯之人，應詢其姓名、住所或居所及逮捕之事由。	A person who arrests without a warrant a person in flagrante delicto as specified in section I shall be questioned concerning his full name, domicile or residence, and the reasons for the arrest.

第 93 條(即時訊問)	第 93 條	Article 93
被告或犯罪嫌疑人因拘提或逮捕到場者，應即時訊問。	**被告或犯罪嫌疑人因拘提或逮捕到場者，應即時訊問。**	An accused or a suspect who is arrested with or without a warrant shall be examined immediately.
偵查中經檢察官訊問後，認有羈押之必要者，應自拘提或逮捕之時起二十四小時內，敘明羈押之理由，聲請該管法院羈押之。	**偵查中經檢察官訊問後，認有羈押之必要者，應自拘提或逮捕之時起二十四小時內，敘明羈押之理由，聲請該管法院羈押之。**	At the stage of investigation, the public prosecutor shall, if he deems a detention is necessary after examining the arrestee, apply for a detention order from the court, having jurisdiction over the case, within twenty-four hours from the time of making the arrest with or without a warrant.
前項情形，未經聲請者，檢察官應即將被告釋放。但如認有第一百零一條第一項或第一百零一條之一第一項各款所定情形之一而無聲請羈押之必要者，得逕命具保、責付或限制住居；如不能具保、責付或限制住居，	**前項情形，未經聲請者，檢察官應即將被告釋放。但如認有第一百零一條第一項或第一百零一條之一第一項各款所定情形之一而無聲請羈押之必要者，得逕命具保、責付或限制住居，如不能具保、責付或限制住居，而有必要**	Unless a detention order has been applied for under the provision of the preceding section, the public prosecutor shall release the accused immediately. If it is considered that application for detention is not necessary notwithstanding the existence of one of the circumstances listed in section I of Article 101 or section I of Article 101-1, the arrestee may be released on bail, to the custody of another, or with a limitation on his residence;

而有必要情形者，仍得聲請法院羈押之。	**情形者，仍得聲請法院羈押之。**	if these requirements cannot be met, and if the circumstances justify such necessity, the public prosecutor may apply for detention order.
前三項之規定，於檢察官接受法院依少年事件處理法或軍事審判機關依軍事審判法移送之被告時，準用之。	**第一項至第三項之規定，於檢察官接受法院依少年事件處理法或軍事審判機關依軍事審判法移送之被告時，準用之。**	The provisions of sections one through three of this article shall apply, mutatis mutandis, to cases where the public prosecutor takes an accused transferred from a court in accordance with the Code of Juvenile Matter Arrangement, or from the court martial in accordance with Code of Martial Trial.
法院於受理前三項羈押之聲請後，應即時訊問。但至深夜仍未訊問完畢，或深夜始受理聲請者，被告、辯護人及得為被告輔佐人之人得請求法院於翌日日間訊問。法院非有正當理由，不得拒絕。 前項但書所稱深夜，指午後十一時至翌日午前八時。	**法院於受理前三項羈押之聲請後，應即時訊問。**	A court, after receiving application for detention order in accordance with the preceding three sections, shall examine the arrestee immediately.
<u>第 93-1 條</u>(訊問不予計時之情形)	第 93-1 條	**Article 93- 1**
第九十一條及前條第二項所定之二十四小時，有左列情形之一者，其經過之時間不予計入。但不得有不必要之遲延：	第九十一條及前條第二項所定之二十四小時，有左列情形之一者，其經過之時間不予計入。但不得有不必要之遲延：	Time spent in one of the following circumstances shall not be counted against the twenty-four hour limitation in Article 91 and the second section of the preceding article, provided that there is no unnecessary delay:
一、因交通障礙或其他不可抗力事由所生不得已之遲滯。	一　因交通障礙或其他不可抗力事由所生不得已之遲滯。	(1) Unavoidable delay caused by traffic obstruction or force majeure;
二、在途解送時間。	二　在途解送時間。	(2) In the transfer of arrestee;
三、依第一百條之三第一項規定不得為詢問者。	三　依第一百條之三第一項規定不得為詢問者。	(3) Interrogation cannot be made according to the first section of Article 100-3;
四、因被告或犯罪嫌疑人身體健康突發之事由，事實上不能訊問者。	四　因被告或犯罪嫌疑人身體健康突發之事由，事實上不能訊問者。	(4) Examination cannot be made due to health emergency of the accused or suspect;
五、被告或犯罪嫌疑人表示已選任辯護人，因等候其辯護人到場致未予訊問者。但等候時間不得逾四小時。其因智能障礙無法為完全	五　被告或犯罪嫌疑人表示已選任辯護人，因等候其辯護人到場致未予訊問者。但等候時間不得逾四小時。其因智能障礙無法為完全之陳	(5) Examination is not made because of waiting for the presence of a defense attorney when the accused or suspect has made the presentation that a defense attorney has been retained. The said waiting time allowed shall not exceed four hours. The same rule applies

之陳述，因等候第三十五條第三項經通知陪同在場之人到場致未予訊問者，亦同。

述，因等候第三十五條第三項經通知陪同在場之人到場致未予訊問者，亦同。

to the case while waiting for the presence of the persons named in the third section of Article 35 if the accused or the suspect is unable to make a clear and complete statement due to unsound mind;

六、被告或犯罪嫌疑人須由通譯傳譯，因等候其通譯到場致未予訊問者。但等候時間不得逾六小時。

六　被告或犯罪嫌疑人須由通譯傳譯，因等候其通譯到場致未予訊問者。但等候時間不得逾六小時。

(6) Examination is not made because of waiting for the presence of the interpreter if there is a need for having an interpreter for the accused or suspect, provided that the waiting time shall not exceed six hours;

七、經檢察官命具保或責付之被告，在候保或候責付中者。但候保或候責付時間不得逾四小時。

七　經檢察官命具保或責付之被告，在候保或候責付中者。但候保或候責付時間不得逾四小時。

(7) If the public prosecutor orders the release of the arrestee on bail or to the custody of another, while waiting for bonds to be presented or for the acceptance of custody, provided that the waiting time allowed shall not exceed four hours;

八、犯罪嫌疑人經法院提審之期間。

八　犯罪嫌疑人經法院提審之期間。

(8) The time when the suspect was examined by the court according to the Habeas Corpus Act.

前項各款情形之經過時間內不得訊問。

前項各款情形之經過時間內不得訊問。

No examination shall be made in the above period of time described in the preceding section.

因第一項之法定障礙事由致二十四小時內無法移送該管法院者，檢察官聲請羈押時，並應釋明其事由。

因第一項之法定障礙事由致二十四小時內無法移送該管法院者，檢察官聲請羈押時，並應釋明其事由。

If the accused cannot be sent to a court with jurisdiction within twenty-four hours due to the existence of one of the reasons specified in the first section of this article, the public prosecutor shall specify the reason in his application of detention order.

第九章 被告之訊問

第九章 被告之訊問

CHAPTER IX　Examination of Accused

第 94 條(人別訊問)

訊問被告，應先詢其姓名、年齡、籍貫、職業、住所或居所，以查驗其人有無錯誤，如係錯誤，應即釋放。

第 94 條(人別訊問)

訊問被告，應先詢其姓名、年齡、籍貫、職業、住所或居所，以查驗其人有無錯誤，如係錯誤，應即釋放。

Article 94

In an examination, an accused shall be first asked his full name, age, native place, occupation, and domicile or residence to determine whether a mistake as to his identity has been made; if there is a mistake, he shall be immediately released.

第 95 條(訊問被告應先告知事項)

訊問被告應先告知左列事項：

一、犯罪嫌疑及所犯所有罪名。罪名經告知後，認為應變更者，應再告知。

第 95 條

訊問被告應先告知左列事項：

一　犯罪嫌疑及所犯所有罪名。罪名經告知後，認為應變更者，應再告知。

Article 95

In an examination, an accused shall be informed of the following:

(1) That he is suspected of committing an offense and all of the offenses charged. If the charge is changed after an accused has been informed of the offense charged, he shall be informed of such change;

二、得保持緘默，無須違背自己之意思而為陳述。
三、得選任辯護人。
四、得請求調查有利之證據。

二　得保持緘默，無須違背自己之意思而為陳述。
三　得選任辯護人。
四　得請求調查有利之證據。

(2) That he may remain silent and does not have to make a statement against his own will;
(3) That he may retain defense attorney;
(4) That he may request the investigation of evidence favorable to him.

第 96 條(訊問方法(二)－罪嫌之辯明)

訊問被告，應與以辯明犯罪嫌疑之機會；如有辯明，應命就其始末連續陳述；其陳述有利之事實者，應命其指出證明之方法。

第 96 條(訊問方法(二)－罪嫌之辯明)

訊問被告，應與以辯明犯罪嫌疑之機會；如有辯明，應命就其始末連續陳述；其陳述有利之事實者，應命其指出證明之方法。

Article 96

In an examination, an accused shall be given an opportunity to explain the offense of which he is suspected; if there is an explanation, the accused shall be ordered to make a detailed statement of the complete matter; if the explanation contains facts favorable to him, he shall be ordered to explain his method of proof.

第 97 條(訊問方法(三)－隔別訊問與對質)

被告有數人時，應分別訊問之；其未經訊問者，不得在場。但因發見真實之必要，得命其對質。被告亦得請求對質。

對於被告之請求對質，除顯無必要者外，不得拒絕。

第 97 條(訊問方法(三)－隔別訊問與對質)

被告有數人時，應分別訊問之；其未經訊問者，不得在場。但因發見真實之必要，得命其對質。被告亦得請求對質。

對於被告之請求對質，除顯無必要者外，不得拒絕。

Article 97

If there are several accused, they shall be examined separately; those who have not been examined shall not be permitted to be present, provided that if it is necessary to discover the truth, the accused may be confronted with each other. The accused may also request a confrontation.
A request by an accused for a confrontation shall not be rejected, unless it is apparently unnecessary.

第 98 條(訊問之態度)

訊問被告應出以懇切之態度，不得用強暴、脅迫、利誘、詐欺、疲勞訊問或其他不正之方法。

第 98 條

訊問被告應出以懇切之態度，不得用強暴、脅迫、利誘、詐欺、疲勞訊問或其他不正之方法。

Article 98

An accused shall be examined in an honest manner; violence, threat, inducement, fraud, exhausting examination or other improper means shall not be used.

第 99 條(訊問方法(五)－通譯之使用)

被告為聾或啞或語言不通者，得用通譯，並得以文字訊問或命以文字陳述。

第 99 條(訊問方法(五)－通譯之使用)

被告為聾或啞或語言不通者，得用通譯，並得以文字訊問或命以文字陳述。

Article 99

If an accused is deaf or dumb, or not conversant with the language, an interpreter may be used; such accused may also be examined in writing or ordered to make a statement in writing.

第 100 條(被告陳述之記載)

被告對於犯罪之自白

第 100 條(被告陳述之記載)

被告對於犯罪之自白及

Article 100

The confession of an accused and other

及其他不利之陳述，並其所陳述有利之事實與指出證明之方法，應於筆錄內記載明確。	其他不利之陳述，並其所陳述有利之事實與指出證明之方法，應於筆錄內記載明確。	statements unfavorable to him as well as facts stated in his favor and the method of proof indicated shall be clearly noted in the record.
第 100-1 條(錄音、錄影資料)	**第 100-1 條**	**Article 100- 1**
訊問被告，應全程連續錄音；必要時，並應全程連續錄影。但有急迫情況且經記明筆錄者，不在此限。	訊問被告，應全程連續錄音；必要時，並應全程連續錄影。但有急迫情況且經記明筆錄者，不在此限。	The whole proceeding of examining the accused shall be recorded without interruption in audio, and also, if necessary, in video, provided that in case of an emergency, after clearly stated in the record, the said rule may not be followed.
筆錄內所載之被告陳述與錄音或錄影之內容不符者，除有前項但書情形外，其不符之部分，不得作為證據。	筆錄內所載之被告陳述與錄音或錄影之內容不符者，除有前項但書情形外，其不符之部分，不得作為證據。	Except for the circumstances prescribed in the Proviso of the preceding section of this article, if there is an inconsistency between the content of the record and that of the audio or video record regarding the statements made by the accused, the said portion of the statement shall not be used as evidence.
第一項錄音、錄影資料之保管方法，分別由司法院、行政院定之。	第一項錄音、錄影資料之保管方法，分別由司法院、行政院定之。	The means of preservation of the audio or video record specified in the first section of this article shall be prescribed by the Judicial Yuan and the Executive Yuan.
第 100-2 條(本章之準用)	**第 100-2 條**	**Article 100- 2**
本章之規定，於司法警察官或司法警察詢問犯罪嫌疑人時，準用之。	本章之規定，於司法警察官或司法警察詢問犯罪嫌疑人時，準用之。	The provisions of this chapter shall apply mutatis mutandis to the interrogation of suspects by judicial police officer or judicial policeman.
第 100-3 條(准許夜間詢問之情形)	**第 100-3 條**	**Article 100- 3**
司法警察官或司法警察詢問犯罪嫌疑人，不得於夜間行之。但有左列情形之一者，不在此限：	司法警察官或司法警察詢問犯罪嫌疑人，不得於夜間行之。但有左列情形之一者，不在此限：	The interrogation of criminal suspects by judicial police officer or judicial policeman shall not proceed at night, except for the following circumstances:
一、經受詢問人明示同意者。	一　經受詢問人明示同意者。	(1) Express consent by the person being interrogated;
二、於夜間經拘提或逮捕到場而查驗其人有無錯誤者。	二　於夜間經拘提或逮捕到場而查驗其人有無錯誤者。	(2) Identity check of the person arrested with or without a warrant at night;
三、經檢察官或法官許可者。	三　經檢察官或法官許可者。	(3) Permission by a public prosecutor or judge;
四、有急迫之情形者。	四　有急迫之情形者。	(4) In case of emergency.
犯罪嫌疑人請求立即詢問者，應即時為之。	犯罪嫌疑人請求立即詢問者，應即時為之。	Upon the request of a suspect, the interrogation shall proceed immediately.

稱夜間者，為日出前，日沒後。	稱夜間者，為日出前，日沒後。	The night herein means the time between sunset and sunrise.
第一○章 被告之羈押	第一○章 被告之羈押	**CHAPTER X Detention of Accused**
第 101 條(羈押－要件)	**第 101 條**	**Article 101**
被告經法官訊問後，認為犯罪嫌疑重大，而有左列情形之一，非予羈押，顯難進行追訴、審判或執行者，得羈押之：	被告經法官訊問後，認為犯罪嫌疑重大，而有左列情形之一，非予羈押，顯難進行追訴、審判或執行者，得羈押之：	An accused may be detained after he has been examined by a judge and is strongly suspected of having committed an offense, and due to the existence of one of the following circumstances it is apparent that there will be difficulties in prosecution, trial, or execution of sentence unless the detention of the accused is ordered:
一、逃亡或有事實足認為有逃亡之虞者。	一　逃亡或有事實足認為有逃亡之虞者。	(1) He has absconded, or there are facts sufficient to justify an apprehension that he may abscond;
二、有事實足認為有湮滅、偽造、變造證據或勾串共犯或證人之虞者。	二　有事實足認為有湮滅、偽造、變造證據或勾串共犯或證人之虞者。	(2) There are facts sufficient to justify an apprehension that he may destroy, forge, or alter evidence, or conspire with a co-offender or witness;
三、所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪者。	三　所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪者。	(3) He has committed an offense punishable with the death penalty, life imprisonment, or a minimum punishment of imprisonment for no less than five years.
法官為前項之訊問時，檢察官得到場陳述聲請羈押之理由及提出必要之證據。	法官為前項之訊問時，檢察官得到場陳述聲請羈押之理由及提出必要之證據。	At the time a judge is making the examination in accordance with the provision of the preceding section, the public prosecutor may be present and state the reason for applying detention order and present necessary evidence.
第一項各款所依據之事實，應告知被告及其辯護人，並記載於筆錄。	第一項各款所依據之事實，應告知被告及其辯護人，並記載於筆錄。	The accused and his defense attorney shall be informed of the facts based to support the detention of an accused as specified in section I of this article. The same shall be stated in the record.
第 101-1 條(羈押－要件)	**第 101-1 條**	**Article 101- 1**
被告經法官訊問後，認為犯下列各款之罪，其嫌疑重大，有事實足認為有反覆實施同一犯罪之虞，而有羈押之必要者，得羈押之：	**被告經法官訊問後，認為犯左列各款之罪，其嫌疑重大，有事實足認為有反覆實施同一犯罪之虞，而有羈押之必要者，得羈押之：**	An accused may be detained, if necessary, after he has been examined by a judge and is strongly suspected of committing one of the following offenses, and if there are facts sufficient to justify an apprehension that he may re-commit the same offense again:
一、刑法第一百七十四條第一項、第二項、第四項、第一百七十五條	**一　刑法第一百七十四條第一項、第二項、第四項、第一百七十五條**	(1) The offense of Arson as provided in sections I, II, and IV of Article 174, and sections I and II of Article 175, and the

第一項、第二項之放火罪、第一百七十六條之準放火罪。	第一項、第二項之放火罪、第一百七十六條之準放火罪。	offense of constructive arson as provided in Article 176 of Criminal Code;
二、刑法第二百二十一條之強制性交罪、第二百二十四條之強制猥褻罪、第二百二十四條之一之加重強制猥褻罪、第二百二十五條之乘機性交猥褻罪、第二百二十七條之與幼年男女性交或猥褻罪、第二百七十七條第一項之傷害罪。但其須告訴乃論，而未經告訴或其告訴已經撤回或已逾告訴期間者，不在此限。	二　刑法第二百二十一條之強制性交罪、第二百二十四條之強制猥褻罪、第二百二十四條之一之加重強制猥褻罪、第二百二十五條之乘機性交猥褻罪、第二百二十七條之與幼年男女性交或猥褻罪、第二百七十七條第一項之傷害罪。但其須告訴乃論，而未經告訴或其告訴已經撤回或已逾告訴期間者，不在此限。	(2) The offense of Forced Sexual Intercourse as provided in Article 221, the offense of Forced Obscene Act as provided in Article 224, the offense of Aggravated Forced Obscene as provided in Article 214-1, the offense of Sexual Intercourse or Obscene Act against an insane person as provided in Article 225, the offense of Sexual Intercourse or Obscene Act against under aged child as provided in Article 227, the offense of Battery as provided in Article 277-1 of the Criminal Code. For the case chargeable only upon a complaint, if a complaint is not filed or has been withdrawn, or if the period of time for filing the compliant has lapsed, then this section shall not apply;
三、刑法第三百零二條之妨害自由罪。	三　刑法第三百零二條之妨害自由罪。	(3) The offense of False Imprisonment as provided in Article 302 of Criminal Code;
四、刑法第三百零四條之強制罪、第三百零五條之恐嚇危害安全罪。	四　刑法第三百零四條之強制罪、第三百零五條之恐嚇危害安全罪。	(4) The offense of Forcing as provided in Article 304, and offense of Threaten to Personal Security as provided in Article 305 of Criminal Code;
五、刑法第三百二十條、第三百二十一條之竊盜罪。	五　刑法第三百二十一條、第三百二十二條之竊盜罪。	(5) The offense of Larceny as provided in Articles 312 and 322 of Criminal Code;
六、刑法第三百二十五條、第三百二十六條之搶奪罪。	六　刑法第三百二十五條至第三百二十七條之搶奪罪。	(6) The offense of Abrupt Taking as provided in Articles 325 through 327 of Criminal Code;
七、刑法第三百三十九條、第三百三十九條之三之詐欺罪。	七　刑法第三百四十條之常業詐欺罪。	(7) The offense of commission of Fraudulent as an Occupation as provided in Article 340 of Criminal Code;
八、刑法第三百四十六條之恐嚇取財罪。	八　刑法第三百四十六條之恐嚇取財罪。	(8) The offense of Extortion as provided in Article 346 of Criminal Code.
前條第二項、第三項之規定，於前項情形準用之。	前條第二項、第三項之規定，於前項情形準用之。	The provisions of sections II and IV of the preceding article shall apply mutatis mutandis to the preceding section.

第 101-2 條(羈押－要件)	第 101-2 條	Article 101- 2
被告經法官訊問後，雖有第一百零一條第一項或第一百零一條之一第一項各款所定情形之一而無羈押之必要者，得逕命具保、責付或限制住居；其有第	被告經法官訊問後，雖有第一百零一條第一項或第一百零一條之一第一項各款所定情形之一而無羈押之必要者，得逕命具保、責付或限制住居；其有第一百十四	After examining the accused, despite the existence of the circumstances specified in section I of Article 101 and section I of Article 101-1, the judge may nevertheless order that the accused be released on bail, or to the custody of another, or with a limitation on his residence if the detention is deemed

一百十四條各款所定情形之一者，非有不能具保、責付或限制住居之情形，不得羈押。	條各款所定情形之一者，非有不能具保、責付或限制住居之情形，不得羈押。	unnecessary. If the circumstances specified in Article 114 exist, detention shall not be permitted unless that the accused is released on bail, or to the custody of another, or with a limitation on his residence is not workable.
第 102 條(羈押－押票)	**第 102 條**	**Article 102**
羈押被告，應用押票。	羈押被告，應用押票。	A writ of detention is necessary to detain an accused.
押票，應按被告指印，並記載左列事項：	押票，應按被告指印，並記載左列事項：	A writ of detention shall be fingerprinted by the accused, and specify the following matters:
一、被告之姓名、性別、年齡、出生地及住所或居所。	一　被告之姓名、性別、年齡、出生地及住所或居所。	(1) Full name, sex, age, place of birth, and domicile or residence of the accused;
二、案由及觸犯之法條。	二　案由及觸犯之法條。	(2) Offense and article of the Code charged;
三、羈押之理由及其所依據之事實。	三　羈押之理由及其所依據之事實。	(3) Reason for detention and the facts based upon;
四、應羈押之處所。	四　應羈押之處所。	(4) Place of detention;
五、羈押期間及其起算日。	五　羈押期間及其起算日。	(5) Time period of detention and its starting date;
六、如不服羈押處分之救濟方法。	六　如不服羈押處分之救濟方法。	(6) Remedy available for challenging the order of detention.
第七十一條第三項之規定，於押票準用之。	第七十一條第三項之規定，於押票準用之。	The provisions of section III of Article 71 shall apply mutatis mutandis to a writ of detention.
押票，由法官簽名。	押票，由法官簽名。	A writ of detention shall be signed by a judge.
第 103 條(羈押－執行)	**第 103 條**	**Article 103**
執行羈押，偵查中依檢察官之指揮：審判中依審判長或受命法官之指揮，由司法警察將被告解送指定之看守所，該所長官查驗人別無誤後，應於押票附記解到之年、月、日、時並簽名。	執行羈押，偵查中依檢察官之指揮：審判中依審判長或受命法官之指揮，由司法警察將被告解送指定之看守所，該所長官查驗人別無誤後，應於押票附記解到之年、月、日、時並簽名。	The execution of detention shall be, during the stage of investigation, administered by a public prosecutor, and during the stage of trial, administered by the presiding or commissioned judge. A writ of detention shall be executed by a judicial policeman by sending the accused to the specified detention house; the officer in charge of the house shall, after confirming the identity of the accused, note the date and time of the admission on the writ of detention and sign his name.
執行羈押時，押票應分別送交檢察官、看守所、辯護人、被告及其指定之親友。	執行羈押時，押票應分別送交檢察官、看守所、辯護人、被告及其指定之親友。	In the execution of a writ of detention, the writ shall be sent to the public prosecutor, the detention house, the defense attorney, the accused, and the relative or friend appointed by the accused.
第八十一條、第八十九條及第九十條之規定，於執行羈押準用	第八十一條、第八十九條及第九十條之規定，於執行羈押準用之。	The provisions of Articles 81, 89, and 90 shall apply mutatis mutandis to the execution of detention.

之。

第 103-1 條(聲請變更羈押處所)	第 103-1 條	Article 103- 1
偵查中檢察官、被告或其辯護人認有維護看守所及在押被告安全或其他正當事由者，得聲請法院變更在押被告之羈押處所。	偵查中檢察官、被告或其辯護人認有維護看守所及在押被告安全或其他正當事由者，得聲請法院變更在押被告之羈押處所。	In the proceeding of investigation, if the public prosecutor, the accused, or his defense attorney deems that it is necessary for the protection of the detention house and for the preservation of the safety of the accused detained, or for other proper reasons, he may apply to the court to change the place of detention.
法院依前項聲請變更被告之羈押處所時，應即通知檢察官、看守所、辯護人、被告及其指定之親友。	法院依前項聲請變更被告之羈押處所時，應即通知檢察官、看守所、辯護人、被告及其指定之親友。	A notice of change shall be sent to the public prosecutor, the detention house, the defense attorney, the accused, and the relative or friend appointed by the accused, if the court makes a change in the place of detention based on the application according to the provisions of the preceding section.
第 104 條	**第 104 條**	**Article 104**
(刪除)	(刪除)	(Deleted)
第 105 條(羈押之方法)	**第 105 條**	**Article 105**
管束羈押之被告，應以維持羈押之目的及押所之秩序所必要者為限。	管束羈押之被告，應以維持羈押之目的及押所之秩序所必要者為限。	A detained accused may be placed under restraint only if such restraint is necessary to accomplish the purpose of the detention house or to maintain order in the detention house.
被告得自備飲食及日用必需物品，並與外人接見、通信、受授書籍及其他物件。但押所得監視或檢閱之。	被告得自備飲食及日用必需物品，並與外人接見、通信、受授書籍及其他物件。但押所得監視或檢閱之。	An accused may have his own food and daily necessities, may receive visitors, may send and receive mail, and receive books or other things, but the detention house may censor them.
法院認被告為前項之接見、通信及受授物件有足致其脫逃或湮滅、偽造、變造證據或勾串共犯或證人之虞者，得依檢察官之聲請或依職權命禁止或扣押之。但檢察官或押所遇有急迫情形時，得先為必要之處分，並應即時陳報法院核准。	法院認被告為前項之接見、通信及受授物件有足致其脫逃或湮滅、偽造、變造證據或勾串共犯或證人之虞者，得依檢察官之聲請或依職權命禁止或押之。但檢察官或押所遇有急迫情形時，得先為必要之處分，並應即時陳報法院核准。	If a court deems that the meeting with visitors, and the sending or receiving of mails or things as specified in the preceding section produce facts sufficient to justify an apprehension that the accused may escape or destroy, forge, or alter evidence or conspire with a co-offender or witness, the court may, upon the application of the public prosecutor or muto proprio, prohibit the meeting, sending and receiving or seize the things received. In case of emergency, the public prosecutor or the detention house may take necessary actions, provided that the same shall be referred immediately to the court concerned for approval.
依前項所為之禁止或	依前項所為之禁止或扣	The object, scope, and time period subject to

扣押，其對象、範圍及期間等，偵查中由檢察官；審判中由審判長或受命法官指定並指揮看守所為之。但不得限制被告正當防禦之權利。

押，其對象、範圍及期間等，偵查中由檢察官；審判中由審判長或受命法官指定並指揮看守所為之。但不得限制被告正當防禦之權利。

the prohibition or seizure made in accordance with the provisions of the preceding section shall be decided, in the stage of investigation, by the public prosecutor, and in the stage of trial, by the presiding judge or commissioned judge. The same shall be enforced by the detention house under the instruction of the above referenced persons, provided that nothing can be done to restraint the accused's justified right of defending himself.

被告非有事實足認為有暴行或逃亡、自殺之虞者，不得束縛其身體。束縛身體之處分，以有急迫情形者為限，由押所長官行之，並應即時陳報法院核准。

被告非有事實足認為有暴行或逃亡、自殺之虞者，不得束縛其身體。束縛身體之處分，以有急迫情形者為限，由押所長官行之，並應即時陳報法院核准。

No restraint shall be placed upon the body of an accused unless sufficient facts exists to support the apprehension of violence, escape, or suicide; such restraint shall be taken by the officer in charge of the detention house only in the case of urgent necessity, and such action shall be referred immediately to the court for approval.

第 106 條(押所之視察)

羈押被告之處所，檢察官應勤加視察，按旬將視察情形陳報主管長官，並通知法院。

第 106 條

羈押被告之處所，檢察官應勤加視察，按旬將視察情形陳報主管長官，並通知法院。

Article 106

A public prosecutor shall diligently inspect a place where an accused is detained, report the result of his inspection to the competent superior officer, once every ten days, and notify the court.

第 107 條(羈押之撤銷)

羈押於其原因消滅時，應即撤銷羈押，將被告釋放。

被告、辯護人及得為被告輔佐人之人得聲請法院撤銷羈押。檢察官於偵查中亦得為撤銷羈押之聲請。

法院對於前項之聲請得聽取被告、辯護人或得為被告輔佐人之人陳述意見。

偵查中經檢察官聲請撤銷羈押者，法院應撤銷羈押，檢察官得於聲請時先行釋放被告。

偵查中之撤銷羈押，除依檢察官聲請者外，應

第 107 條

羈押於其原因消滅時，應即撤銷羈押，將被告釋放。

被告、辯護人及得為被告輔佐人之人得聲請法院撤銷羈押。檢察官於偵查中亦得為撤銷羈押之聲請。

法院對於前項之聲請得聽取被告、辯護人或得為被告輔佐人之人陳述意見。

偵查中經檢察官聲請撤銷羈押者，法院應撤銷羈押，檢察官得於聲請時先行釋放被告。

偵查中之撤銷羈押，除依檢察官聲請者外，應

Article 107

As soon as the reason for detention ceases to exist, the detention shall be canceled immediately and the accused released.

An accused, the defense attorney, and the person qualified to be the assistant of the accused may apply to the court for cancellation of the detention; the public prosecutor may, also make the said application during the stage of investigation.

The court in deciding whether to approve the application for cancellation of detention referred to in the preceding section may consider statements made by the accused, the defense attorney, or the person qualified to be the assistant of the accused.

During the stage of investigation, upon the public prosecutor's application, the court shall cancel the detention; the public prosecutor may release the accused prior to submitting the application.

During the stage of investigation, the court shall consult with the public prosecutor prior

徵詢檢察官之意見。	徵詢檢察官之意見。	to cancellation of the detention except the application for cancellation of detention is made by the public prosecutor.
第 108 條(羈押之期間)	**第 108 條**	**Article 108**
羈押被告，偵查中不得逾二月，審判中不得逾三月。但有繼續羈押之必要者，得於期間未滿前，經法院依第一百零一條或第一百零一條之一之規定訊問被告後，以裁定延長之。在偵查中延長羈押期間，應由檢察官附具體理由，至遲於期間屆滿之五日前聲請法院裁定。	**羈押被告，偵查中不得逾二月，審判中不得逾三月。但有繼續羈押之必要者，得於期間未滿前，經法院依第一百零一條或第一百零一條之一之規定訊問被告後，以裁定延長之。在偵查中延長羈押期間，應由檢察官附具體理由，至遲於期間屆滿之五日前聲請法院裁定。**	Detention of an accused may not exceed two months during the stage of investigation and three months during the stage of trial, provided that if it is necessary to continue the detention, the court may, prior to the expiration of the period, after examining the accused in accordance with the provision of Article 101 or Article 101-1 extend such period by a ruling. Application for a ruling for extension of the detention period during the stage of investigation shall be made by the public prosecutor with reasons and submitted to the court no later than 5 days prior to the expiration of the period.
前項裁定，除當庭宣示者外，於期間未滿前以正本送達被告者，發生延長羈押之效力。羈押期滿，延長羈押之裁定未經合法送達者，視為撤銷羈押。	**前項裁定，除當庭宣示者外，於期間未滿前以正本送達被告者，發生延長羈押之效力。羈押期滿，延長羈押之裁定未經合法送達者，視為撤銷羈押。**	The ruling made in accordance with the provision of the preceding section shall, unless pronounced in court, be effective upon serving a true copy on the accused prior to the expiration of the detention period and the period shall be extended accordingly. If the ruling has not been legally served by the expiration of the detention period, the detention shall be deemed canceled.
審判中之羈押期間，自卷宗及證物送交法院之日起算。起訴或裁判後送交前之羈押期間算入偵查中或原審法院之羈押期間。	**審判中之羈押期間，自卷宗及證物送交法院之日起算。起訴或裁判後送交前之羈押期間算入偵查中或原審法院之羈押期間。**	During the stage of trial, the detention period shall be counted from the date the case file and exhibits had been sent to the court; the detention period from the date the prosecution has initiated or judgment is rendered, but prior to being sent out shall be counted against the detention period at the investigation stage or that of the original trial court.
羈押期間自簽發押票之日起算。但羈押前之逮捕、拘提期間，以一日折算裁判確定前之羈押日數一日。	**羈押期間自簽發押票之日起算。但羈押前之逮捕、拘提期間，以一日折算裁判確定前之羈押日數一日。**	Detention period shall be counted from the date the writ of detention is issued; the period of time that the accused is kept in custody after the arrest is made with or without a warrant shall be counted as the detention period before final judgment on a day-by-day basis.
延長羈押期間，偵查中不得逾二月，以延長一次為限。審判中每次不得逾二月，如所犯最重本刑為十年以下有期	**延長羈押期間，偵查中不得逾二月，以延長一次為限。審判中每次不得逾二月，如所犯最重本刑為十年以下有期徒**	Extension of the period of detention, during the investigation stage, may not exceed two months, and only one extension is allowed; during the trial stage, each extension may not exceed two months; if the maximum

徒刑以下之刑者，第一審、第二審以三次為限，第三審以一次為限。	**刑以下之刑者，第一審、第二審以三次為限，第三審以一次為限。**	punishment for the offense charged does not exceed imprisonment of ten years, extension may be allowed three times during the first instance and the second instance, and one time only during the third instance.
案件經發回者，其延長羈押期間之次數，應更新計算。	**案件經發回者，其延長羈押期間之次數，應更新計算。**	If a case is remanded, the number of extensions for the period of detention shall be counted anew.
羈押期間已滿未經起訴或裁判者，視為撤銷羈押，檢察官或法院應將被告釋放；由檢察官釋放被告者，並應即時通知法院。	**羈押期間已滿未經起訴或裁判者，視為撤銷羈押，檢察官或法院應將被告釋放；由檢察官釋放被告者，並應即時通知法院。**	If no prosecution has been initiated or no judgment has been rendered at the expiration of the detention period, the detention shall be deemed canceled, and the public prosecutor or the court shall release the accused; if the accused is released by the public prosecutor, the public prosecutor shall immediately notify the court of the same.
依第二項及前項視為撤銷羈押者，於釋放前，偵查中，檢察官得聲請法院命被告具保、責付或限制住居。如認為不能具保、責付或限制住居，而有必要者，並得附具體理由一併聲請法院依第一百零一條或第一百零一條之一之規定訊問被告後繼續羈押之。審判中，法院得命具保、責付或限制住居；如不能具保、責付或限制住居，而有必要者，並得依第一百零一條或第一百零一條之一之規定訊問被告後繼續羈押之。但所犯為死刑、無期徒刑或最輕本刑為七年以上有期徒刑之罪者，法院就偵查中案件，得依檢察官之聲請；就審判中案件，得依職權，逕依第一百零一條之規定訊問被告後繼續羈押之。		
前項繼續羈押之期間自視為撤銷羈押之日起算，以二月為限，不得延長。		
繼續羈押期間屆滿者，應即釋放被告。		
第一百十一條、第一百		

十三條、第一百十五條、第一百十六條、第一百十六條之二、第一百十七條、第一百十八條第一項、第一百十九條之規定，於第八項之具保、責付或限制住居準用之。		
第 109 條(羈押之撤銷(三)－逾刑期)	第 109 條(羈押之撤銷(三)－逾刑期)	**Article 109**
案件經上訴者，被告羈押期間如已逾原審判決之刑期者，應即撤銷羈押，將被告釋放。但檢察官為被告之不利益而上訴者，得命具保、責付或限制住居。	案件經上訴者，被告羈押期間如已逾原審判決之刑期者，應即撤銷羈押，將被告釋放。但檢察官為被告之不利益而上訴者，得命具保、責付或限制住居。	If a case is appealed and the period during which the accused has been detained exceeds the term of imprisonment imposed by the original judgment, the detention shall be immediately canceled and the accused released; if the public prosecutor appeals against the interests of the accused, the accused may be released on bail or to the custody of another, or with a limitation on his residence.
第 110 條(具保聲請停止羈押)	第 110 條	**Article 110**
被告及得為其輔佐人之人或辯護人，得隨時具保，向法院聲請停止羈押。	被告及得為其輔佐人之人或辯護人，得隨時具保，向法院聲請停止羈押。	An accused or persons who may act as his assistants or the defense attorney may at any time apply to the court for the suspension of detention of the accused on bail..
檢察官於偵查中得聲請法院命被告具保停止羈押。	檢察官於偵查中得聲請法院命被告具保停止羈押。	During the investigation stage the public prosecutor may apply to the court for the suspension of detention of the accused on bail.
前二項具保停止羈押之審查，準用第一百零七條第三項之規定。	前二項具保停止羈押之審查，準用第一百零七條第三項之規定。	The provision of section III of Article 107 shall apply mutatis mutandis to the examination of the application for suspension of detention on bail as specified in the preceding section.
偵查中法院為具保停止羈押之決定時，除有第一百十四條及本條第二項之情形者外，應徵詢檢察官之意見。	偵查中法院為具保停止羈押之決定時，除有第一百十四條及本條第二項之情形者外，應徵詢檢察官之意見。	The court, in deciding whether to grant the suspension of detention, during the investigation stage, shall consult the public prosecutor for his opinion, unless the circumstances specified in Article 114 or section II of this Article exist.
第 111 條(許可具保停止羈押之條件)	第 111 條	**Article 111**
許可停止羈押之聲請者，應命提出保證書，並指定相當之保證金	許可停止羈押之聲請者，應命提出保證書，並指定相當之保證金	If an application for suspension of detention is permitted, an order shall be issued requiring a bail bond and specifying an

額。	額。	appropriate amount of bail.
保證書以該管區域內殷實之人所具者為限，並應記載保證金額及依法繳納之事由。	保證書以該管區域內殷實之人所具者為限，並應記載保證金額及依法繳納之事由。	The bail bond shall be signed only by a reliable person within the judicial district of the court; it shall contain a statement of the amount of the bail and a statement that payment will be made in accordance with law.
指定之保證金額，如聲請人願繳納或許由第三人繳納者，免提出保證書。	指定之保證金額，如聲請人願繳納或許由第三人繳納者，免提出保證書。	If an applicant is willing to provide the specified bail or a third party is permitted to supply it, a bail bond is not necessary.
繳納保證金，得許以有價證券代之。	繳納保證金，得許以有價證券代之。	A negotiable instrument may be substituted for the bail.
許可停止羈押之聲請者，得限制被告之住居。	許可停止羈押之聲請者，得限制被告之住居。	In cases where an application for suspension of detention is permitted, the residence of an accused may be limited.
第 112 條(保釋(二)－保證金之限制)	第 112 條(保釋(二)－保證金之限制)	**Article 112**
被告係犯專科罰金之罪者，指定之保證金額，不得逾罰金之最多額。	被告係犯專科罰金之罪者，指定之保證金額，不得逾罰金之最多額。	If the offense charged is punishable only by a fine, the amount of bail may not exceed the maximum amount of the fine.
第 113 條(保釋(三)－生效期)	第 113 條(保釋(三)－生效期)	**Article 113**
許可停止羈押之聲請者，應於接受保證書或保證金後，停止羈押，將被告釋放。	許可停止羈押之聲請者，應於接受保證書或保證金後，停止羈押，將被告釋放。	If an application for suspension of detention is permitted, the accused shall be released upon receipt of the bail bond or bail.
第 114 條(駁回聲請停止羈押之限制)	第 114 條	**Article 114**
羈押之被告，有左列情形之一者，如經具保聲請停止羈押，不得駁回：	羈押之被告，有左列情形之一者，如經具保聲請停止羈押，不得駁回：	An application for suspension of detention of an accused under detention who has provided a bail bond, shall not be denied if one of the following circumstances exists:
一、所犯最重本刑為三年以下有期徒刑、拘役或專科罰金之罪者。但累犯、常業犯、有犯罪之習慣、假釋中更犯罪或依第一百零一條之一第一項羈押者，不在此限。	一　所犯最重本刑為三年以下有期徒刑、拘役或專科罰金之罪者。但累犯、常業犯、有犯罪之習慣、假釋中更犯罪或依第一百零一條之一第一項羈押者，不在此限。	(1) The maximum punishment for the offense charged is imprisonment for a period of less than three year, detention, or a fine. If the accused detained is a recidivist, or a person who makes the commission of crime a habit or occupation, a person who commits a crime during the period of parole, or a person detained under section I of Article 101, then the said rule shall not apply;
二、懷胎五月以上或生產後二月未滿者。	二　懷胎五月以上或生產後二月未滿者。	(2) The accused has been pregnant for five months or more or has given birth during the preceding two months;

三、現罹疾病，非保外治療顯難痊癒者。	三　現罹疾病，非保外治療顯難痊癒者。	(3) The accused is ill, and it appears that cure will be difficult unless he is released for medical treatment.
第 115 條(停止羈押(二)－責付)	第 115 條(停止羈押(二)－責付)	**Article 115**
羈押之被告，得不命具保而責付於得為其輔佐人之人或該管區域內其他適當之人，停止羈押。	羈押之被告，得不命具保而責付於得為其輔佐人之人或該管區域內其他適當之人，停止羈押。	Detention of an accused may be suspended without bail and the accused committed to the custody of a person who may act as his assistant or another suitable person within the judicial district of the court.
受責付者，應出具證書，載明如經傳喚應令被告隨時到場。	受責付者，應出具證書，載明如經傳喚應令被告隨時到場。	A person who has been given custody of an accused shall give a written assurance obligating himself for the appearance of such accused at any time summoned.
第 116 條(停止羈押(三)－限制住居)	第 116 條(停止羈押(三)－限制住居)	**Article 116**
羈押之被告，得不命具保而限制其住居，停止羈押。	羈押之被告，得不命具保而限制其住居，停止羈押。	Detention of an accused may be suspended without bail, but limitation on his residence imposed.
第 116-1 條(有關法條之準用)	第 116-1 條	**Article 116- 1**
第一百十條第二項至第四項之規定，於前二條之責付、限制住居準用之。	第一百十條第二項至第四項之規定，於前二條之責付、限制住居準用之。	The provisions of section II through section IV of Article 110 shall apply mutatis mutandis to the release of the accused to the custody of another or with a limitation on his residence.
第 116-2 條(許可停止羈押時應遵守事項)	第 116-2 條	**Article 116- 2**
法院許可停止羈押時，得命被告應遵守下列事項：	法院許可停止羈押時，得命被告應遵守下列事項：	In granting the suspension of detention, the court may set the following conditions to be complied by the accused:
一、定期向法院或檢察官報到。	一　定期向法院或檢察官報到。	(1) Report to the court or public prosecutor periodically;
二、不得對被害人、證人、鑑定人、辦理本案偵查、審判之公務員或其配偶、直系血親、三親等內之旁系血親、二親等內之姻親、家長、家屬之身體或財產實施危害或恐嚇之行為。	二　不得對被害人、證人、鑑定人、辦理本案偵查、審判之公務員或其配偶、直系血親、三親等內之旁系血親、二親等內之姻親、家長、家屬之身體或財產實施危害或恐嚇之行為。	(2) No threat of causing personal injury or property damage made to or action taken against the victim, witness, expert witness, the public official in charge of investigation or trial of the subject case, or the spouse, lineal blood relatives, collateral blood relatives within the third degree of kinship, relative by marriage within the second degree of relationship, family head or family member of the said public official;
三、因第一百十四條第三款之情形停止羈押	三　因第一百十四條第三款之情形停止羈押	(3) If suspension of detention is granted under the provisions of Item III of Article 114, no

者，除維持日常生活及職業所必需者外，未經法院或檢察官許可，不得從事與治療目的顯然無關之活動。	者，除維持日常生活及職業所必需者外，未經法院或檢察官許可，不得從事與治療目的顯然無關之活動。	activities unrelated to medical treatment are permitted without consent of the court or public prosecutor, except for the activities necessary to maintain normal life or profession;
四、其他經法院認為適當之事項。	四　其他經法院認為適當之事項。	(4) Other activities the court deems suitable.
第 117 條(再執行羈押之事由)	**第 117 條**	**Article 117**
停止羈押後有下列情形之一者，得命再執行羈押：	停止羈押後有下列情形之一者，得命再執行羈押：	An accused who has been released from detention may be detained again under one of the following circumstances:
一、經合法傳喚無正當之理由不到場者。	一　經合法傳喚無正當之理由不到場者。	(1) He has failed to appear without due reasons after having been legally summoned;
二、受住居之限制而違背者。	二　受住居之限制而違背者。	(2) He has violated the limitation placed upon his residence;
三、本案新發生第一百零一條第一項、第一百零一條之一第一項各款所定情形之一者。	三　本案新發生第一百零一條第一項、第一百零一條之一第一項各款所定情形之一者。	(3) The circumstances specified in section I of Article 101 or section I of Article 101-1 have newly arisen;
四、違背法院依前條所定應遵守之事項者。	四　違背法院依前條所定應遵守之事項者。	(4) Violation of the conditions needs to be complied with as set forth by the court under the preceding article;
五、所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪，被告因第一百十四條第三款之情形停止羈押後，其停止羈押之原因已消滅，而仍有羈押之必要者。	五　所犯為死刑、無期徒刑或最輕本刑為五年以上有期徒刑之罪，被告因第一百十四條第三款之情形停止羈押後，其停止羈押之原因已消滅，而仍有羈押之必要者。	(5) He has committed an offense punishable with death penalty, life imprisonment or with a minimum punishment of imprisonment for no less than five years, and was released under Item III of Article 114, but the reasons for suspension of detention have disappeared and there is a necessity for his detention.
偵查中有前項情形之一者，由檢察官聲請法院行之。	偵查中有前項情形之一者，由檢察官聲請法院行之。	If one of the circumstances specified in the preceding section exists at the investigation stage, the public prosecutor may apply for the re-detention of the accused to the court.
再執行羈押之期間，應與停止羈押前已經過之期間合併計算。	再執行羈押之期間，應與停止羈押前已經過之期間合併計算。	The time period of re-detention shall be counted together with the time period of detention prior to the suspension of the detention.
法院依第一項之規定命再執行羈押時，準用第一百零三條第一項之規定。	法院依第一項之規定命再執行羈押時，準用第一百零三條第一項之規定。	A court in re-detaining the accused in accordance with the provision of section I of this article may apply mutatis mutandis the provision of section I of Article 103.
第 117-1 條(逕命具保、責付、限制居住等之準用)	**第 117-1 條**	**Article 117- 1**
前二條之規定，於檢察	前二條之規定，於檢察官依第九十三條第三項	The provisions of the preceding two articles shall apply mutatis mutandis to the situations

官依第九十三條第三項但書或第二百二十八條第四項逕命具保、責付、限制住居，或法院依第一百零一條之二逕命具保、責付、限制住居之情形，準用之。	但書或第二百二十八條第四項逕命具保、責付、限制住居，或法院依第一百零一條之二逕命具保、責付、限制住居之情形，準用之。	where the public prosecutor releases the accused on bail, to the custody of another, or with a limitation on his residence in accordance with the proviso of section III of Article 93, or section IV of Article 228. The same rule applies when the court releases the accused on bail, to the custody of another, or with limitation on his residence under Article 101-2.
法院依前項規定羈押被告時，適用第一百零一條、第一百零一條之一之規定。檢察官聲請法院羈押被告時，適用第九十三條第二項之規定。	法院依前項規定羈押被告時，適用第一百零一條、第一百零一條之一之規定。檢察官聲請法院羈押被告時，適用第九十三條第二項之規定。	In detaining the accused under the preceding section by court, the provisions of Article 101 and 101-1 shall apply; if the public prosecutor applying for the detention of the accused to the court, the provision of section II of Article 93 shall apply.
因第一項之規定執行羈押者，免除具保之責任。	因第一項之規定執行羈押者，免除具保之責任。	The bail bond obligation shall be terminated, if the detention of an accused is made under the provision of section I of this article.
第 118 條(保證金之沒入)	第 118 條	**Article 118**
具保之被告逃匿者，應命具保人繳納指定之保證金額，並沒入之。不繳納者，強制執行。保證金已繳納者，沒入之。	具保之被告逃匿者，應命具保人繳納指定之保證金額，並沒入之。不繳納者，強制執行。保證金已繳納者，沒入之。	If an accused who has been released on bail absconds or conceals himself, the court shall order the surety to pay the amount of money specified in the order fixing bail and forfeit it; if the bail is not paid, compulsory execution shall be levied; if the cash bail bond has already been supplied, it shall be forfeited.
前項規定，於檢察官依第九十三條第三項但書及第二百二十八條第四項命具保者，準用之。	前項規定，於檢察官依第九十三條第三項但書及第二百二十八條第四項命具保者，準用之。	The provision of the preceding section shall apply mutatis mutandis to the case where the public prosecutor orders the release of the accused on bail under the proviso of section III of Article 93, and section IV of Article 228.
第 119 條(免除具保責任與退保)	第 119 條	**Article 119**
撤銷羈押、再執行羈押、受不起訴處分或因裁判而致羈押之效力消滅者，免除具保之責任。	撤銷羈押、再執行羈押、受不起訴處分或因裁判而致羈押之效力消滅者，免除具保之責任。	The obligation under a bail bond shall be terminated, if the detention of an accused is canceled, or if he is again detained, or if the detention is nullified by a decision not to indict or a judgment or ruling.
具保證書或繳納保證金之第三人，將被告預備逃匿情形，於得以防止之際報告法院、檢察官或司法警察官而聲請退保者，法院或檢察	具保證書或繳納保證金之第三人，將被告預備逃匿情形，於得以防止之際報告法院、檢察官或司法警察官而聲請退保者，法院或檢察官得	If a third party who furnished a written or cash bail bond reports to the court, public prosecutor, or judicial police officer the circumstances of an attempt by an accused to abscond or to conceal himself so that such abscondence or concealment may be

官得准其退保。但另有規定者，依其規定。	准其退保。但另有規定者，依其規定。	prevented, his application to withdraw the bond may be granted, unless the law provides otherwise.
免除具保之責任或經退保者，應將保證書註銷或將未沒入之保證金發還。	免除具保之責任或經退保者，應將保證書註銷或將未沒入之保證金發還。	If the obligation under a bail is terminated or a bail bond is withdrawn, the bond shall be canceled or the cash bail bond which has not been forfeited shall be returned.
前三項規定，於受責付者準用之。	前三項規定，於受責付者準用之。	The provisions of the preceding three sections shall apply mutatis mutandis to a person who has been given custody of an accused.
第 120 條	**第 120 條**	**Article 120**
(刪除)	(刪除)	(Deleted)
第 121 條(有關羈押各項處分之裁定或命令機關)	**第 121 條**	**Article 121**
第一百零七條第一項之撤銷羈押、第一百零九條之命具保、責付或限制住居、第一百十條第一項、第一百十五條及第一百十六條之停止羈押、第一百十八條第一項之沒入保證金、第一百十九條第二項之退保，以法院之裁定行之。	**第一百零七條第一項之撤銷羈押、第一百零九條之命具保、責付或限制住居、第一百十條第一項、第一百十五條及第一百十六條之停止羈押、第一百十八條第一項之沒入保證金、第一百十九條第二項之退保，以法院之裁定行之。**	The cancellation of detention specified in section I of Article 107, the release on bail, to the custody of another, or with a limitation on residence specified in Article 109, the suspension of detention specified in section I of Article 110, Article 115, and Article 116, the forfeiture of cash bail bond specified in section I of Article 118, the withdrawal of the bond specified in section II of Article 119, shall be made by a court in the form of a ruling.
案件在第三審上訴中，而卷宗及證物已送交該法院者，前項處分、羈押及其他關於羈押事項之處分，由第二審法院裁定之。	**案件在第三審上訴中，而卷宗及證物已送交該法院者，前項處分由第二審法院裁定之。**	A ruling relating to the matter specified in the preceding section shall be made by the court of the second instance while the case appeal is pending at the court of the third instance and the case file and exhibits have already been sent to the said court.
第二審法院於為前項裁定前，得向第三審法院調取卷宗及證物。	**第二審法院於為前項裁定前，得向第三審法院調取卷宗及證物。**	In making the ruling specified in the preceding section, the court of the second instance may request the delivery of the case file and exhibits from the court of the third instance.
檢察官依第一百十八條第二項之沒入保證金、第一百十九條第二項之退保及第九十三條第三項但書、第二百二十八條第四項命具保、責付或限制住居，於偵查中以檢察官之命令行之。	**檢察官依第一百十八條第二項之沒入保證金、第一百十九條第二項之退保及第九十三條第三項但書、第二百二十八條第四項命具保、責付或限制住居，於偵查中以檢察官之命令行之。**	During the investigation stage, the forfeiture of cash bail bond specified in section II of Article 118, the withdrawal of the bond specified in section II of Article 119 and the order to furnish bail, release to the custody of another, or with limitation on residence specified in the proviso of section III of Article 93 and section IV of Article 228, shall be made by a public prosecutor in the form of an order.

第一一章 搜索及扣押	第一一章 搜索及扣押	CHAPTER XI Search and Seizure
第 122 條(搜索之客體) 對於被告或犯罪嫌疑人之身體、物件、電磁紀錄及住宅或其他處所，必要時得搜索之。 對於第三人之身體、物件、電磁紀錄及住宅或其他處所，以有相當理由可信為被告或犯罪嫌疑人或應扣押之物或電磁紀錄存在時為限，得搜索之。	第 122 條 對於被告或犯罪嫌疑人之身體、物件、電磁紀錄及住宅或其他處所，必要時得搜索之。 對於第三人之身體、物件、電磁紀錄及住宅或其他處所，以有相當理由可信為被告或犯罪嫌疑人或應扣押之物或電磁紀錄存在時為限，得搜索之。	**Article 122** If necessary, the person, property, electronic record, dwelling, or other premises of an accused or a suspect may be searched. The person, property, electronic record, dwelling, or other premises of a third party may be searched only when there is probable cause to believe that the accused or the suspect, or property or electronic record subject to seizure is there.
第 123 條(搜索之限制(一)－搜索婦女) 搜索婦女之身體，應命婦女行之。但不能由婦女行之者，不在此限。	第 123 條(搜索之限制(一)－搜索婦女) 搜索婦女之身體，應命婦女行之。但不能由婦女行之者，不在此限。	**Article 123** Search of the person of a female shall be conducted by a woman unless it is impossible.
第 124 條(搜索之應注意事項) 搜索應保守秘密，並應注意受搜索人之名譽。	第 124 條(搜索之應注意事項) 搜索應保守秘密，並應注意受搜索人之名譽。	**Article 124** A search shall be kept secret, and attention shall be paid to the reputation of the person searched.
第 125 條(證明書之付與) 經搜索而未發見應扣押之物者，應付與證明書於受搜索人。	第 125 條(證明書之付與) 經搜索而未發見應扣押之物者，應付與證明書於受搜索人。	**Article 125** If no property subject to seizure is found, a certificate to that effect shall be given to the person who was searched.
第 126 條(扣押之限制(一)－一般公物、公文書) 政府機關或公務員所持有或保管之文書及其他物件應扣押者，應請求交付。但於必要時得搜索之。	第 126 條(扣押之限制(一)－一般公物、公文書) 政府機關或公務員所持有或保管之文書及其他物件應扣押者，應請求交付。但於必要時得搜索之。	**Article 126** If a document or other thing held or kept by a public office or public official is to be seized, a request shall be made for its surrender, provided that a search may be made if necessary.
第 127 條(搜索之限制－軍事秘密處) 軍事上應秘密之處所，非得該管長官之允許，不得搜索。	第 127 條 軍事上應秘密之處所，非得該管長官之允許，不得搜索。	**Article 127** A place which must be kept secret for military purposes shall not be searched without the permission of the officer in

		charge.
前項情形，除有妨害國家重大利益者外，不得拒絕。	前項情形，除有妨害國家重大利益者外，不得拒絕。	Under the circumstance specified in the preceding section, the permission cannot be withheld except for the possibility of violation of major national interests.
第 128 條(搜索票)	**第 128 條**	**Article 128**
搜索，應用搜索票。	搜索，應用搜索票。	A search warrant is required to conduct a search.
搜索票，應記載下列事項：	搜索票，應記載下列事項：	A search warrant shall contain the following matters:
一、案由。	一　案由。	(1) Offense charged;
二、應搜索之被告、犯罪嫌疑人或應扣押之物。但被告或犯罪嫌疑人不明時，得不予記載。	二　應搜索之被告、犯罪嫌疑人或應扣押之物。但被告或犯罪嫌疑人不明時，得不予記載。	(2) The accused or suspect to be searched or the property to be seized; if the accused or suspect is unknown the, same can be waived;
三、應加搜索之處所、身體、物件或電磁紀錄。	三　應加搜索之處所、身體、物件或電磁紀錄。	(3) The place, person, property or electronic record to be searched;
四、有效期間，逾期不得執行搜索及搜索後應將搜索票交還之意旨。	四　有效期間，逾期不得執行搜索及搜索後應將搜索票交還之意旨。	(4) The period that the warrant remains valid shall be specified; no search can be made after the expiration date; search warrant shall be returned after its execution.
搜索票，由法官簽名。法官並得於搜索票上，對執行人員為適當之指示。	搜索票，由法官簽名。法官並得於搜索票上，對執行人員為適當之指示。	A search warrant shall be signed by a judge; the judge may specify proper instructions, to be followed by the person executing the search, on the search warrant.
核發搜索票之程序，不公開之。	核發搜索票之程序，不公開之。	The procedure in issuing of the search warrant shall not be open to the public.
第 128-1 條(聲請核發搜索票)	**第 128-1 條**	**Article 128- 1**
偵查中檢察官認有搜索之必要者，除第一百三十一條第二項所定情形外，應以書面記載前條第二項各款之事項，並敘述理由，聲請該管法院核發搜索票。	偵查中檢察官認有搜索之必要者，除第一百三十一條第二項所定情形外，應以書面記載前條第二項各款之事項，並敘述理由，聲請該管法院核發搜索票。	During the investigation stage, if the public prosecutor deems that a search is necessary, he shall apply for a search warrant to the court concerned in writing, containing the matters specified in section II of the preceding article, together with the reason thereof, except for the circumstances specified in section II of Article 131.
司法警察官因調查犯罪嫌疑人犯罪情形及蒐集證據，認有搜索之必要時，得依前項規定，報請檢察官許可後，向該管法院聲請核發搜索票。	司法警察官因調查犯罪嫌疑人犯罪情形及蒐集證據，認有搜索之必要時，得依前項規定，報請檢察官許可後，向該管法院聲請核發搜索票。	A judicial police officer, for the purpose of investigating the details of offense committed by the suspect and gathering evidences of the offense, may, if necessary, after obtaining permission from the public prosecutor, apply for a search warrant from the court concerned.
前二項之聲請經法院	前二項之聲請經法院駁	If the application specified in the preceding

現行條文	舊條文	English
駁回者，不得聲明不服。	回者，不得聲明不服。	two sections is denied, the ruling is not appealable.
第 128-2 條(搜索之執行)	**第 128-2 條**	**Article 128- 2**
搜索，除由法官或檢察官親自實施外，由檢察事務官、司法警察官或司法警察執行。	搜索，除由法官或檢察官親自實施外，由檢察事務官、司法警察官或司法警察執行。	A search shall be conducted by a public prosecuting affairs official, judicial police officer, or judicial policeman unless it is personally made by a judge or public prosecutor.
檢察事務官為執行搜索，必要時，得請求司法警察官或司法警察輔助。	檢察事務官為執行搜索，必要時，得請求司法警察官或司法警察輔助。	A public prosecuting affairs official in conducting a search, may seek assistance from the judicial police officer or judicial policeman if necessary.
第 129 條	**第 129 條**	**Article 129**
(刪除)	(刪除)	(Deleted)
第 130 條(附帶搜索)	**第 130 條**	**Article 130**
檢察官、檢察事務官、司法警察官或司法警察逮捕被告、犯罪嫌疑人或執行拘提、羈押時，雖無搜索票，得逕行搜索其身體、隨身攜帶之物件、所使用之交通工具及其立即可觸及之處所。	檢察官、檢察事務官、司法警察官或司法警察逮捕被告、犯罪嫌疑人或執行拘提、羈押時，雖無搜索票，得逕行搜索其身體、隨身攜帶之物件、所使用之交通工具及其立即可觸及之處所。	An accused or a suspect arrested with or without a warrant or detained by a public prosecutor, public prosecuting affairs official, judicial police officer, or judicial policeman, may be searched without a search warrant. The same shall apply to the items he is carrying, the transportation vehicle he is using, and the premises within his immediate control.
第 131 條(逕行搜索)	**第 131 條**	**Article 131**
有左列情形之一者，檢察官、檢察事務官、司法警察官或司法警察，雖無搜索票，得逕行搜索住宅或其他處所：	有左列情形之一者，檢察官、檢察事務官、司法警察官或司法警察，雖無搜索票，得逕行搜索住宅或其他處所：	A public prosecutor, public prosecuting affairs official, judicial police officer, or judicial policeman may search a dwelling or other premises without a search warrant, under one of the following circumstances:
一、因逮捕被告、犯罪嫌疑人或執行拘提、羈押，有事實足認被告或犯罪嫌疑人確實在內者。	一　因逮捕被告、犯罪嫌疑人或執行拘提、羈押，有事實足認被告或犯罪嫌疑人確實在內者。	(1) To arrest an accused or a suspect with or without a warrant or to detain him, provided that there are facts sufficient to justify a conclusion that the accused or criminal suspect is therein;
二、因追躡現行犯或逮捕脫逃人，有事實足認現行犯或脫逃人確實在內者。	二　因追躡現行犯或逮捕脫逃人，有事實足認現行犯或脫逃人確實在內者。	(2) To pursue a person in flagrante delicto or to arrest, without a warrant, a person who has escaped, provided that there are facts sufficient to justify a conclusion that the said person is therein;
三、有明顯事實足信為有人在內犯罪而情形急迫者。	三　有明顯事實足信為有人在內犯罪而情形急迫者。	(3) When there are obvious facts to believe that a person inside the premise is committing a crime and the circumstances are urgent.

檢察官於偵查中確有相當理由認為情況急迫，非迅速搜索，二十四小時內證據有偽造、變造、湮滅或隱匿之虞者，得逕行搜索，或指揮檢察事務官、司法警察官或司法警察執行搜索，並層報檢察長。

檢察官於偵查中確有相當理由認為情況急迫，非迅速搜索，二十四小時內證據有偽造、變造、湮滅或隱匿之虞者，得逕行搜索，或指揮檢察事務官、司法警察官或司法警察執行搜索，並層報檢察長。

During the investigation stage, a public prosecutor may conduct a search without a warrant or instruct the public prosecuting affairs official, judicial police officer, or judicial policeman to do it and report the same to the public prosecutor general, if there really are probable cause to believe that circumstances are exigent and there are sufficient facts to justify an apprehension that the evidence shall be destroyed, forged, altered, or concealed within twenty four hours unless a search is conducted immediately.

前二項搜索，由檢察官為之者，應於實施後三日內陳報該管法院；由檢察事務官、司法警察官或司法警察為之者，應於執行後三日內報告該管檢察署檢察官及法院。法院認為不應准許者，應於五日內撤銷之。

前二項搜索，由檢察官為之者，應於實施後三日內陳報該管法院；由檢察事務官、司法警察官或司法警察為之者，應於執行後三日內報告該管檢察署檢察官及法院。法院認為不應准許者，應於五日內撤銷之。

If the search specified in the preceding two sections is conducted by a public prosecutor, the same shall be reported to the court concerned within three days. If it is conducted by a public prosecuting affairs official, judicial police officer, or judicial policeman, the same shall be reported to the public prosecutor of the public prosecutor office concerned and the court within three days. If the court decides that the search should not be approved, the court shall cancel it within five days.

第一項、第二項之搜索執行後未陳報該管法院或經法院撤銷者，審判時法院得宣告所扣得之物，不得作為證據。

第一項、第二項之搜索執行後未陳報該管法院或經法院撤銷者，審判時法院得宣告所扣得之物，不得作為證據。

If the search conducted under section I or II has not been reported to the court concerned, or has been canceled by the court, the court at trial may declare the things seized inadmissible as evidence.

第 131-1 條(同意搜索)

搜索，經受搜索人出於自願性同意者，得不使用搜索票。但執行人員應出示證件，並將其同意之意旨記載於筆錄。

第 131-1 條

搜索，經受搜索人出於自願性同意者，得不使用搜索票。但執行人員應出示證件，並將其同意之意旨記載於筆錄。

Article 131- 1

A search may be made without a search warrant with the voluntary consent of the person being searched, provided that the person conducting the search shall show his proof of identity to the person being searched, and put the fact of the consent being given in the records.

第 132 條(強制搜索)

抗拒搜索者，得用強制力搜索之。但不得逾必要之程度。

第 132 條(強制搜索)

抗拒搜索者，得用強制力搜索之。但不得逾必要之程度。

Article 132

If a search is resisted, force may be used, but such force may not be excessive.

第 132-1 條(搜索結果之陳報)

檢察官或司法警察官於聲請核發之搜索票

第 132-1 條

檢察官或司法警察官於聲請核發之搜索票執行後，應將執行結果陳報

Article 132- 1

After executing the search warrant issued upon application, the public prosecutor, or judicial police officer shall report the results

執行後，應將執行結果陳報核發搜索票之法院，如未能執行者，應敘明其事由。	核發搜索票之法院，如未能執行者，應敘明其事由。	to the court issuing the search warrant; if it cannot be executed, the reasons shall be explained thereof.
第 133 條(扣押之客體)	第 133 條(扣押之客體)	**Article 133**
可為證據或得沒收之物，得扣押之。	可為證據或得沒收之物，得扣押之。	A thing which can be used as evidence or is subject to confiscation may be seized.
對於應扣押物之所有人、持有人或保管人，得命其提出或交付。	對於應扣押物之所有人、持有人或保管人，得命其提出或交付。	The owner, possessor, or custodian of the property subject to seizure may be ordered to surrender or deliver it.
第 134 條(扣押之限制(二)－應守密之公物、公文書)	第 134 條(扣押之限制(二)－應守密之公物、公文書)	**Article 134**
政府機關、公務員或曾為公務員之人所持有或保管之文書及其他物件，如為其職務上應守秘密者，非經該管監督機關或公務員允許，不得扣押。	政府機關、公務員或曾為公務員之人所持有或保管之文書及其他物件，如為其職務上應守秘密者，非經該管監督機關或公務員允許，不得扣押。	A document or other property in the possession or custody of a public office, public official, or former public official which should be kept confidential for official reasons may not be seized without the permission of a supervisory public office or the public official in charge.
前項允許，除有妨害國家之利益者外，不得拒絕。	前項允許，除有妨害國家之利益者外，不得拒絕。	The permission specified in the preceding paragraph may not be withheld unless it is contrary to the interests of the State.
第 135 條(扣押之限制(三)－郵電)	第 135 條(扣押之限制(三)－郵電)	**Article 135**
郵政或電信機關，或執行郵電事務之人員所持有或保管之郵件、電報，有左列情形之一者，得扣押之：	郵政或電信機關，或執行郵電事務之人員所持有或保管之郵件、電報，有左列情形之一者，得扣押之：	Mail or a telegram which is in the possession or custody of a post office, telegraph office, or an official thereof may be seized under one of the following circumstances:
一、有相當理由可信其與本案有關係者。	一　有相當理由可信其與本案有關係者。	(1) If there is probable cause to believe that it is connected to the case.
二、為被告所發或寄交被告者。但與辯護人往來之郵件、電報，以可認為犯罪證據或有湮滅、偽造、變造證據或勾串共犯或證人之虞，或被告已逃亡者為限。	二　為被告所發或寄交被告者。但與辯護人往來之郵件、電報，以可認為犯罪證據或有湮滅、偽造、變造證據或勾串共犯或證人之虞，或被告已逃亡者為限。	(2) If it is sent by or to an accused, provided that mail or a telegram between an accused and his defense attorney may not be seized unless it is considered to be evidence of an offense; or it is apprehended that the addressee or the addresser may destroy, forge, or alter evidence or conspire with a co-offender or witness, or the accused has absconded.
為前項扣押者，應即通知郵件、電報之發送人或收受人。但於訴訟程序有妨害者，不在此限。	為前項扣押者，應即通知郵件、電報之發送人或收受人。但於訴訟程序有妨害者，不在此限。	If the seizure specified in the preceding section is executed, the addressee or the addresser of the mail or a telegram shall be notified unless it would interfere with judicial proceeding.

第 136 條(扣押之執行機關)

扣押，除由法官或檢察官親自實施外，得命檢察事務官、司法警察官或司法警察執行。

命檢察事務官、司法警察官或司法警察執行扣押者，應於交與之搜索票內，記載其事由。

第 136 條

扣押，除由法官或檢察官親自實施外，得命檢察事務官、司法警察官或司法警察執行。

命檢察事務官、司法警察官或司法警察執行扣押者，應於交與之搜索票內，記載其事由。

Article 136

A seizure shall be executed by a public prosecuting affairs official, judicial police officer, or judicial policeman, unless it is personally executed by a judge or public prosecutor.

If a public prosecuting affairs official, judicial police officer or judicial policeman, or public prosecutor is ordered to execute a seizure, the matters concerned shall be entered on the search warrant given to him.

第 137 條(附帶扣押)

檢察官、檢察事務官、司法警察官或司法警察執行搜索或扣押時，發現本案應扣押之物為搜索票所未記載者，亦得扣押之。

第一百三十一條第三項之規定，於前項情形準用之。

第 137 條

檢察官、檢察事務官、司法警察官或司法警察執行搜索或扣押時，發現本案應扣押之物為搜索票所未記載者，亦得扣押之。

第一百三十一條第三項之規定，於前項情形準用之。

Article 137

Property which should be seized for the same case and which is discovered by a public prosecutor, public prosecuting affairs officer, judicial police officer or judicial policeman during the execution of a search or seizure may be seized notwithstanding that it is not listed in the search warrant.

The provision of section III of Article 131 shall apply mutatis mutandis to the circumstances under the preceding section.

第 138 條(強制扣押)

應扣押物之所有人、持有人或保管人無正當理由拒絕提出或交付或抗拒扣押者，得用強制力扣押之。

第 138 條(強制扣押)

應扣押物之所有人、持有人或保管人無正當理由拒絕提出或交付或抗拒扣押者，得用強制力扣押之。

Article 138

If an owner, possessor, or custodian of property which should be seized refuses to surrender or deliver it or resists the seizure without justified cause, such seizure may be effected by force.

第 139 條(扣押後之處置(一)－收據、封緘)

扣押，應制作收據，詳記扣押物之名目，付與所有人、持有人或保管人。

扣押物，應加封緘或其他標識，由扣押之機關或公務員蓋印。

第 139 條(扣押後之處置(一)－收據、封緘)

扣押，應制作收據，詳記扣押物之名目，付與所有人、持有人或保管人。

扣押物，應加封緘或其他標識，由扣押之機關或公務員蓋印。

Article 139

A receipt listing in detail the property seized shall be given to the owner, possessor, or custodian.

Seized property shall be sealed up or otherwise marked; the public office or official executing the seizure shall place a seal on the property seized.

第 140 條(扣押後之處置(二)－看守、保管、毀棄)

扣押物，因防其喪失或毀損，應為適當之處置。

第 140 條(扣押後之處置(二)－看守、保管、毀棄)

扣押物，因防其喪失或毀損，應為適當之處置。

Article 140

Appropriate measures shall be taken to protect property against loss or damage.

不便搬運或保管之扣押物，得命人看守，或命所有人或其他適當之人保管。 易生危險之扣押物，得毀棄之。	不便搬運或保管之扣押物，得命人看守，或命所有人或其他適當之人保管。 易生危險之扣押物，得毀棄之。	A person may be ordered to guard seized property which is inconvenient to transport or preserve, or the owner or other proper person may be ordered to preserve it. Seized property which is dangerous may be destroyed.
第 141 條(扣押後之處置(三)－拍賣)	**第 141 條(扣押後之處置(三)－拍賣)**	**Article 141**
得沒收之扣押物，有喪失毀損之虞或不便保管者，得拍賣之，保管其價金。	得沒收之扣押物，有喪失毀損之虞或不便保管者，得拍賣之，保管其價金。	If it is apprehended that seized property which may be forfeited will be lost or damaged, or if it is inconvenient to preserve it, it may be sold at an auction and the proceeds retained.
第 142 條(扣押物之發還)	**第 142 條(扣押物之發還)**	**Article 142**
扣押物若無留存之必要者，不待案件終結，應以法院之裁定或檢察官命令發還之；其係贓物而無第三人主張權利者，應發還被害人。	扣押物若無留存之必要者，不待案件終結，應以法院之裁定或檢察官命令發還之；其係贓物而無第三人主張權利者，應發還被害人。	If it appears unnecessary to retain seized property until the conclusion of a case, it shall be returned by a ruling of the court or an order of the public prosecutor; if a third party does not claim the seized stolen property, it shall be returned to the victim.
扣押物因所有人、持有人或保管人之請求，得命其負保管之責，暫行發還。	扣押物因所有人、持有人或保管人之請求，得命其負保管之責，暫行發還。	Seized property may temporarily be returned to the owner, possessor, or custodian if he asks for return of property and undertakes to preserve it.
第 143 條(留存物之準用規定)	**第 143 條**	**Article 143**
被告、犯罪嫌疑人或第三人遺留在犯罪現場之物，或所有人、持有人或保管人任意提出或交付之物，經留存者，準用前四條之規定。	被告、犯罪嫌疑人或第三人遺留在犯罪現場之物，或所有人、持有人或保管人任意提出或交付之物，經留存者，準用前四條之規定。	The provisions of the preceding four articles shall apply mutatis mutandis to property which has been left at the scene of the crime by an accused, suspect, or third person, or voluntarily surrendered or delivered over by its owner, possessor or custodian and which has been retained.
第 144 條(搜索、扣押之必要處分)	**第 144 條**	**Article 144**
因搜索及扣押得開啟鎖扃、封緘或為其他必要之處分。 執行扣押或搜索時，得封鎖現場，禁止在場人員離去，或禁止前條所定之被告、犯罪嫌疑人或第三人以外之人進	因搜索及扣押得開啟鎖扃、封緘或為其他必要之處分。 執行扣押或搜索時，得封鎖現場，禁止在場人員離去，或禁止前條所定之被告、犯罪嫌疑人或第三人以外之人進入	Locks and seals may be broken or other necessary measures taken to execute a search or seizure. In executing the search or seizure, the premises subject to search may be closed to public and the person therein be ordered not to leave, or any person other than the accused, suspect, or a third person, specified in the

入該處所。	該處所。	preceding article may be prohibited to enter the premises.
對於違反前項禁止命令者，得命其離開或交由適當之人看守至執行終了。	對於違反前項禁止命令者，得命其離開或交由適當之人看守至執行終了。	A violator of the restraining order specified in the preceding section shall be ordered to leave or put into the custody of an appropriate person until the executing proceeding is completed.
第 145 條(搜索票之提示)	**第 145 條**	**Article 145**
法官、檢察官、檢察事務官、司法警察官或司法警察執行搜索及扣押，除依法得不用搜索票之情形外，應以搜索票示第一百四十八條在場之人。	法官、檢察官、檢察事務官、司法警察官或司法警察執行搜索及扣押，除依法得不用搜索票之情形外，應以搜索票示第一百四十八條在場之人。	In executing a search or seizure, the judge, public prosecutor, public prosecuting affairs officer, judicial police officer, or judicial policeman shall show the warrant to the person present as specified in Article 148, unless the search or seizure is the one that may be effected without a warrant as specified in other provisions.
第 146 條(搜索或扣押時間之限制)	**第 146 條**	**Article 146**
有人住居或看守之住宅或其他處所，不得於夜間入內搜索或扣押。但經住居人、看守人或可為其代表之人承諾或有急迫之情形者，不在此限。	有人住居或看守之住宅或其他處所，不得於夜間入內搜索或扣押。但經住居人、看守人或可為其代表之人承諾或有急迫之情形者，不在此限。	No occupied or guarded dwelling or other premises may be entered and searched or property seized at night unless the occupant, watchman, or his representative gives permission, or the circumstances are urgent.
於夜間搜索或扣押者，應記明其事由於筆錄。	於夜間搜索或扣押者，應記明其事由於筆錄。	If a search or seizure is executed at night, the reason therefore shall be stated in the record.
日間已開始搜索或扣押者，得繼續至夜間。	日間已開始搜索或扣押者，得繼續至夜間。	A search or seizure begun during the day may be continued till night.
第一百條之三第三項之規定，於夜間搜索或扣押準用之。	第一百條之三第三項之規定，於夜間搜索或扣押準用之。	The provision of section III of Article 100-3 shall apply mutatis mutandis to search and seizure executed at night.
第 147 條(搜索、扣押之共同限制－例外)	**第 147 條**	**Article 147**
左列處所，夜間亦得入內搜索或扣押：	左列處所，夜間亦得入內搜索或扣押：	The following premises may be entered at night for a search or seizure:
一、假釋人住居或使用者。	一　假釋人住居或使用者。	(1) A place occupied or used by a person on parole;
二、旅店、飲食店或其他於夜間公眾可以出入之處所，仍在公開時間內者。	二　旅店、飲食店或其他於夜間公眾可以出入之處所，仍在公開時間內者。	(2) A hotel, restaurant, or other premises open to the public at night during the period that it is open;
三、常用為賭博、妨害性自主或妨害風化之	三　常用為賭博、妨害性自主或妨害風化之行	(3) A place frequently used for gambling, committing sexual offense against victim's

行為者。	為者。	free will, or committing offenses against morality.
第 148 條(搜索、扣押時之在場人(一))	第 148 條(搜索、扣押時之在場人(一))	**Article 148**
在有人住居或看守之住宅或其他處所內行搜索或扣押者，應命住居人、看守人或可為其代表之人在場；如無此等人在場時，得命鄰居之人或就近自治團體之職員在場。	在有人住居或看守之住宅或其他處所內行搜索或扣押者，應命住居人、看守人或可為其代表之人在場；如無此等人在場時，得命鄰居之人或就近自治團體之職員在場。	If a search or seizure is executed in an occupied or guarded dwelling or other premises, the occupant, watchman, or his representative shall be ordered to be present; in their absence, a neighbor or an official of a nearby self-governing body may be ordered to be present.
第 149 條(搜索、扣押時之在場人(二))	第 149 條(搜索、扣押時之在場人(二))	**Article 149**
在政府機關、軍營、軍艦或軍事上秘密處所內行搜索或扣押者，應通知該管長官或可為其代表之人在場。	在政府機關、軍營、軍艦或軍事上秘密處所內行搜索或扣押者，應通知該管長官或可為其代表之人在場。	If a search or seizure is to be executed in a public office, military camp, naval vessel, or secret military place, the officer in charge thereof or his representative shall be notified to be present.
第 150 條(搜索、扣押時之在場人(三))	第 150 條(搜索、扣押時之在場人(三))	**Article 150**
當事人及審判中之辯護人得於搜索或扣押時在場。但被告受拘禁，或認其在場於搜索或扣押有妨害者，不在此限。	當事人及審判中之辯護人得於搜索或扣押時在場。但被告受拘禁，或認其在場於搜索或扣押有妨害者，不在此限。	The parties and the defense attorney during the stage of trial may be present at a search or seizure unless an accused is in confinement or it is considered that his presence would interfere with the search or seizure.
搜索或扣押時，如認有必要，得命被告在場。	搜索或扣押時，如認有必要，得命被告在場。	If it is considered to be necessary, an accused may be ordered to be present when a search or seizure is executed.
行搜索或扣押之日、時及處所，應通知前二項得在場之人。但有急迫情形時，不在此限。	行搜索或扣押之日、時及處所，應通知前二項得在場之人。但有急迫情形時，不在此限。	The time, date, and place of a search or seizure shall be communicated to the person who may be present in accordance with the preceding two sections unless circumstances are urgent.
第 151 條(暫停搜索、扣押應為之處分)	第 151 條(暫停搜索、扣押應為之處分)	**Article 151**
搜索或扣押暫時中止者，於必要時應將該處所閉鎖，並命人看守。	搜索或扣押暫時中止者，於必要時應將該處所閉鎖，並命人看守。	If a search or seizure is temporarily suspended, the premises shall be locked and a person ordered to guard such premises if necessary.
第 152 條(另案扣押)	第 152 條(另案扣押)	**Article 152**
實施搜索或扣押時，發現另案應扣押之物亦得扣押之，分別送交該	實施搜索或扣押時，發現另案應扣押之物亦得扣押之，分別送交該管	If property which should be seized for another case is discovered while executing a search or seizure, such property may be

管法院或檢察官。	法院或檢察官。	seized and delivered to the court or public prosecutor having jurisdiction.
第 153 條(囑託搜索或扣押)	第 153 條	**Article 153**
搜索或扣押，得由審判長或檢察官囑託應行搜索、扣押地之法官或檢察官行之。	搜索或扣押，得由審判長或檢察官囑託應行搜索、扣押地之法官或檢察官行之。	The presiding judge or public prosecutor may request the judge or public prosecutor of the place where a search or seizure is to be made to execute such search or seizure.
受託法官或檢察官發現應在他地行搜索、扣押者，該法官或檢察官得轉囑託該地之法官或檢察官。	受託法官或檢察官發現應在他地行搜索、扣押者，該法官或檢察官得轉囑託該地之法官或檢察官。	If the requisitioned judge or public prosecutor discovers that the search or seizure shall be executed at another place, the judge or public prosecutor of such place may in turn forward such request to the judge or public prosecutor concerned.
第一二章 證據	第一二章 證據	**CHAPTER XII Evidence**
第一節 通則	第一節 通則	**Section 1 - General Provisions**
第 154 條(證據裁判主義)	第 154 條	**Article 154**
被告未經審判證明有罪確定前，推定其為無罪。	被告未經審判證明有罪確定前，推定其為無罪。	Prior to a final conviction through trial, an accused is presumed to be innocent.
犯罪事實應依證據認定之，無證據不得認定犯罪事實。	犯罪事實應依證據認定之，無證據不得認定犯罪事實。	The facts of an offense shall be established by evidence. The facts of an offense shall not be established in the absence of evidence.
第 155 條(自由心證主義)	第 155 條	**Article 155**
證據之證明力，由法院本於確信自由判斷。但不得違背經驗法則及論理法則。	證據之證明力，由法院本於確信自由判斷。但不得違背經驗法則及論理法則。	The probative value of evidence shall be determined at the discretion and based on the firm confidence of the court, provided that it cannot be contrary to the rules of experience and logic.
無證據能力、未經合法調查之證據，不得作為判斷之依據。	無證據能力、未經合法調查之證據，不得作為判斷之依據。	Evidence inadmissible, having not been lawfully investigated, shall not form the basis of a decision.
第 156 條(自白之證據能力、證明力與緘默權)	第 156 條	**Article 156**
被告之自白，非出於強暴、脅迫、利誘、詐欺、疲勞訊問、違法羈押或其他不正之方法，且與事實相符者，得為證	被告之自白，非出於強暴、脅迫、利誘、詐欺、疲勞訊問、違法羈押或其他不正之方法，且與事實相符者，得為證	Confession of an accused not extracted by violence, threat, inducement, fraud, exhausting interrogation, unlawful detention or other improper means and consistent with facts may be admitted as evidence.

據。	據。	
被告或共犯之自白，不得作為有罪判決之唯一證據，仍應調查其他必要之證據，以察其是否與事實相符。	被告或共犯之自白，不得作為有罪判決之唯一證據，仍應調查其他必要之證據，以察其是否與事實相符。	Confession of an accused, or a co-offender, shall not be used as the sole basis of conviction and other necessary evidence shall still be investigated to see if the confession is consistent with facts.
被告陳述其自白係出於不正之方法者，應先於其他事證而為調查。該自白如係經檢察官提出者，法院應命檢察官就自白之出於自由意志，指出證明之方法。	被告陳述其自白係出於不正之方法者，應先於其他事證而為調查。該自白如係經檢察官提出者，法院應命檢察官就自白之出於自由意志，指出證明之方法。	If the accused states that his confession was extracted by improper means, his confession shall be investigated prior to investigating other evidences; if the said confession is presented by the public prosecutor, the court shall order the public prosecutor to indicate the method to prove that the confession is obtained under the free will of the accused.
被告未經自白，又無證據，不得僅因其拒絕陳述或保持緘默，而推斷其罪行。	被告未經自白，又無證據，不得僅因其拒絕陳述或保持緘默，而推斷其罪行。	Where an accused has made no confession nor has there been any evidence, his guilt shall not be presumed merely because of his refusal to make a statement or remaining silent.
第 157 條(舉證責任之例外(一)－公知事實)	**第 157 條(舉證責任之例外(一)－公知事實)**	**Article 157**
公眾週知之事實，無庸舉證。	公眾週知之事實，無庸舉證。	No evidence is needed to be adduced to prove facts commonly known to the public.
第 158 條(舉證責任之外(二)－職務已知事實)	**第 158 條(舉證責任之外(二)－職務已知事實)**	**Article 158**
事實於法院已顯著，或為其職務上所已知者，無庸舉證。	事實於法院已顯著，或為其職務上所已知者，無庸舉證。	No evidence is required to be adduced to prove such facts that are obvious to the court or become known to it in performing its functions.
第 158-1 條(無庸舉證－當事人意見陳述)	**第 158-1 條**	**Article 158- 1**
前二條無庸舉證之事實，法院應予當事人就其事實有陳述意見之機會。	前二條無庸舉證之事實，法院應予當事人就其事實有陳述意見之機會。	The court shall give the parties opportunities to state his opinion regarding the facts that are not required to be proven as specified in the preceding two articles.
第 158-2 條(不得作為證據之情事)	**第 158-2 條**	**Article 158- 2**
違背第九十三條之一第二項、第一百條之三第一項之規定，所取得被告或犯罪嫌疑人之自白及其他不利之陳述，不得作為證據。但經證明其違背非出於惡意，且該自白或陳述	違背第九十三條之一第二項、第一百條之三第一項之規定，所取得被告或犯罪嫌疑人之自白及其他不利之陳述，不得作為證據。但經證明其違背非出於惡意，且該自白或陳述係出於自	Any confession or other unfavorable statements obtained from the accused or suspect in violation of the provisions of section II of Article 93-1 or section I of Article 100-3 shall not be admitted as evidence, provided that if lack of bad faith in such violation and the voluntariness of the confession or statement has been proven,

係出於自由意志者，不在此限。	由意志者，不在此限。	the preceding section shall not apply.
檢察事務官、司法警察官或司法警察詢問受拘提、逮捕之被告或犯罪嫌疑人時，違反第九十五條第二款、第三款之規定者，準用前項規定。	檢察事務官、司法警察官或司法警察詢問受拘提、逮捕之被告或犯罪嫌疑人時，違反第九十五條第二款、第三款之規定者，準用前項規定。	The provision of the preceding section shall apply mutatis mutandis to the case where the public prosecuting affairs official, judicial police officer, or judicial policeman violates the provisions of Items II and III of Article 95 in interrogating an accused or suspect arrested with or without a warrant.
第 158-3 條(不得作為證據之情事)	**第 158-3 條**	**Article 158- 3**
證人、鑑定人依法應具結而未具結者，其證言或鑑定意見，不得作為證據。	證人、鑑定人依法應具結而未具結者，其證言或鑑定意見，不得作為證據。	If a witness or expert witness fails to sign an affidavit to tell the truth, as required by law, his testimony or expert opinion shall not be admitted as evidence.
第 158-4 條(證據排除法則)	**第 158-4 條**	**Article 158- 4**
除法律另有規定外，實施刑事訴訟程序之公務員因違背法定程序取得之證據，其有無證據能力之認定，應審酌人權保障及公共利益之均衡維護。	除法律另有規定外，實施刑事訴訟程序之公務員因違背法定程序取得之證據，其有無證據能力之認定，應審酌人權保障及公共利益之均衡維護。	The admissibility of the evidence, obtained in violation of the procedure prescribed by the law by an official in execution of criminal procedure, shall be determined by balancing the protection of human rights and the preservation of public interests, unless otherwise provided by law.
第 159 條(傳聞法則之適用及例外)	**第 159 條**	**Article 159**
被告以外之人於審判外之言詞或書面陳述，除法律有規定者外，不得作為證據。	被告以外之人於審判外之言詞或書面陳述，除法律有規定者外，不得作為證據。	Unless otherwise provided by law, oral or written statements made out of trial by a person other than the accused, shall not be admitted as evidence.
前項規定，於第一百六十一條第二項之情形及法院以簡式審判程序或簡易判決處刑者，不適用之。其關於羈押、搜索、鑑定留置、許可、證據保全及其他依法所為強制處分之審查，亦同。	前項規定，於第一百六十一條第二項之情形及法院以簡式審判程序或簡易判決處刑者，不適用之。其關於羈押、搜索、鑑定留置、許可、證據保全及其他依法所為強制處分之審查，亦同。	The provision of the preceding section shall not apply to the circumstances specified in section II of Article 161, nor to the case in a summary trial proceeding or where sentencing is ordered by a summary judgment; the same rule shall apply to the review of the application for detention, search, detention for expert examination, permission for expert examination, perpetuation of evidence and other compulsive measures.
第 159-1 條(傳聞法則之適用)	**第 159-1 條**	**Article 159- 1**
被告以外之人於審判外向法官所為之陳	被告以外之人於審判外向法官所為之陳述，得	Statements made out of trial by a person other than the accused to the judge shall be

述，得為證據。 被告以外之人於偵查中向檢察官所為之陳述，除顯有不可信之情況者外，得為證據。	為證據。 被告以外之人於偵查中向檢察官所為之陳述，除顯有不可信之情況者外，得為證據。	admitted as evidence. Statements made in the investigation stage by a person other than the accused to the public prosecutor, shall be admitted as evidence unless it appears to be obviously unreliable.
<u>第 159-2 條</u>(傳聞法則之適用)	**第 159-2 條**	**Article 159- 2**
被告以外之人於檢察事務官、司法警察官或司法警察調查中所為之陳述，與審判中不符時，其先前之陳述具有較可信之特別情況，且為證明犯罪事實存否所必要者，得為證據。	被告以外之人於檢察事務官、司法警察官或司法警察調查中所為之陳述，與審判中不符時，其先前之陳述具有較可信之特別情況，且為證明犯罪事實存否所必要者，得為證據。	When the statements made, in the investigation stage, by a person other than the accused to the public prosecuting affairs official, judicial police officer, or judicial policeman are inconsistent with that made in trial, the prior statement may be admitted as evidence, provided that special circumstances exist indicating that the prior statements are more reliable, and that they are necessary in proving the facts of the criminal offense.
<u>第 159-3 條</u>(傳聞法則之適用及例外)	**第 159-3 條**	**Article 159- 3**
被告以外之人於審判中有下列情形之一，其於檢察事務官、司法警察官或司法警察調查中所為之陳述，經證明具有可信之特別情況，且為證明犯罪事實之存否所必要者，得為證據：	被告以外之人於審判中有下列情形之一，其於檢察事務官、司法警察官或司法警察調查中所為之陳述，經證明具有可信之特別情況，且為證明犯罪事實之存否所必要者，得為證據：	Statements made in the investigation stage by a person other than the accused to the public prosecuting affairs official, judicial police officer, or judicial policeman may be admitted as evidence, if one of the following circumstances exists in trial and after proving the existence of special circumstances indicating its reliability and its necessity in proving the facts of criminal offense:
一、死亡者。	一　死亡者。	(1) The person died;
二、身心障礙致記憶喪失或無法陳述者。	二　身心障礙致記憶喪失或無法陳述者。	(2) The person has lost his memory or has been unable to make a statement due to physical or emotional impairment;
三、滯留國外或所在不明而無法傳喚或傳喚不到者。	三　滯留國外或所在不明而無法傳喚或傳喚不到者。	(3) The person cannot be summoned or has failed to respond to the summons due to the fact that he is staying in a foreign country or his whereabouts are unknown;
四、到庭後無正當理由拒絕陳述者。	四　到庭後無正當理由拒絕陳述者。	(4) The person has refused to testify in court without justified reason.
<u>第 159-4 條</u>(傳聞證據)	**第 159-4 條**	**Article 159- 4**
除前三條之情形外，下列文書亦得為證據：	除前三條之情形外，下列文書亦得為證據：	In addition to the circumstances specified in the preceding three articles, the following documents may also be admitted as

evidence:

一、除顯有不可信之情況外，公務員職務上製作之紀錄文書、證明文書。

一　除顯有不可信之情況外，公務員職務上製作之紀錄文書、證明文書。

(1) Documents of recording nature, or documents of certifying nature made by a public official in performing his duty, unless circumstances exist making it obviously unreliable;

二、除顯有不可信之情況外，從事業務之人於業務上或通常業務過程所須製作之紀錄文書、證明文書。

二　除顯有不可信之情況外，從事業務之人於業務上或通常業務過程所須製作之紀錄文書、證明文書。

(2) Documents of recording nature, or documents of certifying nature made by a person in the course of performing professional duty or regular day to day business, unless circumstances exist making it obviously unreliable;

三、除前二款之情形外，其他於可信之特別情況下所製作之文書。

三　除前二款之情形外，其他於可信之特別情況下所製作之文書。

(3) Documents made in other reliable circumstances in addition to the special circumstances specified in the preceding two Items.

第 159-5 條(傳聞證據之能力)

第 159-5 條

Article 159- 5

被告以外之人於審判外之陳述，雖不符前四條之規定，而經當事人於審判程序同意作為證據，法院審酌該言詞陳述或書面陳述作成時之情況，認為適當者，亦得為證據。

被告以外之人於審判外之陳述，雖不符前四條之規定，而經當事人於審判程序同意作為證據，法院審酌該言詞陳述或書面陳述作成時之情況，認為適當者，亦得為證據。

Statements made out of trial by a person other than the accused, although not consistent with the provisions of the preceding four articles, may be admitted as evidence, if the party consents to its admissibility as evidence in the trial stage and the court believes its admissibility is proper after considering the circumstances under which the oral or written statement was made.

當事人、代理人或辯護人於法院調查證據時，知有第一百五十九條第一項不得為證據之情形，而未於言詞辯論終結前聲明異議者，視為有前項之同意。

當事人、代理人或辯護人於法院調查證據時，知有第一百五十九條第一項不得為證據之情形，而未於言詞辯論終結前聲明異議者，視為有前項之同意。

The party, agent, or defense attorney shall be deemed to have granted his consent specified in the preceding section, if during the investigation of evidence in the court he has knowledge of the existence of the circumstances specified in section I of Article 159 as to the inadmissibility of the evidence and fails to object to its admission before the conclusion of oral argument.

第 160 條(不得作為證據)

第 160 條

Article 160

證人之個人意見或推測之詞，除以實際經驗為基礎者外，不得作為證據。

證人之個人意見或推測之詞，除以實際經驗為基礎者外，不得作為證據。

Personal opinion or speculation of a witness shall not be admitted as evidence, unless it is based on his personal experience.

第 161 條(檢察官之舉證責任)

第 161 條

Article 161

檢察官就被告犯罪事

檢察官就被告犯罪事

The public prosecutor shall bear the burden

實，應負舉證責任，並指出證明之方法。	實，應負舉證責任，並指出證明之方法。	of proof as to the facts of the crime charged against an accused, and shall indicate the method of proof.
法院於第一次審判期日前，認為檢察官指出之證明方法顯不足認定被告有成立犯罪之可能時，應以裁定定期通知檢察官補正；逾期未補正者，得以裁定駁回起訴。	法院於第一次審判期日前，認為檢察官指出之證明方法顯不足認定被告有成立犯罪之可能時，應以裁定定期通知檢察官補正；逾期未補正者，得以裁定駁回起訴。	Prior to the first trial date, if it appears to the court that the method of proof indicated by the public prosecutor is obviously insufficient to establish the possibility that the accused is guilty, the court shall, by a ruling, notify the public prosecutor to make it up within a specified time period; if additional evidence is not presented within the specified time period, the court may dismiss the prosecution by a ruling.
駁回起訴之裁定已確定者，非有第二百六十條各款情形之一，不得對於同一案件再行起訴。	駁回起訴之裁定已確定者，非有第二百六十條各款情形之一，不得對於同一案件再行起訴。	Once the ruling on dismissing the prosecution becomes final, no prosecution can be initiated for the same case, unless one of the circumstances specified in the Items of Article 260 exists.
違反前項規定，再行起訴者，應諭知不受理之判決。	違反前項規定，再行起訴者，應諭知不受理之判決。	Judgment of "Case Not Established" shall be pronounced if prosecution has been re-initiated in violation of the provision of the preceding paragraph.
第 161-1 條(被告之舉證責任)	**第 161-1 條**	**Article 161- 1**
被告得就被訴事實指出有利之證明方法。	被告得就被訴事實指出有利之證明方法。	The accused may indicate methods of proof favorable to him against the facts charged.
第 161-2 條(當事人進行主義)	**第 161-2 條**	**Article 161- 2**
當事人、代理人、辯護人或輔佐人應就調查證據之範圍、次序及方法提出意見。	當事人、代理人、辯護人或輔佐人應就調查證據之範圍、次序及方法提出意見。	The parties, agent, defense attorney or assistant of the accused shall present opinion concerning the scope, order, and methods of evidence to be investigated.
法院應依前項所提意見而為裁定；必要時，得因當事人、代理人、辯護人或輔佐人之聲請變更之。	法院應依前項所提意見而為裁定；必要時，得因當事人、代理人、辯護人或輔佐人之聲請變更之。	The court shall make the ruling according to the opinions presented under the preceding section; changes can be made based on the motion from the parties, agent, defense attorney, or assistant of the accused.
第 161-3 條(被告自白之調查)	**第 161-3 條**	**Article 161- 3**
法院對於得為證據之被告自白，除有特別規定外，非於有關犯罪事實之其他證據調查完畢後，不得調查。	法院對於得為證據之被告自白，除有特別規定外，非於有關犯罪事實之其他證據調查完畢後，不得調查。	The court shall not investigate the confession of the accused that is admissible as evidence prior to investigating other evidence concerning the facts of the crime, unless otherwise specifically provided by law.
第 162 條	**第 162 條**	**Article 162**

(刪除)	(刪除)	(Deleted)
第 163 條(職權調查證據)	**第 163 條**	**Article 163**
當事人、代理人、辯護人或輔佐人得聲請調查證據，並得於調查證據時，詢問證人、鑑定人或被告。審判長除認為有不當者外，不得禁止之。	當事人、代理人、辯護人或輔佐人得聲請調查證據，並得於調查證據時，詢問證人、鑑定人或被告。審判長除認為有不當者外，不得禁止之。	The party, defense attorney, agent, or assistant may request an investigation of evidence and may examine a witness, an expert witness, or the accused during such investigation; such examination shall not be prohibited unless the court deems improper.
法院為發見真實，得依職權調查證據。但於公平正義之維護或對被告之利益有重大關係事項，法院應依職權調查之。	法院為發見真實，得依職權調查證據。但於公平正義之維護或對被告之利益有重大關係事項，法院應依職權調查之。	The court may, for the purpose of discovering the truth, ex officio investigating evidence; in case for the purpose of maintaining justice or discovering facts that are critical to the interest of the accused, the court shall ex officio investigate evidence.
法院為前項調查證據前，應予當事人、代理人、辯護人或輔佐人陳述意見之機會。	法院為前項調查證據前，應予當事人、代理人、辯護人或輔佐人陳述意見之機會。	The court shall, prior to conducting investigation of evidence in accordance with the preceding section, provide the parties, agent, defense attorney or assistant the opportunity to state their opinions.
第 163-1 條(調查證據之程式)	**第 163-1 條**	**Article 163- 1**
當事人、代理人、辯護人或輔佐人聲請調查證據，應以書狀分別具體記載下列事項：	當事人、代理人、辯護人或輔佐人聲請調查證據，應以書狀分別具體記載下列事項：	Motion filed by parties, agent, defense attorney, or assistance of evidence investigation shall be in writing and contain the following matters in detail:
一、聲請調查之證據及其與待證事實之關係。	一　聲請調查之證據及其與待證事實之關係。	(1) The evidence to be investigated and its relationship with the fact to be proven;
二、聲請傳喚之證人、鑑定人、通譯之姓名、性別、住居所及預期詰問所需之時間。	二　聲請傳喚之證人、鑑定人、通譯之姓名、性別、住居所及預期詰問所需之時間。	(2) The name, gender, domicile or resident of the witness, expert witness, or interpreter to be subpoenaed and the estimated time spent for examination;
三、聲請調查之證據文書或其他文書之目錄。若僅聲請調查證據文書或其他文書之一部分者，應將該部分明確標示。	三　聲請調查之證據文書或其他文書之目錄。若僅聲請調查證據文書或其他文書之一部分者，應將該部分明確標示。	(3) A list of the evidential document, or other documents to be investigated; if part of the same shall be investigated, only that portion shall be filed.
調查證據聲請書狀，應按他造人數提出繕本。法院於接受繕本後，應速送達。	調查證據聲請書狀，應按他造人數提出繕本。法院於接受繕本後，應速送達。	The copies of the written motion shall be filed, according to the number of persons in the other party; the court shall deliver it promptly after receiving the same.
不能提出第一項之書狀而有正當理由或其情況急迫者，得以言詞	不能提出第一項之書狀而有正當理由或其情況急迫者，得以言詞為	In case the written motion specified in section I of this Article cannot be filed for good reasons, or in case of emergency, the

為之。 前項情形，聲請人應就第一項各款所列事項分別陳明，由書記官製作筆錄；如他造不在場者，應將筆錄送達。	之。 前項情形，聲請人應就第一項各款所列事項分別陳明，由書記官製作筆錄；如他造不在場者，應將筆錄送達。	motion may be made orally. In circumstances specified in the preceding section, the oral motion shall state clearly, the matters specified in the Items of section I of this article and it shall be put in the record by the clerk; if the other party is not present, the record shall be delivered to him.
第 163-2 條(聲請調查證據之駁回)	**第 163-2 條**	**Article 163- 2**
當事人、代理人、辯護人或輔佐人聲請調查之證據，法院認為不必要者，得以裁定駁回之。	當事人、代理人、辯護人或輔佐人聲請調查之證據，法院認為不必要者，得以裁定駁回之。	The court may overrule, by a ruling, the motion for investigation of evidence filed by a party, agent, defense attorney, or assistant, if it deems to be unnecessary.
下列情形，應認為不必要： 一、不能調查者。 二、與待證事實無重要關係者。 三、待證事實已臻明瞭無再調查之必要者。 四、同一證據再行聲請者。	下列情形，應認為不必要： 一　不能調查者。 二　與待證事實無重要關係者。 三　待證事實已臻明瞭無再調查之必要者。 四　同一證據再行聲請者。	The following circumstances shall be deemed unnecessary: (1) Inability to investigate; (2) It bears no critical relationship with the fact to be proven; (3) It is unnecessary to investigate because the facts to be proven is clear; (4) Filing the motion again for the same evidence.
第 164 條(普通物證之調查)	**第 164 條**	**Article 164**
審判長應將證物提示當事人、代理人、辯護人或輔佐人，使其辨認。	審判長應將證物提示當事人、代理人、辯護人或輔佐人，使其辨認。	The presiding judge shall show the exhibit to the party, agent, defense attorney, or assistant and ask him to identify it.
前項證物如係文書而被告不解其意義者，應告以要旨。	前項證物如係文書而被告不解其意義者，應告以要旨。	If the exhibit specified in the preceding section is a document and the accused does not understand its meaning he shall be informed of its essential points.
第 165 條(書證之調查)	**第 165 條**	**Article 165**
卷宗內之筆錄及其他文書可為證據者，審判長應向當事人、代理人、辯護人或輔佐人宣讀或告以要旨。	卷宗內之筆錄及其他文書可為證據者，審判長應向當事人、代理人、辯護人或輔佐人宣讀或告以要旨。	Records and other documents in the file which may be used as evidence shall be read, by the presiding judge, to the party, agent, defense attorney, or assistant, or their essential points explained.
前項文書，有關風化、公安或有毀損他人名譽之虞者，應交當事人、代理人、辯護人或輔佐人閱覽，不得宣讀；如被告不解其意義者，應告以要旨。	前項文書，有關風化、公安或有毀損他人名譽之虞者，應交當事人、代理人、辯護人或輔佐人閱覽，不得宣讀；如被告不解其意義者，應告以要旨。	If the documents referred to in the preceding section are those against morality, public safety, or possibly defamatory, it shall be handled to the party, agent, defense attorney, or assistant for reviewing instead of reading it to these persons; if the accused does not understand its meaning, the

essential points shall be explained.

第 165-1 條(新型態證據之調查)

前條之規定，於文書外之證物有與文書相同之效用者，準用之。

錄音、錄影、電磁紀錄或其他相類之證物可為證據者，審判長應以適當之設備，顯示聲音、影像、符號或資料，使當事人、代理人、辯護人或輔佐人辨認或告以要旨。

第 165-1 條

前條之規定，於文書外之證物有與文書相同之效用者，準用之。

錄音、錄影、電磁紀錄或其他相類之證物可為證據者，審判長應以適當之設備，顯示聲音、影像、符號或資料，使當事人、代理人、辯護人或輔佐人辨認或告以要旨。

Article 165- 1

The provision of the preceding article shall apply mutatis mutandis to other evidential items other than documents which have the same effect as the document.

Audio recording, video recording, electronic record or other similar evidential items that can be used as evidence, shall be played, by the presiding judge, with appropriate equipment to reveal the sound, picture, signals, or information to the party, agent, defense attorney, or assistant to identify, or their essential points explained.

第 166 條(對證人、鑑定人之詰問)

當事人、代理人、辯護人及輔佐人聲請傳喚之證人、鑑定人，於審判長為人別訊問後，由當事人、代理人或辯護人直接詰問之。被告如無辯護人，而不欲行詰問時，審判長仍應予詢問證人、鑑定人之適當機會。

前項證人或鑑定人之詰問，依下列次序：
一、先由聲請傳喚之當事人、代理人或辯護人為主詰問。
二、次由他造之當事人、代理人或辯護人為反詰問。
三、再由聲請傳喚之當事人、代理人或辯護人為覆主詰問。
四、再次由他造當事人、代理人或辯護人為覆反詰問。
前項詰問完畢後，當事人、代理人或辯護人，經審判長之許可，得更行詰問。

第 166 條

當事人、代理人、辯護人及輔佐人聲請傳喚之證人、鑑定人，於審判長為人別訊問後，由當事人、代理人或辯護人直接詰問之。被告如無辯護人，而不欲行詰問時，審判長仍應予詢問證人、鑑定人之適當機會。

前項證人或鑑定人之詰問，依下列次序：
一　先由聲請傳喚之當事人、代理人或辯護人為主詰問。
二　次由他造之當事人、代理人或辯護人為反詰問。
三　再由聲請傳喚之當事人、代理人或辯護人為覆主詰問。
四　再次由他造當事人、代理人或辯護人為覆反詰問。
前項詰問完畢後，當事人、代理人或辯護人，經審判長之許可，得更行詰問。

Article 166

After a witness, or an expert witness, subpoenaed because of the motion of a party, an agent, a defense attorney, or an assistant, has been examined by the presiding judge for his identity, the party, agent, or defense attorney shall examine these persons; if an accused, not represented by a defense attorney, does not want to examine these persons, the court shall still provide him with appropriate opportunities to question these persons.

The examination of a witness or an expert witness shall be in the following order:
(1) The party, agent, or defense attorney calling the witness or expert witness shall do the direct examination first;
(2) Followed by the opposing party's, his agent's or defense attorney's cross examination;
(3) Then, the party, agent, or defense attorney calling the witness or expert witness shall do the redirect examination;
(4) Finally, the opposing party, his agent or defense attorney shall make the recross examination.
After completing the examination as specified in the preceding section, the party, agent, or defense attorney may, with the court's approval, examine the witness or expert witness again.

證人、鑑定人經當事人、代理人或辯護人詰問完畢後，審判長得為訊問。	證人、鑑定人經當事人、代理人或辯護人詰問完畢後，審判長得為訊問。	After examined by the party, agent, or defense attorney, the witness or expert witness may be examined by the presiding judge.
同一被告、自訴人有二以上代理人、辯護人時，該被告、自訴人之代理人、辯護人對同一證人、鑑定人之詰問，應推由其中一人代表為之。但經審判長許可者，不在此限。	同一被告、自訴人有二以上代理人、辯護人時，該被告、自訴人之代理人、辯護人對同一證人、鑑定人之詰問，應推由其中一人代表為之。但經審判長許可者，不在此限。	If the one and the same accused or private prosecutor is represented by two or more agents or defense attorneys, the said agents or defense attorneys shall choose one of them to examine the one and the same witness or expert witness, unless otherwise permitted by the presiding judge.
兩造同時聲請傳喚之證人、鑑定人，其主詰問次序由兩造合意決定，如不能決定時，由審判長定之。	兩造同時聲請傳喚之證人、鑑定人，其主詰問次序由兩造合意決定，如不能決定時，由審判長定之。	If the witness or expert witness is called by both parties, the order of doing the direct examination shall be decided by both parties' agreement; if it can not be decided by such agreement, the presiding judge shall determine it.
<u>第 166-1 條</u>(主詰問之範圍及誘導詰問之例外)	**第 166-1 條**	**Article 166- 1**
主詰問應就待證事項及其相關事項行之。	主詰問應就待證事項及其相關事項行之。	Direct examination shall be made on the facts to be proven and other matters concerned.
為辯明證人、鑑定人陳述之證明力，得就必要之事項為主詰問。	為辯明證人、鑑定人陳述之證明力，得就必要之事項為主詰問。	To examine the probative value of the statement of the witness or expert witness, the direct examination may be made as to the necessary points thereof.
行主詰問時，不得為誘導詰問。但下列情形，不在此限：	行主詰問時，不得為誘導詰問。但下列情形，不在此限：	No leading question may be asked in direct examination, except for the following circumstances:
一、未為實體事項之詰問前，有關證人、鑑定人之身分、學歷、經歷、與其交游所關之必要準備事項。	一　未為實體事項之詰問前，有關證人、鑑定人之身分、學歷、經歷、與其交游所關之必要準備事項。	(1) The personal identity, education, experience of the witness or expert witness, and matters necessary to his social relationships prior to getting into the substantive matter being examined;
二、當事人顯無爭執之事項。	二　當事人顯無爭執之事項。	(2) The matter clearly not in dispute;
三、關於證人、鑑定人記憶不清之事項，為喚起其記憶所必要者。	三　關於證人、鑑定人記憶不清之事項，為喚起其記憶所必要者。	(3) For the purpose of refreshing the memory of the witness or expert witness in case the witness or expert witness has a vague memory;
四、證人、鑑定人對詰問者顯示敵意或反感者。	四　證人、鑑定人對詰問者顯示敵意或反感者。	(4) The witness or expert witness appears to be hostile or antagonistic to the examiner;
五、證人、鑑定人故為規避之事項。	五　證人、鑑定人故為規避之事項。	(5) The matters which the witness or expert witness is trying to avoid answering;
六、證人、鑑定人為與先前不符之陳述時，其先前之陳述。	六　證人、鑑定人為與先前不符之陳述時，其先前之陳述。	(6) The prior statement of the witness or expert witness, if it is inconsistent with his current statement;
七、其他認有誘導詰問	七　其他認有誘導詰問	(7) Other special circumstances that will

必要之特別情事者。	必要之特別情事者。	validate the necessity of a leading question.
第 166-2 條(反詰問之範圍)	**第 166-2 條**	**Article 166- 2**
反詰問應就主詰問所顯現之事項及其相關事項或為辯明證人、鑑定人之陳述證明力所必要之事項行之。	反詰問應就主詰問所顯現之事項及其相關事項或為辯明證人、鑑定人之陳述證明力所必要之事項行之。	The scope of cross examination shall be limited to the matters or its related matter revealed in direct examination, or the matters necessary for examining the probative value of the statements made by the witness or expert witness.
行反詰問於必要時，得為誘導詰問。	行反詰問於必要時，得為誘導詰問。	Leading question may be asked in cross examination if necessary.
第 166-3 條(對新事項之詰問權)	**第 166-3 條**	**Article 166- 3**
行反詰問時，就支持自己主張之新事項，經審判長許可，得為詰問。	行反詰問時，就支持自己主張之新事項，經審判長許可，得為詰問。	Matters in supporting of new allegation by the cross-examiner may be brought out in cross examination with the court's permission.
依前項所為之詰問，就該新事項視為主詰問。	依前項所為之詰問，就該新事項視為主詰問。	The examination made as specified in the preceding section shall be treated as direct examination.
第 166-4 條(覆主詰問之範圍及行覆主詰問之方式)	**第 166-4 條**	**Article 166- 4**
覆主詰問應就反詰問所顯現之事項及其相關事項行之。	覆主詰問應就反詰問所顯現之事項及其相關事項行之。	The scope of redirect examination shall be limited to the matters or its related matters revealed in cross examination.
行覆主詰問，依主詰問之方式為之。	行覆主詰問，依主詰問之方式為之。	The redirect examination shall apply the rules of direct examination.
前條之規定，於本條準用之。	前條之規定，於本條準用之。	The provision of the preceding article shall apply mutatis mutandis to this article.
第 166-5 條(覆反詰問之範圍及行覆反詰問之方式)	**第 166-5 條**	**Article 166- 5**
覆反詰問，應就辯明覆主詰問所顯現證據證明力必要之事項行之。	覆反詰問，應就辯明覆主詰問所顯現證據證明力必要之事項行之。	The scope of recross examination shall be limited to the matters necessary for examining the probative value of the evidence revealed in redirect examination.
行覆反詰問，依反詰問之方式行之。	行覆反詰問，依反詰問之方式行之。	The recross examination shall apply the rules of cross examination.
第 166-6 條(詰問次序及續行訊問)	**第 166-6 條**	**Article 166- 6**
法院依職權傳喚之證人或鑑定人，經審判長訊問後，當事人、代理	法院依職權傳喚之證人或鑑定人，經審判長訊問後，當事人、代理人	After examining a witness or an expert witness subpoenaed by the court on its own motion, the party, agent, or defense attorney may examine him, the order of doing the

人或辯護人得詰問之，其詰問之次序由審判長定之。	或辯護人得詰問之，其詰問之次序由審判長定之。	examination shall be determined by the court.
證人、鑑定人經當事人、代理人或辯護人詰問後，審判長得續行訊問。	證人、鑑定人經當事人、代理人或辯護人詰問後，審判長得續行訊問。	The presiding judge may continue to examine a witness or an expert witness after he has been examined by the party, agent, or defense attorney.
第 166-7 條(詰問之限制)	第 166-7 條	**Article 166- 7**
詰問證人、鑑定人及證人、鑑定人之回答，均應就個別問題具體為之。	詰問證人、鑑定人及證人、鑑定人之回答，均應就個別問題具體為之。	The examining of a witness or an expert witness and the answers thereof shall be specific as to a particular point.
下列之詰問不得為之。但第五款至第八款之情形，於有正當理由時，不在此限：	下列之詰問不得為之。但第五款至第八款之情形，於有正當理由時，不在此限：	The following ways of examination shall be prohibited, unless the circumstances specified in items 5 through 8 exist and there is a good reason not to apply it:
一、與本案及因詰問所顯現之事項無關者。	一 與本案及因詰問所顯現之事項無關者。	(1) The question is unrelated to the subject case or the matter revealed by examination;
二、以恫嚇、侮辱、利誘、詐欺或其他不正之方法者。	二 以恫嚇、侮辱、利誘、詐欺或其他不正之方法者。	(2) The examination is conducted by ways of threat, insult, inducement, fraud, or other improper means;
三、抽象不明確之詰問。	三 抽象不明確之詰問。	(3) The question is abstract and lack of specification;
四、為不合法之誘導者。	四 為不合法之誘導者。	(4) The question is unjustifiable leading;
五、對假設性事項或無證據支持之事實為之者。	五 對假設性事項或無證據支持之事實為之者。	(5) The examination is based on hypothetical facts or facts unsupported by evidence;
六、重覆之詰問。	六 重覆之詰問。	(6) Repeated question;
七、要求證人陳述個人意見或推測、評論者。	七 要求證人陳述個人意見或推測、評論者。	(7) Asking the witness to state his personal opinion, speculation, or comment;
八、恐證言於證人或與其有第一百八十條第一項關係之人之名譽、信用或財產有重大損害者。	八 恐證言於證人或與其有第一百八十條第一項關係之人之名譽、信用或財產有重大損害者。	(8) The testimony may seriously injure the reputation, credit, or property of the witness or the persons who have the relationship with him as specified in section I of Article 180;
九、對證人未親身經歷事項或鑑定人未行鑑定事項為之者。	九 對證人未親身經歷事項或鑑定人未行鑑定事項為之者。	(9) The examination is addressed to matters that the witness has not personally experienced, or things that the expert witness has not personally examined;
一○、其他為法令禁止者。	一○ 其他為法令禁止者。	(10) Other ways prohibited by law.
第 167 條(詰問之限制)	第 167 條	**Article 167**
當事人、代理人或辯護人詰問證人、鑑定人時，審判長除認其有不	當事人、代理人或辯護人詰問證人、鑑定人時，審判長除認其有不	The presiding judge shall not restrict or prohibit the examination of witness or expert witness by the party, agent, or

當者外，不得限制或禁止之。	當者外，不得限制或禁止之。	defense attorney, unless the examination is inappropriate.
第 167-1 條(聲明異議權)	**第 167-1 條**	**Article 167- 1**
當事人、代理人或辯護人就證人、鑑定人之詰問及回答，得以違背法令或不當為由，聲明異議。	當事人、代理人或辯護人就證人、鑑定人之詰問及回答，得以違背法令或不當為由，聲明異議。	The party, agent, or defense attorney may object to the examination of witness or expert witness and the answer thereof for the reasons that it violates the law or regulation, or it is inappropriate.
第 167-2 條(聲明異議之處理)	**第 167-2 條**	**Article 167- 2**
前條之異議，應就各個行為，立即以簡要理由為之。	前條之異議，應就各個行為，立即以簡要理由為之。	The objection specified in the preceding article shall be made to a particular question or answer and it shall be immediately accompanied by brief reasons thereof.
審判長對於前項異議，應立即處分。	審判長對於前項異議，應立即處分。	The presiding judge shall make immediate ruling on the objection specified in the preceding section.
他造當事人、代理人或辯護人，得於審判長處分前，就該異議陳述意見。	他造當事人、代理人或辯護人，得於審判長處分前，就該異議陳述意見。	The opposing party, agent, or defense attorney may state his opinion about the objection prior to the presiding judge's making ruling.
證人、鑑定人於當事人、代理人或辯護人聲明異議後，審判長處分前，應停止陳述。	證人、鑑定人於當事人、代理人或辯護人聲明異議後，審判長處分前，應停止陳述。	The witness or expert witness shall not make statement between the time objection is made and the time a presiding judge's ruling is announced.
第 167-3 條(聲明異議之處理－駁回)	**第 167-3 條**	**Article 167- 3**
審判長認異議有遲誤時機、意圖延滯訴訟或其他不合法之情形者，應以處分駁回之。但遲誤時機所提出之異議事項與案情有重要關係者，不在此限。	審判長認異議有遲誤時機、意圖延滯訴訟或其他不合法之情形者，應以處分駁回之。但遲誤時機所提出之異議事項與案情有重要關係者，不在此限。	The presiding judge shall overrule an objection if it is determined that it was not timely made, it was made for delaying the proceeding or for other illegitimate purposes, unless the subject matter of objection, not timely made, has a critical relationship with the case at bar.
第 167-4 條(聲明異議之處理－異議無理由)	**第 167-4 條**	**Article 167- 4**
審判長認異議無理由者，應以處分駁回之。	審判長認異議無理由者，應以處分駁回之。	The presiding judge shall overrule an objection if it is determined that it is was not supported by good reason.
第 167-5 條(聲明異議之處理－異議有理由)	**第 167-5 條**	**Article 167- 5**
審判長認異議有理由者，應視其情形，立即	審判長認異議有理由者，應視其情形，立即	The presiding judge shall make a ruling to order the termination, withdrawal,

分別為中止、撤回、撤銷、變更或其他必要之處分。	分別為中止、撤回、撤銷、變更或其他必要之處分。	cancellation, alteration, or other appropriate measures of the question being asked and the answer thereto as the case may be, if the objection is supported by good reason.
第 167-6 條(異議之處分不得聲明不服)	**第 167-6 條**	**Article 167- 6**
對於前三條之處分，不得聲明不服。	對於前三條之處分，不得聲明不服。	No appeal shall be made to the rulings specified in the preceding three articles.
第 167-7 條(詢問之準用規定)	**第 167-7 條**	**Article 167- 7**
第一百六十六條之七第二項、第一百六十七條至第一百六十七條之六之規定，於行第一百六十三條第一項之詢問準用之。	第一百六十六條之七第二項、第一百六十七條至第一百六十七條之六之規定，於行第一百六十三條第一項之詢問準用之。	The provisions of section II of Article 166-7, and Articles 167 through 167-6 shall apply mutatis mutandis to examination specified in section I of Article 163.
第 168 條(證人、鑑定人之在庭義務)	**第 168 條(證人、鑑定人之在庭義務)**	**Article 168**
證人、鑑定人雖經陳述完畢，非得審判長之許可，不得退庭。	證人、鑑定人雖經陳述完畢，非得審判長之許可，不得退庭。	A witness or an expert witness may not leave the court without permission of the presiding judge notwithstanding that he has finished testifying.
第 168-1 條(當事人在場權)	**第 168-1 條**	**Article 168- 1**
當事人、代理人、辯護人或輔佐人得於訊問證人、鑑定人或通譯時在場。 前項訊問之日、時及處所，法院應預行通知之。但事先陳明不願到場者，不在此限。	當事人、代理人、辯護人或輔佐人得於訊問證人、鑑定人或通譯時在場。 前項訊問之日、時及處所，法院應預行通知之。但事先陳明不願到場者，不在此限。	The party, agent, defense attorney, or assistant may be present at the time a witness, an expert witness, or an interpreter is being examined. The court shall send notice in advance regarding the date, time, and place of examination specified in preceding section, unless the unwillingness of being present had been declared ahead of time.
第 169 條(被告在庭權之限制)	**第 169 條**	**Article 169**
審判長預料證人、鑑定人或共同被告於被告前不能自由陳述者，經聽取檢察官及辯護人之意見後，得於其陳述時，命被告退庭。但陳述完畢後，應再命被告入庭，告以陳述之要旨，並予詰問或對質之	審判長預料證人、鑑定人或共同被告於被告前不能自由陳述者，經聽取檢察官及辯護人之意見後，得於其陳述時，命被告退庭。但陳述完畢後，應再命被告入庭，告以陳述之要旨，並予詰問或對質之機	If a presiding judge foresees that a witness, an expert witness, or the other co-defendants will not freely state what he knows in the presence of the accused, he may, after considering the opinion of the public prosecutor and defense attorney, order the accused to leave the court, provided that after the testimony is concluded, the accused shall be ordered to reenter the court and the

機會。	會。	important points of the testimony shall be related to him. Also, the accused shall be offered the opportunity to examine or to confront that person.
第 170 條(陪席法官之訊問)	**第 170 條**	**Article 170**
參與合議審判之陪席法官，得於告知審判長後，訊問被告或準用第一百六十六條第四項及第一百六十六條之六第二項之規定，訊問證人、鑑定人。	參與合議審判之陪席法官，得於告知審判長後，訊問被告或準用第一百六十六條第四項及第一百六十六條之六第二項之規定，訊問證人、鑑定人。	An associate judge who participates in a trial by panel of judges may, after informing the presiding judge, examine an accused, or examine a witness or expert witness by applying mutatis mutandis the provisions of section IV of Article 166 and section II of Article 166-6.
第 171 條(審判期日前訊問之準用規定)	**第 171 條**	**Article 171**
法院或受命法官於審判期日前為第二百七十三條第一項或第二百七十六條之訊問者，準用第一百六十四條至第一百七十條之規定。	法院或受命法官於審判期日前為第二百七十三條第一項或第二百七十六條之訊問者，準用第一百六十四條至第一百七十條之規定。	The provisions of Articles 164 through 170 shall apply mutatis mutandis to a court or commissioned judge in making examination according to the provisions of section I of Article 273, or Article 276 prior to the trial date.
第 172 條	**第 172 條**	**Article 172**
(刪除)	(刪除)	(Deleted)
第 173 條	**第 173 條**	**Article 173**
(刪除)	(刪除)	(Deleted)
第 174 條	**第 174 條**	**Article 174**
(刪除)	(刪除)	(Deleted)
第二節 人證	第二節 人證	**Section 2 – Witness**
第 175 條(傳喚證人之傳票)	**第 175 條**	**Article 175**
傳喚證人，應用傳票。	傳喚證人，應用傳票。	A witness shall be called to testify by a subpoena.
傳票，應記載下列事項：	傳票，應記載下列事項：	A subpoena shall contain the following matters:
一、證人之姓名、性別及住所、居所。	一 證人之姓名、性別及住所、居所。	(1) Full name, sex, domicile and residence of the witness;
二、待證之事由。	二 待證之事由。	(2) Principal facts of the case to be testified;
三、應到之日、時、處所。	三 應到之日、時、處所。	(3) Date, hour, and place of appearance;
四、無正當理由不到場	四 無正當理由不到場	(4) That the witness may be fined or an

者，得處罰鍰及命拘提。 五、證人得請求日費及旅費。 傳票，於偵查中由檢察官簽名，審判中由審判長或受命法官簽名。	者，得處罰鍰及命拘提。 五　證人得請求日費及旅費。 傳票，於偵查中由檢察官簽名，審判中由審判長或受命法官簽名。	arrest warrant may be issued if he fails to appear without good reason; (5) That the witness may request daily fees and traveling expenses. A subpoena shall be signed by the public prosecutor during the stage of investigation or by the presiding judge or commissioned judge during the stage of the trial.
傳票至遲應於到場期日二十四小時前送達。但有急迫情形者，不在此限。	傳票至遲應於到場期日二十四小時前送達。但有急迫情形者，不在此限。	A subpoena shall be served at least twenty-four hours before the date of appearance unless the circumstances are urgent.
第 176 條(監所證人之傳喚與口頭傳喚)	**第 176 條(監所證人之傳喚與口頭傳喚)**	**Article 176**
第七十二條及第七十三條之規定，於證人之傳喚準用之。	第七十二條及第七十三條之規定，於證人之傳喚準用之。	The provisions of Articles 72 and 73 shall apply mutatis mutandis to the subpoenaing of a witness.
第 176-1 條(作證義務)	**第 176-1 條**	**Article 176- 1**
除法律另有規定者外，不問何人，於他人之案件，有為證人之義務。	除法律另有規定者外，不問何人，於他人之案件，有為證人之義務。	Everyone shall have the obligation to be a witness in other's case unless otherwise provided by law.
第 176-2 條(聲請調查證據人促使證人到場之責任)	**第 176-2 條**	**Article 176- 2**
法院因當事人、代理人、辯護人或輔佐人聲請調查證據，而有傳喚證人之必要者，為聲請之人應促使證人到場。	法院因當事人、代理人、辯護人或輔佐人聲請調查證據，而有傳喚證人之必要者，為聲請之人應促使證人到場。	In case a court deems it is necessary to subpoena a witness due to the motion of the party, agent, defense attorney, or assistant, the person making the motion shall urge the witness to be present.
第 177 條(就訊證人)	**第 177 條**	**Article 177**
證人不能到場或有其他必要情形，得於聽取當事人及辯護人之意見後，就其所在或於其所在地法院訊問之。	證人不能到場或有其他必要情形，得於聽取當事人及辯護人之意見後，就其所在或於其所在地法院訊問之。	If a witness is unable to appear or there are other necessary circumstances, after considering the opinion of the party or defense attorney, he may be examined where he is found or in the court of the judicial district in which he resides.
前項情形，證人所在與法院間有聲音及影像相互傳送之科技設備而得直接訊問，經法院認為適當者，得以該設備訊問之。	前項情形，證人所在與法院間有聲音及影像相互傳送之科技設備而得直接訊問，經法院認為適當者，得以該設備訊問之。	In circumstances specified in the preceding section, if there is audio and video transmission technical equipments that can communicate between the place where the witness is located and the court, the court may conduct the examination by utilizing the said technology if the court deems appropriate to do so.

當事人、辯護人及代理人得於前二項訊問證人時在場並得詰問之；其訊問之日時及處所，應預行通知之。	當事人、辯護人及代理人得於前二項訊問證人時在場並得詰問之；其訊問之日時及處所，應預行通知之。	In conducting the examination specified in the preceding two sections, the party, defense attorney, and agent may be present and may examine the witness; the court shall send notice in advance regarding the date and place of examination.
第二項之情形，於偵查中準用之。	第二項之情形，於偵查中準用之。	The provisions of the preceding two sections shall apply mutatis mutandis to the investigation stage.
第 178 條(證人之到場義務及制裁)	**第 178 條**	**Article 178**
證人經合法傳喚，無正當理由而不到場者，得科以新臺幣三萬元以下之罰鍰，並得拘提之；再傳不到者，亦同。	證人經合法傳喚，無正當理由而不到場者，得科以新臺幣三萬元以下之罰鍰，並得拘提之；再傳不到者，亦同。	A legally subpoenaed witness who fails to appear without good reason may be imposed a pecuniary penalty of not more than thirty thousand NT; in addition, he may be arrested with a warrant; if he fails to appear when being subpoenaed again, the same rule may be applied.
前項科罰鍰之處分，由法院裁定之。檢察官為傳喚者，應聲請該管法院裁定之。	前項科罰鍰之處分，由法院裁定之。檢察官為傳喚者，應聲請該管法院裁定之。	The pecuniary penalty specified in the preceding section shall be imposed by a ruling of the court; if the witness is subpoenaed by a public prosecutor, the said court shall be requested to make a ruling.
對於前項裁定，得提起抗告。	對於前項裁定，得提起抗告。	An interlocutory appeal may be taken from the ruling specified in the preceding section.
拘提證人，準用第七十七條至第八十三條及第八十九條至第九十一條之規定。	拘提證人，準用第七十七條至第八十三條及第八十九條至第九十一條之規定。	The provisions of Articles 77 through 83 and 89 through 91 shall apply mutatis mutandis to the arrest of a witness with a warrant.
第 179 條(拒絕證言(一)－公務員)	**第 179 條(拒絕證言(一)－公務員)**	**Article 179**
以公務員或曾為公務員之人為證人，而就其職務上應守秘密之事項訊問者，應得該管監督機關或公務員之允許。	以公務員或曾為公務員之人為證人，而就其職務上應守秘密之事項訊問者，應得該管監督機關或公務員之允許。	In examining a witness who is or was a public official on matters which should be kept confidential for official reasons, the permission of the competent supervising public office or officer must be obtained.
前項允許，除有妨害國家之利益者外，不得拒絕。	前項允許，除有妨害國家之利益者外，不得拒絕。	The permission specified in the preceding section may not be withheld unless the testimony would be harmful to the interests of the State.
第 180 條(拒絕證言－身分關係)	**第 180 條**	**Article 180**
證人有下列情形之一者，得拒絕證言：	證人有下列情形之一者，得拒絕證言：	A witness may refuse to testify under one of the following circumstances:
一、現為或曾為被告或	一　現為或曾為被告或	(1) The witness is or was the spouse, lineal

自訴人之配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬者。	自訴人之配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬者。	blood relative, blood relative within the third degree of kinship, relative by marriage within the second degree of relationship, family head, or family member of the accused or private prosecutor;
二、與被告或自訴人訂有婚約者。	二 與被告或自訴人訂有婚約者。	(2) The witness is betrothed to the accused or private prosecutor;
三、現為或曾為被告或自訴人之法定代理人或現由或曾由被告或自訴人為其法定代理人者。	三 現為或曾為被告或自訴人之法定代理人或現由或曾由被告或自訴人為其法定代理人者。	(3) The witness is or was the statutory agent of the accused or private prosecutor or the accused or private prosecutor is or was the statutory agent of such witness.
對於共同被告或自訴人中一人或數人有前項關係，而就僅關於他共同被告或他共同自訴人之事項為證人者，不得拒絕證言。	對於共同被告或自訴人中一人或數人有前項關係，而就僅關於他共同被告或他共同自訴人之事項為證人者，不得拒絕證言。	A person who has the relationship to one or more accused or private prosecutors specified in the preceding section may not refuse to testify on matters which relate only to the other accused or private prosecutors.
第 181 條(拒絕證言(三)－身分與利害關係)	**第 181 條(拒絕證言(三)－身分與利害關係)**	**Article 181**
證人恐因陳述致自己或與其有前條第一項關係之人受刑事追訴或處罰者，得拒絕證言。	證人恐因陳述致自己或與其有前條第一項關係之人受刑事追訴或處罰者，得拒絕證言。	A witness may refuse to testify if his testimony may subject himself or the person having the relationship to him specified in section I of the preceding article to criminal prosecution or punishment.
第 181-1 條(不得拒絕證言之事項)	**第 181-1 條**	**Article 181- 1**
被告以外之人於反詰問時，就主詰問所陳述有關被告本人之事項，不得拒絕證言。	被告以外之人於反詰問時，就主詰問所陳述有關被告本人之事項，不得拒絕證言。	A person other than the accused may not refuse to testify in cross-examination on matters relating to the accused that has been revealed in direct-examination.
第 182 條(拒絕證言－業務關係)	**第 182 條**	**Article 182**
證人為醫師、藥師、助產士、宗教師、律師、辯護人、公證人、會計師或其業務上佐理人或曾任此等職務之人，就其因業務所知悉有關他人秘密之事項受訊問者，除經本人允許者外，得拒絕證言。	證人為醫師、藥師、助產士、宗教師、律師、辯護人、公證人、會計師或其業務上佐理人或曾任此等職務之人，就其因業務所知悉有關他人秘密之事項受訊問者，除經本人允許者外，得拒絕證言。	A witness who is or was a medical doctor, pharmacist, obstetrician, clergy, lawyer, defense attorney, notary public, accountant, or one who is or was an assistant of one of such persons and who because of his occupation has learned confidential matters relating to another may refuse to testify when he is questioned unless the permission of such other person is obtained.
第 183 條(拒絕證言原因之釋明)	**第 183 條**	**Article 183**
證人拒絕證言者，應將	證人拒絕證言者，應將	A witness who refuses to testify shall clearly

拒絕之原因釋明之。但於第一百八十一條情形，得命具結以代釋明。	拒絕之原因釋明之。但於第一百八十一條情形，得命具結以代釋明。	state the reason for such refusal, provided that if one of the circumstances specified in Article 181 exists, such witness may be ordered to make an affidavit in lieu of stating the reason.
拒絕證言之許可或駁回，偵查中由檢察官命令之，審判中由審判長或受命法官裁定之。	拒絕證言之許可或駁回，偵查中由檢察官命令之，審判中由審判長或受命法官裁定之。	Approval or disapproval of a refusal to testify shall be by order of a public prosecutor during the stage of investigation or by the ruling of a presiding or commissioned judge during the stage of trial.
第 184 條(證人之隔別訊問與對質)	**第 184 條**	**Article 184**
證人有數人者，應分別訊問之；其未經訊問者，非經許可，不得在場。	證人有數人者，應分別訊問之；其未經訊問者，非經許可，不得在場。	If there are several witnesses, they shall be examined separately; one who has not been examined may not be present without permission.
因發見真實之必要，得命證人與他證人或被告對質，亦得依被告之聲請，命與證人對質。	因發見真實之必要，得命證人與他證人或被告對質，亦得依被告之聲請，命與證人對質。	If it is necessary to discover the truth, witnesses may be ordered to confront each other or the accused, and such a confrontation between witnesses may also be ordered at the request of the accused.
第 185 條(證人之人別訊問)	**第 185 條(證人之人別訊問)**	**Article 185**
訊問證人，應先調查其人有無錯誤及與被告或自訴人有無第一百八十條第一項之關係。	訊問證人，應先調查其人有無錯誤及與被告或自訴人有無第一百八十條第一項之關係。	In examining a witness, his identity and whether he has the relationship to an accused or private prosecutor specified in section I of Article 180 must first be investigated.
證人與被告或自訴人有第一百八十條第一項之關係者，應告以得拒絕證言。	證人與被告或自訴人有第一百八十條第一項之關係者，應告以得拒絕證言。	If a witness is found to have the relationship to an accused or private prosecutor specified in section I of Article 180, he shall be informed that he may refuse to testify.
第 186 條(具結義務與不得令具結事由)	**第 186 條**	**Article 186**
證人應命具結。但有下列情形之一者，不得令其具結： 一、未滿十六歲者。 二、因精神障礙，不解具結意義及效果者。	證人應命具結。但有下列情形之一者，不得令其具結： 一　未滿十六歲者。 二　因精神障礙，不解具結意義及效果者。	A witness shall be ordered to make an affidavit that he will tell the truth unless one of the following circumstances exists: (1) He is under the sixteenth year of his age; (2) He is unable, because of mental disability, to understand the meaning and effect of an affidavit.
證人有第一百八十一條之情形者，應告以得拒絕證言。	證人有第一百八十一條之情形者，應告以得拒絕證言。	If a witness is under the circumstances specified in Article 181, he shall be informed that he may refuse to testify.

第 187 條(具結程序)	第 187 條(具結程序)	**Article 187**
證人具結前，應告以具結之義務及偽證之處罰。	證人具結前，應告以具結之義務及偽證之處罰。	Before a witness signs an affidavit to tell the truth, he shall be informed of the obligation which it imposes and the punishment for perjury.
對於不令具結之證人，應告以當據實陳述，不得匿、飾、增、減。	對於不令具結之證人，應告以當據實陳述，不得匿、飾、增 、減。	A witness who is not required to sign an affidavit to tell the truth shall be informed that he must tell the truth without concealment, qualification, addition, or modification.
第 188 條(具結時期)	第 188 條(具結時期)	**Article 188**
具結應於訊問前為之。但應否具結有疑義者，得命於訊問後為之。	具結應於訊問前為之。但應否具結有疑義者，得命於訊問後為之。	An affidavit to tell the truth shall be signed before an examination starts, provided that if doubt exists as to whether such affidavit is required, it may be ordered to be signed after the examination.
第 189 條(結文之作成)	第 189 條	**Article 189**
具結應於結文內記載當據實陳述，決無匿、飾、增、減等語；其於訊問後具結者，結文內應記載係據實陳述，並無匿、飾、增、減等語。	具結應於結文內記載當據實陳述，決無匿、飾、增、減等語；其於訊問後具結者，結文內應記載係據實陳述，並無匿、飾、增、減等語。	An affidavit to tell the truth shall state that the testimony to be given is based upon actual facts without concealment, qualification, addition, or modification; if an affidavit to tell the truth is signed after an examination, it shall state that the testimony given was based upon actual facts without concealment, qualification, addition, or modification.
結文應命證人朗讀；證人不能朗讀者，應命書記官朗讀，於必要時並說明其意義。	結文應命證人朗讀；證人不能朗讀者，應命書記官朗讀，於必要時並說明其意義。	A witness shall be ordered to read aloud an affidavit to tell the truth; if the witness cannot read, the clerk shall be order to read aloud the affidavit to him and, if necessary, its meaning shall be explained.
結文應命證人簽名、蓋章或按指印。	結文應命證人簽名、蓋章或按指印。	A witness shall be ordered to place his signature, seal, or fingerprint on the affidavit to tell the truth.
證人係依第一百七十七條第二項以科技設備訊問者，經具結之結文得以電信傳真或其他科技設備傳送予法院或檢察署，再行補送原本。	證人係依第一百七十七條第二項以科技設備訊問者，經具結之結文得以電信傳真或其他科技設備傳送予法院或檢察署，再行補送原本。	If the witness is examined by utilizing technical equipments specified in section II of Article 177, the context of the affidavit to tell the truth may be transmitted to the court, or public prosecutor's office by electronic facsimile or other technical equipments followed by the original.
第一百七十七條第二項證人訊問及前項結文傳送之辦法，由司法院會同行政院定之。	第一百七十七條第二項證人訊問及前項結文傳送之辦法，由司法院會同行政院定之。	The rules governing the examination of a witness and the transmission of the content of affidavit to tell the truth specified in section II of Article 177 and the preceding section shall be set up by the Judicial Yuan and the Executive Yuan jointly.

第 190 條(訊問證人之方式－連續陳述)	第 190 條	**Article 190**
訊問證人，得命其就訊問事項之始末連續陳述。	訊問證人，得命其就訊問事項之始末連續陳述。	A witness who is examined may be ordered to relate the facts of the matter about which he is being examined in order from beginning to end.
第 191 條	第 191 條	**Article 191**
(刪除)	(刪除)	(Deleted)
第 192 條 (訊問證人之準用規定)	第 192 條	**Article 192**
第七十四條及第九十九條之規定，於證人之訊問準用之。	第七十四條及第九十九條之規定，於證人之訊問準用之。	The provisions of Article 74 and 99 shall apply mutatis mutandis to the examination of a witness.
第 193 條 (拒絕具結或證言及不實具結之處罰)	第 193 條	**Article 193**
證人無正當理由拒絕具結或證言者，得處以新臺幣三萬元以下之罰鍰，於第一百八十三條第一項但書情形為不實之具結者，亦同。	證人無正當理由拒絕具結或證言者，得處以新臺幣三萬元以下之罰鍰，於第一百八十三條第一項但書情形為不實之具結者，亦同。	A witness who refuses without good reason to sign an affidavit to tell the truth or to testify may be imposed a pecuniary penalty of not more than three thousand NT; the same rule shall apply to a witness who is required to sign an affidavit under the proviso of section I of Article 183, but who makes a false statement in the affidavit.
第一百七十八條第二項及第三項之規定，於前項處分準用之。	第一百七十八條第二項及第三項之規定，於前項處分準用之。	The provisions of sections II and III of Article 178 shall apply mutatis mutandis to the measures specified in the preceding section.
第 194 條 (證人請求日費及旅費之權利)	第 194 條(證人請求日費及旅費之權利)	**Article 194**
證人得請求法定之日費及旅費。但被拘提或無正當理由，拒絕具結或證言者，不在此限。	證人得請求法定之日費及旅費。但被拘提或無正當理由，拒絕具結或證言者，不在此限。	A witness may request legally fixed daily fees and traveling expenses unless he was arrested with a warrant or has refused without good reason to sign an affidavit to tell the truth or to testify.
前項請求，應於訊問完畢後十日內，向法院為之。但旅費得請求預行酌給。	前項請求，應於訊問完畢後十日內，向法院為之。但旅費得請求預行酌給。	The request specified in the preceding section shall be made to a court within ten days after completion of the examination, provided that a request for traveling expenses may be made in advance.
第 195 條 (囑託訊問證人)	第 195 條	**Article 195**
審判長或檢察官得囑	審判長或檢察官得囑託	A presiding judge or public prosecutor may

託證人所在地之法官或檢察官訊問證人；如證人不在該地者，該法官、檢察官得轉囑託其所在地之法官、檢察官。	證人所在地之法官或檢察官訊問證人；如證人不在該地者，該法官、檢察官得轉囑託其所在地之法官、檢察官。	request the judge or public prosecutor of a place where a witness is found to examine him; if the witness cannot be found at such place, the judge or public prosecutor of such place may in turn make such request of a judge or public prosecutor of a place where the accused may be found.
第一百七十七條第三項之規定，於受託訊問證人時準用之。	第一百七十七條第三項之規定，於受託訊問證人時準用之。	The provision of section III of Article 177 shall apply mutatis mutandis to the requisitioned examination of the witness.
受託法官或檢察官訊問證人者，與本案繫屬之法院審判長或檢察官有同一之權限。	受託法官或檢察官訊問證人者，與本案繫屬之法院審判長或檢察官有同一之權限。	A requisitioned judge or public prosecutor who examines a witness shall have the same rights as the presiding judge or public prosecutor of the court in which the case is pending.
第 196 條 (再行傳訊之限制)	**第 196 條**	**Article 196**
證人已由法官合法訊問，且於訊問時予當事人詰問之機會，其陳述明確別無訊問之必要者，不得再行傳喚。	證人已由法官合法訊問，且於訊問時予當事人詰問之機會，其陳述明確別無訊問之必要者，不得再行傳喚。	A witness shall not be called to testify again where has been legally examined by a judge, and the parties has been offered the opportunity to cross examine witness, whose statement is clear and definite, and there is no necessity for further examination.
第 196-1 條 (證人通知及詢問之準用規定)	**第 196-1 條**	**Article 196- 1**
司法警察官或司法警察因調查犯罪嫌疑人犯罪情形及蒐集證據之必要，得使用通知書通知證人到場詢問。	司法警察官或司法警察因調查犯罪嫌疑人犯罪情形及蒐集證據之必要，得使用通知書通知證人到場詢問。	A judicial police officer or judicial policeman may, for the purposes of investigating the circumstances of an offense and collecting evidence, may use written notification to summon the witness for interrogation if necessary.
第七十一條之一第二項、第七十三條、第七十四條、第一百七十五條第二項第一款至第三款、第四項、第一百七十七條第一項、第三項、第一百七十九條至第一百八十二條、第一百八十四條、第一百八十五條及第一百九十二條之規定，於前項證人之通知及詢問準用之。	第七十一條之一第二項、第七十三條、第七十四條、第一百七十五條第二項第一款至第三款、第四項、第一百七十七條第一項、第三項、第一百七十九條至第一百八十二條、第一百八十四條、第一百八十五條及第一百九十二條之規定，於前項證人之通知及詢問準用之。	The provisions of section II of Article 71-1, Article 73, Article 74, Items I through III of section II and section IV of Article 175, section I and section III of Article 177, Articles 179 through 182, Article 184, Article 185 and Article 192 shall apply mutatis mutandis to the summons and interrogation of witness specified in preceding section.
第三節 鑑定及通譯	**第三節 鑑定及通譯**	**Section 3 - Expert Witnesses and**

Interpreters

第 197 條 (鑑定事項之準用規定)	第 197 條(鑑定事項之準用規定)	**Article 197**
鑑定，除本節有特別規定外，準用前節關於人證之規定。	鑑定，除本節有特別規定外，準用前節關於人證之規定。	Except as otherwise provided in this Section an expert witness is subject mutatis mutandis to the provisions of the preceding Section relating to a witness.
第 198 條 (鑑定人之選任)	第 198 條	**Article 198**
鑑定人由審判長、受命法官或檢察官就下列之人選任一人或數人充之：	鑑定人由審判長、受命法官或檢察官就下列之人選任一人或數人充之：	A presiding judge, commissioned judge, or public prosecutor may select one or more expert witnesses from the following:
一、就鑑定事項有特別知識經驗者。	一　就鑑定事項有特別知識經驗者。	(1) A person who has special knowledge and experience concerning the matter which requires expert opinion;
二、經政府機關委任有鑑定職務者。	二　經政府機關委任有鑑定職務者。	(2) A person who is commissioned by a public office to perform duties of an expert witness.
第 199 條 (拘提之禁止)	第 199 條(拘提之禁止)	**Article 199**
鑑定人，不得拘提。	鑑定人，不得拘提。	An expert witness shall not be arrested with a warrant.
第 200 條 (聲請拒卻鑑定人之原因及時期)	第 200 條	**Article 200**
當事人得依聲請法官迴避之原因，拒卻鑑定人。但不得以鑑定人於該案件曾為證人或鑑定人為拒卻之原因。	當事人得依聲請法官迴避之原因，拒卻鑑定人。但不得以鑑定人於該案件曾為證人或鑑定人為拒卻之原因。	A party may object to an expert witness for the same reasons as those which he may motion for the disqualification of a judge, provided that the fact that he has already been a witness or an expert witness in that particular case may not constitute a reason for objection.
鑑定人已就鑑定事項為陳述或報告後，不得拒卻。但拒卻之原因發生在後或知悉在後者，不在此限。	鑑定人已就鑑定事項為陳述或報告後，不得拒卻。但拒卻之原因發生在後或知悉在後者，不在此限。	A party may not object to an expert witness after he has testified or made a report regarding a matter which requires expert opinion, provided that this limitation does not apply if the reason therefor arose or became known thereafter.
第 201 條 (拒卻鑑定人之程序)	第 201 條	**Article 201**
拒卻鑑定人，應將拒卻之原因及前條第二項但書之事實釋明之。	拒卻鑑定人，應將拒卻之原因及前條第二項但書之事實釋明之。	If an objection is made to an expert witness, the reason for such objection and the facts specified in the proviso of section II of the preceding article shall be clearly indicated.
拒卻鑑定人之許可或	拒卻鑑定人之許可或駁	Approval or disapproval of an objection to

駁回，偵查中由檢察官命令之，審判中由審判長或受命法官裁定之。	回，偵查中由檢察官命令之，審判中由審判長或受命法官裁定之。	an expert witness shall be made by order of a public prosecutor during the stage of investigation or by a ruling of the presiding or commissioned judge during the stage of trial.
第 202 條 (鑑定人之具結義務)	**第 202 條(鑑定人之具結義務)**	**Article 202**
鑑定人應於鑑定前具結，其結文內應記載必為公正誠實之鑑定等語。	鑑定人應於鑑定前具結，其結文內應記載必為公正誠實之鑑定等語。	An expert witness shall sign an affidavit to tell the truth before giving expert testimony; such affidavit shall state that such testimony is impartial and honest.
第 203 條 (於法院外為鑑定)	**第 203 條**	**Article 203**
審判長、受命法官或檢察官於必要時，得使鑑定人於法院外為鑑定。	審判長、受命法官或檢察官於必要時，得使鑑定人於法院外為鑑定。	If necessary, a presiding or commissioned judge or public prosecutor may permit an expert witness to make an expert examination outside the court.
前項情形，得將關於鑑定之物，交付鑑定人。	前項情形，得將關於鑑定之物，交付鑑定人。	The thing which requires an expert examination may be given to an expert witness under the circumstances specified in the preceding section.
因鑑定被告心神或身體之必要，得預定七日以下之期間，將被告送入醫院或其他適當之處所。	因鑑定被告心神或身體之必要，得預定七日以下之期間，將被告送入醫院或其他適當之處所。	If expert examination of the mental or physical condition of an accused is necessary, such accused may be sent to a hospital or other suitable establishment for a prescribed period not more than seven days.
第 203-1 條 (鑑定留置票)	**第 203-1 條**	**Article 203- 1**
前條第三項情形，應用鑑定留置票。但經拘提、逮捕到場，其期間未逾二十四小時者，不在此限。	前條第三項情形，應用鑑定留置票。但經拘提、逮捕到場，其期間未逾二十四小時者，不在此限。	A writ of detention for expert examination shall be issued for the circumstances specified in section III of the preceding article, unless the person being examined has been arrested with or without a warrant and the period is within twenty-four hours since the arrest.
鑑定留置票，應記載下列事項： 一、被告之姓名、性別、年齡、出生地及住所或居所。 二、案由。 三、應鑑定事項。 四、應留置之處所及預定之期間。	鑑定留置票，應記載下列事項： 一　被告之姓名、性別、年齡、出生地及住所或居所。 二　案由。 三　應鑑定事項。 四　應留置之處所及預定之期間。	A writ of detention for expert examination shall contain the following matters: (1) Full name, sex, age, birth place, domicile or residence of the accused; (2) Offense charged; (3) The matter which requires exert examination; (4) The establishment that the accused shall be detained and the prescribed period of detention;
五、如不服鑑定留置之	五　如不服鑑定留置之	(5) The relief that an accused can seek if he

救濟方法。	救濟方法。	disagrees with the decision on detention for expert examination.
第七十一條第三項之規定，於鑑定留置票準用之。	第七十一條第三項之規定，於鑑定留置票準用之。	The provision of section III of Article 71 shall apply mutatis mutandis to the writ of detention for expert examination.
鑑定留置票，由法官簽名。檢察官認有鑑定留置必要時，向法院聲請簽發之。	鑑定留置票，由法官簽名。檢察官認有鑑定留置必要時，向法院聲請簽發之。	A writ of detention for expert examination shall be signed by a judge. A public prosecutor may apply the court to issue a writ of detention for expert examination if necessary.
<u>第 203-2 條</u> (鑑定留置之執行)	**第 203-2 條**	**Article 203- 2**
執行鑑定留置，由司法警察將被告送入留置處所，該處所管理人員查驗人別無誤後，應於鑑定留置票附記送入之年、月、日、時並簽名。	執行鑑定留置，由司法警察將被告送入留置處所，該處所管理人員查驗人別無誤後，應於鑑定留置票附記送入之年、月、日、時並簽名。	Detention of an accused for expert examination shall be executed by a judicial policeman who shall send the accused to the detaining establishment. The administrative staff in charge thereof shall, after examining the identity of the accused, make a remark regarding the date and time of receiving on the writ and sign thereon.
第八十九條、第九十條之規定，於執行鑑定留置準用之。	第八十九條、第九十條之規定，於執行鑑定留置準用之。	The provisions of Article 89 and 90 shall apply mutatis mutandis to the execution of writ of detention of expert examination.
執行鑑定留置時，鑑定留置票應分別送交檢察官、鑑定人、辯護人、被告及其指定之親友。	執行鑑定留置時，鑑定留置票應分別送交檢察官、鑑定人、辯護人、被告及其指定之親友。	In executing the detention for expert examination, the writ of detention for expert examination shall be sent to the public prosecutor, expert witness, defense attorney, accused and relative or friend appointed by the accused.
因執行鑑定留置有必要時，法院或檢察官得依職權或依留置處所管理人員之聲請，命司法警察看守被告。	因執行鑑定留置有必要時，法院或檢察官得依職權或依留置處所管理人員之聲請，命司法警察看守被告。	A court or public prosecutor may muto proprio or upon the application of the administrative staff of the detaining establishment order that the accused be guarded by a policeman, if it is necessary for the execution of detention for expert examination.
<u>第 203-3 條</u> (鑑定留置期間及處所)	**第 203-3 條**	**Article 203- 3**
鑑定留置之預定期間，法院得於審判中依職權或偵查中依檢察官之聲請裁定縮短或延長之。但延長之期間不得逾二月。	鑑定留置之預定期間，法院得於審判中依職權或偵查中依檢察官之聲請裁定縮短或延長之。但延長之期間不得逾二月。	The court may during the stage of trial, muto proprio, or during the stage of investigations, upon the application of a public prosecutor, extend or reduce the prescribed period for detention for expert examination by a ruling, provided that the extension made thereof shall not exceed two months.
鑑定留置之處所，因安	鑑定留置之處所，因安	The court may, during the stage of trial,

全或其他正當事由之必要，法院得於審判中依職權或偵查中依檢察官之聲請裁定變更之。	全或其他正當事由之必要，法院得於審判中依職權或偵查中依檢察官之聲請裁定變更之。	muto proprio, or during the stage of investigation, upon application of a public prosecutor, change the place of detention by a ruling, provided that the change is necessary for safety purposes or other good reasons.
法院為前二項裁定，應通知檢察官、鑑定人、辯護人、被告及其指定之親友。	法院為前二項裁定，應通知檢察官、鑑定人、辯護人、被告及其指定之親友。	The public prosecutor, expert witness, defense attorney, accused and relative or friend appointed by the accused shall be notified of the rulings of the court specified in preceding two sections.
<u>第 203-4 條</u> (鑑定留置期日數視為羈押日數)	**第 203-4 條**	**Article 203- 4**
對被告執行第二百零三條第三項之鑑定者，其鑑定留置期間之日數，視為羈押之日數。	對被告執行第二百零三條第三項之鑑定者，其鑑定留置期間之日數，視為羈押之日數。	If an accused is subject to the execution of the expert examination specified in section III of Article 203, the days spend in detention for expert examination shall be counted against the days for detention.
<u>第 204 條</u> (鑑定之必要處分)	**第 204 條**	**Article 204**
鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，檢查身體、解剖屍體、毀壞物體或進入有人住居或看守之住宅或其他處所。	鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，檢查身體、解剖屍體、毀壞物體或進入有人住居或看守之住宅或其他處所。	If an expert examination is necessary, an expert witness may physically examine a person, conduct an autopsy, destroy a thing or enter into an occupied or guarded dwelling or other premises with the permission of the presiding or commissioned judge or public prosecutor.
第一百二十七條、第一百四十六條至第一百四十九條、第二百十五條、第二百十六條第一項及第二百十七條之規定，於前項情形準用之。	第一百二十七條、第一百四十六條至第一百四十九條、第二百十五條、第二百十六條第一項及第二百十七條之規定，於前項情形準用之。	The provisions of Article 127, Articles 146 through 149, Article 215, section I of Article 216 and Article 217 shall apply mutatis mutandis to the circumstances specified in the preceding section.
<u>第 204-1 條</u> (鑑定許可書)	**第 204-1 條**	**Article 204- 1**
前條第一項之許可，應用許可書。但於審判長、受命法官或檢察官前為之者，不在此限。	前條第一項之許可，應用許可書。但於審判長、受命法官或檢察官前為之者，不在此限。	A written permission is required for the permission of expert examination specified in section I of the preceding article, unless the expert examination is conducted in the presence of the presiding judge, commissioned judge or public prosecutor.
許可書，應記載下列事項：	許可書，應記載下列事項：	A written permission shall contain the following matters:
一、案由。	一　案由。	(1) Offense charged;
二、應檢查之身體、解	二　應檢查之身體、解	(2) The person subject to physical

剖之屍體、毀壞之物體或進入有人住居或看守之住宅或其他處所。	剖之屍體、毀壞之物體或進入有人住居或看守之住宅或其他處所。	examination or body subject to autopsy, the thing to be destroyed, or the occupied or guarded dwelling or other premises to be entered into;
三、應鑑定事項。	三 應鑑定事項。	(3) Matter that needs expert opinion;
四、鑑定人之姓名。	四 鑑定人之姓名。	(4) Full name of the expert witness;
五、執行之期間。	五 執行之期間。	(5) The period within which the permitted action has to be executed.
許可書，於偵查中由檢察官簽名，審判中由審判長或受命法官簽名。	許可書，於偵查中由檢察官簽名，審判中由審判長或受命法官簽名。	A written permission shall be signed, during the stage of investigation, by a public prosecutor, and during the stage of trial, by a presiding judge or a commissioned judge.
檢查身體，得於第一項許可書內附加認為適當之條件。	檢查身體，得於第一項許可書內附加認為適當之條件。	Appropriate conditions may be added to the terms of a written permission specified in section I of this article for physical examination.
第 204-2 條 (出示許可書及證明文件)	**第 204-2 條**	**Article 204- 2**
鑑定人為第二百零四條第一項之處分時，應出示前條第一項之許可書及可證明其身分之文件。	鑑定人為第二百零四條第一項之處分時，應出示前條第一項之許可書及可證明其身分之文件。	An expert witness shall display the written permission specified in section I of the preceding article together with document for his identity at the time of execution of the measures specified in section I of Article 204.
許可書於執行期間屆滿後不得執行，應即將許可書交還。	許可書於執行期間屆滿後不得執行，應即將許可書交還。	A written permission for expert examination may not be executed after expiration date, the same shall be returned to the issuing authority.
第 204-3 條 (無正當理由拒絕鑑定)	**第 204-3 條**	**Article 204- 3**
被告以外之人無正當理由拒絕第二百零四條第一項之檢查身體處分者，得處以新臺幣三萬元以下之罰鍰，並準用第一百七十八條第二項及第三項之規定。	被告以外之人無正當理由拒絕第二百零四條第一項之檢查身體處分者，得處以新臺幣三萬元以下之罰鍰，並準用第一百七十八條第二項及第三項之規定。	A person other than the accused may be imposed a pecuniary penalty of not more than thirty thousand NT if he refuses to be physically examined as specified in section I of Article 204 without justified reasons; he is also subject mutatis mutandis to the provision of sections II and III of Article 178.
無正當理由拒絕第二百零四條第一項之處分者，審判長、受命法官或檢察官得率同鑑定人實施之，並準用關於勘驗之規定。	無正當理由拒絕第二百零四條第一項之處分者，審判長、受命法官或檢察官得率同鑑定人實施之，並準用關於勘驗之規定。	In case the measures specified in section I of Article 204 is refused, the presiding judge, commissioned judge, or public prosecutor may lead the expert witness to execute it; the provisions of the Section of Inspections shall apply mutatis mutandis to this section.
第 205 條 (鑑定之必要處分)	**第 205 條**	**Article 205**

鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，檢閱卷宗及證物，並得請求蒐集或調取之。	鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，檢閱卷宗及證物，並得請求蒐集或調取之。	If an expert examination is necessary, an expert witness may examine the record or exhibits with the permission of the presiding or commissioned judge or public prosecutor; such witness may request that the record or exhibits be collected or produced.
鑑定人得請求訊問被告、自訴人或證人，並許其在場及直接發問。	鑑定人得請求訊問被告、自訴人或證人，並許其在場及直接發問。	An expert witness may request the court or public prosecutor to examine an accused or private prosecutor or witness and the permission to be present and question them directly.
第 205-1 條 (鑑定之必要處分－採取分泌物等之許可)	第 205-1 條	**Article 205- 1**
鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，採取分泌物、排泄物、血液、毛髮或其他出自或附著身體之物，並得採取指紋、腳印、聲調、筆跡、照相或其他相類之行為。	鑑定人因鑑定之必要，得經審判長、受命法官或檢察官之許可，採取分泌物、排泄物、血液、毛髮或其他出自或附著身體之物，並得採取指紋、腳印、聲調、筆跡、照相或其他相類之行為。	If an expert examination is necessary, an expert witness may gather samples of body fluid, feces, blood, hair, or other bodily growth or bodily appendages, and to take fingerprint, footprint, voice sampler, handwriting, photo or other actions of like kind with the permission of the presiding or commissioned judge or public prosecutor.
前項處分，應於第二百零四條之一第二項許可書中載明。	前項處分，應於第二百零四條之一第二項許可書中載明。	The measures specified in the preceding section shall be specified in written permission under section II of Article 204-1.
第 205-2 條 (調查及蒐證之必要處分－採取指紋等)	第 205-2 條	**Article 205- 2**
檢察事務官、司法警察官或司法警察因調查犯罪情形及蒐集證據之必要，對於經拘提或逮捕到案之犯罪嫌疑人或被告，得違反犯罪嫌疑人或被告之意思，採取其指紋、掌紋、腳印，予以照相、測量身高或類似之行為；有相當理由認為採取毛髮、唾液、尿液、聲調或吐氣得作為犯罪之證據時，並得採取之。	檢察事務官、司法警察官或司法警察因調查犯罪情形及蒐集證據之必要，對於經拘提或逮捕到案之犯罪嫌疑人或被告，得違反犯罪嫌疑人或被告之意思，採取其指紋、掌紋、腳印，予以照相、測量身高或類似之行為；有相當理由認為採取毛髮、唾液、尿液、聲調或吐氣得作為犯罪之證據時，並得採取之。	A public prosecuting affairs official, judicial police officer, or judicial policeman may, for the purposes of investigating the circumstances of an offense and collecting evidence, if necessary, gather fingerprint, handprint, footprint, and take picture, height and the like of a suspect or an accused arrested with or without a warrant, against his will; gathering samples of hair, saliva, urine, voice sampler, or exhalation may be made if there is probable cause to believe that the same can be used as the evidence of crime.
第 206 條 (鑑定報告)	第 206 條(鑑定報告)	**Article 206**
鑑定之經過及其結	鑑定之經過及其結果，	An expert witness shall be ordered to make

果，應命鑑定人以言詞或書面報告。 鑑定人有數人時，得使其共同報告之。但意見不同者，應使其各別報告。 以書面報告者，於必要時得使其以言詞說明。	應命鑑定人以言詞或書面報告。 鑑定人有數人時，得使其共同報告之。但意見不同者，應使其各別報告。 以書面報告者，於必要時得使其以言詞說明。	a report of his findings and results verbally or in writing. If there are several expert witnesses, they may be ordered to make a joint report, but if their opinions differ, they shall be required to make separate reports. If a report of an expert witness is submitted in writing, he may be required to explain it verbally if necessary.
第 206-1 條（行鑑定時當事人之在場權）	**第 206-1 條**	**Article 206- 1**
行鑑定時，如有必要，法院或檢察官得通知當事人、代理人或辯護人到場。 第一百六十八條之一第二項之規定，於前項情形準用之。	行鑑定時，如有必要，法院或檢察官得通知當事人、代理人或辯護人到場。 第一百六十八條之一第二項之規定，於前項情形準用之。	A court or public prosecutor may notify the party, agent, or defense attorney for his presence at the expert examination if necessary. The provision of section II of Article 168 shall apply mutatis mutandis to the circumstances specified in the preceding section.
第 207 條（鑑定人之增加或變更）	**第 207 條(鑑定人之增加或變更)**	**Article 207**
鑑定有不完備者，得命增加人數或命他人繼續或另行鑑定。	鑑定有不完備者，得命增加人數或命他人繼續或另行鑑定。	If an expert examination is incomplete, the number of expert witnesses may be increased or another expert witness may be ordered to continue it or begin it anew.
第 208 條（機關鑑定）	**第 208 條**	**Article 208**
法院或檢察官得囑託醫院、學校或其他相當之機關、團體為鑑定，或審查他人之鑑定，並準用第二百零三條至第二百零六條之一之規定；其須以言詞報告或說明時，得命實施鑑定或審查之人為之。	法院或檢察官得囑託醫院、學校或其他相當之機關、團體為鑑定，或審查他人之鑑定，並準用第二百零三條至第二百零六條之一之規定；其須以言詞報告或說明時，得命實施鑑定或審查之人為之。	A court or public prosecutor may request a hospital, school, or other suitable establishment or group to make an expert examination or to review the examination of another expert witness; also, subject mutatis mutandis to the provisions of Articles 203 through Article 206-1; if a report or explanation should be made verbally, the person who actually made an expert examination or the person who reviewed the examination of another expert witness may be ordered to do it.
第一百六十三條第一項、第一百六十六條至第一百六十七條之七、第二百零二條之規定，於前項由實施鑑定或審查之人為言詞報告或說明之情形準用之。	第一百六十三條第一項、第一百六十六條至第一百六十七條之七、第二百零二條之規定，於前項由實施鑑定或審查之人為言詞報告或說明之情形準用之。	The provisions of section I of Article 163, Articles 166 through 167-7, and Article 202 shall apply mutatis mutandis to the circumstances of verbal report or explanation made by the person who actually made an expert examination or the person who reviewed the examination of another expert witness as specified in the

		preceding section.
第 209 條 (鑑定人之費用請求權)	第 209 條	**Article 209**
鑑定人於法定之日費、旅費外，得向法院請求相當之報酬及預行酌給或償還因鑑定所支出之費用。	鑑定人於法定之日費、旅費外，得向法院請求相當之報酬及預行酌給或償還因鑑定所支出之費用。	In addition to daily fees and traveling expenses fixed by law, an expert witness may request from the court appropriate compensation and expenses for making an expert examination, the latter can be requested in advance.
第 210 條 (鑑定證人)	第 210 條(鑑定證人)	**Article 210**
訊問依特別知識得知已往事實之人者，適用關於人證之規定。	訊問依特別知識得知已往事實之人者，適用關於人證之規定。	Provisions relating to witnesses shall apply mutatis mutandis to the examination of a person who because of special knowledge is acquainted with past facts.
第 211 條 (通譯準用本節規定)	第 211 條(通譯準用本節規定)	**Article 211**
本節之規定，於通譯準用之。	本節之規定，於通譯準用之。	The provisions of this Section shall apply mutatis mutandis to an interpreter.
第四節 勘驗	第四節 勘驗	**Section 4 – Inspections**
第 212 條 (勘驗之機關及原因)	第 212 條(勘驗之機關及原因)	**Article 212**
法院或檢察官因調查證據及犯罪情形，得實施勘驗。	法院或檢察官因調查證據及犯罪情形，得實施勘驗。	A court or public prosecutor may make an inspection in order to investigate the evidence or circumstances of an offense.
第 213 條 (勘驗之處分)	第 213 條(勘驗之處分)	**Article 213**
勘驗，得為左列處分：	勘驗，得為左列處分：	An inspection may include the following measures:
一、履勘犯罪場所或其他與案情有關係之處所。	一　履勘犯罪場所或其他與案情有關係之處所。	(1) Examining the place of the offense or other place connected therewith;
二、檢查身體。	二　檢查身體。	(2) Physically examining a person;
三、檢驗屍體。	三　檢驗屍體。	(3) Examining a corpse;
四、解剖屍體。	四　解剖屍體。	(4) Conducting an autopsy;
五、檢查與案情有關係之物件。	五　檢查與案情有關係之物件。	(5) Examining property connected with the case;
六、其他必要之處分。	六　其他必要之處分。	(6) Performing other necessary measures.
第 214 條 (勘驗時之到場人)	第 214 條	**Article 214**
行勘驗時，得命證人、鑑定人到場。	行勘驗時，得命證人、鑑定人到場。	A witness or expert witness may be ordered to be present at the time of an inspection.
檢察官實施勘驗，如有	檢察官實施勘驗，如有	A party, an agent, or a defense attorney may

必要，得通知當事人、代理人或辯護人到場。	必要，得通知當事人、代理人或辯護人到場。	be notified to be present at the time of an inspection to be conducted by public prosecutor, if necessary.
前項勘驗之日、時及處所，應預行通知之。但事先陳明不願到場或有急迫情形者，不在此限。	前項勘驗之日、時及處所，應預行通知之。但事先陳明不願到場或有急迫情形者，不在此限。	The party, agent or defense attorney shall be notified in advance of the date, time, and place of conducting inspection, unless unwillingness to be present had been clearly stated or emergent circumstances exist.
第 215 條 (檢查身體處分之限制)	**第 215 條**	**Article 215**
檢查身體，如係對於被告以外之人，以有相當理由可認為於調查犯罪情形有必要者為限，始得為之。	檢查身體，如係對於被告以外之人，以有相當理由可認為於調查犯罪情形有必要者為限，始得為之。	Examination of a person other than an accused may be made only if there is probable cause to believe that it is necessary in investigating the circumstances of the offense.
行前項檢查，得傳喚其人到場或指定之其他處所，並準用第七十二條、第七十三條、第一百七十五條及第一百七十八條之規定。	行前項檢查，得傳喚其人到場或指定之其他處所，並準用第七十二條、第七十三條、第一百七十五條及第一百七十八條之規定。	The person specified in the preceding section may be subpoenaed to be present or to go to other designated establishment for inspection, subject mutatis mutandis to the provisions of Articles 72, 73, 175 and 178.
檢查婦女身體，應命醫師或婦女行之。	檢查婦女身體，應命醫師或婦女行之。	In examining the person of a female, a medical doctor or a woman shall be ordered to conduct it.
第 216 條 (檢驗或解剖屍體處分(一))	**第 216 條(檢驗或解剖屍體處分(一))**	**Article 216**
檢驗或解剖屍體，應先查明屍體有無錯誤。	檢驗或解剖屍體，應先查明屍體有無錯誤。	The identity of a corpse shall be clearly determined before it is examined or an autopsy is conducted.
檢驗屍體，應命醫師或檢驗員行之。	檢驗屍體，應命醫師或檢驗員行之。	In examining a corpse, a medical doctor or examining official shall be ordered to conduct it.
解剖屍體，應命醫師行之。	解剖屍體，應命醫師行之。	In conducting an autopsy, a medical doctor shall be ordered to do it.
第 217 條 (檢驗或解剖屍體處分(二))	**第 217 條(檢驗或解剖屍體處分(二))**	**Article 217**
因檢驗或解剖屍體，得將該屍體或其一部暫行留存，並得開棺及發掘墳墓。	因檢驗或解剖屍體，得將該屍體或其一部暫行留存，並得開棺及發掘墳墓。	In order to examine a corpse or to conduct an autopsy, a corpse or part of it may be retained temporarily or a coffin or grave opened.
檢驗或解剖屍體及開棺發掘墳墓，應通知死者之配偶或其他同居或較近之親屬，許其在場。	檢驗或解剖屍體及開棺發掘墳墓，應通知死者之配偶或其他同居或較近之親屬，許其在場。	A spouse or relative residing in the same house or nearest relative of a deceased shall be notified that he may attend an examination of a corpse, autopsy, or opening of a coffin or grave.
第 218 條 (相驗)	**第 218 條**	**Article 218**

遇有非病死或可疑為非病死者，該管檢察官應速相驗。	遇有非病死或可疑為非病死者，該管檢察官應速相驗。	If a person dies or is suspected of dying from an unnatural cause, the public prosecutor having competent jurisdiction shall immediately examine him.
前項相驗，檢察官得命檢察事務官會同法醫師、醫師或檢驗員行之。但檢察官認顯無犯罪嫌疑者，得調度司法警察官會同法醫師、醫師或檢驗員行之。	前項相驗，檢察官得命檢察事務官會同法醫師、醫師或檢驗員行之。但檢察官認顯無犯罪嫌疑者，得調度司法警察官會同法醫師、醫師或檢驗員行之。	A public prosecutor may order a public prosecuting affairs official, together with a coroner, a doctor, or an examining official, to conduct the examination specified in the preceding section; if it is apparent that there is no suspicion of an offense committed, the public prosecutor may instruct a judicial police office, together with a coroner, a doctor, or an examining official to conduct the examination.
依前項規定相驗完畢後，應即將相關之卷證陳報檢察官。檢察官如發現有犯罪嫌疑時，應繼續為必要之勘驗及調查。	依前項規定相驗完畢後，應即將相關之卷證陳報檢察官。檢察官如發現有犯罪嫌疑時，應繼續為必要之勘驗及調查。	When completing the examination as specified in the preceding section, the case file and evidence associated with the examination shall be immediately reported to the public prosecutor; if there is suspicion that a crime has been committed, the public prosecutor shall continue to conduct the necessary inspection and investigation.
第 219 條 (勘驗準用之規定)	**第 219 條**	**Article 219**
第一百二十七條、第一百三十二條、第一百四十六條至第一百五十一條及第一百五十三條之規定，於勘驗準用之。	第一百二十七條、第一百三十二條、第一百四十六條至第一百五十一條及第一百五十三條之規定，於勘驗準用之。	The provisions of Articles 127, 132, 146 through 151, and 153 of this code shall apply mutatis mutandis to an inspection.
第五節 證據保全	**第五節 證據保全**	**Section 5 - Perpetuation of Evidence**
第 219-1 條 (證據保全之聲請)	**第 219-1 條**	**Article 219- 1**
告訴人、犯罪嫌疑人、被告或辯護人於證據有湮滅、偽造、變造、隱匿或礙難使用之虞時，偵查中得聲請檢察官為搜索、扣押、鑑定、勘驗、訊問證人或其他必要之保全處分。	告訴人、犯罪嫌疑人、被告或辯護人於證據有湮滅、偽造、變造、隱匿或礙難使用之虞時，偵查中得聲請檢察官為搜索、扣押、鑑定、勘驗、訊問證人或其他必要之保全處分。	If it is apprehended that the evidence may be destroyed, forged, altered, concealed, or hard to be used, the complainant, suspect, accused, or defense attorney may, during the stage of investigation, apply to the public prosecutor to conduct a search, seizure, expert examination, inspection, examination of a witness, or other necessary perpetuating measures.
檢察官受理前項聲請，除認其為不合法或無理由予以駁回者	檢察官受理前項聲請，除認其為不合法或無理由予以駁回者外，應於	A public prosecutor shall make perpetuating measures within five days of receiving the application specified in the preceding

外，應於五日內為保全處分。	五日內為保全處分。	section, unless the application is deemed illegal or unsupported by good reason and is overruled.
檢察官駁回前項聲請或未於前項期間內為保全處分者，聲請人得逕向該管法院聲請保全證據。	檢察官駁回前項聲請或未於前項期間內為保全處分者，聲請人得逕向該管法院聲請保全證據。	If the public prosecutor overrules the application specified in the preceding section, or fails to make any perpetuation measures within the period specified in the preceding section, the applicant may apply directly to the court with proper jurisdiction for perpetuation of evidence.

第 219-2 條 (聲請證據保全之裁定)	**第 219-2 條**	**Article 219- 2**
法院對於前條第三項之聲請，於裁定前應徵詢檢察官之意見，認為不合法律上之程式或法律上不應准許或無理由者，應以裁定駁回之。但其不合法律上之程式可以補正者，應定期間先命補正。	法院對於前條第三項之聲請，於裁定前應徵詢檢察官之意見，認為不合法律上之程式或法律上不應准許或無理由者，應以裁定駁回之。但其不合法律上之程式可以補正者，應定期間先命補正。	The court shall, by a ruling, after consulting with the public prosecutor, overrule the application specified in section III of the preceding article, if the application does not comply with legal formality or it shall not be granted as a matter of law, or it is not supported by good reason, provided that where the deficiency in legal formality is amendable, the court shall order an amendment to be made within a prescribed period.
法院認為聲請有理由者，應為准許保全證據之裁定。	法院認為聲請有理由者，應為准許保全證據之裁定。	The court shall grant the application for perpetuation of evidence by a ruling, if the court determined that it is supported by good reason.
前二項裁定，不得抗告。	前二項裁定，不得抗告。	No interlocutory appeals may be taken from the rulings specified in the preceding two sections.

第 219-3 條 (聲請證據保全之管轄機關)	**第 219-3 條**	**Article 219- 3**
第二百十九條之一之保全證據聲請，應向偵查中之該管檢察官為之。但案件尚未移送或報告檢察官者，應向調查之司法警察官或司法警察所屬機關所在地之地方法院檢察署檢察官聲請。	第二百十九條之一之保全證據聲請，應向偵查中之該管檢察官為之。但案件尚未移送或報告檢察官者，應向調查之司法警察官或司法警察所屬機關所在地之地方法院檢察署檢察官聲請。	The application for perpetuation of evidence under Article 219-1 shall be made to the public prosecutor in the stage of investigation, provided that if the case has not been transferred or reported to the public prosecutor, the same should be made to the public prosecutor of the public prosecutor's office of the district court where the office of the judicial police officer or judicial policeman, investigating the case located.

第 219-4 條 (聲請證據保全之期日)	**第 219-4 條**	**Article 219- 4**
案件於第一審法院審判中，被告或辯護人認為證據有保全之必要	案件於第一審法院審判中，被告或辯護人認為證據有保全之必要者，	During the trial at the first instance, the accused, or defense attorney may, before the first trial date, apply to the court or

者，得在第一次審判期日前，聲請法院或受命法官為保全證據處分。遇有急迫情形時，亦得向受訊問人住居地或證物所在地之地方法院聲請之。	得在第一次審判期日前，聲請法院或受命法官為保全證據處分。遇有急迫情形時，亦得向受訊問人住居地或證物所在地之地方法院聲請之。	commissioned judge for perpetuation of evidence if necessary; in case of emergency, the said application may be made to the district court where the person, to be examined, resides or the evidence is located.
檢察官或自訴人於起訴後，第一次審判期日前，認有保全證據之必要者，亦同。	檢察官或自訴人於起訴後，第一次審判期日前，認有保全證據之必要者，亦同。	The same rule specified in the preceding section shall apply to the case when prior to the first trial date the public prosecutor or private prosecutor deems it is necessary to perpetuate the evidence.
第二百七十九條第二項之規定，於受命法官為保全證據處分之情形準用之。	第二百七十九條第二項之規定，於受命法官為保全證據處分之情形準用之。	The provision of section II of Article 279 shall apply mutatis mutandis to the circumstance when a commissioned judge deems it is necessary to perpetuate the evidence.
法院認為保全證據之聲請不合法律上之程式或法律上不應准許或無理由者，應即以裁定駁回之。但其不合法律上之程式可以補正者，應定期間先命補正。	法院認為保全證據之聲請不合法律上之程式或法律上不應准許或無理由者，應即以裁定駁回之。但其不合法律上之程式可以補正者，應定期間先命補正。	The court shall, by a ruling, immediately overrule the application for perpetuation of evidence if the application does not comply with legal formality, or it shall not be granted as a matter of law, or it is not supported by good reason, provided that where the deficiency in legal formality is amendable, the court shall order an amendment to be made within a prescribed period.
法院或受命法官認為聲請有理由者，應為准許保全證據之裁定。	法院或受命法官認為聲請有理由者，應為准許保全證據之裁定。	The court or the commissioned judge shall grant the application for perpetuation of evidence by a ruling, if the court or the commissioned judge determines that it is supported by good reason.
前二項裁定，不得抗告。	前二項裁定，不得抗告。	No interlocutory appeals may be taken from the rulings specified in the preceding two sections.
<u>第 219-5 條</u> (聲請保全證據書狀)	**第 219-5 條**	**Article 219- 5**
聲請保全證據，應以書狀為之。	聲請保全證據，應以書狀為之。	Application for perpetuation of evidence shall be made in writing.
聲請保全證據書狀，應記載下列事項：	聲請保全證據書狀，應記載下列事項：	The written application for perpetuation of evidence shall contain the following matters:
一、案情概要。	一　案情概要。	(1) Brief statement of the case;
二、應保全之證據及保全方法。	二　應保全之證據及保全方法。	(2) The evidence to be perpetuated and the method of perpetuation;
三、依該證據應證之事實。	三　依該證據應證之事實。	(3) The fact to be proven by the evidence;
四、應保全證據之理	四　應保全證據之理	(4) The reason for such perpetuation of

由。
前項第四款之理由，應釋明之。

由。
前項第四款之理由，應釋明之。

evidence.
Reason for Item IV of the preceding section shall be clearly indicated.

第 219-6 條 (犯罪嫌疑人於實施保全證據時之在場權)

告訴人、犯罪嫌疑人、被告、辯護人或代理人於偵查中，除有妨害證據保全之虞者外，對於其聲請保全之證據，得於實施保全證據時在場。
保全證據之日、時及處所，應通知前項得在場之人。但有急迫情形致不能及時通知，或犯罪嫌疑人、被告受拘禁中者，不在此限。

第 219-6 條

告訴人、犯罪嫌疑人、被告、辯護人或代理人於偵查中，除有妨害證據保全之虞者外，對於其聲請保全之證據，得於實施保全證據時在場。
保全證據之日、時及處所，應通知前項得在場之人。但有急迫情形致不能及時通知，或犯罪嫌疑人、被告受拘禁中者，不在此限。

Article 219- 6

A complainant, a suspect, an accused, a defense attorney, or an agent may be present at the time of the perpetuation of evidence executed upon his application, unless it is apprehended that his presence shall be harmful to the execution of perpetuation of evidence.
The person who may be present at the time of execution of perpetuation of evidence in the preceding section shall be notified of the date, time and place of the same, unless the existence of emergent circumstances makes the timely notification impossible, or the suspect or accused is in detention.

第 219-7 條 (保全之證據之保管機關)

保全之證據於偵查中，由該管檢察官保管。但案件在司法警察官或司法警察調查中，經法院為准許保全證據之裁定者，由該司法警察官或司法警察所屬機關所在地之地方法院檢察署檢察官保管之。
審判中保全之證據，由命保全之法院保管。但案件繫屬他法院者，應送交該法院。

第 219-7 條

保全之證據於偵查中，由該管檢察官保管。但案件在司法警察官或司法警察調查中，經法院為准許保全證據之裁定者，由該司法警察官或司法警察所屬機關所在地之地方法院檢察署檢察官保管之。
審判中保全之證據，由命保全之法院保管。但案件繫屬他法院者，應送交該法院。

Article 219- 7

During the stage of investigation, the evidence perpetuated shall be kept by the public prosecutor concerned, provided that if the case is currently investigated by a judicial police officer or judicial policeman, under a ruling of the court granting the perpetuation of evidence, the evidence so perpetuated shall be kept by the public prosecutor of the office of public prosecutor in the district court where the office of the judicial police officer or judicial policeman is located.
During the stage of trial, the evidence perpetrated shall be kept by the court ordered such perpetration, provided that if the case is pending in other court, the said evidence shall be delivered to that court.

第 219-8 條 (證據保全之準用規定)

證據保全，除有特別規定外，準用本章、前章及第二百四十八條之規定。

第 219-8 條

證據保全，除有特別規定外，準用本章、前章及第二百四十八條之規定。

Article 219- 8

The perpetuation of evidence shall subject mutatis mutandis to the provisions of this chapter, the preceding chapter and Article 248, unless otherwise provided.

第一三章 裁判	第一三章 裁判	CHAPTER XIII Decisions
第 220 條 (法院意思表示之方式) 裁判，除依本法應以判決行之者外，以裁定行之。	第 220 條(法院意思表示之方式) 裁判，除依本法應以判決行之者外，以裁定行之。	**Article 220** A decision shall be in the form of a ruling unless this Code provides that it shall be in the form of a judgment.
第 221 條 (言詞辯論主義) 判決，除有特別規定外，應經當事人之言詞辯論為之。	第 221 條(言詞辯論主義) 判決，除有特別規定外，應經當事人之言詞辯論為之。	**Article 221** A judgment shall be based on the oral arguments of the parties unless there is a special provision to the contrary.
第 222 條 (裁定之審理) 裁定因當庭之聲明而為之者，應經訴訟關係人之言詞陳述。 為裁定前有必要時，得調查事實。	第 222 條(裁定之審理) 裁定因當庭之聲明而為之者，應經訴訟關係人之言詞陳述。 為裁定前有必要時，得調查事實。	**Article 222** A ruling on a motion made in open court shall be based on the oral statements of the parties. If necessary, the court may investigate the facts before making a ruling.
第 223 條 (裁判之理由敘述) 判決應敘述理由，得為抗告或駁回聲明之裁定亦同。	第 223 條(裁判之理由敘述) 判決應敘述理由，得為抗告或駁回聲明之裁定亦同。	**Article 223** A judgment shall set forth the reasons therefor; the same rule shall apply to rulings to which there may be an interlocutory appeal or to rulings dismissing a motion.
第 224 條 (應宣示之裁判) 判決應宣示之。但不經言詞辯論之判決，不在此限。 裁定以當庭所為者為限，應宣示之。	第 224 條(應宣示之裁判) 判決應宣示之。但不經言詞辯論之判決，不在此限。 裁定以當庭所為者為限，應宣示之。	**Article 224** A judgment shall be pronounced unless there has been no oral argument. Only rulings in open court shall be pronounced.
第 225 條 (裁判之宣示方法) 宣示判決，應朗讀主文，說明其意義，並告以理由之要旨。 宣示裁定，應告以裁定之意旨；其敘述理由者，並告以理由。 前二項應宣示之判決或裁定，於宣示之翌日公告之，並通知當事人。	第 225 條(裁判之宣示方法) 宣示判決，應朗讀主文，說明其意義，並告以理由之要旨。 宣示裁定，應告以裁定之意旨；其敘述理由者，並告以理由。 前二項應宣示之判決或裁定，於宣示之翌日公告之，並通知當事人。	**Article 225** A judgment shall be pronounced by reading aloud the syllabus, explaining its meaning, and stating the principal parts of the reasons. A ruling shall be pronounced by explaining its meaning and, if there are explanatory reasons, by stating the reasons. A judgment or ruling to be pronounced pursuant to the preceding two sections shall be published on the next day after its pronouncement, and the party shall also be

notified of the same.

第 226 條 (裁判書之製作)
裁判應制作裁判書者，應於裁判宣示後，當日將原本交付書記官。但於辯論終結之期日宣示判決者，應於五日內交付之。
書記官應於裁判原本記明接受之年、月、日並簽名。

第 226 條
裁判應制作裁判書者，應於裁判宣示後，當日將原本交付書記官。但於辯論終結之期日宣示判決者，應於五日內交付之。
書記官應於裁判原本記明接受之年、月、日並簽名。

Article 226
If a written decision is required, the original thereof shall be given to the clerk on the same day it is pronounced, provided that if a judgment is pronounced on the date the verbal argument is ending, then it shall be given within five days thereafter.
The clerk shall make note regarding the date of receipt on the original of the decision and sign thereon.

第 227 條 (裁判正本之送達)
裁判制作裁判書者，除有特別規定外，應以正本送達於當事人、代理人、辯護人及其他受裁判之人。
前項送達，自接受裁判原本之日起，至遲不得逾七日。

第 227 條(裁判正本之送達)
裁判制作裁判書者，除有特別規定外，應以正本送達於當事人、代理人、辯護人及其他受裁判之人。
前項送達，自接受裁判原本之日起，至遲不得逾七日。

Article 227
If there is a written decision, a true copy of the written decision shall be served on the parties, agent, defense attorney, or other persons concerned unless otherwise specially provided.
The service specified in the preceding section shall be made not later than seven days after the original copy is received.

第二編 第一審

第二編 第一審

PART II Trial of The First Instance

第一章 公訴

第一章 公訴

CHAPTER I Public Prosecution

第一節 偵查

第一節 偵查

Section 1 - Investigation

第 228 條 (偵查之發動)
檢察官因告訴、告發、自首或其他情事知有犯罪嫌疑者，應即開始偵查。

前項偵查，檢察官得限期命檢察事務官、第二百三十條之司法警察官或第二百三十一條之司法警察調查犯罪情形及蒐集證據，並提出報告。必要時，得將相關卷證一併發交。

第 228 條
檢察官因告訴、告發、自首或其他情事知有犯罪嫌疑者，應即開始偵查。

前項偵查，檢察官得限期命檢察事務官、第二百三十條之司法警察官或第二百三十一條之司法警察調查犯罪情形及蒐集證據，並提出報告。必要時，得將相關卷證一併發交。

Article 228
If a public prosecutor, because of complaint, report, voluntary surrender, or other reason, knows there is a suspicion of an offense having been committed, he shall immediately begin an investigation.
In conducting the investigation referred to in the preceding section a public prosecutor may set up a period of time and order the public prosecuting affairs official, judicial police officer specified in Article 230, or judicial policeman specified in Article 231 to investigate the circumstances of the offense, to collect evidence and to submit report thereof; the case file and evidence may be delivered thereto at the same time if necessary.

實施偵查非有必要，不得先行傳訊被告。	實施偵查非有必要，不得先行傳訊被告。	In the course of an investigation, an accused shall not be first summoned or interrogated unless necessary.
被告經傳喚、自首或自行到場者，檢察官於訊問後認有第一百零一條第一項各款或第一百零一條之一第一項各款所定情形之一而無聲請羈押之必要者，得命具保、責付或限制住居。但認有羈押之必要者，得予逮捕，並將逮捕所依據之事實告知被告後，聲請法院羈押之。第九十三條第二項、第三項、第五項之規定於本項之情形準用之。	被告經傳喚、自首或自行到場者，檢察官於訊問後認有第一百零一條第一項各款或第一百零一條之一第一項各款所定情形之一而無聲請羈押之必要者，得命具保、責付或限制住居。但認有羈押之必要者，得予逮捕，並將逮捕所依據之事實告知被告後，聲請法院羈押之。第九十三條第二項、第三項、第五項之規定於本項之情形準用之。	An accused who appears by complying with a summons, voluntary surrender, or on his free will may be released on bail, or to the custody of another, or with a limitation on his residence, if the public prosecutor, after examining the accused, considers that one of the circumstances specified in the items of section I of Article 101 or the items of section I of Article 101-1 exists but application for detention is unnecessary, provided that if detention is considered necessary, the accused may be arrested without a warrant, and be informed of the fact thereof followed by an application for detention filed with the court. The provisions of sections II, III and V of Article 93 shall apply mutatis mutandis to this section.
第 229 條 (協助檢察官偵查之司法警察官)	**第 229 條**	**Article 229**
下列各員，於其管轄區域內為司法警察官，有協助檢察官偵查犯罪之職權：	下列各員，於其管轄區域內為司法警察官，有協助檢察官偵查犯罪之職權：	Each of the following officials shall act as judicial police officer within his respective judicial district and has the duty and power of assisting a public prosecutor in investigating an offense:
一、警政署署長、警察局局長或警察總隊總隊長。	一　警政署署長、警察局局長或警察總隊總隊長。	(1) Director General of National Police Agency, Commissioner of Police Department, General Commander of Peace Preservation Police Corps;
二、憲兵隊長官。	二　憲兵隊長官。	(2) A military police superior;
三、依法令關於特定事項，得行相當於前二款司法警察官之職權者。	三　依法令關於特定事項，得行相當於前二款司法警察官之職權者。	(3) A person authorized by law to exercise the duty and power of a judicial police officer, as specified in the preceding two items, in special matters.
前項司法警察官，應將調查之結果，移送該管檢察官；如接受被拘提或逮捕之犯罪嫌疑人，除有特別規定外，應解送該管檢察官。但檢察官命其解送者，應即解送。	前項司法警察官，應將調查之結果，移送該管檢察官；如接受被拘提或逮捕之犯罪嫌疑人，除有特別規定外，應解送該管檢察官。但檢察官命其解送者，應即解送。	The judicial police officer specified in the preceding section shall send the result of the investigation to the public prosecutor; if the said officer has taken the custody of the suspect arrested with or without a warrant, he shall send the suspect to the competent public prosecutor unless otherwise provided by the law, provided that if ordered by the public prosecutor, the suspect shall be sent immediately.
被告或犯罪嫌疑人未	被告或犯罪嫌疑人未經	An accused, or suspect shall not be sent

經拘提或逮捕者，不得解送。	拘提或逮捕者，不得解送。	without first being arrested with or without a warrant.
第 230 條（聽從檢察官指揮之司法警察官）	**第 230 條**	**Article 230**
下列各員為司法警察官，應受檢察官之指揮，偵查犯罪：	下列各員為司法警察官，應受檢察官之指揮，偵查犯罪：	Each of the following officials is considered to be a judicial police officer and shall obey the instructions of a public prosecutor in investigating an offense:
一、警察官長。	一　警察官長。	(1) A commissioned police officer;
二、憲兵隊官長、士官。	二　憲兵隊官長、士官。	(2) A military police officer or petty officer;
三、依法令關於特定事項，得行司法警察官之職權者。	三　依法令關於特定事項，得行司法警察官之職權者。	(3) A person authorized by law to exercise the duty and power of a judicial police officer in special matters.
前項司法警察官知有犯罪嫌疑者，應即開始調查，並將調查之情形報告該管檢察官及前條之司法警察官。	前項司法警察官知有犯罪嫌疑者，應即開始調查，並將調查之情形報告該管檢察官及前條之司法警察官。	The judicial police officer specified in the preceding section who suspects that an offense has been committed shall initiate an investigation immediately and report the results thereof to the competent public prosecutor and the judicial police officer referred to in the preceding article.
實施前項調查有必要時，得封鎖犯罪現場，並為即時之勘察。	實施前項調查有必要時，得封鎖犯罪現場，並為即時之勘察。	The scene of the crime may be closed to public and inspection taken immediately, if it is necessary for investigation specified in the preceding section.
第 231 條（司法警察）	**第 231 條**	**Article 231**
下列各員為司法警察，應受檢察官及司法警察官之命令，偵查犯罪：	下列各員為司法警察，應受檢察官及司法警察官之命令，偵查犯罪：	Each of the following officials is considered to be a judicial policeman and shall obey the orders of a public prosecutor or judicial police officer in investigating an offense:
一、警察。	一　警察。	(1) A policeman;
二、憲兵。	二　憲兵。	(2) A military policeman;
三、依法令關於特定事項，得行司法警察之職權者。	三　依法令關於特定事項，得行司法警察之職權者。	(3) A person authorized by law to exercise the duty and power of a judicial policeman in special matters.
司法警察知有犯罪嫌疑者，應即開始調查，並將調查之情形報告該管檢察官及司法警察官。	司法警察知有犯罪嫌疑者，應即開始調查，並將調查之情形報告該管檢察官及司法警察官。	A judicial policeman who suspects that an offense has been committed shall initiate an investigation immediately and report the results thereof to the competent public prosecutor and judicial police officer.
實施前項調查有必要時，得封鎖犯罪現場，並為即時之勘察。	實施前項調查有必要時，得封鎖犯罪現場，並為即時之勘察。	The scene of the crime may be closed to the public and inspection taken immediately, if it is necessary for investigation specified in the preceding section.
第 231-1 條（案件之補足或調查）	**第 231-1 條**	**Article 231- 1**

檢察官對於司法警察官或司法警察移送或報告之案件，認為調查未完備者，得將卷證發回，命其補足，或發交其他司法警察官或司法警察調查。司法警察官或司法警察應於補足或調查後，再行移送或報告。	檢察官對於司法警察官或司法警察移送或報告之案件，認為調查未完備者，得將卷證發回，命其補足，或發交其他司法警察官或司法警察調查。司法警察官或司法警察應於補足或調查後，再行移送或報告。	If a public prosecutor considers that the case sent or reported by the judicial police officer or judicial policeman has not been investigated completely; the case file and evidence may be returned for more information or be sent to other judicial police officer or judicial policeman for investigation. The judicial police officer or judicial policeman shall send or report the result after completing supplementary investigation.
對於前項之補足或調查，檢察官得限定時間。	對於前項之補足或調查，檢察官得限定時間。	A public prosecutor may set up a time period for supplementary investigation specified in the preceding section.
第 232 條 (被害人之告訴權)	第 232 條(被害人之告訴權)	**Article 232**
犯罪之被害人，得為告訴。	犯罪之被害人，得為告訴。	The victim of a crime may file a complaint.
第 233 條 (獨立及代理告訴人)	第 233 條(獨立及代理告訴人)	**Article 233**
被害人之法定代理人或配偶，得獨立告訴。 被害人已死亡者，得由其配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬告訴。但告訴乃論之罪，不得與被害人明示之意思相反。	被害人之法定代理人或配偶，得獨立告訴。 被害人已死亡者，得由其配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬告訴。但告訴乃論之罪，不得與被害人明示之意思相反。	A statutory agent or spouse of the victim may file an independent complaint. If a victim is dead, a complaint may be filed by spouse, lineal blood relative, collateral blood relative within the third degree of kinship, relative by marriage within the second degree of relationship, family head, or family member, provided that the complaint may not be contrary to the clearly expressed opinion of the victim in a case chargeable only upon complaint.
第 234 條 (專屬告訴人)	第 234 條(專屬告訴人)	**Article 234**
刑法第二百三十條之妨害風化罪，非左列之人不得告訴： 一、本人之直系血親尊親屬。 二、配偶或其直系血親尊親屬。	刑法第二百三十條之妨害風化罪，非左列之人不得告訴： 一　本人之直系血親尊親屬。 二　配偶或其直系血親尊親屬。	A complaint may not be filed for the offense against morals specified in Article 230 of the Criminal Code except by one of the following persons: (1) A lineal blood ascendant of the parties; (2) A spouse or his lineal blood ascendant.
刑法第二百三十九條之妨害婚姻及家庭罪，非配偶不得告訴。	刑法第二百三十九條之妨害婚姻及家庭罪，非配偶不得告訴。	A complaint may not be filed for the offense against marriage and family specified in Article 239 of the Criminal Code except by a spouse.
刑法第二百四十條第二項之妨害婚姻及家庭罪，非配偶不得告	刑法第二百四十條第二項之妨害婚姻及家庭罪，非配偶不得告訴。	A complaint may not be filed for the offense against marriage and family specified in section II of Article 240 of the Criminal

訴。		Code except by a spouse.
刑法第二百九十八條之妨害自由罪，被略誘人之直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬亦得告訴。	刑法第二百九十八條之妨害自由罪，被略誘人之直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬亦得告訴。	A complaint may also be filed for the offense against personal liberty specified in Article 298 of the Criminal Code by an abducted person's lineal blood relative, collateral blood relative within the third degree of kinship, relative by marriage within the second degree of relationship, family head, or family member.
刑法第三百十二條之妨害名譽及信用罪，已死者之配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬得為告訴。	刑法第三百十二條之妨害名譽及信用罪，已死者之配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬得為告訴。	A complaint may be filed for the offense of libel and against credit specified in Article 312 of the Criminal Code by a spouse, lineal blood relative, collateral blood relative within the third degree of kinship, relative by marriage within the second degree of relationship, family head, or family member of a deceased person.
第 235 條 (特定犯罪人之獨立告訴人)	**第 235 條(特定犯罪人之獨立告訴人)**	**Article 235**
被害人之法定代理人為被告或該法定代理人之配偶或四親等內之血親、三親等內之姻親或家長、家屬為被告者，被害人之直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬得獨立告訴。	被害人之法定代理人為被告或該法定代理人之配偶或四親等內之血親、三親等內之姻親或家長、家屬為被告者，被害人之直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬得獨立告訴。	If a statutory agent of the victim or if the spouse, blood relative within the fourth degree of kinship, relative by marriage within the third degree of relationship, family head, or family member of such statutory agent is the accused, the victim's lineal blood relative, collateral blood relative within the third degree of kinship, relative by marriage within the second degree of relationship, family head, or family member may independently file a complaint.
第 236 條 (代行告訴人)	**第 236 條(代行告訴人)**	**Article 236**
告訴乃論之罪，無得為告訴之人或得為告訴之人不能行使告訴權者，該管檢察官得依利害關係人之聲請或依職權指定代行告訴人。	告訴乃論之罪，無得為告訴之人或得為告訴之人不能行使告訴權者，該管檢察官得依利害關係人之聲請或依職權指定代行告訴人。	Where there is no person competent to file a complaint, or a person competent to file a complaint is incapacitated from exercising his right of complaint, in a case chargeable only upon complain, the competent public prosecutor may, at the request of an interested party or ex officio, designate a person for filing the complaint.
第二百三十三條第二項但書之規定，本條準用之。	第二百三十三條第二項但書之規定，本條準用之。	The provision of the proviso of section II of Article 233 shall apply mutatis mutandis to this Article.
第 236-1 條 (委任告訴代理人)	**第 236-1 條**	**Article 236- 1**
告訴，得委任代理人行	告訴，得委任代理人行	A complaint may be filed by an authorized

之。但檢察官或司法警察官認為必要時，得命本人到場。	之。但檢察官或司法警察官認為必要時，得命本人到場。	agent, provided that the public prosecutor or judicial police officer may order the complainant to be present, if necessary.
前項委任應提出委任書狀於檢察官或司法警察官，並準用第二十八條及第三十二條之規定。	前項委任應提出委任書狀於檢察官或司法警察官，並準用第二十八條及第三十二條之規定。	A power of attorney shall be presented to public prosecutor or judicial police officer for the authorization of agent to file complaint specified in the preceding section; it is also subject mutatis mutandis to the provisions of Article 28 and 32.
第 236-2 條 (代行告訴人)	**第 236-2 條**	**Article 236- 2**
前條及第二百七十一條之一之規定，於指定代行告訴人不適用之。	前條及第二百七十一條之一之規定，於指定代行告訴人不適用之。	The provisions of the preceding article and Article 271-1 shall not apply to the case of designation of a person for filing the complaint.
第 237 條 (告訴乃論之告訴期間)	**第 237 條(告訴乃論之告訴期間)**	**Article 237**
告訴乃論之罪，其告訴應自得為告訴之人知悉犯人之時起，於六個月內為之。	告訴乃論之罪，其告訴應自得為告訴之人知悉犯人之時起，於六個月內為之。	In a case chargeable only upon complaint, the complaint must be filed within six months from the day a person entitled to complain was aware of the identity of the offender.
得為告訴人之有數人，其一人遲誤期間者，其效力不及於他人。	得為告訴人之有數人，其一人遲誤期間者，其效力不及於他人。	If one of several persons who may file a complaint delays beyond the prescribed period, such delay shall not affect another.
第 238 條 (告訴乃論之撤回告訴)	**第 238 條(告訴乃論之撤回告訴)**	**Article 238**
告訴乃論之罪，告訴人於第一審辯論終結前，得撤回其告訴。	告訴乃論之罪，告訴人於第一審辯論終結前，得撤回其告訴。	In a case chargeable only upon complaint, the complaint may be withdrawn at any time before the conclusion of the argument in the trial of the first instance.
撤回告訴之人，不得再行告訴。	撤回告訴之人，不得再行告訴。	A complainant who withdraws a complaint shall not file it again.
第 239 條 (告訴不可分原則)	**第 239 條(告訴不可分原則)**	**Article 239**
告訴乃論之罪，對於共犯之一人告訴或撤回告訴者，其效力及於其他共犯。但刑法第二百三十九條之罪，對於配偶撤回告訴者，其效力不及於相姦人。	告訴乃論之罪，對於共犯之一人告訴或撤回告訴者，其效力及於其他共犯。但刑法第二百三十九條之罪，對於配偶撤回告訴者，其效力不及於相姦人。	In a case chargeable only upon complaint, the filing or withdrawal of a complaint against one of several co-offenders has the same effect as a filing or withdrawal of the complaint against all such co-offenders, provided that if the offense is one specified in Article 239 of the Criminal Code, the withdrawal of a complaint against a spouse shall not be considered to be a withdrawal of

		a complaint against the other adulterer.
第 240 條 (權利告發) 不問何人知有犯罪嫌疑者，得為告發。	第 240 條(權利告發) 不問何人知有犯罪嫌疑者，得為告發。	**Article 240** Any person who knows that there is suspicion that an offense has been committed may report it.
第 241 條 (義務告發) 公務員因執行職務知有犯罪嫌疑者，應為告發。	第 241 條(義務告發) 公務員因執行職務知有犯罪嫌疑者，應為告發。	**Article 241** A public official who, in the execution of his official duties, learns that there is suspicion that an offense has been committed must report it.
第 242 條 (告訴之程式) 告訴、告發，應以書狀或言詞向檢察官或司法警察官為之；其以言詞為之者，應製作筆錄。為便利言詞告訴、告發，得設置申告鈴。檢察官或司法警察官實施偵查，發見犯罪事實之全部或一部係告訴乃論之罪而未經告訴者，於被害人或其他得為告訴之人到案陳述時，應訊問其是否告訴，記明筆錄。	第 242 條(告訴之程式) 告訴、告發，應以書狀或言詞向檢察官或司法警察官為之；其以言詞為之者，應製作筆錄。為便利言詞告訴、告發，得設置申告鈴。檢察官或司法警察官實施偵查，發見犯罪事實之全部或一部係告訴乃論之罪而未經告訴者，於被害人或其他得為告訴之人到案陳述時，應訊問其是否告訴，記明筆錄。	**Article 242** A complaint or report shall be made in writing or verbally to a public prosecutor or judicial police officer; if it is made verbally, records shall be taken. To facilitate verbal complaint or report, bells for effecting the same may be installed. If a public prosecutor of judicial police officer in the course of an investigation discovers all or a part of the facts of an offense which may be charged only upon complaint but the complaint has not yet been field, he shall, when the victim or other person entitled to file the complaint appears to testify, interrogate such person whether to file the complaint and shall record the answer.
第四十一條第二項至第四項及第四十三條之規定，於前二項筆錄準用之。	第四十一條第二項至第四項及第四十三條之規定，於前二項筆錄準用之。	The provisions of sections II through IV of Article 41 and Article 43 shall apply mutatis mutandis to the records specified in the preceding two sections.
第 243 條 (請求之程序) 刑法第一百十六條及第一百十八條請求乃論之罪，外國政府之請求，得經外交部長函請司法行政最高長官令知該管檢察官。	第 243 條(請求之程序) 刑法第一百十六條及第一百十八條請求乃論之罪，外國政府之請求，得經外交部長函請司法行政最高長官令知該管檢察官。	**Article 243** In a case chargeable only upon request as specified in Articles 116 and 118 of the Criminal Code, the request made by a foreign government may be forwarded by the Minister of Foreign Affairs to the highest judicial administrative officer who shall inform the competent public prosecutor by an order.
第二百三十八條及第二百三十九條之規定，於外國政府之請求準用之。	第二百三十八條及第二百三十九條之規定，於外國政府之請求準用之。	The provisions of Articles 238 and 239 shall apply mutatis mutandis to a request by a foreign government.

第 244 條 (自首準用告訴之程式)	第 244 條(自首準用告訴之程式)	**Article 244**
自首向檢察官或司法警察官為之者，準用第二百四十二條之規定。	自首向檢察官或司法警察官為之者，準用第二百四十二條之規定。	The provisions of Article 242 shall apply mutatis mutandis to voluntary surrender to a public prosecutor or judicial police officer.
第 245 條 (偵查不公開原則)	第 245 條	**Article 245**
偵查，不公開之。	偵查，不公開之。	An investigation shall not be public.
被告或犯罪嫌疑人之辯護人，得於檢察官、檢察事務官、司法警察官或司法警察訊問該被告或犯罪嫌疑人時在場，並得陳述意見。但有事實足認其在場有妨害國家機密或有湮滅、偽造、變造證據或勾串共犯或證人或妨害他人名譽之虞，或其行為不當足以影響偵查秩序者，得限制或禁止之。	被告或犯罪嫌疑人之辯護人，得於檢察官、檢察事務官、司法警察官或司法警察訊問該被告或犯罪嫌疑人時在場，並得陳述意見。但有事實足認其在場有妨害國家機密或有湮滅、偽造、變造證據或勾串共犯或證人或妨害他人名譽之虞，或其行為不當足以影響偵查秩序者，得限制或禁止之。	The defense attorney of an accused or suspect may be present and state his opinion when a public prosecutor, public prosecuting affairs official, judicial police officer, judicial policeman examines the accused or suspect, provided that if facts exist sufficient to justify an apprehension that such presence may jeopardize national security or destroy, fabricate, alter evidence or form a conspiracy with a co-offender or witness, or may be detrimental to the reputation of others, or that the behavior of the defense attorney is so inappropriate that it would interfere with the order of the investigation, such presence may be limited or prohibited.
檢察官、檢察事務官、司法警察官、司法警察、辯護人、告訴代理人或其他於偵查程序依法執行職務之人員，除依法令或為維護公共利益或保護合法權益有必要者外，不得公開揭露偵查中因執行職務知悉之事項。	檢察官、檢察事務官、司法警察官、司法警察、辯護人、告訴代理人或其他於偵查程序依法執行職務之人員，除依法令或為維護公共利益或保護合法權益有必要者外，不得公開揭露偵查中因執行職務知悉之事項。	The public prosecutor, public prosecuting affairs official, judicial police officer, judicial policeman, defense attorney, agent of the complainant, or any other person performing his duty under law during the investigation shall not disclose whatsoever information acquired through the performance of the duty during the investigation, unless otherwise permitted by law, or it is necessary for the protection of public interest or legitimate interest.
偵查中訊問被告或犯罪嫌疑人時，應將訊問之日、時及處所通知辯護人。但情形急迫者，不在此限。	偵查中訊問被告或犯罪嫌疑人時，應將訊問之日、時及處所通知辯護人。但情形急迫者，不在此限。	The time, date, and place of the examination of an accused or suspect during the investigation shall be notified to the defense attorney unless urgent circumstances exist.
第 246 條 (就地訊問被告)	第 246 條(就地訊問被告)	**Article 246**
遇被告不能到場，或有其他必要情形，得就其所在訊問之。	遇被告不能到場，或有其他必要情形，得就其所在訊問之。	An accused may be examined where he is found if he is unable to be present or if other necessity requires.

第 247 條 (偵查之輔助(一)－該管機關)	第 247 條(偵查之輔助(一)－該管機關)	**Article 247**
關於偵查事項，檢察官得請該管機關為必要之報告。	關於偵查事項，檢察官得請該管機關為必要之報告。	A public prosecutor may request from a competent public office any report necessary to an investigation.
第 248 條 (人證之訊問及詰問)	第 248 條(人證之訊問及詰問)	**Article 248**
訊問證人、鑑定人時，如被告在場者，被告得親自詰問；詰問有不當者，檢察官得禁止之。	訊問證人、鑑定人時，如被告在場者，被告得親自詰問；詰問有不當者，檢察官得禁止之。	If an accused is present when a witness or expert witness is examined, he may personally ask questions; if the questions are improper, the public prosecutor may prohibit them.
預料證人、鑑定人於審判時不能訊問者，應命被告在場。但恐證人、鑑定人於被告前不能自由陳述者，不在此限。	預料證人、鑑定人於審判時不能訊問者，應命被告在場。但恐證人、鑑定人於被告前不能自由陳述者，不在此限。	If it is foreseen that a witness or expert witness cannot be examined at trial, the accused shall be ordered to be present unless such witness or expert witness cannot testify freely in his presence.
第 248-1 條 (被害人受訊問之陪同人員)	第 248-1 條	**Article 248- 1**
被害人於偵查中受訊問時，得由其法定代理人、配偶、直系或三親等內旁系血親、家長、家屬、醫師或社工人員陪同在場，並得陳述意見。於司法警察官或司法警察調查時，亦同。	被害人於偵查中受訊問時，得由其法定代理人、配偶、直系或三親等內旁系血親、家長、家屬、醫師或社工人員陪同在場，並得陳述意見。於司法警察官或司法警察調查時，亦同。	When a victim is examined during the stage of investigation, his statutory agent, spouse, lineal blood relative, collateral blood relative within the third degree of kinship, family head, family member may be present and state their opinion therein; the same rule shall apply to the examination conducted by a judicial police officer or judicial policeman.
第 249 條 (偵查之輔助(二)－軍民)	第 249 條(偵查之輔助(二)－軍民)	**Article 249**
實施偵查遇有急迫情形，得命在場或附近之人為相當之輔助。檢察官於必要時，並得請附近軍事官長派遣軍隊輔助。	實施偵查遇有急迫情形，得命在場或附近之人為相當之輔助。檢察官於必要時，並得請附近軍事官長派遣軍隊輔助。	If an emergency arises in the course of investigation, the person present or nearby may be ordered to give appropriate assistance; if necessary, a public prosecutor may also request a nearby military officer to send troops to assist.
第 250 條 (無管轄權時之通知與移送)	第 250 條(無管轄權時之通知與移送)	**Article 250**
檢察官知有犯罪嫌疑而不屬其管轄或於開始偵查後認為案件不屬其管轄者，應即分別通知或移送該管檢察官。但有急迫情形時，	檢察官知有犯罪嫌疑而不屬其管轄或於開始偵查後認為案件不屬其管轄者，應即分別通知或移送該管檢察官。但有急迫情形時，應為必要	If a public prosecutor knows that there is suspicion that an offense has been committed but the case is not within his jurisdiction, or if he finds that the case is not within his jurisdiction after having begun an investigation, he shall immediately notify or

應為必要之處分。	之處分。	send the case to the competent public prosecutor, provided that if there is an emergency, he shall take necessary measures.
第 251 條 (公訴之提起)	第 251 條(公訴之提起)	**Article 251**
檢察官依偵查所得之證據，足認被告有犯罪嫌疑者，應提起公訴。	檢察官依偵查所得之證據，足認被告有犯罪嫌疑者，應提起公訴。	If the evidence obtained by a public prosecutor in the course of investigation is sufficient to show that an accused is suspected of having committed an offense, a public prosecution shall be initiated.
被告之所在不明者，亦應提起公訴。	被告之所在不明者，亦應提起公訴。	A public prosecution shall be initiated notwithstanding that the location of the accused is unknown.
第 252 條 (絕對不起訴處分)	第 252 條(絕對不起訴處分)	**Article 252**
案件有左列情形之一者，應為不起訴之處分：	案件有左列情形之一者，應為不起訴之處分：	If one of the following circumstances exists, a ruling not to prosecute shall be made:
一、曾經判決確定者。	一　曾經判決確定者。	(1) A final judgment has been rendered;
二、時效已完成者。	二　時效已完成者。	(2) The period of statute of limitation has already expired;
三、曾經大赦者。	三　曾經大赦者。	(3) There has already been an amnesty;
四、犯罪後之法律已廢止其刑罰者。	四　犯罪後之法律已廢止其刑罰者。	(4) A law enacted after the commission of an offense abolishes the punishment;
五、告訴或請求乃論之罪，其告訴或請求已經撤回或已逾告訴期間者。	五　告訴或請求乃論之罪，其告訴或請求已經撤回或已逾告訴期間者。	(5) The complaint or request in offenses chargeable only upon complaint or request has been withdrawn or the time within which a complaint may be filed has expired;
六、被告死亡者。	六　被告死亡者。	(6) The accused is dead;
七、法院對於被告無審判權者。	七　法院對於被告無審判權者。	(7) The court has no judicial power over the accused;
八、行為不罰者。	八　行為不罰者。	(8) The act is not punishable;
九、法律應免除其刑者。	九　法律應免除其刑者。	(9) The punishment is remitted under law;
一○、犯罪嫌疑不足者。	一○　犯罪嫌疑不足者。	(10) The suspicion of an offense having been committed is insufficient.
第 253 條 (相對不起訴案件)	第 253 條	**Article 253**
第三百七十六條所規定之案件，檢察官參酌刑法第五十七條所列事項，認為以不起訴為適當者，得為不起訴之處分。	第三百七十六條所規定之案件，檢察官參酌刑法第五十七條所列事項，認為以不起訴為適當者，得為不起訴之處分。	If a public prosecutor considers it appropriate not to prosecute a case specified in Article 376 after having taken into consideration the provisions of Article 57 of the Criminal Code, he may make a ruling not to prosecute.
第 253-1 條 (緩起訴處	第 253-1 條	**Article 253- 1**

分之適用範圍及期間)		
被告所犯為死刑、無期徒刑或最輕本刑三年以上有期徒刑以外之罪，檢察官參酌刑法第五十七條所列事項及公共利益之維護，認以緩起訴為適當者，得定一年以上三年以下之緩起訴期間為緩起訴處分，其期間自緩起訴處分確定之日起算。	被告所犯為死刑、無期徒刑或最輕本刑三年以上有期徒刑以外之罪，檢察官參酌刑法第五十七條所列事項及公共利益之維護，認以緩起訴為適當者，得定一年以上三年以下之緩起訴期間為緩起訴處分，其期間自緩起訴處分確定之日起算。	If an accused has committed an offense other than those punishable with death penalty, life imprisonment, or with a minimum punishment of imprisonment for not less than three years, the public prosecutor, after considering the matters specified in Article 57 of the Criminal Code and the maintenance and protection of public interest, deems that a deferred prosecution is appropriate, he may make a ruling to render a deferred prosecution by setting up a period not more than three years and not less than one year thereof, starting from the date the ruling of deferred prosecution is finalized.
追訴權之時效，於緩起訴之期間內，停止進行。	追訴權之時效，於緩起訴之期間內，停止進行。	The period of statue of limitation shall be discontinued during the period of deferred prosecution.
刑法第八十三條第三項之規定，於前項之停止原因，不適用之。	刑法第八十三條第三項之規定，於前項之停止原因，不適用之。	The provisions of section IV of Article 83 of the Criminal Code shall not apply to the reason for discontinuance specified in the preceding section.
第三百二十三條第一項但書之規定，於緩起訴期間，不適用之。	第三百二十三條第一項但書之規定，於緩起訴期間，不適用之。	The proviso of section I of Article 323 shall not apply during the period of deferred prosecution.
<u>第 253-2 條</u> (緩起訴處分之被告應遵守或履行之事項)	**第 253-2 條**	**Article 253- 2**
檢察官為緩起訴處分者，得命被告於一定期間內遵守或履行下列各款事項：	**檢察官為緩起訴處分者，得命被告於一定期間內遵守或履行左列各款事項：**	A public prosecutor in of making a ruling on deferred prosecution, may require the defendant to comply with or perform the following items within a limited period of time:
一、向被害人道歉。	**一　向被害人道歉。**	(1) Apologize to the victim;
二、立悔過書。	**二　立悔過書。**	(2) Make a written statement of repentance;
三、向被害人支付相當數額之財產或非財產上之損害賠償。	**三　向被害人支付相當數額之財產或非財產上之損害賠償。**	(3) Pay to the victim an appropriate sum as compensations for property or non-property damages;
四、向公庫或該管檢察署指定之公益團體、地方自治團體支付一定之金額。	**四　向公庫或指定之公益團體、地方自治團體支付一定之金額。**	(4) Pay a certain sum to governmental account or a designated non-profit or local self-governing organization;
五、向該管檢察署指定之政府機關、政府機構、行政法人、社區或其他符合公益目的之機構或團體提供四十	**五　向指定之公益團體、地方自治團體或社區提供四十小時以上二百四十小時以下之義務勞務。**	(5) Perform forty to two hundred and forty hour community services to a designated non-profit, local self-governing organization, or community;

小時以上二百四十小時以下之義務勞務。		
六、完成戒癮治療、精神治療、心理輔導或其他適當之處遇措施。	**六 完成戒癮治療、精神治療、心理輔導或其他適當之處遇措施。**	(6) Complete drug addiction treatment, psychotherapy and counseling, or other appropriate treatments;
七、保護被害人安全之必要命令。	**七 保護被害人安全之必要命令。**	(7) Comply with the necessary order for the protection of the victim's safety;
八、預防再犯所為之必要命令。	**八 預防再犯所為之必要命令。**	(8) Comply with the necessary order for the prevention of recommitting the offense.
檢察官命被告遵守或履行前項第三款至第六款之事項，應得被告之同意；第三款、第四款並得為民事強制執行名義。	**檢察官命被告遵守或履行前項第三款至第六款之事項，應得被告之同意；第三款、第四款並得為民事強制執行名義。**	Before a public prosecutor can order the defendant to comply or perform the acts specified in the items three through six in the preceding section, the defendant's consent shall be obtained; items three and four may also constitute a ground for civil compulsory enforcement.
第一項情形，應附記於緩起訴處分書內。	**第一項情形，應附記於緩起訴處分書內。**	The matters specified in section I shall be noted in the written deferred prosecution.
第一項之期間，不得逾緩起訴期間。	**第一項之期間，不得逾緩起訴期間。**	The period of time specified in section I shall not exceed the period of time allowed for the deferred prosecution.
<u>第 253-3 條</u> (緩起訴處分之撤銷)	**第 253-3 條**	**Article 253- 3**
被告於緩起訴期間內，有左列情形之一者，檢察官得依職權或依告訴人之聲請撤銷原處分，繼續偵查或起訴：	被告於緩起訴期間內，有左列情形之一者，檢察官得依職權或依告訴人之聲請撤銷原處分，繼續偵查或起訴：	A public prosecutor may, ex officio or based on the application of the complainant, set aside the ruling of deferred prosecution and continue the investigation or initiate a prosecution, if the defendant commits the following during the period set forth for deferred prosecution:
一、於期間內故意更犯有期徒刑以上刑之罪，經檢察官提起公訴者。	一 於期間內故意更犯有期徒刑以上刑之罪，經檢察官提起公訴者。	(1) Has intentionally committed an offense punishable with a minimum punishment of imprisonment during the period of deferred prosecution and a prosecution is initiated by a public prosecutor;
二、緩起訴前，因故意犯他罪，而在緩起訴期間內受有期徒刑以上刑之宣告者。	二 緩起訴前，因故意犯他罪，而在緩起訴期間內受有期徒刑以上刑之宣告者。	(2) Has committed other offense intentionally before deferred prosecution and was sentenced to a minimum of imprisonment punishment during the period of deferred prosecution;
三、違背第二百五十三條之二第一項各款之應遵守或履行事項者。	三 違背第二百五十三條之二第一項各款之應遵守或履行事項者。	(3) Has failed to comply with or perform the matters specified in the items of section I of Article 253-2.
檢察官撤銷緩起訴之處分時，被告已履行之部分，不得請求返還或賠償。	檢察官撤銷緩起訴之處分時，被告已履行之部分，不得請求返還或賠償。	In case a ruling of deferred prosecution is set aside by the public prosecutor, the accused may not request the refund of or compensation for the part that had already been performed.

第 254 條 (相對不起訴處分(二)－於執行刑無實益)

被告犯數罪時，其一罪已受重刑之確定判決，檢察官認為他罪雖行起訴，於應執行之刑無重大關係者，得為不起訴之處分。

第 254 條(相對不起訴處分(二)－於執行刑無實益)

被告犯數罪時，其一罪已受重刑之確定判決，檢察官認為他罪雖行起訴，於應執行之刑無重大關係者，得為不起訴之處分。

Article 254

If an accused commits several offenses for one of which a final judgment of severer sentence has been received, the public prosecutor may give a ruling not to prosecute if he considers that prosecution for another offense will not substantially affect the execution of sentence.

第 255 條 (不起訴處分之程序)

檢察官依第二百五十二條、第二百五十三條、第二百五十三條之一、第二百五十三條之三、第二百五十四條規定為不起訴、緩起訴或撤銷緩起訴或因其他法定理由為不起訴處分者，應製作處分書敘述其處分之理由。但處分前經告訴人或告發人同意者，處分書得僅記載處分之要旨。

前項處分書，應以正本送達於告訴人、告發人、被告及辯護人。緩起訴處分書，並應送達與遵守或履行行為有關之被害人、機關、團體或社區。

前項送達，自書記官接受處分書原本之日起，不得逾五日。

第 255 條

檢察官依第二百五十二條、第二百五十三條、第二百五十三條之一、第二百五十三條之三、第二百五十四條規定為不起訴、緩起訴或撤銷緩起訴或因其他法定理由為不起訴處分者，應製作處分書敘述其處分之理由。但處分前經告訴人或告發人同意者，處分書得僅記載處分之要旨。

前項處分書，應以正本送達於告訴人、告發人、被告及辯護人。緩起訴處分書，並應送達與遵守或履行行為有關之被害人、機關、團體或社區。

前項送達，自書記官接受處分書原本之日起，不得逾五日。

Article 255

If a public prosecutor gives a ruling of not to prosecute, deferred prosecution, or to set aside a ruling of deferred prosecution in accordance with the provisions of Article 252, 253, 253-1, 253-3 and 254, or gives a ruling of not to prosecute for other legal reasons, he shall prepare a written ruling setting forth the reasons thereof, provided that if consent of the complainant or informer has obtained prior to making of the ruling, only important part thereof has to be noted in the same.

A true copy of the written ruling specified in the preceding section shall be served on the complainant, the informer, the accused, and the defense attorney; a written ruling of deferred prosecution shall be served on the victim, governmental agency, organization, or community authority related to acts to be complied with or performed as specified in the ruling.

The service specified in the preceding section shall be made not more than five days after the original copy of the ruling is received by the clerk.

第 256 條 (再議之聲請及期間)

告訴人接受不起訴或緩起訴處分書後，得於七日內以書狀敘述不服之理由，經原檢察官向直接上級法院檢察署檢察長或檢察總長

第 256 條

告訴人接受不起訴或緩起訴處分書後，得於七日內以書狀敘述不服之理由，經原檢察官向直接上級法院檢察署檢察長或檢察總長聲請再

Article 256

Within seven days after receipt of a written ruling not to prosecute or a written ruling of deferred prosecution, a complainant may make an application in writing for reconsideration of the ruling, setting forth his reasons for dissatisfaction, through the

聲請再議。但第二百五十三條、第二百五十三條之一之處分曾經告訴人同意者，不得聲請再議。	議。但第二百五十三條、第二百五十三條之一之處分曾經告訴人同意者，不得聲請再議。	original public prosecutor to the chief public prosecutor for the immediate superior Court or public prosecutor general; provided that if consent of the complainant has been obtained prior to the ruling was made under Articles 253 and 253-1, he may not make application for reconsideration.
不起訴或緩起訴處分得聲請再議者，其再議期間及聲請再議之直接上級法院檢察署檢察長或檢察總長，應記載於送達告訴人處分書正本。	不起訴或緩起訴處分得聲請再議者，其再議期間及聲請再議之直接上級法院檢察署檢察長或檢察總長，應記載於送達告訴人處分書正本。	Where a reconsideration of a ruling not to prosecute or a written ruling of deferred prosecution may be applied for, the period within which an application for such a reconsideration may be made and the chief public prosecutor of the immediate superior court or the public prosecutor general to whom the application is to be submitted shall be noted in the true copy of the written ruling served upon the complainant.
死刑、無期徒刑或最輕本刑三年以上有期徒刑之案件，因犯罪嫌疑不足，經檢察官為不起訴之處分，或第二百五十三條之一之案件經檢察官為緩起訴之處分者，如無得聲請再議之人時，原檢察官應依職權逕送直接上級法院檢察署檢察長或檢察總長再議，並通知告發人。	死刑、無期徒刑或最輕本刑三年以上有期徒刑之案件，因犯罪嫌疑不足，經檢察官為不起訴之處分，或第二百五十三條之一之案件經檢察官為緩起訴之處分者，如無得聲請再議之人時，原檢察官應依職權逕送直接上級法院檢察署檢察長或檢察總長再議，並通知告發人。	When a public prosecutor makes a ruling not to prosecute on a case where the offense charged is punishable with death penalty, life imprisonment, or with a minimum punishment of imprisonment for not less than three years due to the fact that the suspicion of an offense having been committed is sufficient, or when a public prosecutor makes a ruling of deferred prosecution on a case specified in Article 253-1, he shall ex officio send the ruling to the chief public prosecutor of the immediate superior court or the prosecutor general for reconsideration and, if there is no person qualified for submitting application for reconsideration, notify the same to the informer.
第 256-1 條 (聲請再議－撤銷緩起訴處分)	**第 256-1 條**	**Article 256- 1**
被告接受撤銷緩起訴處分書後，得於七日內以書狀敘述不服之理由，經原檢察官向直接上級法院檢察署檢察長或檢察總長聲請再議。	被告接受撤銷緩起訴處分書後，得於七日內以書狀敘述不服之理由，經原檢察官向直接上級法院檢察署檢察長或檢察總長聲請再議。	Within seven days after receipt of written ruling of setting aside a ruling of deferred prosecution an accused may make an application in writing for reconsideration of the ruling, setting forth his reasons for dissatisfaction, through the original public prosecutor to the chief public prosecutor for the immediate superior court or public prosecutor general.
前條第二項之規定，於送達被告之撤銷緩起訴處分書準用之。	前條第二項之規定，於送達被告之撤銷緩起訴處分書準用之。	The provision of section II of the preceding article shall apply mutatis mutandis to the service to the accused of the ruling of setting

		aside the ruling of deferred prosecution.
第 257 條 (聲請再議－原檢察官或首席)	第 257 條	**Article 257**
再議之聲請，原檢察官認為有理由者，應撤銷其處分，除前條情形外，應繼續偵查或起訴。	再議之聲請，原檢察官認為有理由者，應撤銷其處分，除前條情形外，應繼續偵查或起訴。	If the original public prosecutor considers that the application for reconsideration is well-grounded, he shall set aside his ruling and continue the investigation or initiate a prosecution except for the circumstances specified in the preceding section.
原檢察官認聲請為無理由者，應即將該案卷宗及證物送交上級法院檢察署檢察長或檢察總長。	原檢察官認聲請為無理由者，應即將該案卷宗及證物送交上級法院檢察署檢察長或檢察總長。	If the original public prosecutor considers that the application for reconsideration is groundless, he shall immediately send the file and exhibits of the case to the chief public prosecutor of the higher court or the public prosecutor general.
聲請已逾前二條之期間者，應駁回之。	聲請已逾前二條之期間者，應駁回之。	An application which is not filed within the time prescribed in the preceding two articles shall be dismissed.
原法院檢察署檢察長認為必要時，於依第二項之規定送交前，得親自或命令他檢察官再行偵查或審核，分別撤銷或維持原處分；其維持原處分者，應即送交。	原法院檢察署檢察長認為必要時，於依第二項之規定送交前，得親自或命令他檢察官再行偵查或審核，分別撤銷或維持原處分；其維持原處分者，應即送交。	If the chief public prosecutor of the original court considers it necessary, he may, before the case is forwarded in accordance with the provisions of section II, personally investigate or order another public prosecutor to investigate or review to determine whether the original ruling should be set aside or upheld; if the original ruling is upheld, the case shall immediately be forwarded.
第 258 條 (聲請再議－上級首席)	第 258 條	**Article 258**
上級法院檢察署檢察長或檢察總長認再議為無理由者，應駁回之；認為有理由者，第二百五十六條之一之情形應撤銷原處分，第二百五十六條之情形應分別為左列處分：	上級法院檢察署檢察長或檢察總長認再議為無理由者，應駁回之；認為有理由者，第二百五十六條之一之情形應撤銷原處分，第二百五十六條之情形應分別為左列處分：	If the chief public prosecutor of the higher court or the public prosecutor general considered that an application for reconsideration is groundless, he shall dismiss it; if he considers that the application is well-grounded, he shall set aside the original ruling under the circumstances specified in Article 256-1, or perform one of the following under the circumstance specified in Article 256:
一、偵查未完備者，得親自或命令他檢察官再行偵查，或命令原法院檢察署檢察官續行偵查。	一　偵查未完備者，得親自或命令他檢察官再行偵查，或命令原法院檢察署檢察官續行偵查。	If the investigation is incomplete, he may personally investigate or order another public prosecutor to investigate, or order the public prosecutor of the original court to continue it;
二、偵查已完備者，命令原法院檢察署檢察	二　偵查已完備者，命令原法院檢察署檢察官	If the investigation has been completed, he shall order the public prosecutor of the

官起訴。	起訴。	original court to initiate a prosecution.
第 258-1 條 (不服駁回處分之聲請交付審判)	**第 258-1 條**	**Article 258- 1**
告訴人不服前條之駁回處分者，得於接受處分書後十日內委任律師提出理由狀，向該管第一審法院聲請交付審判。	告訴人不服前條之駁回處分者，得於接受處分書後十日內委任律師提出理由狀，向該管第一審法院聲請交付審判。	If the complainant disagrees with the ruling of dismissal specified in the preceding article, he may, within ten days after receipt of written ruling of dismissal, retain an attorney to make an application in writing, to the concerned court in first instance, for setting the case for trial.
律師受前項之委任，得檢閱偵查卷宗及證物並得抄錄或攝影。但涉及另案偵查不公開或其他依法應予保密之事項，得限制或禁止之。	律師受前項之委任，得檢閱偵查卷宗及證物並得抄錄或攝影。但涉及另案偵查不公開或其他依法應予保密之事項，得限制或禁止之。	An attorney being retained as referred to in the preceding section may examine the file of the investigation and the evidence, and to make hand writing copy or photos, provided that it may be restricted or prohibited if the subject matter being examined involves other case that shall not be disclosed or shall be kept secret.
第三十條第一項之規定，於前二項之情形準用之。	第三十條第一項之規定，於前二項之情形準用之。	The provision of section I of Article 30 shall apply mutatis mutandis to the circumstances specified in the two preceding sections.
第 258-2 條 (撤回交付審判之聲請)	**第 258-2 條**	**Article 258- 2**
交付審判之聲請，於法院裁定前，得撤回之，於裁定交付審判後第一審辯論終結前，亦同。	交付審判之聲請，於法院裁定前，得撤回之，於裁定交付審判後第一審辯論終結前，亦同。	The application for setting the case for trial may be withdrawn prior to the court ruling is made; the same can be done after the ruling setting the case for trial has been made but prior to the conclusion of argument at the trial of the first instance.
撤回交付審判之聲請，書記官應速通知被告。	撤回交付審判之聲請，書記官應速通知被告。	The clerk shall immediately notify the accused of the withdrawal of application for setting the case for trial.
撤回交付審判聲請之人，不得再行聲請交付審判。	撤回交付審判聲請之人，不得再行聲請交付審判。	The person who withdraws the application for setting case for trial may not re-apply the same.
第 258-3 條 (聲請交付審判之裁定)	**第 258-3 條**	**Article 258- 3**
聲請交付審判之裁定，法院應以合議行之。	聲請交付審判之裁定，法院應以合議行之。	The ruling on the application for setting case for trial shall be determined by a panel of judges.
法院認交付審判之聲請不合法或無理由者，應駁回之；認為有理由者，應為交付審判之裁定，並將正本送達於聲請人、檢察官及被	法院認交付審判之聲請不合法或無理由者，應駁回之；認為有理由者，應為交付審判之裁定，並將正本送達於聲請人、檢察官及被告。	The court shall dismiss the application for setting case for trial if the application is considered to be illegal or groundless; the court shall make a ruling setting the case for trial if the application is considered to be well-grounded; a true copy of the ruling

告。

法院為前項裁定前，得為必要之調查。

法院為交付審判之裁定時，視為案件已提起公訴。

被告對於第二項交付審判之裁定，得提起抗告；駁回之裁定，不得抗告。

法院為前項裁定前，得為必要之調查。

法院為交付審判之裁定時，視為案件已提起公訴。

被告對於第二項交付審判之裁定，得提起抗告；駁回之裁定，不得抗告。

shall be served on the applicant, the prosecutor, and the accused.

The court may conduct necessary investigation before making a ruling specified in the preceding section.

A public prosecution is deemed to be initiated at that time a ruling for setting the case for trial is made.

An interlocutory appeal may be taken, from the ruling of setting case for trial, by the accused; the ruling of dismissal is not appealable.

第 258-4 條 (交付審判程序之準用)

交付審判之程序，除法律別有規定外，適用第二編第一章第三節之規定。

第 258-4 條

交付審判之程序，除法律別有規定外，適用第二編第一章第三節之規定。

Article 258- 4

The provisions of Section three, Chapter I, Part II shall apply to the procedure for setting case for trial, unless otherwise provided by law.

第 259 條 (不起訴處分對羈押之效力)

羈押之被告受不起訴或緩起訴之處分者，視為撤銷羈押，檢察官應將被告釋放，並應即時通知法院。

為不起訴或緩起訴之處分者，扣押物應即發還。但法律另有規定、再議期間內、聲請再議中或聲請法院交付審判中遇有必要情形，或應沒收或為偵查他罪或他被告之用應留存者，不在此限。

第 259 條

羈押之被告受不起訴或緩起訴之處分者，視為撤銷羈押，檢察官應將被告釋放，並應即時通知法院。

為不起訴或緩起訴之處分者，扣押物應即發還。但法律另有規定、再議期間內、聲請再議中或聲請法院交付審判中遇有必要情形，或應沒收或為偵查他罪或他被告之用應留存者，不在此限。

Article 259

If an accused who is detained receives a ruling not to prosecute or a ruling of deferred prosecution, the detention is considered to be cancelled, the public prosecutor shall release the accused and notify the court immediately.

If a ruling not to prosecute or a ruling of deferred prosecution is given, seized property shall be returned immediately unless otherwise provided by law or it is within the period of reconsideration, it is in the process of applying for reconsideration or applying for setting case for trial and necessity exists, or it is the property which should be confiscated or which is used in the investigation of another offense or another accused.

第 259-1 條 (宣告沒收之申請)

檢察官依第二百五十三條或第二百五十三條之一為不起訴或緩起訴之處分者，對供犯罪所用、供犯罪預備或因犯罪所得之物，以屬於被告者為限，得單獨

第 259-1 條

檢察官依第二百五十三條或第二百五十三條之一為不起訴或緩起訴之處分者，對供犯罪所用、供犯罪預備或因犯罪所得之物，以屬於被告者為限，得單獨聲請

Article 259- 1

If a ruling not to prosecute or a ruling of deferred prosecution is given by a public prosecutor in accordance with the provisions of Article 253 or 253-1, he may make separate application to the court for declaration of confiscation of the property used for committing the offense, for

聲請法院宣告沒收。	法院宣告沒收。	preparation of committing the offense, or acquired from the commission of the offense when the property was owned by the accused.
第 260 條 (不起訴處分或緩起訴處分之效力－再行起訴)	第 260 條	**Article 260**
不起訴處分已確定或緩起訴處分期滿未經撤銷者，非有左列情形之一，不得對於同一案件再行起訴：	不起訴處分已確定或緩起訴處分期滿未經撤銷者，非有左列情形之一，不得對於同一案件再行起訴：	If a ruling not to prosecute has become final or if a ruling of deferred prosecution has not been set aside during the period set forth in the ruling, no prosecution of the same case shall be initiated except under one of the following conditions:
一、發現新事實或新證據者。	一　發現新事實或新證據者。	(1) New facts or evidence is discovered;
二、有第四百二十條第一項第一款、第二款、第四款或第五款所定得為再審原因之情形者。	二　有第四百二十條第一項第一款、第二款、第四款或第五款所定得為再審原因之情形者。	(2) Circumstances for retrial exist as specified in one of the Items 1, 2, 4, or 5 of section I of Article 420.
第 261 條 (停止偵查(一)－民事訴訟終結前)	第 261 條(停止偵查(一)－民事訴訟終結前)	**Article 261**
犯罪是否成立或刑罰應否免除，以民事法律關係為斷者，檢察官應於民事訴訟終結前，停止偵查。	犯罪是否成立或刑罰應否免除，以民事法律關係為斷者，檢察官應於民事訴訟終結前，停止偵查。	If the question whether an act constitutes a crime or whether the punishment for an offense should be remitted depends upon a civil legal issue, the public prosecutor shall suspend the investigation before conclusion of the civil action.
第 262 條 (終結偵查之限制)	第 262 條(終結偵查之限制)	**Article 262**
犯人不明者，於認有第二百五十二條所定之情形以前，不得終結偵查。	犯人不明者，於認有第二百五十二條所定之情形以前，不得終結偵查。	If the accused is unknown, the investigation shall not be concluded before it is ascertained whether the circumstances specified in Article 252 exist.
第 263 條 (起訴書之送達)	第 263 條(起訴書之送達)	**Article 263**
第二百五十五條第二項及第三項之規定，於檢察官之起訴書準用之。	第二百五十五條第二項及第三項之規定，於檢察官之起訴書準用之。	The provisions of sections II and III of Article 255 shall apply mutatis mutandis to an indictment filed by a public prosecutor.
第二節 起訴	第二節 起訴	**Section 2 – Prosecution**
第 264 條 (起訴之程式	第 264 條(起訴之程式與	**Article 264**

與起訴書應記載事項) 提起公訴，應由檢察官向管轄法院提出起訴書為之。 起訴書，應記載左列事項： 一、被告之姓名、性別、年齡、籍貫、職業、住所或居所或其他足資辨別之特徵。 二、犯罪事實及證據並所犯法條。 起訴時，應將卷宗及證物一併送交法院。	起訴書應記載事項) 提起公訴，應由檢察官向管轄法院提出起訴書為之。 起訴書，應記載左列事項： 一　被告之姓名、性別、年齡、籍貫、職業、住所或居所或其他足資辨別之特徵。 二　犯罪事實及證據並所犯法條。 起訴時，應將卷宗及證物一併送交法院。	A public prosecution shall be initiated by a public prosecutor by filing an indictment with a competent court. An indictment shall include the following matters: Full name, sex, age, native place, occupation, domicile, or residence of the accused and special identifying characteristics; Facts of and evidence for the offense and article of the law violated. When a prosecution is initiated, the record and exhibits shall be sent therewith to the court.
第 265 條 (追加起訴之期間、限制及方式) 於第一審辯論終結前，得就與本案相牽連之犯罪或本罪之誣告罪，追加起訴。 追加起訴，得於審判期日以言詞為之。	**第 265 條(追加起訴之期間、限制及方式)** 於第一審辯論終結前，得就與本案相牽連之犯罪或本罪之誣告罪，追加起訴。 追加起訴，得於審判期日以言詞為之。	**Article 265** Prosecution for a related offense or malicious accusation related to the instant case may be added before conclusion of argument at the trial of the first instance. An additional prosecution may be verbally initiated with the court on the trial date.
第 266 條 (起訴對人的效力) 起訴之效力，不及於檢察官所指被告以外之人。	**第 266 條(起訴對人的效力)** 起訴之效力，不及於檢察官所指被告以外之人。	**Article 266** A prosecution shall not affect a person other than the accused charged by the public prosecutor.
第 267 條 (起訴對事的效力－公訴不可分) 檢察官就犯罪事實一部起訴者，其效力及於全部。	**第 267 條(起訴對事的效力－公訴不可分)** 檢察官就犯罪事實一部起訴者，其效力及於全部。	**Article 267** If part of the facts of a crime is prosecuted by a public prosecutor, all such facts are considered to be included.
第 268 條 (不告不理原則) 法院不得就未經起訴之犯罪審判。	**第 268 條(不告不理原則)** 法院不得就未經起訴之犯罪審判。	**Article 268** A court shall not try a crime for which prosecution has not been initiated.
第 269 條 (撤回起訴之時期、原因及程式) 檢察官於第一審辯論終結前，發見有應不起訴或以不起訴為適當之情形者，得撤回起訴。	**第 269 條(撤回起訴之時期、原因及程式)** 檢察官於第一審辯論終結前，發見有應不起訴或以不起訴為適當之情形者，得撤回起訴。	**Article 269** A public prosecutor may withdraw prosecution before conclusion of the argument at the trial of the first instance if circumstances indicate that prosecution should not have been initiated or that it is

		appropriate not to prosecute.
撤回起訴，應提出撤回書敘述理由。	撤回起訴，應提出撤回書敘述理由。	Withdrawal of a prosecution shall be in writing stating the reasons therefor.
第 270 條 (撤回起訴之效力)	第 270 條(撤回起訴之效力)	**Article 270**
撤回起訴與不起訴處分有同一之效力，以其撤回書視為不起訴處分書，準用第二百五十五條至第二百六十條之規定。	撤回起訴與不起訴處分有同一之效力，以其撤回書視為不起訴處分書，準用第二百五十五條至第二百六十條之規定。	Withdrawal of a prosecution shall have the same effect as a ruling not to prosecute; written withdrawal of prosecution shall be considered to be a ruling not to prosecute and the provisions of Articles 255 through 260 shall apply mutatis mutandis.
第三節 審判	第三節 審判	**Section 3 – Trial**
第 271 條 (審判期日之傳喚及通知)	第 271 條	**Article 271**
審判期日，應傳喚被告或其代理人，並通知檢察官、辯護人、輔佐人。	審判期日，應傳喚被告或其代理人，並通知檢察官、辯護人、輔佐人。	The court shall summon the accused or his agent and notify the public prosecutor, defense attorney, or assistant of the date of trial.
審判期日，應傳喚被害人或其家屬並予陳述意見之機會。但經合法傳喚無正當理由不到場，或陳明不願到場，或法院認為不必要或不適宜者，不在此限。	審判期日，應傳喚被害人或其家屬並予陳述意見之機會。但經合法傳喚無正當理由不到場，或陳明不願到場，或法院認為不必要或不適宜者，不在此限。	The court shall summon the victim or his family member and provide them with opportunities to state their opinions, unless these persons failed to be present after being legally summoned, without good reason, or has expressed their unwillingness to be present, or that the court considers it is not necessary or not appropriate to summon them.
第 271-1 條 (委任告訴代理人之準用)	第 271-1 條	**Article 271- 1**
告訴人得於審判中委任代理人到場陳述意見。但法院認為必要時，得命本人到場。	告訴人得於審判中委任代理人到場陳述意見。但法院認為必要時，得命本人到場。	Complainant may retain an agent to make statements at trial without personally appearing in court, provided that the court may order the complainant to appear in court if necessary.
前項委任應提出委任書狀於法院，並準用第二十八條、第三十二條及第三十三條之規定。但代理人為非律師者於審判中，對於卷宗及證物不得檢閱、抄錄或攝影。	前項委任應提出委任書狀於法院，並準用第二十八條、第三十二條及第三十三條之規定。但代理人為非律師者於審判中，對於卷宗及證物不得檢閱、抄錄或攝影。	The retention of an agent as specified in the preceding section shall be effected by submitting a power of attorney to the court, the provisions of Articles 28, 32, and 33 shall apply mutatis mutandis, provided that if the agent is not a lawyer, he can not inspect, examine, make note of or take photo of the material in case file and the evidence in the stage of trial.

第 272 條 (第一次審判期日傳票送達期間)	第 272 條(第一次審判期日傳票送達期間)	**Article 272**
第一次審判期日之傳票，至遲應於七日前送達；刑法第六十一條所列各罪之案件至遲應於五日前送達。	第一次審判期日之傳票，至遲應於七日前送達；刑法第六十一條所列各罪之案件至遲應於五日前送達。	A summons for the first trial date shall be served at least seven days prior thereto, and for the cases specified in Article 61 of the Criminal Code, such summons shall be served at least five days prior to the first trial date.
第 273 條 (準備程序中應處理之事項及訴訟行為欠缺程式之定期補正)	第 273 條	**Article 273**
法院得於第一次審判期日前，傳喚被告或其代理人，並通知檢察官、辯護人、輔佐人到庭，行準備程序，為下列各款事項之處理：	法院得於第一次審判期日前，傳喚被告或其代理人，並通知檢察官、辯護人、輔佐人到庭，行準備程序，為下列各款事項之處理：	The court may summon the accused or his agent and notify the public prosecutor, defense attorney, assistant to be present in preliminary proceeding before the first trial date to arrange the following matters:
一、起訴效力所及之範圍與有無應變更檢察官所引應適用法條之情形。	一　起訴效力所及之範圍與有無應變更檢察官所引應適用法條之情形。	(1) The effect of the prosecution and its scope and any circumstance that might change the article of law charged with as cited by the public prosecutor;
二、訊問被告、代理人及辯護人對檢察官起訴事實是否為認罪之答辯，及決定可否適用簡式審判程序或簡易程序。	二　訊問被告、代理人及辯護人對檢察官起訴事實是否為認罪之答辯，及決定可否適用簡式審判程序或簡易程序。	(2) Asking the accused, agent, or defense attorney whether to plead guilty to the crime charged by the public prosecutor, and determining whether to apply summary trial procedure or summary procedure;
三、案件及證據之重要爭點。	三　案件及證據之重要爭點。	(3) Main issues of the case and evidence;
四、有關證據能力之意見。	四　有關證據能力之意見。	(4) The opinion regarding the admissibility of the evidence;
五、曉諭為證據調查之聲請。	五　曉諭為證據調查之聲請。	(5) Informing the parties to motion for investigation of evidence;
六、證據調查之範圍、次序及方法。	六　證據調查之範圍、次序及方法。	(6) The scope, order and methods of investigation of evidence;
七、命提出證物或可為證據之文書。	七　命提出證物或可為證據之文書。	(7) Ordering the presentation of exhibits or evidential documents;
八、其他與審判有關之事項。	八　其他與審判有關之事項。	(8) Other trial related matters.
於前項第四款之情形，法院依本法之規定認定無證據能力者，該證據不得於審判期日主張之。	於前項第四款之情形，法院依本法之規定認定無證據能力者，該證據不得於審判期日主張之。	If the court determines, in accordance with the provisions of this code, that the evidence referred to in Item IV of the preceding section shall not be admitted, then, the said evidence shall not be presented at the trial date.
前條之規定，於行準備程序準用之。	前條之規定，於行準備程序準用之。	The provision of the preceding article shall apply mutatis mutandis to preliminary

		proceeding.
第一項程序處理之事項，應由書記官製作筆錄，並由到庭之人緊接其記載之末行簽名、蓋章或按指印。	第一項程序處理之事項，應由書記官製作筆錄，並由到庭之人緊接其記載之末行簽名、蓋章或按指印。	Records shall be taken by clerk regarding the matters being arranged in the proceeding as specified in section I of this article, then the persons at the hearing shall sign his name, affix his seal, or affix his fingerprint on the space next to the last line of the contents of the records.
第一項之人經合法傳喚或通知，無正當理由不到庭者，法院得對到庭之人行準備程序。	第一項之人經合法傳喚或通知，無正當理由不到庭者，法院得對到庭之人行準備程序。	The court may still make arrangements with those attending the preliminary procedure if the person, referred to in section I of this article, fails to appear in the hearing, after being summoned or notified, without good reasons.
起訴或其他訴訟行為，於法律上必備之程式有欠缺而其情形可補正者，法院應定期間，以裁定命其補正。	起訴或其他訴訟行為，於法律上必備之程式有欠缺而其情形可補正者，法院應定期間，以裁定命其補正。	If lack of required legal formality exists in initiation of prosecution or other litigation related acts but such defect can be cured, the court shall by a ruling order that the same be cured within the period granted.
第 273-1 條 (進行簡式審判程序之裁定)	**第 273-1 條**	**Article 273- 1**
除被告所犯為死刑、無期徒刑、最輕本刑為三年以上有期徒刑之罪或高等法院管轄第一審案件者外，於前條第一項程序進行中，被告先就被訴事實為有罪之陳述時，審判長得告知被告簡式審判程序之旨，並聽取當事人、代理人、辯護人及輔佐人之意見後，裁定進行簡式審判程序。	除被告所犯為死刑、無期徒刑、最輕本刑為三年以上有期徒刑之罪或高等法院管轄第一審案件者外，於前條第一項程序進行中，被告先就被訴事實為有罪之陳述時，審判長得告知被告簡式審判程序之旨，並聽取當事人、代理人、辯護人及輔佐人之意見後，裁定進行簡式審判程序。	If the accused admits guilty on the fact charged, in the proceeding specified in section I of the preceding article, the presiding judge may inform him of the meaning of summary trial procedure and may, after considering the opinions of the party's, agent, defense attorney, and assistant, order that the case be proceeded under the provisions of summary trial procedure by a ruling, unless the accused has committed an offense punishable with death penalty, life imprisonment, or with a minimum punishment of imprisonment for not less than three years or that the court of appeal has jurisdiction of the first instance over the case.
法院為前項裁定後，認有不得或不宜者，應撤銷原裁定，依通常程序審判之。	法院為前項裁定後，認有不得或不宜者，應撤銷原裁定，依通常程序審判之。	The court may set aside the ruling specified in the preceding section and set the case for trial on regular procedure if the court considers that the said ruling is not permitted or not appropriate.
前項情形，應更新審判程序。但當事人無異議者，不在此限。	前項情形，應更新審判程序。但當事人無異議者，不在此限。	Trial procedure shall start anew under the circumstance specified in the preceding section, unless the parties do not object to the continuing of the current proceeding.
第 273-2 條 (簡式審判	**第 273-2 條**	**Article 273- 2**

程序之證據調查)		
簡式審判程序之證據調查，不受第一百五十九條第一項、第一百六十一條之二、第一百六十一條之三、第一百六十三條之一及第一百六十四條至第一百七十條規定之限制。	簡式審判程序之證據調查，不受第一百五十九條第一項、第一百六十一條之二、第一百六十一條之三、第一百六十三條之一及第一百六十四條至第一百七十條規定之限制。	The investigation of evidence in summary trial proceeding shall not be subject to the restrictions as specified in section I of Article 159, Article 161-2, Article 161-3, Article 163-1, and Articles 164 through 170.
第 274 條 (期日前證物之調取)	第 274 條	**Article 274**
法院於審判期日前，得調取或命提出證物。	法院於審判期日前，得調取或命提出證物。	Before the trial date, the court may subpoena and obtain or order the production of an exhibit.
第 275 條 (期日前之舉證權利)	第 275 條(期日前之舉證權利)	**Article 275**
當事人或辯護人，得於審判期日前，提出證據及聲請法院為前條之處分。	當事人或辯護人，得於審判期日前，提出證據及聲請法院為前條之處分。	Before the trial date, a party or defense attorney may present evidence and motion the court to take the measures specified in the preceding article.
第 276 條 (期日前人證之訊問)	第 276 條	**Article 276**
法院預料證人不能於審判期日到場者，得於審判期日前訊問之。 法院得於審判期日前，命為鑑定及通譯。	法院預料證人不能於審判期日到場者，得於審判期日前訊問之。 法院得於審判期日前，命為鑑定及通譯。	If the court foresees that a witness is unable to be present on the trial date, it may examine him before such date. The court may order an expert examination or a translation before the trial date.
第 277 條 (期日前對物之強制處分)	第 277 條(期日前對物之強制處分)	**Article 277**
法院得於審判期日前，為搜索、扣押及勘驗。	法院得於審判期日前，為搜索、扣押及勘驗。	The court may conduct a search, seizure, or inspection prior to the trial date.
第 278 條 (期日前公署之報告)	第 278 條(期日前公署之報告)	**Article 278**
法院得於審判期日前，就必要之事項，請求該管機關報告。	法院得於審判期日前，就必要之事項，請求該管機關報告。	The court may request a competent public office to submit reports upon necessary matters prior to the trial date.
第 279 條 (受命法官之指定及其權限)	第 279 條	**Article 279**
行合議審判之案件，為準備審判起見，得以庭員一人為受命法官，於審判期日前，使行準備	行合議審判之案件，為準備審判起見，得以庭員一人為受命法官，於審判期日前，使行準備	An associate judge may be commissioned to conduct preliminary procedure, prior to the trial date, to prepare for the trial of a case which should be tried by a panel of judges;

程序，以處理第二百七十三條第一項、第二百七十四條、第二百七十六條至第二百七十八條規定之事項。	程序，以處理第二百七十三條第一項、第二百七十四條、第二百七十六條至第二百七十八條規定之事項。	he shall perform the duties specified in section I of Article 273, Article 274, and Articles 276 through 278.
受命法官行準備程序，與法院或審判長有同一之權限。但第一百二十一條之裁定，不在此限。	受命法官行準備程序，與法院或審判長有同一之權限。但第一百二十一條之裁定，不在此限。	In conducting preliminary proceeding the commission judge shall have the same authority as the court or presiding judge, except for the ruling specified in Article 121.
<u>第 280 條</u> (審判庭之組織)	**第 280 條(審判庭之組織)**	**Article 280**
審判期日，應由推事、檢察官及書記官出庭。	審判期日，應由推事、檢察官及書記官出庭。	On the trial date, the judge, public prosecutor, and clerk shall be present in court.
<u>第 281 條</u> (被告到庭之義務)	**第 281 條(被告到庭之義務)**	**Article 281**
審判期日，除有特別規定外，被告不到庭者，不得審判。	審判期日，除有特別規定外，被告不到庭者，不得審判。	If an accused fails to appear in court on the trial date, the trial may not proceed unless otherwise specially provided.
許被告用代理人之案件，得由代理人到庭。	許被告用代理人之案件，得由代理人到庭。	If a case is one in which an agent may be authorized to appear for the accused before a court, such agent may appear in place of the accused.
<u>第 282 條</u> (在庭之身體自由)	**第 282 條(在庭之身體自由)**	**Article 282**
被告在庭時，不得拘束其身體。但得命人看守。	被告在庭時，不得拘束其身體。但得命人看守。	Restraint may not be placed on the person of an accused when he is in court, but he may be ordered to be guarded.
<u>第 283 條</u> (被告之在庭義務)	**第 283 條(被告之在庭義務)**	**Article 283**
被告到庭後，非經審判長許可，不得退庭。	被告到庭後，非經審判長許可，不得退庭。	After an accused has appeared in court, he may not withdraw from the court except with permission of the presiding judge.
審判長因命被告在庭，得為相當處分。	審判長因命被告在庭，得為相當處分。	A presiding judge may take appropriate measures to order an accused to appear in court.
<u>第 284 條</u> (強制辯護案件辯護人之到庭)	**第 284 條(強制辯護案件辯護人之到庭)**	**Article 284**
第三十一條第一項所定之案件無辯護人到庭者，不得審判。但宣示判決，不在此限。	第三十一條第一項所定之案件無辯護人到庭者，不得審判。但宣示判決，不在此限。	If no defense attorney appears in the cases specified in section I of Article 31, the trial may not proceed, provided that this rule shall not apply to the pronouncement of judgment.

現行條文	舊條文	English
第 284-1 條 (合議審判) 除簡式審判程序、簡易程序及第三百七十六條第一款、第二款所列之罪之案件外，第一審應行合議審判。	**第 284-1 條** **除簡式審判程序及簡易程序案件外，第一審應行合議審判。**	**Article 284- 1** Trial for the first instance shall be conducted by a panel of judges, unless the case is one of that applies summary trial procedure or summary procedure.
第 285 條 (審判開始－朗讀案由) 審判期日，以朗讀案由為始。	第 285 條(審判開始－朗讀案由) 審判期日，以朗讀案由為始。	**Article 285** On the trial date, a trial shall begin by announcing the offense charged.
第 286 條 (人別訊問與起訴要旨之陳述) 審判長依第九十四條訊問被告後，檢察官應陳述起訴之要旨。	第 286 條(人別訊問與起訴要旨之陳述) 審判長依第九十四條訊問被告後，檢察官應陳述起訴之要旨。	**Article 286** After the presiding judge has examined the accused in accordance with Article 94, the public prosecutor shall state the essential points of the prosecution.
第 287 條 (訊問被告應先告知) 檢察官陳述起訴要旨後，審判長應告知被告第九十五條規定之事項。	第 287 條 檢察官陳述起訴要旨後，審判長應告知被告第九十五條規定之事項。	**Article 287** After the essential points of the prosecution have been stated by the public prosecutor, the presiding judge shall inform the accused of the matters specified in Article 95.
第 287-1 條 (共同被告之調查證據、辯論程序之分離或合併) 法院認為適當時，得依職權或當事人或辯護人之聲請，以裁定將共同被告之調查證據或辯論程序分離或合併。	第 287-1 條 法院認為適當時，得依職權或當事人或辯護人之聲請，以裁定將共同被告之調查證據或辯論程序分離或合併。	**Article 287- 1** If the court considers appropriate, the court may ex officio or upon the motion of the party or defense attorney order, by a ruling, that the co-defendant's procedure of investigation of evidence or procedure of the argument be conducted separately from or consolidated together with that of the defendant.
前項情形，因共同被告之利害相反，而有保護被告權利之必要者，應分離調查證據或辯論。	前項情形，因共同被告之利害相反，而有保護被告權利之必要者，應分離調查證據或辯論。	Under the circumstance specified in the preceding section, the co-defendant's procedure of investigation of evidence or procedure of the argument shall be conducted separately from that of the defendant if it is necessary for the protection of the right of the defendant in a case a conflict of interest exists between the defendant and the co-defendant.
第 287-2 條 (共同被告	第 287-2 條	**Article 287- 2**

之準用規定)		
法院就被告本人之案件調查共同被告時，該共同被告準用有關人證之規定。	法院就被告本人之案件調查共同被告時，該共同被告準用有關人證之規定。	If the court examines a co-defendant on a case that the defendant is being charged, the co-defendant shall be subject mutatis mutandis to the provision governing the examination of a witness.
第 288 條（調查證據)	**第 288 條**	**Article 288**
調查證據應於第二百八十七條程序完畢後行之。	調查證據應於第二百八十七條程序完畢後行之。	Investigation of evidence shall begin after completion of proceeding specified in Article 287.
審判長對於準備程序中當事人不爭執之被告以外之人之陳述，得僅以宣讀或告以要旨代之。但法院認有必要者，不在此限。	審判長對於準備程序中當事人不爭執之被告以外之人之陳述，得僅以宣讀或告以要旨代之。但法院認有必要者，不在此限。	With regarding to the statement made by a person other than the accused which has been presented at the preliminary proceeding but not contested by the party, the court may choose to announce it or state the essential points, unless the court chooses otherwise if it considers necessary.
除簡式審判程序案件外，審判長就被告被訴事實為訊問者，應於調查證據程序之最後行之。	除簡式審判程序案件外，審判長就被告被訴事實為訊問者，應於調查證據程序之最後行之。	Except for the cases that apply the summary trial procedure, the presiding judge shall examine the accused regarding the facts being charged with at the end of the investigation of evidence proceeding.
審判長就被告科刑資料之調查，應於前項事實訊問後行之。	審判長就被告科刑資料之調查，應於前項事實訊問後行之。	The presiding judge's investigation of information regarding the sentencing shall be conducted after the examination in the preceding section.
第 288-1 條（陳述意見權及提出有利證據之告知)	**第 288-1 條**	**Article 288- 1**
審判長每調查一證據畢，應詢問當事人有無意見。	審判長每調查一證據畢，應詢問當事人有無意見。	Following the investigation of each evidence, the presiding judge shall ask the party's opinion thereof.
審判長應告知被告得提出有利之證據。	審判長應告知被告得提出有利之證據。	The presiding judge shall inform the accused that he may present evidence favorable to him.
第 288-2 條（證據證明力之辯論)	**第 288-2 條**	**Article 288- 2**
法院應予當事人、代理人、辯護人或輔佐人，以辯論證據證明力之適當機會。	法院應予當事人、代理人、辯護人或輔佐人，以辯論證據證明力之適當機會。	Appropriate opportunities shall be given by the court to the parties, agent, defense attorney, or assistant to argue the probative value of the evidence.
第 288-3 條（聲明異議權)	**第 288-3 條**	**Article 288- 3**
當事人、代理人、辯護人或輔佐人對於審判	當事人、代理人、辯護人或輔佐人對於審判長	The parties, agent, defense attorney, or assistant may object to the court regarding

長或受命法官有關證據調查或訴訟指揮之處分不服者，除有特別規定外，得向法院聲明異議。	或受命法官有關證據調查或訴訟指揮之處分不服者，除有特別規定外，得向法院聲明異議。	the investigation of evidence or in-court instruction by the presiding judge or commissioned judge if he disagrees with it; unless otherwise particularly provided.
法院應就前項異議裁定之。	法院應就前項異議裁定之。	The court shall make a ruling on the objection specified in the preceding section.
第 289 條 (言詞辯論)	第 289 條	**Article 289**
調查證據完畢後，應命依下列次序就事實及法律分別辯論之： 一、檢察官。 二、被告。 三、辯護人。	調查證據完畢後，應命依下列次序就事實及法律分別辯論之： 一　檢察官。 二　被告。 三　辯護人。	After the investigation of evidence has been completed, arguments on the law and facts shall be made in the following sequence: 1.Public prosecutor; 2. Accused; 3. Defense attorney;
已辯論者，得再為辯論，審判長亦得命再行辯論。	已辯論者，得再為辯論，審判長亦得命再行辯論。	After an argument, additional argument may be made; the presiding judge may also order further argument.
依前二項辯論後，審判長應予當事人就科刑範圍表示意見之機會。	依前二項辯論後，審判長應予當事人就科刑範圍表示意見之機會。	After the conclusion of the argument pursuant to the preceding two sections, the presiding judge shall provide the parties with opportunities to state opinions regarding sentencing.
第 290 條 (被告之最後陳述)	第 290 條(被告之最後陳述)	**Article 290**
審判長於宣示辯論終結前，最後應詢問被告有無陳述。	審判長於宣示辯論終結前，最後應詢問被告有無陳述。	The presiding judge shall, before announcing that the argument is concluded, ask the accused whether he has a final statement.
第 291 條 (再開辯論)	第 291 條(再開辯論)	**Article 291**
辯論終結後，遇有必要情形，法院得命再開辯論。	辯論終結後，遇有必要情形，法院得命再開辯論。	The court may, if it is necessary after the argument is concluded, order further argument.
第 292 條 (更新審判事由(一))	第 292 條(更新審判事由(一))	**Article 292**
審判期日，應由參與之推事始終出庭；如有更易者，應更新審判程序。	審判期日，應由參與之推事始終出庭；如有更易者，應更新審判程序。	The judges in attendance on the trial date shall participate throughout the trial; if the judge is changed, the proceedings shall begin anew.
參與審判期日前準備程序之推事有更易者，毋庸更新其程序。	參與審判期日前準備程序之推事有更易者，毋庸更新其程序。	If the judge who conducted the preliminary proceedings prior to the trial date is changed, it is not necessary to begin the proceedings anew.
第 293 條 (連續開庭與更新審判事由(二))	第 293 條(連續開庭與更新審判事由(二))	**Article 293**

審判非一次期日所能終結者，除有特別情形外，應於次日連續開庭；如下次開庭因事故間隔至十五日以上者，應更新審判程序。	審判非一次期日所能終結者，除有特別情形外，應於次日連續開庭；如下次開庭因事故間隔至十五日以上者，應更新審判程序。	If a trial cannot be concluded in one session, it shall, except under special circumstances, be continued by successive daily hearings; if for any reason fifteen days intervene between hearings, the proceedings shall being anew.
第 294 條（停止審判(一)－心神喪失與一造缺席判決(一))	第 294 條(停止審判(一)－心神喪失與一造缺席判決(一))	**Article 294**
被告心神喪失者，應於其回復以前停止審判。	被告心神喪失者，應於其回復以前停止審判。	If an accused is insane, the trial shall be suspended until he recovers.
被告因疾病不能到庭者，應於其能到庭以前停止審判。	被告因疾病不能到庭者，應於其能到庭以前停止審判。	If an accused is unable to attend court because of sickness, the trial shall be suspended until he is able to appear in court.
前二項被告顯有應諭知無罪或免刑判決之情形者，得不待其到庭，逕行判決。	前二項被告顯有應諭知無罪或免刑判決之情形者，得不待其到庭，逕行判決。	In the case of the accused specified in one of the preceding two sections, if circumstances appear to warrant the pronouncement of a judgment of "Not Guilty" or of "Remission of Punishment," such judgment may be given without waiting for the appearance of the accused in court.
許用代理人案件委任有代理人者，不適用前三項之規定。	許用代理人案件委任有代理人者，不適用前三項之規定。	The provisions of the preceding three sections shall not apply to a case in which an agent may be authorized to appear for the accused before a court and such agent has been authorized.
第 295 條（停止審判(二)－相關之他罪判決)	第 295 條(停止審判(二)－相關之他罪判決)	**Article 295**
犯罪是否成立以他罪為斷，而他罪已經起訴者，得於其判決確定前，停止本罪之審判。	犯罪是否成立以他罪為斷，而他罪已經起訴者，得於其判決確定前，停止本罪之審判。	If the determination of one offense depends upon a determination of another offense and such other offense has already been charged, the trial may be suspended until judgment in the other offense becomes final.
第 296 條（停止審判(三)－無關之他罪判決)	第 296 條(停止審判(三)－無關之他罪判決)	**Article 296**
被告犯有他罪已經起訴應受重刑之判決，法院認為本罪科刑於應執行之刑無重大關係者，得於他罪判決確定前停止本罪之審判。	被告犯有他罪已經起訴應受重刑之判決，法院認為本罪科刑於應執行之刑無重大關係者，得於他罪判決確定前停止本罪之審判。	If an accused has committed another offense for which prosecution has already been initiated and for which a severe sentence shall be given, and if the court considers that punishment for the current offense will not seriously influence such sentence, trial of the current offense may be suspended until judgment in the other offense becomes final.
第 297 條（停止審判(四)－民事判決)	第 297 條(停止審判(四)－民事判決)	**Article 297**

犯罪是否成立或刑罰應否免除，以民事法律關係為斷，而民事已經起訴者，得於其程序終結前停止審判。	犯罪是否成立或刑罰應否免除，以民事法律關係為斷，而民事已經起訴者，得於其程序終結前停止審判。	If the question of the commission of an offense, or remission of punishment depends on a determination under civil law, and if the civil action has already been initiated, the criminal trial may be suspended until the civil proceedings have been concluded.
第 298 條 (停止審判之回復)	第 298 條(停止審判之回復)	**Article 298**
第二百九十四條第一項、第二項及第二百九十五條至第二百九十七條停止審判之原因消滅時，法院應繼續審判，當事人亦得聲請法院繼續審判。	第二百九十四條第一項、第二項及第二百九十五條至第二百九十七條停止審判之原因消滅時，法院應繼續審判，當事人亦得聲請法院繼續審判。	Upon extinction of the causes for suspension of a trial specified in sections I and II of Article 294 and Articles 295 to 297, the court shall continue the trial, and a party may also motion the court to continue the trial.
第 299 條 (科刑或免刑判決)	第 299 條(科刑或免刑判決)	**Article 299**
被告犯罪已經證明者，應諭知科刑之判決。但免除其刑者，應諭知免刑之判決。	被告犯罪已經證明者，應諭知科刑之判決。但免除其刑者，應諭知免刑之判決。	If an offense committed by an accused is proved, judgment imposing a sentence shall be pronounced, provided that if punishment is to be remitted, a judgment remitting the punishment shall be pronounced.
依刑法第六十一條規定，為前項免刑判決前，並得斟酌情形經告訴人或自訴人同意，命被告為左列各款事項：	依刑法第六十一條規定，為前項免刑判決前，並得斟酌情形經告訴人或自訴人同意，命被告為左列各款事項：	Prior to a judgment remitting punishment specified in the preceding section pursuant to Article 61 of the Criminal Code, the court may, in consideration of the circumstances and by consent of the complainant or private prosecutor, also order the accused to do the following:
一、向被害人道歉。	一　向被害人道歉。	1.To apologize to the victim;
二、立悔過書。	二　立悔過書。	2.To make a written statement of repentance;
三、向被害人支付相當數額之慰撫金。	三　向被害人支付相當數額之慰撫金。	3.To pay to the victim an appropriate sum as consolation.
前項情形，應附記於判決書內。	前項情形，應附記於判決書內。	The matters specified in the preceding section shall be noted in the written judgment.
第二項第三款並得為民事強制執行名義。	第二項第三款並得為民事強制執行名義。	The matter specified in Item III of section II may also constitute a ground for civil compulsory execution.
第 300 條 (變更法條)	第 300 條(變更法條)	**Article 300**
前條之判決，得就起訴之犯罪事實，變更檢察官所引應適用之法條。	前條之判決，得就起訴之犯罪事實，變更檢察官所引應適用之法條。	In the judgment specified in the preceding Article, if the facts warrant, the charge brought by the public prosecutor may be changed to an appropriate article of the law.

第 301 條 (無罪判決)	第 301 條(無罪判決)	Article 301
不能證明被告犯罪或其行為不罰者應諭知無罪之判決。	**不能證明被告犯罪或其行為不罰者應諭知無罪之判決。**	If it cannot be proved that an accused has committed an offense or if his act is not punishable, a judgment of "Not Guilty" shall be pronounced.
依刑法第十八條第一項或第十九條第一項其行為不罰，認為有諭知保安處分之必要者，並應諭知其處分及期間。	**因未滿十四歲或心神喪失而其行為不罰，認為有諭知保安處分之必要者，並應諭知其處分及期間。**	If a person is excused from punishment because he has not reached the fourteenth year of his age or because of insanity and if it is considered necessary to pronounce a measure for rehabilitation, such measure and its duration shall also be pronounced.

第 302 條 (免訴判決)	第 302 條(免訴判決)	Article 302
案件有左列情形之一者，應諭知免訴之判決：	案件有左列情形之一者，應諭知免訴之判決：	Judgment of "Exempt from Prosecution" shall be pronounced if one of the following circumstances exists:
一、曾經判決確定者。	一　曾經判決確定者。	1.A final judgment has already been given;
二、時效已完成者。	二　時效已完成者。	2.The period of statute of limitation is completed;
三、曾經大赦者。	三　曾經大赦者。	3.There is already been an amnesty;
四、犯罪後之法律已廢止其刑罰者。	四　犯罪後之法律已廢止其刑罰者。	4.A law enacted after the commission of an offense abolishes the punishment.

第 303 條 (不受理判決)	第 303 條	Article 303
案件有下列情形之一者，應諭知不受理之判決：	案件有下列情形之一者，應諭知不受理之判決：	Judgment of "Case Not Entertained" shall be pronounced if one of the following circumstances exists:
一、起訴之程序違背規定者。	一　起訴之程序違背規定者。	(1) Prosecution has been initiated contrary to the rules of procedure;
二、已經提起公訴或自訴之案件，在同一法院重行起訴者。	二　已經提起公訴或自訴之案件，在同一法院重行起訴者。	(2) Prosecution has again been initiated for a case in which public or private prosecution has already been initiated in the same court;
三、告訴或請求乃論之罪，未經告訴、請求或其告訴、請求經撤回或已逾告訴期間者。	三　告訴或請求乃論之罪，未經告訴、請求或其告訴、請求經撤回或已逾告訴期間者。	(3) In a prosecution which may be initiated only upon complaint or request, a complaint or request to prosecute has not been made or has been withdrawn or the period within which such complaint or request may be made has expired;
四、曾為不起訴處分、撤回起訴或緩起訴期滿未經撤銷，而違背第二百六十條之規定再行起訴者。	四　曾為不起訴處分、撤回起訴或緩起訴期滿未經撤銷，而違背第二百六十條之規定再行起訴者。	(4) A prosecution has been initiated contrary to the provisions of Article 260 after a ruling not to prosecute has been given, the prosecution has been withdrawn, or deferred prosecution has not been set aside;
五、被告死亡或為被告之法人已不存續者。	五　被告死亡或為被告之法人已不存續者。	(5) The accused is dead; or the entity being accused does not exist anymore;
六、對於被告無審判權者。	六　對於被告無審判權者。	(6) The court has no judicial power over the accused;
七、依第八條之規定不得為審判者。	七　依第八條之規定不得為審判者。	(7) According to the provisions of Article 8, the court cannot try the case.

第 304 條 (管轄錯誤判決(一))	第 304 條(管轄錯誤判決(一))	**Article 304**
無管轄權之案件，應諭知管轄錯誤之判決，並同時諭知移送於管轄法院。	無管轄權之案件，應諭知管轄錯誤之判決，並同時諭知移送於管轄法院。	If the court has no jurisdiction over the case, a judgment of "Mistake in Jurisdiction" shall be pronounced and an order issued to transfer the case to a court having jurisdiction.
第 305 條 (一造缺席判決(二))	第 305 條(一造缺席判決(二))	**Article 305**
被告拒絕陳述者，得不待其陳述逕行判決；其未受許可而退庭者亦同。	被告拒絕陳述者，得不待其陳述逕行判決；其未受許可而退庭者亦同。	If an accused refuses to make a statement, judgment may be given without waiting for his statement; the same rule shall apply if an accused leaves the court without permission.
第 306 條 (一造缺席判決(三))	第 306 條(一造缺席判決(三))	**Article 306**
法院認為應科拘役、罰金或應諭知免刑或無罪之案件，被告經合法傳喚無正當理由不到庭者，得不待其陳述逕行判決。	法院認為應科拘役、罰金或應諭知免刑或無罪之案件，被告經合法傳喚無正當理由不到庭者，得不待其陳述逕行判決。	If a court considers that it should impose detention or a fine or pronounce a judgment of "Remission of Punishment" or "Not Guilty," and if an accused, without good reason, fails to appear in court after having been legally summoned, judgment may be given without waiting for his statement.
第 307 條 (言詞審理之例外)	第 307 條	**Article 307**
第一百六十一條第四項、第三百零二條至第三百零四條之判決，得不經言詞辯論為之。	第一百六十一條第四項、第三百零二條至第三百零四條之判決，得不經言詞辯論為之。	The judgment specified in section IV of Article 161 and Articles 302 through 304 may be given without oral argument.
第 308 條 (判決書之內容)	**第 308 條(判決書應記載事項)**	**Article 308**
判決書應分別記載其裁判之主文與理由；有罪之判決書並應記載犯罪事實，且得與理由合併記載。	**判決書應分別記載其裁判之主文與理由；有罪之判決書並應記載事實。**	A written judgment shall separately set forth a syllabus of the decision and reasons; a written judgment of "Guilty" shall set forth the facts.
第 309 條 (有罪判決書之主文記載)	**第 309 條(有罪判決書之主文記載)**	**Article 309**
有罪之判決書，應於主文內載明所犯之罪，並分別情形，記載下列事項： 一、諭知之主刑、從刑或刑之免除。	**有罪之判決書，應於主文內載明所犯之罪，並分別情形，記載左列事項：** **一　諭知之主刑、從刑或刑之免除。**	The syllabus of a written judgment of "Guilty" shall contain the offense committed, and depending upon the circumstances, include the following: (1) A pronouncement of the principal punishment, accessory punishment, or

		remission of punishment;
二、諭知有期徒刑或拘役者，如易科罰金，其折算之標準。	**二　諭知六月以下有期徒刑或拘役者，如易科罰金，其折算之標準。**	(2) If a sentence of not more than six months imprisonment or detention is pronounced, and if commutation to a fine may be ordered, the rate of such commutation;
三、諭知罰金者，如易服勞役，其折算之標準。	**三　諭知罰金者，如易服勞役，其折算之標準。**	(3) If a fine is pronounced and if commutation to labor may be ordered, the rate of such commutation;
四、諭知易以訓誡者，其諭知。	**四　諭知易以訓誡者，其諭知。**	(4) If a sentence is commuted to a warning, its pronouncement;
五、諭知緩刑者，其緩刑之期間。	**五　諭知緩刑者，其緩刑之期間。**	(5) If a suspension of sentence is pronounced, the period of suspension;
六、諭知保安處分者，其處分及期間。	**六　諭知保安處分者，其處分及期間。**	(6) If a measure for rehabilitation is pronounced, the measure and its duration;
第 310 條 (有罪判決書之理由記載)	**第 310 條(有罪判決書之理由記載)**	**Article 310**
有罪之判決書，應於理由內分別情形記載左列事項：	有罪之判決書，應於理由內分別情形記載左列事項：	The reasons of a written judgment of "Guilty" shall, depending upon the circumstances, include the following:
一、認定犯罪事實所憑之證據及其認定之理由。	一　認定犯罪事實所憑之證據及其認定之理由。	(1) The evidence on which the facts of the offense are based and the reasons therefor;
二、對於被告有利之證據不採納者，其理由。	二　對於被告有利之證據不採納者，其理由。	(2) Where evidence favorable to the accused is not relied, the reasons therefor;
三、科刑時就刑法第五十七條或第五十八條規定事項所審酌之情形。	三　科刑時就刑法第五十七條或第五十八條規定事項所審酌之情形。	(3) The circumstances specified in Article 57 or 58 of the Criminal Code which justify the exercise of discretion in imposing a sentence;
四、刑罰有加重、減輕或免除者，其理由。	四　刑罰有加重、減輕或免除者，其理由。	(4) Reasons for increasing, reducing, or remitting a sentence;
五、易以訓誡或緩刑者，其理由。	五　易以訓誡或緩刑者，其理由。	(5) Reasons for commuting a sentence to a warning or for suspension of sentence;
六、諭知保安處分者，其理由。	六　諭知保安處分者，其理由。	(6) Reasons for pronouncing a measure for rehabilitation;
七、適用之法律。	七　適用之法律。	(7) The applicable law.
第 310-1 條 (有罪判決之記載)	**第 310-1 條(簡易判決書之記載)**	**Article 310- 1**
有罪判決，諭知六月以下有期徒刑或拘役得易科罰金、罰金或免刑者，其判決書得僅記載判決主文、犯罪事實、證據名稱、對於被告有利證據不採納之理由及應適用之法條。	**有罪判決，諭知六月以下有期徒刑或拘役得易科罰金、罰金或免刑者，其判決書得僅記載判決主文、犯罪事實及證據與其認定之理由、應適用之法條。**	In a case of a judgment of "Guilty" which is pronounced to be subject to a sentence of not more than six months imprisonment or detention commutable to a fine, a fine, or a remission of punishment, the written judgment may only contain the syllabus of the decision, the facts and evidence of the offense accompanied by reasons for such conclusion thereof, and articles of the law

		applicable.
前項判決，法院認定之犯罪事實與起訴書之記載相同者，得引用之。	**前項判決，法院認定之犯罪事實與起訴書之記載相同者，得引用之。**	For the judgment specified in the preceding section, the court may cite the facts of the offense set forth in the indictment if such facts are the same as those established by the court.
第 310-2 條 (適用簡式審判程序之有罪判決書製作) 適用簡式審判程序之有罪判決書之製作，準用第四百五十四條之規定。		
第 311 條 (宣示判決之時期)	第 311 條	**Article 311**
宣示判決，應自辯論終結之日起十四日內為之。	宣示判決，應自辯論終結之日起十四日內為之。	Judgment shall be pronounced within fourteen days after conclusion of an argument.
第 312 條 (宣示判決(二)－被告不在庭)	第 312 條(宣示判決(二)－被告不在庭)	**Article 312**
宣示判決，被告雖不在庭亦應為之。	宣示判決，被告雖不在庭亦應為之。	Judgment shall be pronounced notwithstanding that an accused is not in court.
第 313 條 (宣示判決(三)－主體)	第 313 條(宣示判決(三)－主體)	**Article 313**
宣示判決，不以參與審判之推事為限。	宣示判決，不以參與審判之推事為限。	Judgment is not required to be pronounced by the judge who tried the case.
第 314 條 (得上訴判決之宣示及送達)	第 314 條(得上訴判決之宣示及送達)	**Article 314**
判決得為上訴者，其上訴期間及提出上訴狀之法院，應於宣示時一併告知，並應記載於送達被告之判決正本。	判決得為上訴者，其上訴期間及提出上訴狀之法院，應於宣示時一併告知，並應記載於送達被告之判決正本。	When a judgment from which an appeal is allowed is pronounced, such pronouncement shall include the duration of the period within which the appeal may be made and the court to which the appeal petition should be submitted; a true copy of the judgment sent to the accused shall contain the same information.
前項判決正本，並應送達於告訴人及告發人，告訴人於上訴期間內，得向檢察官陳述意見。	前項判決正本，並應送達於告訴人及告發人，告訴人於上訴期間內，得向檢察官陳述意見。	A true copy of the judgment specified in the preceding section shall also be sent to the complainant and informer; such complainant may within the period for appeal state his opinion to the public prosecutor.
第 314-1 條 (判決正本附錄論罪法條全文)		

有罪判決之正本，應附記論罪之法條全文。

第 315 條 (判決書之登報)	第 315 條(判決書之登報)	**Article 315**
犯刑法偽證及誣告罪章或妨害名譽及信用罪章之罪者，因被害人或其他有告訴權人之聲請，得將判決書全部或一部登報，其費用由被告負擔。	犯刑法偽證及誣告罪章或妨害名譽及信用罪章之罪者，因被害人或其他有告訴權人之聲請，得將判決書全部或一部登報 ，其費用由被告負擔。	If an offense specified in one of the chapters of the Criminal Code entitled "Offenses of Perjury and Malicious Accusation" or "Offenses of Libel and against Credit" is committed, and if the victim or other person with a right to file the complaint makes application, an order may be issued to require the whole or a part of the written judgment to be published in a newspaper at the expense of the accused.
第 316 條 (判決對羈押之效力)	第 316 條(判決對羈押之效力)	**Article 316**
羈押之被告，經諭知無罪、免訴、免刑、緩刑、罰金或易以訓誡或第三百零三條第三款、第四款不受理之判決者，視為撤銷羈押。但上訴期間內或上訴中，得命具保、責付或限制住居；如不能具保、責付或限制住居，而有必要情形者，並得繼續羈押之。	羈押之被告，經諭知無罪、免訴、免刑、緩刑、罰金或易以訓誡或第三百零三條第三款、第四款不受理之判決者，視為撤銷羈押。但上訴期間內或上訴中，得命具保、責付或限制住居；如不能具保、責付或限制住居，而有必要情形者，並得繼續羈押之。	If an accused is under detention, such detention is considered to be cancelled on the pronouncement of a judgment of "Not Guilty," "Exempt from Prosecution," "Punishment Remitted," "Suspension of Sentence," "Fine," "Sentence Commuted to Warning," or "Case Not Entertained" as specified in Items 3 or 4 of Article 303, provided that during the period allowed for appeal or while an appeal is pending the accused may be released on bail, to the custody of another, or with a limitation on his residence; if he is unable to provide bail or if it is impossible for him to be released to the custody of another or with a limitation on his residence, an order may be issued requiring him to remain under detention if necessary.
第 317 條 (判決後扣押物之處分)	第 317 條(判決後扣押物之處分)	**Article 317**
扣押物未經諭知沒收者，應即發還。但上訴期間內或上訴中遇有必要情形，得繼續扣押之。	扣押物未經諭知沒收者，應即發還。但上訴期間內或上訴中遇有必要情形，得繼續扣押之。	The seized property which has not been ordered to be confiscated shall be immediately returned, provided that during the period allowed for appeal or while an appeal is pending, the seizure may remain in force if necessary.
第 318 條 (贓物之處理)	第 318 條(贓物之處理)	**Article 318**
扣押之贓物，依第一百四十二條第一項應發	扣押之贓物，依第一百四十二條第一項應發還	The seized stolen property which should be returned to the victim in accordance with

還被害人者，應不待其請求即行發還。	被害人者，應不待其請求即行發還。	section I of Article 142 shall be returned immediately without waiting for his application.
依第一百四十二條第二項暫行發還之物無他項諭知者，視為已有發還之裁定。	依第一百四十二條第二項暫行發還之物無他項諭知者，視為已有發還之裁定。	A ruling for the return of property temporarily returned in accordance with section II of Article 142 shall be considered as already having been made unless there is a pronouncement to the contrary.

第二章 自訴 | 第二章 自訴 | CHAPTER II Private Prosecution

第 319 條 (適格之自訴人及審判不可分原則) | 第 319 條 | Article 319

犯罪之被害人得提起自訴。但無行為能力或限制行為能力或死亡者，得由其法定代理人、直系血親或配偶為之。	犯罪之被害人得提起自訴。但無行為能力或限制行為能力或死亡者，得由其法定代理人、直系血親或配偶為之。	The victim of a crime may file a private prosecution, provided that where he is without, or of limited, legal capacity, or is dead, such private prosecution may be filed by his statutory agent, lineal relative, or spouse.
前項自訴之提起，應委任律師行之。	前項自訴之提起，應委任律師行之。	An attorney shall be retained to file a private prosecution under the preceding section.
犯罪事實之一部提起自訴者，他部雖不得自訴亦以得提起自訴論。但不得提起自訴部分係較重之罪，或其第一審屬於高等法院管轄，或第三百二十一條之情形者，不在此限。	犯罪事實之一部提起自訴者，他部雖不得自訴亦以得提起自訴論。但不得提起自訴部分係較重之罪，或其第一審屬於高等法院管轄，或第三百二十一條之情形者，不在此限。	If a part of the facts of an offense has been prosecuted by a private prosecution, the remaining facts although may not be subject to a private prosecution is considered in the prosecution, but this may not be done if the remaining part, which may not be prosecuted by a private prosecutor, constitutes a more serious offense or its trial of the first instance is under the jurisdiction of the high court, or if the circumstances of Article 321 exist therein.

第 320 條 (自訴狀) | 第 320 條 | Article 320

自訴，應向管轄法院提出自訴狀為之。	自訴，應向管轄法院提出自訴狀為之。	A private prosecution shall be initiated by filing a petition with a court having jurisdiction.
自訴狀應記載下列事項：	自訴狀應記載下列事項：	A petition in a private prosecution shall contain the following matters:
一、被告之姓名、性別、年齡、住所或居所，或其他足資辨別之特徵。	一　被告之姓名、性別、年齡、住所或居所，或其他足資辨別之特徵。	(1) Full name, sex, age, domicile or residence of the accused, or special identifying characteristics;
二、犯罪事實及證據並所犯法條。	二　犯罪事實及證據並所犯法條。	(2) Facts and evidence of the offense and article of the law violated.
前項犯罪事實，應記載構成犯罪之具體事實及其犯罪之日、時、處	前項犯罪事實，應記載構成犯罪之具體事實及其犯罪之日、時、處所、	The facts of the offense specified in the preceding section shall set forth the specific facts that constitute the offense and the date,

所、方法。	方法。	time, place and methods of committing the offense.
自訴狀應按被告之人數，提出繕本。	自訴狀應按被告之人數，提出繕本。	The copies of the petition in a private prosecution shall be filed according to the number of the accused.
第 321 條 (自訴之限制(一)－親屬)	第 321 條(自訴之限制(一)－親屬)	**Article 321**
對於直系尊親屬或配偶，不得提起自訴。	對於直系尊親屬或配偶，不得提起自訴。	A private prosecution shall not be initiated against a lineal ascendant or spouse.
第 322 條 (自訴之限制(二)－不得告訴請求者)	第 322 條(自訴之限制(二)－不得告訴請求者)	**Article 322**
告訴或請求乃論之罪，已不得為告訴或請求者，不得再行自訴。	告訴或請求乃論之罪，已不得為告訴或請求者，不得再行自訴。	In a case chargeable only upon complaint or request, a private prosecution may not be initiated if such complaint or request is no longer permitted.
第 323 條 (自訴之限制(三)－開始偵查)	第 323 條	**Article 323**
同一案件經檢察官依第二百二十八條規定開始偵查者，不得再行自訴。但告訴乃論之罪，經犯罪之直接被害人提起自訴者，不在此限。	同一案件經檢察官依第二百二十八條規定開始偵查者，不得再行自訴。但告訴乃論之罪，經犯罪之直接被害人提起自訴者，不在此限。	A private prosecution may no longer be initiated if a public prosecutor has already begun to investigate the same case in accordance with the provision of Article 228, provided that in a case chargeable only upon complaint, and if the immediate victim of the offense initiates the private prosecution, this rule shall not apply.
於開始偵查後，檢察官知有自訴在先或前項但書之情形者，應即停止偵查，將案件移送法院。但遇有急迫情形，檢察官仍應為必要之處分。	於開始偵查後，檢察官知有自訴在先或前項但書之情形者，應即停止偵查，將案件移送法院。但遇有急迫情形，檢察官仍應為必要之處分。	If a public prosecutor knows after the beginning of his investigation that a private prosecution has been initiated already or that the circumstance specified in the proviso of the preceding section exists, he shall immediately stop such investigation and refer the case to the court, provided that if urgent circumstances exist, the public prosecutor shall still take necessary measures.
第 324 條 (自訴之效力－不得再行告訴、請求)	第 324 條(自訴之效力－不得再行告訴、請求)	**Article 324**
同一案件經提起自訴者，不得再行告訴或為第二百四十三條之請求。	同一案件經提起自訴者，不得再行告訴或為第二百四十三條之請求。	Another complaint shall not be filed nor a request made under Article 243 in the same case in which a private prosecution has already been initiated.
第 325 條 (自訴人之撤回自訴)	第 325 條(自訴人之撤回自訴)	**Article 325**
告訴或請求乃論之	告訴或請求乃論之罪，	In a case chargeable only upon complaint or

罪，自訴人於第一審辯論終結前，得撤回其自訴。	自訴人於第一審辯論終結前，得撤回其自訴。	request, a private prosecutor may withdraw the private prosecution prior to the conclusion of the argument in the trial of the first instance.
撤回自訴，應以書狀為之。但於審判期日或受訊問時，得以言詞為之。	撤回自訴，應以書狀為之。但於審判期日或受訊問時，得以言詞為之。	A private prosecution shall be withdrawn in writing, but it may be withdrawn verbally on the trial date or during an examination.
書記官應速將撤回自訴之事由，通知被告。	書記官應速將撤回自訴之事由，通知被告。	The clerk shall immediately notify the accused of the fact that the private prosecution has been withdrawn.
撤回自訴之人，不得再行自訴或告訴或請求。	撤回自訴之人，不得再行自訴或告訴或請求。	A person who has withdrawn a private prosecution shall not file another private prosecution, complaint, or request.
第 326 條 (曉諭撤回自訴或裁定駁回自訴)	**第 326 條**	**Article 326**
法院或受命法官，得於第一次審判期日前，訊問自訴人、被告及調查證據，於發見案件係民事或利用自訴程序恫嚇被告者，得曉諭自訴人撤回自訴。	法院或受命法官，得於第一次審判期日前，訊問自訴人、被告及蒐集或調查證據，於發見案件係民事或利用自訴程序恫嚇被告者，得曉諭自訴人撤回自訴。	The court or commissioned judge may examine the private prosecutor and the accused before the first trial date and may collect or investigate the evidence; if the court or commissioned judge determines that this is a case for civil action or that the private prosecution procedure is being used to threaten the accused, the private prosecutor may be advised to withdraw the private prosecution.
前項訊問不公開之；非有必要，不得先行傳訊被告。	前項訊問不公開之；非有必要，不得先行傳訊被告。	The examination specified in the preceding section shall be held in camera; unless necessary, the accused shall not be called for examination.
第一項訊問及調查結果，如認為案件有第二百五十二條、第二百五十三條、第二百五十四條之情形者，得以裁定駁回自訴，並準用第二百五十三條之二第一項第一款至第四款、第二項及第三項之規定。	第一項訊問及調查結果，如認為案件有第二百五十二條至第二百五十四條之情形者，得以裁定駁回自訴，並準用第二百五十三條之二第一項第一款至第四款、第二項及第三項之規定。	If, as a result of the examination and investigation specified in section I, it is determined that the case contains the circumstances of one of the Articles 252 through 254, the private prosecution may be dismissed by a ruling and the provisions of Items I through IV of section I, sections II and III of Article 253-2 shall be applied mutatis mutandis.
駁回自訴之裁定已確定者，非有第二百六十條各款情形之一，不得對於同一案件再行自訴。	駁回自訴之裁定已確定者，非有第二百六十條各款情形之一，不得對於同一案件再行自訴。	After a ruling to dismiss a private prosecution has been final, another private prosecution may not be initiated for the same case unless one of the Items of Article 260 exists.
第 327 條 (自訴人之傳喚)	**第 327 條**	**Article 327**
命自訴代理人到場，應通知之；如有必要命自	命自訴代理人到場，應通知之；如有必要命自	Ordering the agent of a private prosecutor to be present shall be in the form of a written

訴人本人到場者，應傳喚之。	訴人本人到場者，應傳喚之。	notice; if it is necessary to order the private prosecutor to be present he shall be summoned by a summons.
第七十一條、第七十二條及第七十三條之規定，於自訴人之傳喚準用之。	第七十一條、第七十二條及第七十三條之規定，於自訴人之傳喚準用之。	The provisions of Articles 71, 72 and 73 shall apply mutatis mutandis to the summoning of a private prosecutor.
第 328 條 (自訴狀繕本之送達)	**第 328 條**	**Article 328**
法院於接受自訴狀後，應速將其繕本送達於被告。	法院於接受自訴狀後，應速將其繕本送達於被告。	The court shall, upon receipt of a petition in a private prosecution, immediately send a copy thereof to the accused.
第 329 條 (諭知不受理判決－未委任代理人)	**第 329 條**	**Article 329**
檢察官於審判期日所得為之訴訟行為，於自訴程序，由自訴代理人為之。	檢察官於審判期日所得為之訴訟行為，於自訴程序，由自訴代理人為之。	Any procedural act which may be performed by a public prosecutor on the trial date can be performed by the agent of a private prosecutor in the proceedings of a private prosecution.
自訴人未委任代理人，法院應定期間以裁定命其委任代理人；逾期仍不委任者，應諭知不受理之判決。	自訴人未委任代理人，法院應定期間以裁定命其委任代理人；逾期仍不委任者，應諭知不受理之判決。	If a private prosecutor has not retained an agent, the court shall order him, by a ruling, to retain an agent within a prescribed period; if no agent has been retained within the said period, a judgment of "Case Not Entertained" shall be pronounced.
第 330 條 (檢察官之協助)	**第 330 條(檢察官之協助)**	**Article 330**
法院應將自訴案件之審判期日通知檢察官。	法院應將自訴案件之審判期日通知檢察官。	The court shall notify the public prosecutor of the trial date of a private prosecution.
檢察官對於自訴案件，得於審判期日出庭陳述意見。	檢察官對於自訴案件，得於審判期日出庭陳述意見。	A public prosecutor may appear in court and express his opinion on the trial date of a private prosecution.
第 331 條 (諭知不受理判決－代理人無正當理由不到庭)	**第 331 條**	**Article 331**
自訴代理人經合法通知無正當理由不到庭，應再行通知，並告知自訴人。	自訴代理人經合法通知無正當理由不到庭，應再行通知，並告知自訴人。	In case the agent of a private prosecutor fails to appear in court without good reasons after having been legally notified, the court shall re-notify him and notify the private prosecutor of the same.
自訴代理人無正當理由仍不到庭者，應諭知不受理之判決。	自訴代理人無正當理由仍不到庭者，應諭知不受理之判決。	If the agent of a private prosecutor fails to appear in court again, without good reason, then a judgment of "Case Not Entertained" shall be pronounced.
第 332 條 (承受或擔當	**第 332 條(承受或擔當訴**	**Article 332**

訴訟與一造缺席判決(五))	訟與一造缺席判決(五))	
自訴人於辯論終結前，喪失行為能力或死亡者，得由第三百十九條第一項所列得為提起自訴之人，於一個月內聲請法院承受訴訟；如無承受訴訟之人或逾期不為承受者，法院應分別情形，逕行判決或通知檢察官擔當訴訟。	自訴人於辯論終結前，喪失行為能力或死亡者，得由第三百十九條第一項所列得為提起自訴之人，於一個月內聲請法院承受訴訟；如無承受訴訟之人或逾期不為承受者，法院應分別情形，逕行判決或通知檢察官擔當訴訟。	Where a private prosecutor loses his legal capacity or dies prior to the conclusion of the argument, one of the persons capable of initiating the private prosecution as specified in section I of Article 319 may apply to the court within one month for undertaking the litigation. Where there is no such person to undertake the litigation or such person fails to do so within the prescribed period, the court shall, depending on the circumstances, immediately give a judgment on the case or notify the public prosecutor to take over the litigation.
第 333 條 (停止審判(五)－民事判決)	第 333 條(停止審判(五)－民事判決)	**Article 333**
犯罪是否成立或刑罰應否免除，以民事法律關係為斷，而民事未起訴者，停止審判，並限期命自訴人提起民事訴訟，逾期不提起者，應以裁定駁回其自訴。	犯罪是否成立或刑罰應否免除，以民事法律關係為斷，而民事未起訴者，停止審判，並限期命自訴人提起民事訴訟，逾期不提起者，應以裁定駁回其自訴。	Where establishment of a crime or remission of punishment therefor is to be determined by certain civil legal issues and no civil action has been brought, the court shall suspend trial of the case and order the private prosecutor to bring a civil action within a prescribed period and, failing to do so within the said period, shall dismiss the private prosecution by a ruling.
第 334 條 (不受理判決(二))	第 334 條(不受理判決(二))	**Article 334**
不得提起自訴而提起者，應諭知不受理之判決。	不得提起自訴而提起者，應諭知不受理之判決。	A judgment of "Case Not Entertained" shall be pronounced for a private prosecution which should not have been initiated.
第 335 條 (管轄錯誤判決(二))	第 335 條(管轄錯誤判決(二))	**Article 335**
諭知管轄錯誤之判決者，非經自訴人聲明，毋庸移送案件於管轄法院。	諭知管轄錯誤之判決者，非經自訴人聲明，毋庸移送案件於管轄法院。	If a judgment of "Mistake in Jurisdiction" is pronounced, it shall not be necessary to refer the case to a competent court unless application therefor is made by the private prosecutor.
第 336 條 (自訴判決書之送達與檢察官之處分)	第 336 條(自訴判決書之送達與檢察官之處分)	**Article 336**
自訴案件之判決書，並應送達於該管檢察官。	自訴案件之判決書，並應送達於該管檢察官。	The written judgment in a private prosecution shall also be sent to the competent public prosecutor.
檢察官接受不受理或	檢察官接受不受理或管	If a public prosecutor considers, after receipt

管轄錯誤之判決書後，認為應提起公訴者，應即開始或續行偵查。	轄錯誤之判決書後，認為應提起公訴者，應即開始或續行偵查。	of a written judgment of "Case Not Entertained" or "Mistake in Jurisdiction," that a public prosecution should be initiated, he shall immediately begin or continue an investigation.
第 337 條 (得上訴判決宣示方法之準用)	第 337 條(得上訴判決宣示方法之準用)	**Article 337**
第三百十四條第一項之規定，於自訴人準用之。	第三百十四條第一項之規定，於自訴人準用之。	The provisions of section I of Article 314 shall apply mutatis mutandis to a private prosecution.
第 338 條 (提起反訴之要件)	第 338 條	**Article 338**
提起自訴之被害人犯罪，與自訴事實直接相關，而被告為其被害人者，被告得於第一審辯論終結前，提起反訴。	提起自訴之被害人犯罪，與自訴事實直接相關，而被告為其被害人者，被告得於第一審辯論終結前，提起反訴。	If a victim who has initiated a private prosecution commits an offense and the victim in such offense is the accused in the private prosecution, such accused may institute a counter-action before the conclusion of the argument in the trial of the first instance.
第 339 條 (反訴準用自訴程序)	第 339 條(反訴準用自訴程序)	**Article 339**
反訴，準用自訴之規定。	反訴，準用自訴之規定。	The provisions relating to a private prosecution shall apply mutatis mutandis to a counter-action.
第 340 條	第 340 條	**Article 340**
(刪除)	(刪除)	(Deleted)
第 341 條 (反訴與自訴之判決時期)	第 341 條(反訴與自訴之判決時期)	**Article 341**
反訴應與自訴同時判決。但有必要時，得於自訴判決後判決之。	反訴應與自訴同時判決。但有必要時，得於自訴判決後判決之。	Judgment in a counter-action shall be given at the time of giving the judgment in a private prosecution, provided that in case of necessity, it may be given after judgment in a private prosecution had been given.
第 342 條 (反訴之獨立性)	第 342 條(反訴之獨立性)	**Article 342**
自訴之撤回，不影響於反訴。	自訴之撤回，不影響於反訴。	Withdrawal of a private prosecution shall not affect a counter-action.
第 343 條 (自訴準用公訴程序)	第 343 條(自訴準用公訴程序)	**Article 343**
自訴程序，除本章有特別規定外，準用第二百四十六條、第二百四十	自訴程序，除本章有特別規定外，準用第二百四十六條、第二百四十	The provisions of Articles 246, 249, and Sections 2 and 3 of the preceding Chapter relating to a public prosecution shall apply

九條及前章第二節、第三節關於公訴之規定。	九條及前章第二節、第三節關於公訴之規定。	mutatis mutandis to the procedures of a private prosecution except as otherwise specially provided in this Chapter.

2010 年 06 月 23 日 **現行法**	**中英對照 第 344-512 條** **1967 年 01 月 28 日**

第三編 上訴	**第三編 上訴**	**PART III APPEAL**
第一章 通則	**第一章 通則**	**Chapter I GENERAL PROVISIONS**
第 344 條（上訴權人(一)—當事人）	**第 344 條**	**Article 344**
當事人對於下級法院之判決有不服者，得上訴於上級法院。	當事人對於下級法院之判決有不服者。得上訴於上級法院。	A party who disagrees with the judgment of a lower court may appeal to a higher court.
自訴人於辯論終結後喪失行為能力或死亡者，得由第三百十九條第一項所列得為提起自訴之人上訴。 告訴人或被害人對於下級法院之判決有不服者，亦得具備理由，請求檢察官上訴。	告訴人或被害人對於下級法院之判決有不服者。亦得具備理由。請求檢察官上訴。除顯無理由者外，檢察官不得拒絕。	Where the complainant or injured party is dissatisfied with a judgment of the lower court, he may, with reasons stated, also request the procurator to file an appeal. Unless the request is obviously unreasonable, the procurator shall not reject it.
檢察官為被告之利益，亦得上訴。	檢察官為被告之利益。亦得上訴。	A procurator may also appeal for the benefit of an accused.
宣告死刑或無期徒刑之案件，原審法院應不待上訴依職權逕送該管上級法院審判，並通知當事人。	宣告死刑或無期徒刑之案件。原審法院應不待上訴依職權逕送該管上級法院審判。並通知當事人。	In a case for which a death sentence or life imprisonment has been pronounced, the trial court shall, without waiting for lodgment of an appeal, ex officio refer it direct to the competent superior court for trial and notify the party concerned.
前項情形，視為被告已提起上訴。	前項情形。視為被告已提起上訴。	In the case as specified in the preceding paragraph, the accused shall be deemed to have lodged an appeal.
第 345 條（上訴權人(二)－獨立上訴）	**第 345 條**	**Article 345**
被告之法定代理人或配偶，得為被告之利益獨立上訴。	被告之法定代理人或配偶，得為被告之利益獨立上訴。	A legal agent or spouse of an accused may appeal independently for the benefit of an accused.
第 346 條（上訴權人(三)－代理上訴）	**第 346 條**	**Article 346**
原審之代理人或辯護人，得為被告之利益而	原審之代理人或辯護人，得為被告之利益而	An agent or advocate who participated in the original trial may appeal for the benefit of an

上訴。但不得與被告明示之意思相反。	上訴。但不得與被告明示之意思相反。	accused unless such appeal is contrary to the clearly expressed intention of the accused.
第 347 條 (上訴權人(四)－自訴案件檢察官)	**第 347 條**	**Article 347**
檢察官對於自訴案之判決，得獨立上訴。	檢察官對於自訴案件之判決，得獨立上訴。	A procurator may appeal independently against a judgment rendered in a private prosecution.
第 348 條 (上訴範圍)	**第 348 條**	**Article 348**
上訴得對於判決之一部為之；未聲明為一部者，視為全部上訴。	上訴得對於判決之一部為之；未聲明為一部者，視為全部上訴。	An appeal may be made against part of a judgment; if it is not stated that the appeal is limited to a part of the judgment, it shall be considered to have been made against the whole judgment.
對於判決之一部上訴者，其有關係之部分，視為亦已上訴。	對於判決之一部上訴者，其有關係之部分，視為亦已上訴。	If an appeal is made against part of a judgment, such appeal shall also be considered to have been made against related parts of the judgment.
第 349 條 (上訴期間)	**第 349 條**	**Article 349**
上訴期間為十日，自送達判決後起算。但判決宣示後送達前之上訴，亦有效力。	上訴期間為十日，自送達判決後起算。但判決宣示後送達前之上訴，亦有效力。	The period allowed for filing an appeal is ten days calculated from the day of service of a judgment; Provided that an appeal filed after the judgment has been pronounced but before service thereof shall also be effective.
第 350 條 (提起上訴之程式)	**第 350 條**	**Article 350**
提起上訴，應以上訴書狀提出於原審法院為之。	提起上訴，應以上訴書狀提出於原審法院為之。	An appeal shall be accomplished by filing a written petition with the original court.
上訴書狀，應按他造當事人之人數，提出繕本。	上訴書狀應按他造當事人之人數，提出繕本。	The number of written copies of an appeal petition to be filed shall be the same as the number of opposing parties.
第 351 條 (在監所被告之上訴)	**第 351 條**	**Article 351**
在監獄或看守所之被告，於上訴期間內向監所長官提出上訴書狀者，視為上訴期間內之上訴。	在監獄或看守所之被告，於上訴期間內向監所長官提出上訴書狀者，視為上訴期間內之上訴。	An accused in a jail or a house of detention who desires to appeal, submit his written appeal petition to the officer in charge of the jail or house of detention within the period, allowed for appeal, it shall be considered as having been filed within such period.
被告不能自作上訴書狀者，監所公務員應為之代作。	被告不能自作上訴書狀者，監所公務員應為之代作。	If the accused is unable to prepare a written appeal petition, the public official in the jail or house of detention shall prepare it for him.
監所長官接受上訴書狀後，應附記接受之	監所長官接受上訴書狀後，應附記接受之年、	An officer in charge of a jail or house of detention shall, upon receipt of a written

年、月、日、時，送交原審法院。	月、日、時，送交原審法院。	appeal petition, note thereon the date and time it was received and forward it to the original court.
被告之上訴書狀，未經監所長官提出者，原審法院之書記官於接到上訴書狀後，應即通知監所長官。	被告之上訴書狀，未經監所長官提出者，原審法院之書記官於接到上訴書狀後，應即通知監所長官。	Where the written appeal petition of an accused is not filed by the officer in charge of a jail or a house of detention, the clerk of the trial court shall, upon receipt of the petition, immediately notify said officer.
第 352 條 (上訴狀繕本之送達)	**第 352 條**	**Article 352**
原審法院書記官，應速將上訴書狀之繕本，送達於他造當事人。	原審法院書記官，應速將上訴書狀之繕本，送達於他造當事人。	The clerk of the original court shall immediately send a copy of the written appeal petition to each of the opposing parties.
第 353 條 (上訴權之捨棄)	**第 353 條**	**Article 353**
當事人得捨棄其上訴權。	當事人得捨棄其上訴權。	A party may waive his right of appeal.
第 354 條 (上訴之撤回)	**第 354 條**	**Article 354**
上訴於判決前，得撤回之。案件經第三審法院發回原審法院，或發交與原審法院同級之他法院者，亦同。	上訴於判決前，得撤回之。	An appeal may be withdrawn at any time before judgment.
第 355 條 (撤回上訴之限制(一)－被告同意)	**第 355 條**	**Article 355**
為被告之利益而上訴者，非得被告之同意，不得撤回。	為被告之利益而上訴者，非得被告之同意，不得撤回。	An appeal for the benefit of an accused may not be withdrawn without the consent of the accused.
第 356 條 (撤回上訴之限制(二)－檢察官同意)	**第 356 條**	**Article 356**
自訴人上訴者，非得檢察官之同意，不得撤回。	自訴人上訴者，非得檢察官之同意，不得撤回。	An appeal by a private complainant may not be withdrawn without the consent of the procurator.
第 357 條 (捨棄或撤回上訴之管轄)	**第 357 條**	**Article 357**
捨棄上訴權，應向原審法院為之。 撤回上訴，應向上訴審法院為之。但於該案卷宗送交上訴審法院以前，得向原審法院為之。	捨棄上訴權，應向原審法院為之。 撤回上訴，應向上訴審法院為之。但於該案卷宗送交上訴審法院以前，得向原審法院為之。	A waiver of the right of appeal shall be made in the original court. Withdrawal of an appeal shall be made in the appeal court, nut it may be made in the original court before the record in the case is transmitted to the appeal court.

第 358 條 (捨棄或撤回上訴之程式)	第 358 條	Article 358
捨棄上訴權及撤回上訴，應以書狀為之。但於審判期日，得以言詞為之。 第三百五十一條之規定，於被告捨棄上訴權或撤回上訴準用之。	捨棄上訴權及撤回上訴，應以書狀為之。但於審判期日，得以言詞為之。 第三百五十一條之規定，於被告捨棄上訴權或撤回上訴準用之。	A waiver of the right of appeal and a withdrawal of an appeal shall be a written petition unless it is made verbally on the date of hearing. The provisions of Article 351 apply mutatis mutandis to waiver of the right of appeal or withdrawal of an appeal by an accused.
第 359 條 (捨棄或撤回上訴之效力)	**第 359 條**	**Article 359**
捨棄上訴權或撤回上訴者，喪失其上訴權。	捨棄上訴權或撤回上訴者，喪失其上訴權。	A right of appeal is lost by a waiver of such right or by withdrawal of the appeal.
第 360 條 (捨棄或撤回上訴之通知)	**第 360 條**	**Article 360**
捨棄上訴權或撤回上訴，書記官應速通知他造當事人。	捨棄上訴權或撤回上訴，書記官應速通知他造當事人。	If a right of appeal is waived or if an appeal is withdrawn, the clerk shall immediately notify the opposing parties.
第二章 第二審	**第二章 第二審**	**Chapter II Second Trial**
第 361 條 (第二審上訴之管轄)	**第 361 條**	**Article 361**
不服地方法院之第一審判決而上訴者，應向管轄第二審之高等法院為之。 上訴書狀應敘述具體理由。 上訴書狀未敘述上訴理由者，應於上訴期間屆滿後二十日內補提理由書於原審法院。逾期未補提者，原審法院應定期間先命補正。	不服地方法院之第一審判決而上訴者，應向管轄第二審之高等法院為之。	A person who disagrees with a judgment of a district court of first instance shall appeal to a high court which has jurisdiction as a court of second instance.
第 362 條 (原審對不合法上訴之處置－裁定駁回與補正)	**第 362 條**	**Article 362**
原審法院認為上訴不合法律上之程式或法律上不應准許或其上訴權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補	原審法院認為上訴不合法律上之程式或法律上不應准許或其上訴權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補正。	Where the trial court considers that an appeal is inconsistent with the legal forms or is not permissible by law or that the right of appeal has already extinguished, it shall dismiss it by a ruling; provided, that where the deficiency in legal forms is amendable, the court shall order an amendment to be made within a

正。		prescribed period.
第 363 條 (卷宗證物之送交與監所被告之解送)	**第 363 條**	**Article 363**
除前條情形外，原審法院應速將該案卷宗及證物送交第二審法院。	除前條情形外，原審法院應速將該案卷宗及證物送交第二審法院。	An original court shall transmit immediately the record and exhibits to a court of second instance except under circumstances specified in the preceding article.
被告在看守所或監獄而不在第二審法院所在地者，原審法院應命將被告解送第二審法院所在地之看守所或監獄，並通知第二審法院。	被告在看守所或監獄而不在第二審法院所在地者，原審法院應命將被告解送第二審法院所在地之看守所或監獄，並通知第二審法院。	If an accused is in a house of detention or jail and not at the place where the court of second instance is situated, the original court shall order the accused to be sent to a house of detention or jail at the place where the court of second instance is situated and also notify the court of second instance thereof.
第 364 條 (第一審程序之準用)	**第 364 條**	**Article 364**
第二審之審判，除本章有特別規定外，準用第一審審判之規定。	第二審之審判，除本章有特別規定外，準用第一審審判之規定。	The provisions relating to procedure prescribed for the first trial shall apply mutatis mutandis to a second trial except as specially provided in this Chapter.
第 365 條 (上訴人陳述上訴要旨)	**第 365 條**	**Article 365**
審判長依第九十四條訊問被告後，應命上訴人陳述上訴之要旨。	審判長依第九十四條訊問被告後，應命上訴人陳述上訴之要旨。	A presiding judge, after he has examined an accused in accordance with the provisions of Article 94, shall order the appellant to state the important points of his appeal.
第 366 條 (第二審調查範圍)	**第 366 條**	**Article 366**
第二審法院，應就原審判決經上訴之部分調查之。	第二審法院，應就原審判決經上訴之部分調查之。	A court of second instance sha11 confine its investigation to the part of the original judgment against which an appeal is made.
第 367 條 (第二審對不合法上訴之處置－判決駁回補正)	**第 367 條**	**Article 367**
第二審法院認為上訴書狀未敘述理由或上訴有第三百六十二條前段之情形者，應以判決駁回之。但其情形可以補正而未經原審法院命其補正者，審判長應定期間先命補正。	第二審法院認為上訴有第三百六十二條前段之情形者，應以判決駁回之。但其情形可以補正而未經原審法院命其補正者，審判長應定期間先命補正。	Where a court of second instance considers that an appeal is fraught with such deficiencies as described in the first half of Article 362, it shall dismiss it by a judgment; provided that where the trial court has failed to order an amendment of any amendable deficiencies, the presiding judge thereof shall order an amendment to be made within a prescribed period.

第 368 條 (上訴無理由之判決)	**第 368 條**	**Article 368**
第二審法院認為上訴無理由者，應以判決駁回之。	第二審法院認為上訴無理由者，應以判決駁回之。	If a court of second instance considers that an appeal is groundless, it shall dismiss such appeal by a judgment.
第 369 條 (撤銷原判決－自為判決或發回)	**第 369 條**	**Article 369**
第二審法院認為上訴有理由，或上訴雖無理由，而原判不當或違法者，應將原審判決經上訴之部份撤銷，就該案件自為判決。但因原審判決諭知管轄錯誤、免訴、不受理係不當而撤銷之者，得以判決將該案件發回原審法院。	第二審法院認為上訴有理由，或上訴雖無理由，而原判不當或違法者，應將原審判決經上訴之部分撤銷，就該案件自為判決。但因原審判決諭知管轄錯誤、免訴、不受理係不當而撤銷之者，得以判決將該案件發回原審法院。	Where a court of second instance considers that an appeal is founded on reason or that though the appeal is not founded on reason yet the original judgment is improper or unlawful, it shall set aside such portion of said judgment appealed from and render its own judgment on the case; provided that where the original judgment is set aside because of the trial court s improper ruling on jurisdiction exemption from prosecution or refusal to entertain, the court may remit the case to the trial court by a judgment.
第二審法院因原審判決未諭知管轄錯誤係不當而撤銷之者，如第二審法院有第一審管轄權，應為第一審之判決。	第二審法院因原審判決未諭知管轄錯誤係不當而撤銷之者，如第二審法院有第一審管轄權，應為第一審之判決。	If an original judgment is set aside by a court of second instance because the original court erroneously failed to pronounce a "Mistake in Jurisdiction", such court of second instance shall, if it has jurisdiction, give judgment as a court of first instance.
第 370 條 (禁止不利益變更原則(一))	**第 370 條**	**Article 370**
由被告上訴或為被告之利益而上訴者，第二審法院不得諭知較重於原審判決之刑。但因原審判決適用法條不當而撤銷之者，不在此限。	由被告上訴或為被告之利益而上訴者，第二審法院不得諭知較重於原審判決之刑。但因原審判決適用法條不當而撤銷之者，不在此限。	If an appeal is filed by an accused or by another for his benefit, a court of second instance shall not pronounce a punishment more severe than that imposed in the original judgment; Provided that this rule shall not apply if the judgment of the original court is set aside because the law was wrongly applied.
第 371 條 (一造缺席判決(六))	**第 371 條**	**Article 371**
被告合法傳喚，無正當之理由不到庭者，得不待其陳述，逕行判決。	被告經合法傳喚，無正當之理由不到庭者，得不待其陳述，逕行判決。	If an accused fails, without good reason, to appear after having been legally summoned, judgment may be given without waiting for his testimony.
第 372 條 (言詞審理之例外(二))	**第 372 條**	**Article 372**
第三百六十七條之判	第三百六十七條之判決	A judgment on an appeal rendered in

決及對於原審諭知管轄錯誤、免訴或不受理之判決上訴時，第二審法院認其為無理由而駁回上訴，或認為有理由而發回該案件之判決，得不經言詞辯論為之。	及對於原審諭知管轄錯誤、免訴或不受理之判決上訴時，第二審法院認其為無理由而駁回上訴，或認為有理由而發回該案件之判決，得不經言詞辯論為之。	accordance with Article 367 or against an original judgment pronouncing "Mistake in Jurisdiction", "Exempt from Prosecution" or "Case Not Entertained" may be given without verbal argument by a court of second instance if it considers that the appeal is groundless and dismisses it or if it considers such appeal to be well-grounded and orders the case to be returned to the original court.
第 373 條 (第一審判決書之引用)	**第 373 條**	**Article 373**
第二審判決書，得引用第一審判決書所記載之事實、證據及理由，對案情重要事項第一審未予論述，或於第二審提出有利於被告之證據或辯解不予採納者，應補充記載其理由。	第二審判決書，得引用第一審判決書所記載之事實及證據。	A written judgment of a court of second instance may make use of the facts and evidence recorded in the written judgment of a court of first instance.
第 374 條 (得上訴判決正本之記載方法)	**第 374 條**	**Article 374**
第二審判決，被告或自訴人得為上訴者，應併將提出上訴理由書之期間，記載於送達之判決正本。	第二審判決，被告或自訴人得為上訴者，應併將提出上訴理由書之期間，記載於送達之判決正本。	If an accused or private complainant may appeal against a judgment rendered by a court of second instance, the time within which the written reasons for such appeal may be filed shall also be stated in the true copy of the judgment which is served.
第三章 第三審	**第三章 第三審**	**Chapter III　Third Trial**
第 375 條 (第三審上訴之管轄)	**第 375 條**	**Article 375**
不服高等法院之第二審或第一審判決而上訴者，應向最高法院為之。 最高法院審判不服高等法院第一審判決之上訴，亦適用第三審程序。	不服高等法院之第二審或第一審判決而上訴者，應向最高法院為之。 最高法院審判不服高等法院第一審判決之上訴，亦適用第三審程序。	A person who appeals because he disagrees with the judgment of a high court as a court of first or second instance shall appeal to the Supreme Court. A trial by the Supreme Court of an appeal against the judgment of a high court as a court of first instance shall apply the procedure for a third trial.
第 376 條 (不得上訴第三審之判決)	**第 376 條**	**Article 376**
左列各罪之案件，經第二審判決者，不得上訴	刑法第六十一條所列各罪之案件經第二審判決	A judgment of a court of second instance in a case concerning an offence specified in

於第三審法院。 一、最重本刑為三年以下有期徒刑、拘役或專科罰金之罪。 二、刑法第三百二十條、第三百二十一條之竊盜罪。 三、刑法第三百三十五條、第三百三十六條第二項之侵占罪。 四、刑法第三百三十九條、第三百四十一條之詐欺罪。 五、刑法第三百四十二條之背信罪。 六、刑法第三百四十六條之恐嚇罪。 七、刑法第三百四十九條第二項之贓物罪。	者，不得上訴於第三審法院。	Article 61 of the Criminal Code may not be appealed to a court of third instance.
第 377 條 (上訴三審理由(一)－違背法令)	**第 377 條**	**Article 377**
上訴於第三審法院，非以判決違背法令為理由，不得為之。	上訴於第三審法院，非以判決違背法令為理由，不得為之。	An appeal may not be made to a court of third instance except for the reason that the judgment is contrary to law.
第 378 條 (違背法令之意義)	**第 378 條**	**Article 378**
判決不適用法則或適用不當者，為違背法令。	判決不適用法則或適用不當者，為違背法令。	A judgment which does not apply or improperly applies the law is considered to be contrary to law.
第 379 條 (當然違背法令之事由)	**第 379 條**	**Article 379**
有左列情形之一者，其判決當然違背法令：	有左列情形之一者，其判決當然為違背法令：	A judgment in one of the following circumstances is on its face contrary to law:
一、法院之組織不合法者。	一、法院之組織不合法者。	1. The organization of the court is not in accordance with law;
二、依法律或裁判應迴避之法官參與審判者。	二、依法律或裁判應迴避之推事參與審判者。	2. A judge who should have withdrawn according to law or decision participated in the trial;
三、禁止審判公開非依法律之規定者。	三、禁止審判公開非依法律之規定者。	3. The trial was held in camera contrary to provisions of law;
四、法院所認管轄之有無係不當者。	四、法院所認管轄之有無係不當者。	4. The court improperly decided that it did or did not have jurisdiction;
五、法院受理訴訟或不受理訴訟係不當者。	五、法院受理訴訟或不受理訴訟係不當者。	5. The court improperly entertained or did not entertain the case;
六、除有特別規定外，被告未於審判期日到	六、除有特別規定外，被告未於審判期日到庭	6. The trial took place on the date of hearing in the absence of the accused other than as

庭而逕行審判者。	而逕行審判者。	allowed by special provisions;
七、依本法應用辯護人之案件或已經指定辯護人之案件，辯護人未經到庭辯護而逕行審判者。	七、依本法應用辯護人之案件或已經指定辯護人之案件，辯護人未經到庭辯護而逕行審判者。	7. The trial took place in the absence of an advocate in a case in which an advocate should be employed or has been appointed in accordance with this Code;
八、除有特別規定外，未經檢察官或自訴人到庭陳述而為審判者。	八、除有特別規定外，未經檢察官或自訴人到庭陳述而為審判者。	8. The trial took place without the statement in court of the procurator or private complainant other than as allowed by special provisions;
九、依本法應停止或更新審判而未經停止或更新者。	九、依本法應停止或更新審判而未經停止或更新者。	9. The court did not suspend trial or rehear the case as required by this Code;
一○、依本法應於審判期日調查之證據而未予調查者。	十、依本法應於審判期日調查之證據而未予調查者。	10. The court did not make an investigation of evidence on the date of hearing as required by this Code;
一一、未與被告以最後陳述之機會者。	十一、未與被告以最後陳述之機會者。	11. The accused was not given an opportunity to make his final statement;
一二、除本法有特別規定外，已受請求之事項未予判決，或未受請求之事項予以判決者。	十二、除本法有特別規定外，已受請求之事項未予判決，或未受請求之事項予以判決者。	12. The court did not decide a matter it was requested to decide or decided a matter it was not requested to decide, other as specially provided in this Code;
一三、未經參與審理之法官參與判決者。	十三、未經參與審理之推事參與判決者。	13. A judge who did not take part in the trial participated in the judgment;
一四、判決不載理由或所載理由矛盾者。	十四、判決不載理由或所載理由矛盾者。	14. The judgment does not set forth reasons, or the reasons set forth are contradictory.

<u>第 380 條</u> (上訴三審之限制(二)－上訴理由)	**第 380 條**	**Article 380**
除前條情形外，訴訟程序雖係違背法令而顯然於判決無影響者，不得為上訴之理由。	除前條情形外，訴訟程序雖係違背法令而顯然於判決無影響者，不得為上訴之理由。	Except as provided in the preceding article, procedure contrary to law which clearly does not affect the judgment may not be used as a reason for appeal.

<u>第 381 條</u> (上訴三審之理由(二)－刑罰變、廢、免除)	**第 381 條**	**Article 381**
原審判決後，刑罰有廢止、變更或免除者，得為上訴之理由。	原審判決後，刑罰有廢止、變更或免除者，得為上訴之理由。	Abolition, alteration, or remission of punishment after an original judgment may be a reason for appeal.

<u>第 382 條</u> (提起三審上訴之程序)	**第 382 條**	**Article 382**
上訴書狀應敘述上訴之理由；其未敘述者，得於提起上訴後十日內補提理由書於原審法院；未補提者，毋庸命其補提。	上訴書狀應敘述上訴之理由；其未敘述者，得於提起上訴後十日內補提理由書於原審法院；未補提者，毋庸命其補提。	A written appeal petition shall set forth the reasons for appeal; if such reasons are not set forth, an amended petition may be filed with the original court within ten days after filing the appeal; if such amendment is not filed it need not be ordered to be filed.
第三百五十條第二	第三百五十條第二項、	The provisions of paragraph ll of Article 350

項、第三百五十一條及第三百五十二條之規定，於前項理由書準用之。	第三百五十一條及第三百五十二條之規定，於前項理由書準用之。	and of Articles 351 and 352 apply mutatis mutandis to a written appeal petition specified in the preceding paragraph.
第 383 條 (答辯書之提出)	**第 383 條**	**Article 383**
他造當事人接受上訴書狀或補提理由書之送達後，得於十日內提出答辯書於原審法院。	他造當事人接受上訴書狀或補提理由書之送達後，得於十日內提出答辯書於原審法院。	An opposing party may, within ten days after receipt of a copy of the written appeal petition or a copy of the amended petition, file a reply with the original court.
如係檢察官為他造當事人者，應就上訴之理由提出答辯書。	如係檢察官為他造當事人者，應就上訴之理由提出答辯書。	If the opposing party is a procurator, he shall file a written reply to the reasons for appeal.
答辯書應提出繕本，由原審法院書記官送達於上訴人。	答辯書應提出繕本，由原審法院書記官送達於上訴人。	A copy of the reply shall be provided and the clerk of the original court shall deliver it to the appellant.
第 384 條 (原審法院對不合法上訴之處置–裁定駁回與補正)	**第 384 條**	**Article 384**
原審法院認為上訴不合法律上之程式或法律上不應准許或其上訴權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補正。	原審法院認為上訴不合法律上之程式或法律上不應准許或其上訴權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補正。	Where the trial court considers that an appeal is inconsistent with legal forms or is not permissible by law or that the right of appeal has already extinguished, it shall dismiss it by a ruling; provided. That where the deficiency in legal forms is amendable, the court shall order an amendment to be made within a prescribed period.
第 385 條 (卷宗及證物之送交三審)	**第 385 條**	**Article 385**
除前條情形外，原審法院於接受答辯書或提出答辯書之期間已滿後，應速將該案卷宗及證物，送交第三審法院之檢察官。	除前條情形外，原審法院於接受答辯書或提出答辯書之期間已滿後，應速將該案卷宗及證物，送交第三審法院之檢察官。	Except as provided in the preceding paragraph, an original court shall, upon receipt of the written reply or upon the expiration of the period allowed for such reply, transmit immediately the record and exhibits to the procurator of the court of third instance.
第三審法院之檢察官接受卷宗及證物後，應於七日內添具意見書送交第三審法院。但於原審法院檢察官提出之上訴書或答辯書外無他意見者，毋庸添具意見書。	第三審法院之檢察官接受卷宗及證物後，應於七日內添具意見書送交第三審法院。但於原審法院檢察官提出之上訴書或答辯書外無他意見者，毋庸添具意見書。	Within seven days after receiving the record and exhibits, a procurator of the court of third instance shall transmit his written opinion to the court of third instance unless his opinion is the same as the opinion of the procurator of the original court in his written appeal petition or reply.
無檢察官為當事人之上訴案件，原審法院應	無檢察官為當事人之上訴案件，原審法院應將	In an appeal to which a procurator is not a party, the original court shall transmit the

將卷宗及證物逕送交第三審法院。

卷宗及證物逕送交第三審法院。

record and exhibits to the court of third instance.

第 386 條 (書狀之補提)

上訴人及他造當事人，在第三審法院未判決前，得提出上訴理由書、答辯書、意見書或追加理由書於第三審法院。
前項書狀，應提出繕本，由第三審法院書記官送達於他造當事人。

第 386 條

上訴人及他造當事人，在第三審法院未判決前，得提出上訴理由書、答辯書、意見書或追加理由書於第三審法院。
前項書狀，應提出繕本，由第三審法院書記官送達於他造當事人。

Article 386

The appellant and the appellee may, prior to the judgment of the court of third instance, file a written appeal petition, reply, opinion, or additional reasons in the court of third instance.

Duplicate copies of the documents specified in the 'preceding paragraph shall be submitted for service upon the other party by the clerk of the court of third instance.

第 387 條 (第一審審判程序之準用)

第三審之審判，除本章有特別規定外，準用第一審審判之規定。

第 387 條

第三審之審判，除本章有特別規定外，準用第一審審判之規定。

Article 387

The provisions relating to a trial in a court of first instance shall, except as otherwise provided by special provisions in this Chapter, apply mutatis mutandis to a trial in the court of third instance.

第 388 條 (強制辯護規定之排除)

第三十一條之規定於第三審之審判不適用之。

第 388 條

第三十一條之規定於第三審之審判不適用之。

Article 388

The provisions of Article 31 shall not apply to a trial in the court of third instance.

第 389 條 (言詞審理之例外(三))

第三審法院之判決，不經言詞辯論為之。但法院認為有必要者，得命辯論。
前項辯論，非以律師充任之代理人或辯護人，不得行之。

第 389 條

第三審法院之判決，不經言詞辯論為之。但法院認為有必要者，得命辯論。
前項辯論，非以律師充任之代理人或辯護人，不得行之。

Article 389

Judgment may be given by the court of third instance without verbal argument unless the court considers such argument necessary.

The argument referred to in the preceding paragraph shall be made by an agent or advocate who is a lawyer.

第 390 條 (指定受命推事及制作報告書)

第三審法院於命辯論之案件，得以庭員一人為受命推事，調查上訴及答辯之要旨，制作報告書。

第 390 條

第三審法院於命辯論之案件，得以庭員一人為受命推事，調查上訴及答辯之要旨，制作報告書。

Article 390

In a case in which argument is ordered by the court of third instance, a judge may be commissioned to investigate and make a written report concerning the principal points of the appeal and reply.

第 391 條 (朗讀報告書與陳述上訴意旨)

第 391 條

Article 391

審判期日，受命推事應於辯論前，朗讀報告書。	審判期日，受命推事應於辯論前，朗讀報告書。	On the day of hearing, the commissioned judge shall read aloud his report prior to the argument.
檢察官或代理人、辯護人應先陳述上訴之意旨，再行辯論。	檢察官或代理人、辯護人應先陳述上訴之意旨，再行辯論。	The procurator, agent, or advocate shall first state the principal points of tlie appeal; the argument shall then be made.
第 392 條 (一造辯論與不行辯論)	**第 392 條**	**Article 392**
審判期日，被告或自訴人無代理人、辯護人到庭者，應由檢察官或他造當事人之代理人、辯護人陳述後，即行判決。被告及自訴人均無代理人、辯護人到庭者，得不行辯論。	審判期日，被告或自訴人無代理人、辯護人到庭者，應由檢察官或他造當事人之代理人、辯護人陳述後，即行判決。被告及自訴人均無代理人、辯護人到庭者，得不行辯論。	If the accused or private complainant is not represented by an agent or advocate on the date of hearing, the court shall immediately deliver judgment after hearing the statement of the procurator, agent, or advocate of the opposing party; if neither the accused nor private complainant is represented by an agent or advocate, argument need not be made.
第 393 條 (三審調查範圍(一)－上訴理由事項)	**第 393 條**	**Article 393**
第三審法院之調查，以上訴理由所指摘之事項為限。但左列事項，得依職權調查之：	第三審法院之調查，以上訴理由所指摘之事項為限。但左列事項，得依職權調查之：	The investigation by the court of third instance shall be limited to those matters set forth in the reasons for appeal except that it may, according to its authority, investigate the following particulars:
一、第三百七十九條各款所列之情形。	一、第三百七十九條各款所列之情形。	1. The circumstances set forth in each of the items of Article 379;
二、免訴事由之有無。	二、免訴事由之有無。	2. Whether there is cause for exemption from prosecution;
三、對於確定事實援用法令之當否。	三、對於確定事實援用法令之當否。	3. Whether the law or order was applied appropriately to the specific facts;
四、原審判決後刑罰之廢止、變更或免除。	四、原審判決後刑罰之廢止、變更或免除。	4. Abolition, alteration, or remission of punishment after judgment in the original court;
五、原審判決後之赦免或被告死亡。	五、原審判決後之赦免或被告死亡。	5. Amnesty or death of the accused after judgment in the original court.
第 394 條 (三審調查範圍(二)－事實調查)	**第 394 條**	**Article 394**
第三審法院應以第二審判決所確認之事實為判決基礎。但關於訴訟程序及得依職權調查之事項，得調查事實。	第三審法院應以第二審判決所確認之事實為判決基礎。但關於訴訟程序及得依職權調查之事項，得調查事實。	The court of third instance shall use the facts determined by the court of second instance as the basis for its judgment except that it may investigate facts concerning procedure and other matters which it has authority to investigate.
前項調查，得以受命推事行之，並得囑託他法院之推事調查。	前項調查，得以受命推事行之，並得囑託他法院之推事調查。	The investigation referred to in the preceding paragraph may be made by a commissioned judge or entrusted to the judge of another court.

前二項調查之結果，認為起訴程序違背規定者，第三審法院得命其補正；其法院無審判權而依原審判決後之法令有審判權者，不以無審判權論。

前二項調查之結果，認為起訴程序違背規定者，第三審法院得命其補正；其法院無審判權而依原審判決後之法令有審判權者，不以無審判權論。

If, as a result of an investigation referred to in one of the two preceding paragraphs, it is considered that the procedure of the case was contrary to regulations, the court of third instance may order an amendment; if the court had no right to try the case but acquired such right by law or order after judgment, it shall be considered that the court had a right to try the case.

第 395 條 (上訴不合法之判決－判決駁回)

第三審法院認為上訴有第三百八十四條之情形者，應以判決駁回之；其以逾第三百八十二條第一項所定期間，而於第三審法院未判決前，仍未提出上訴理由書狀者亦同。

第 395 條

第三審法院認為上訴有第三百八十四條之情形者，應以判決駁回之；其以逾第三百八十二條第一項所定期間，而於第三審法院未判決前，仍未提出上訴理由書狀者，亦同。

Article 395

If the court of third instance considers that the circumstances mentioned in Article 384 are present, it shall dismiss the appeal by a judgment; if the time limit specified in paragraph I of Article 382 is exceeded prior to the judgment of the court of third instance and if the appellant still has not submitted his written appeal petition, the appeal will be dismissed.

第 396 條 (上訴無理由之判決－判決駁回)

第三審法院認為上訴無理由者，應以判決駁回之。

前項情形，得同時諭知緩刑。

第 396 條

第三審法院認為上訴無理由者，應以判決駁回之。

前項情形，得同時諭知緩刑。

Article 396

If the court of third instance considers that an appeal is groundless, it shall dismiss such appeal by a judgment.

Under the circumstances specified in the preceding paragraph, the court may at the same time pronounce a suspension of punishment.

第 397 條 (上訴有理由之判決－撤銷原判)

第三審法院認為上訴有理由者，應將原審判決中經上訴之部份撤銷。

第 397 條

第三審法院認為上訴有理由者，應將原審判決中經上訴之部分撤銷。

Article 397

If the court of third instance considers that an appeal is well-grounded, it shall set aside that portion of the original judgment which was appealed against.

第 398 條 (撤銷原判(一)－自為判決)

第三審法院因原審判決有左列情形之一而撤銷之者，應就該案件自為判決。但應為後二條之判決者，不在此限：

一、雖係違背法令，而不影響於事實之確

第 398 條

第三審法院因原審判決有左列情形之一而撤銷之者，應就該案件自為判決。但應為後二條之判決者，不在此限：

一、雖係違背法令，而不影響於事實之確定，

Article 398

The court of third instance shall, unless judgment should be given according to one of the two following articles, dispose of the case by its own judgment if an original judgment is set aside because of one of the following circumstances:

1. Although a judgment is contrary to law or order, findings of fact upon which a decision

定，可據以為裁判者。 二、應諭知免訴或不受理者。 三、有三百九十三條第四款或第五款之情形者。	可據以為裁判者。 二、應諭知免訴或不受理者。 三、有第三百九十三條第四款或第五款之情形者。	may be based are not affected thereby; 2. A judgment of "Exempt from Prosecution" or "Case Not Entertained" should have been pronounced; 3. Conditions specified in one of the items 4 or 5 of Article 393 are present.
第 399 條 (撤銷原判(二)－發回更審)	**第 399 條**	**Article 399**
第三審法院因原審判決諭知管轄錯誤、免訴或不受理係不當而撤銷之者，應以判決將該案件發回原審法院。但有必要時，得逕行發回第一審法院。	第三審法院因原審判決諭知管轄錯誤、免訴或不受理係不當而撤銷之者，應以判決將該案件發回原審法院。但有必要時，得逕行發回第一審法院。	If the court of third instance sets aside a judgment of an original court because such judgment improperly pronounced "Mistake in Jurisdiction," "Exempt from Prosecution," or "Case Not Entertained," it shall, by a judgment, return the case to the original court; Provided, That if necessary it may return the case to the court of first instance.
第 400 條 (撤銷原判(三)－發交審判)	**第 400 條**	**Article 400**
第三審法院因原審法院未諭知管轄錯誤係不當而撤銷之者，應以判決將該案件發交該管第二審或第一審法院。但第四條所列之案件，經有管轄權之原審法院為第二審判決者，不以管轄錯誤論。	第三審法院因原審法院未諭知管轄錯誤係不當而撤銷之者，應以判決將該案件發交該管第二審或第一審法院。但第四條所列之案件，經有管轄權之原審法院為第二審判決者，不以管轄錯誤論。	If the court of third instance sets aside a judgment of an original court because such judgment improperly did not pronounce "Mistake in Jurisdiction," it shall, by a judgment, send the case to a competent court of second instance or of first instance; Provided, That it shall not be considered a "Mistake in Jurisdiction" for an original court which has jurisdiction as a court of second instance to render a judgment in a case specified in Article 4.
第 401 條 (撤銷原判(四)－發回更審或發交審判)	**第 401 條**	**Article 401**
第三審法院因前三條以外之情形而撤銷原審判決者，應以判決將該案件發回原審法院，或發交與原審法院同級之他法院。	第三審法院因前三條以外之情形而撤銷原審判決者，應以判決將該案件發回原審法院，或發交與原審法院同級之他法院。	If the court of third instance sets aside an original judgment under circumstance's other than those specified in the three preceding articles, it shall by a judgment return the case to the original court or send it to another court of the same grade.
第 402 條 (為被告利益而撤銷原判決之效力)	**第 402 條**	**Article 402**
為被告之利益而撤銷原審判決時，如於共同被告有共同之撤銷理由者，其利益並及於共	為被告之利益而撤銷原審判決時，如於共同被告有共同之撤銷理由者，其利益並及於共同	If an original judgment is set aside for the benefit of an accused and if the same reasons exist for setting aside the judgment against another who has been jointly accused, such

同被告。	被告。	benefit shall also be given to such jointly accused person.
第四編 抗告	**第四編 抗告**	**PART IV Interlocutory Appeal**
第 403 條 (抗告權人及管轄法院)	**第 403 條**	**Article 403**
當事人對於法院之裁定有不服者，除有特別規定外，得抗告於直接上級法院。 證人、鑑定人、通譯及其他非當事人受裁定者，亦得抗告。	當事人對於法院之裁定有不服者，除有特別規定外，得抗告於直接上級法院。 證人、鑑定人、通譯及其他非當事人受裁定者，亦得抗告。	A party who disagrees with a ruling of a court may make an interlocutory appeal to the immediately superior court except as otherwise specially provided. A witness, expert witness," interpreter, or other person not a party who is affected by a ruling may also make an interlocutory appeal.
第 404 條 (抗告之限制及例外)	**第 404 條**	**Article 404**
對於判決前關於管轄或訴訟程序之裁定，不得抗告。但下列裁定，不在此限： 一、有得抗告之明文規定者。 二、關於羈押、具保、責付、限制住居、搜索、扣押或扣押物發還、因鑑定將被告送入醫院或其他處所之裁定及依第一百零五條第三項、第四項所為之禁止或扣押之裁定。 三、對於限制辯護人與被告接見或互通書信之裁定。	對於判決前關於管轄或訴訟程序之裁定，不得抗告。但左列裁定，不在此限： 一、有得抗告之明文規定者。 二、關於羈押、具保、責付、扣押或扣押物發還及因鑑定將被告送入醫院或其他處所之裁定。	An interlocutory appeal may not be made from a ruling relating to jurisdiction or procedure which is given prior to judgment except in the following cases: 1. An express provision exists which allows an interlocutory appeal; 2. The ruling relates to detention, bond, committing to the custody of another, attachment, restitution of attached property, or the sending of an accused to a hospital or other place for expert examination.
第 405 條 (抗告之限制(二))	**第 405 條**	**Article 405**
不得上訴於第三審法院之案件，其第二審法院所為裁定，不得抗告。	不得上訴於第三審法院之案件，其第二審法院所為裁定，不得抗告。	An interlocutory appeal may not be made from a ruling of a court of second instance in a case which cannot be appealed to the court of third instance.
第 406 條 (抗告期間)	**第 406 條**	**Article 406**
抗告期間，除有特別規定外，為五日，自送達裁定後起算。但裁定經宣示者，宣示後送達前之抗告，亦有效力。	抗告期間，除有特別規定外，為五日，自送達裁定後起算。但裁定經宣示者，宣示後送達前之抗告，亦有效力。	The period within which an interlocutory appeal may be made, except as otherwise specially provided for, is five days calculated from the date of service of the ruling; Provided that an interlocutory appeal made

		after the ruling is pronounced but before service shall also be valid.
第 407 條 (抗告之程式)	**第 407 條**	**Article 407**
提起抗告，應以抗告書狀，敘述抗告之理由，提出於原審法院為之。	提起抗告，應以抗告書狀，敘述抗告之理由，提出於原審法院為之。	An interlocutory appeal shall be made by means of a written interlocutory appeal petition which shall set forth the reasons for the interlocutory appeal and which shall be filed with the original court.
第 408 條 (原審法院對於抗告之處置)	**第 408 條**	**Article 408**
原審法院認為抗告不合法律上之程式或法律上不應准許，或其抗告權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補正。	原審法院認為抗告不合法律上之程式或法律上不應准許，或其抗告權已經喪失者，應以裁定駁回之。但其不合法律上之程式可補正者，應定期間先命補正。	Where the trial court considers that an interlocutory appeal is inconsistent with the legal forms or is not permissible by law or that the right to file said appeal has already extinguished, it shall dismiss it by a ruling; provided, that where the deficiency in legal forms is amendable, the court shall order an amendment to be made within a prescribed period.
原審法院認為抗告有理由者，應更正其裁定；認為全部或一部無理由者，應於接受抗告書狀後三日內，送交抗告法院，並得添具意見書。	原審法院認為抗告有理由者，應更正其裁定；認為全部或一部無理由者，應於接受抗告書狀後三日內，送交抗告法院，並得添具意見書。	If an original court considers that an interlocutory appeal is well-grounded, it shall revise its ruling; if it considers that an interlocutory appeal is wholly or party groundless, it shall within three days after receipt of such interlocutory appeal petition, transmit it together with its opinion to the interlocutory appea1 court.
第 409 條 (抗告之效力)	**第 409 條**	**Article 409**
抗告無停止執行裁判之效力。但原審法院於抗告法院之裁定前，得以裁定停止執行。	抗告無停止執行裁判之效力。但原審法院於抗告法院之裁定前，得以裁定停止執行。	An interlocutory appeal shall not be effective to suspend the execution of a decision; Provided, that the original court may, prior to the ruling of the interlocutory appeal court, suspend execution by a ruling.
抗告法院得以裁定停止裁判之執行。	抗告法院得以裁定停止裁判之執行。	The interlocutory appeal court may, by a ruling, suspend execution of a decision.
第 410 條 (卷宗及證物之送交及裁定期間)	**第 410 條**	**Article 410**
原審法院認為有必要者，應將該案卷宗及證物送交抗告法院。	原審法院認為有必要者，應將該案卷宗及證物送交抗告法院。	If an original court considers it to be necessary, it shall transmit the record and exhibits to the interlocutory appeal court.
抗告法院認為有必要者，得請原審法院送交該案卷宗及證物。	抗告法院認為有必要者，得請原審法院送交該案卷宗及證物。	If an interlocutory appeal court considers it to be necessary, it may request the original court to transmit to it the record and exhibits.
抗告法院收到該案卷宗及證物後，應於十日	抗告法院收到該案卷宗及證物後，應於十日內	Within ten days after receiving the record and exhibits, and interlocutory appeal court shall

內裁定。	裁定。	make a ruling.
第 411 條 (抗告法院對不合法抗告之處置)	**第 411 條**	**Article 411**
抗告法院認為抗告有第四百零八條第一項前段之情形者，應以裁定駁回之。但其情形可以補正而未經原審法院命其補正者，審判長應定期間先命補正。	抗告法院認為抗告有第四百零八條第一項前段之情形者，應以裁定駁回之。但其情形可以補正而未經原審法院命其補正者，審判長應定期間先命補正。	Where the court accepting an interlocutory appeal considers that the appeal is fraught with such deficiencies described in paragraph I of Article 408, it shall dismiss it by a ruling; provided, that where the trial court has failed to order an amendment of any amendable deficiencies, the presiding judge thereof shall order an amendment to be made within a prescribed period.
第 412 條 (對無理由之抗告之裁定)	**第 412 條**	**Article 412**
抗告法院認為抗告無理由者，應以裁定駁回之。	抗告法院認為抗告無理由者，應以裁定駁回之。	If an interlocutory appeal court considers that an interlocutory appeal is groundless, it shall dismiss it by a ruling.
第 413 條 (對有理由之抗告之裁定)	**第 413 條**	**Article 413**
抗告法院認為抗告有理由者，應以裁定將原裁定撤銷；於有必要時，並自為裁定。	抗告法院認為抗告有理由者，應以裁定將原裁定撤銷；於有必要時，並自為裁定。	If an interlocutory appeal court considers that an interlocutory appeal is well-grounded, it shall by a ruling set aside the original ruling and, when necessary, make its own ruling.
第 414 條 (裁定之通知)	**第 414 條**	**Article 414**
抗告法院之裁定，應速通知原審法院。	抗告法院之裁定，應速通知原審法院。	An original court shall be notified immediately of the ruling of the interlocutory appeal court.
第 415 條 (得再抗告之裁定)	**第 415 條**	**Article 415**
對於抗告法院之裁定，不得再行抗告。但對於其就左列抗告所為之裁定，得提起再抗告：	對於抗告法院之裁定，不得再行抗告。但對於其就左列抗告所為之裁定，得提起再抗告：	An interlocutory appeal may not be made against a ruling of an interlocutory appeal court; Provided, that such appeal may be made if the ruling appealed against comes within one of the following provisions:
一、對於駁回上訴之裁定抗告者。	一、對於駁回上訴之裁定抗告者。	1. The interlocutory appeal is filed against a ruling dismissing an appeal;
二、對於因上訴逾期聲請回復原狀之裁定抗告者。	二、對於因上訴逾期聲請回復原狀之裁定抗告者。	2. The interlocutory appeal is made after the period allowed for appeal against a ruling upon an application for restoration of original condition has expired;
三、對於聲請再審之裁定抗告者。	三、對於聲請再審之裁定抗告者。	3. The interlocutory appeal is made against a ruling upon an application for retrial;
四、對於第四百七十七條定刑之裁定抗告者。	四、對於第四百七十七條定刑之裁定抗告者。	4. The interlocutory appeal is made against a ruling determining the punishment in

		accordance with Article 477;
五、對於第四百八十六條聲明疑義或異議之裁定抗告者。	五、對於第四百八十六條聲明疑義或異議之裁定抗告者。	5. The interlocutory appeal is made against a ruling upon a question or objection in accordance with Article 486;
六、證人、鑑定人、通譯及其他非當事人對於所受之裁定抗告者。	六、證人、鑑定人、通譯及其他非當事人對於所受之裁定抗告者。	6. The interlocutory appeal is made against a ruling affecting a witness, expert witness, interpreter, or other person not a party.
前項但書之規定，於依第四百零五條不得抗告之裁定，不適用之。	前項但書之規定，於依第四百零五條不得抗告之裁定，不適用之。	The proviso \n the preceding paragraph shall not apply to a ruling against which an interlocutory appeal cannot be made as specified in Article 405.
第 416 條 (準抗告之範圍、聲請期間及其裁判)	**第 416 條**	**Article 416**
對於審判長、受命法官、受託法官或檢察官所為下列處分有不服者，受處分人得聲請所屬法院撤銷或變更之：	對於審判長、受命推事、受託推事或檢察官所為左列之處分有不服者，得聲請其所屬法院撤銷或變更之：	A person who disagrees with one of the following measures taken by a presiding judge, commissioned judge, requisitioned judge, or procurator may apply to the court to which such officer is attached to have such measure set aside or altered:
一、關於羈押、具保、責付、限制住居、搜索、扣押或扣押物發還、因鑑定將被告送入醫院或其他處所之處分及第一百零五條第三項、第四項所為之禁止或扣押之處分。	一、關於羈押、具保、扣押或扣押物發還及因鑑定將被告送入醫院或其他處所之處分。	1.A measure relating to detention, bond, committing to the custody of another, attachment, restitution of attached property, or sending to a hospital or other place for expert examination;
二、對於證人、鑑定人或通譯科罰鍰之處分。	二、對於證人、鑑定人或通譯科罰鍰之處分。	2. A measure relating to a fine imposed upon a witness, expert witness, or interpreter.
三、對於限制辯護人與被告接見或互通書信之處分。		
四、對於第三十四條第三項指定之處分。		
前項之搜索、扣押經撤銷者，審判時法院得宣告所扣得之物，不得作為證據。		
第一項聲請期間為五日，自為處分之日起算，其為送達者，自送達後起算。	前項聲請期間為五日，自為處分之日起算，其為送達者，自送達後起算。	The period allowed for making an application specified in the preceding paragraph shall be five days calculated from the day on which the measure was taken; if the measure is served, the period shall be calculated from the date of such service.
第四百零九條至第四百十四條規定，於本條準用之。	第四百零九條至第四百十四條之規定，於本條準用之。	The provisions of Articles 409 through 414 shall apply mutatis mutandis to an application made in accordance with this Article.
第二十一條第一項規	第二十一條第一項之規	The provisions of paragraph I of Article 21

定，於聲請撤銷或變更受託法官之裁定者準用之。	定，於聲請撤銷或變更受託推事之裁定者準用之。	shall apply mutatis mutandis to an application to set aside a ruling or the ruling to alter a requisitioned judge.
第 417 條 (準抗告之聲請程式)	**第 417 條**	**Article 417**
前條聲請應以書狀敘述不服之理由，提出於該管法院為之。	前條聲請應以書狀敘述不服之理由，提出於該管法院為之。	An application in accordance with the preceding article shall be in writing, set forth the reasons for disagreement, and be filed with the competent court.
第 418 條 (準抗告之救濟及錯誤提起抗告或聲請準抗告)	**第 418 條**	**Article 418**
法院就第四百十六條之聲請所為裁定，不得抗告。但對於其就撤銷罰鍰之聲請而為者，得提起抗告。	法院就第四百十六條之聲請所為裁定，不得抗告。但對於其就撤銷罰鍰之聲請而為者，得提起抗告。	An interlocutory appeal may not be made against a ruling by a court upon an application pursuant to Article 416; Provided, that an interlocutory appeal may be made against a ruling upon an application to set aside a fine.
依本編規定得提起抗告，而誤為撤銷或變更之聲請者，視為已提抗告；其得為撤銷或變更之聲請而誤為抗告者，視為已有聲請。	依本編規定得提起抗告，而誤為撤銷或變更之聲請者，視為已提抗告；其得為撤銷或變更之聲請而誤為抗告者，視為已有聲請。	Where an interlocutory appeal may be filed pursuant to provisions of this Part and such an appeal filed was mistaken for an application for setting aside or alteration, an interlocutory appeal shall be deemed to have been filed; Where an application for setting aside or alteration may be filed and such an application filed was mistaken for an interlocutory appeal, an application for setting aside or alteration shall be deemed to have been filed.
第 419 條 (抗告準用上訴之規定)	**第 419 條**	**Article 419**
抗告，除本章有特別規定外，準用第三編第一章關於上訴之規定。	抗告，除本章有特別規定外，準用第三編第一章關於上訴之規定。	Except as otherwise provided by special provisions in this Chapter, the provisions of Chapter J of Part III relating to an appeal shall apply mutatis mutandis to an interlocutory appeal.
第五編 再審	**第五編 再審**	**PART V Retrial**
第 420 條 (為受判決人利益聲請再審之理由(一))	**第 420 條**	**Article 420**
有罪之判決確定後，有左列情形之一者，為受判決人之利益，得聲請	有罪之判決確定後，有左列情形之一者，為受判決人之利益，得聲請	After a judgment of "Guilty" has become final, an application for retrial may be made for the benefit of a sentenced person if one of

再審：	再審：	the following circumstances exists:
一、原判決所憑之證物已證明其為偽造或變造者。	一、原判決所憑之證物已證明其為偽造或變造者。	1. The original judgment was based upon an exhibit which has been proved to have been forged or altered;
二、原判決所憑之證言、鑑定或通譯已證明其為虛偽者。	二、原判決所憑之證言、鑑定或通譯已證明其為虛偽者。	2. The original judgment was based upon verbal evidence, expert, examination, or interpretation which has been proved to have been false;
三、受有罪判決之人，已證明其係被誣告者。	三、受有罪判決之人，已證明其係被誣告者。	3. The person who received the judgment of "Guilty" has been proved to have been maliciously prosecuted;
四、原判決所憑之通常法院或特別法院之裁判已經確定裁判變更者。	四、原判決所憑之通常法院或特別法院之裁判已經確定裁判變更者。	4. The decision of an ordinary or special court upon which judgment was based has been altered by a final decision;
五、參與原判決或前審判決或判決前所行調查之法官，或參與偵查或起訴之檢察官，因該案件犯職務上之罪已經證明者，或因該案件違法失職已受懲戒處分，足以影響原判決者。	五、參與原判決或前審判決或判決前所行調查之推事，或參與偵查或起訴之檢察官，因該案件犯職務上之罪已經證明者。	5. One of the judges who took part in an original or former judgment or in an investigation before judgment or one of the procurators who took part in an investigation or prosecution has been proved to have been guilty of malfeasance in office in connection with the case;
六、因發現確實之新證據，足認受有罪判決之人應受無罪、免訴、免刑或輕於原判決所認罪名之判決者。	六、因發見確實之新證據，足認受有罪判決之人應受無罪、免訴、免刑或輕於原判決所認罪名之判決者。	6. Definite new evidence has been discovered that a person who received the judgment of "Guilty" should have been adjudged "Not Guilty," "Exempt from Prosecution," "Exempt from Punishment," or that his offence was less serious than specified in the original judgment.
前項第一款至第三款及第五款情形之證明，以經判決確定，或其刑事訴訟不能開始或續行非因證據不足者為限，得聲請再審。	前項第一款至第三款及第五款情形之證明，以經判決確定，或其刑事訴訟不能開始或續行非因證據不足者為限，得聲請再審。	Application for retrial may be made upon the proof of the circumstances specified in one of the items 1 through 3 and item 5 of the preceding paragraph only if the judgment has become final or if it is impossible to begin or continue criminal proceedings for a reason other than lack of evidence.
<u>第 421 條</u> (為受判決人利益聲請再審之理由(二))	**第 421 條**	**Article 421**
不得上訴於第三審法院之案件，除前條規定外，其經第二審確定之有罪判決，如就足生影響於判決之重要證據漏未審酌者，亦得為受判決人之利益，聲請再	不得上訴於第三審法院之案件，除前條規定外，其經第二審確定之有罪判決，如就足生影響於判決之重要證據漏未審酌者，亦得為受判決人之利益，聲請再	Except as provided in the preceding article, an application for retrial may be made for the benefit of a person who receives a judgment in a case which may not be appealed to the court of third instance if the final judgment of “Guilty” by the court of second instance failed to consider important evidence

審。	審。	sufficient to have affected the judgment.
第 422 條 (為受判決人之不利益聲請再審之理由)	**第 422 條**	**Article 422**
有罪、無罪、免訴或不受理之判決確定後，有左列情形之一者，為受判決人之不利益，得聲請再審：	有罪、無罪、免訴或不受理之判決確定後，有左列情形之一者，為受判決人之不利益，得聲請再審：	After a judgment of "Guilty," "Not Guilty." "Exempt from Prosecution." or "Case Not Entertained" becomes final an application for retrial not for the benefit of a sentenced person may be made under one of the following circumstances:
一、有第四百二十條第一款、第二款、第四款或第五款之情形者。	一、有第四百二十條第一款、第二款、第四款或第五款之情形者。	1. The circumstances specified in .one of the items 1, 2, 4, or 5 of Article 420 are present;
二、受無罪或輕於相當之刑之判決，而於訴訟上或訴訟外自白，或發現確實之新證據，足認其有應受有罪或重刑判決之犯罪事實者。	二、受無罪或輕於相當之刑之判決，而於訴訟上或訴訟外自白，或發見確實之新證據，足認其有應受有罪或重刑判決之犯罪事實者。	2 The accused has been found "Not Guilty." a less severe punishment was imposed than the circumstances warranted and the accused made a confession during the proceedings or otherwise, or definite new evidence has been discovered which warrants a judgment of "Guilty" or a more severe punishment.
三、受免訴或不受理之判決，而於訴訟上或訴訟外自述，或發見確實之新證據，足認其並無免訴或不受理之原因者。	三、受免訴或不受理之判決，而於訴訟上或訴訟外自述，或發見確實之新證據，足認其並無免訴或不受理之原因者。	3. .A Judgment of "Exempt from Prosecution" or "Case Not Entertained" has been pronounced and the accused has made a confession during the proceedings or otherwise or definite new evidence has been discovered which is considered sufficient reason for the accused not to be exempt from prosecution or for his case to be entertained.
第 423 條 (聲請再審之期間(一))	**第 423 條**	**Article 423**
聲請再審於刑罰執行完畢後，或已不受執行時，亦得為之。	聲請再審於刑罰執行完畢後，或已不受執行時，亦得為之。	Application for retrial may also be made after the completion of the execution of punishment or during the time punishment is not being executed.
第 424 條 (聲請再審之期間(二))	**第 424 條**	**Article 424**
依第四百二十一條規定，因重要證據漏未審酌而聲請再審者，應於送達判決後二十日內為之。	依第四百二十一條規定，因重要證據漏未審酌而聲請再審者，應於送達判決後二十日內為之。	Application for retrial according to Article 421 for failure to consider important evidence shall be made within twenty days after the service of judgment.
第 425 條 (聲請再審之期間(三))	**第 425 條**	**Article 425**
為受判決人之不利益聲請再審，於判決確定	為受判決人之不利益聲請再審，於判決確定	Application for retrial not for the benefit of a sentenced person may not be made if one-half

後，經過刑法第八十條第一項期間二分之一者，不得為之。

後，經過刑法第八十條第一項期間二分之一者，不得為之。

of the period specified in paragraph 1 of Article 80 of the Criminal Code has elapsed since the judgment became final.

第 426 條 (再審之管轄法院)

聲請再審，由判決之原審法院管轄。
判決之一部曾經上訴，一部未經上訴，對於各該部分均聲請再審，而經第二審法院就其在上訴審確定之部分為開始再審之裁定者，其對於在第一審確定之部分聲請再審，亦應由第二審法院管轄之。
判決在第三審確定者，對於該判決聲請再審，除以第三審法院之推事有第四百二十條第五款情形為原因者外，應由第二審法院管轄之。

第 426 條

聲請再審，由判決之原審法院管轄。
判決之一部曾經上訴，一部未經上訴，對於各該部分均聲請再審，而經第二審法院就其在上訴審確定之部分為開始再審之裁定者，其對於在第一審確定之部分聲請再審，亦應由第二審法院管轄之。
判決在第三審確定者，對於該判決聲請再審，除以第三審法院之推事有第四百二十條第五款情形為原因者外，應由第二審法院管轄之。

Article 426

The original court has jurisdiction to determine an application for retrial.
If an application is made for retrial of that part of a judgment against which an appeal has already been filed, no appeal having been filed against the other part, and if the court of second instance gives a ruling ordering a retrial of that part of the judgment which has become final in the court of second instance, the court of second instance has jurisdiction over the application for retrial of that part of the judgment which has become final in the court of first instance.
If an application for retrial of the judgment of the court of third instance is made after such judgment has become final, the court of second instance shall have jurisdiction over such application unless one of the judges of the court of third instance comes within the circumstances specified in item 5 of Article 420.

第 427 條 (聲請再審權(一)－為受判決人利益)

為受判決人之利益聲請再審，得由左列各人為之：
一、管轄法院之檢察官。
二、受判決人。
三、受判決人之法定代理人或配偶。
四、受判決人已死亡者，其配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬。

第 427 條

為受判決人之利益聲請再審，得由左列各人為之：
一、管轄法院之檢察官。
二、受判決人。
三、受判決人之法定代理人或配偶。
四、受判決人已死亡者，其配偶、直系血親、三親等內之旁系血親、二親等內之姻親或家長、家屬。

Article 427

An application for retrial for the benefit of a sentenced person may be made by one of the following:
1. A procurator of a court having jurisdiction;
2. The sentenced person;
3. The legal agent or spouse of the sentenced person;
4. If the sentenced person is dead, his spouse, lineal blood relative, collateral blood relative within the third degree of relationship, relative by marriage within the second degree of relationship, family head, or family member.

第 428 條 (聲請再審權人(二)－為受判決人不利益)

為受判決人之不利益

第 428 條

為受判決人之不利益聲

Article 428

An application tor retrial not for the benefit of

聲請再審，得由管轄法院之檢察官及自訴人為之；但自訴人聲請再審者，以有第四百二十二條第一款規定之情形為限。

自訴人已喪失行為能力或死亡者，得由第三百十九條第一項所列得為提起自訴之人，為前項之聲請。

請再審，得由管轄法院之檢察官及自訴人為之。但自訴人聲請再審者，以有第四百二十二條第一款規定之情形為限。

自訴人已喪失行為能力或死亡者，得由第三百十九條第一項所列得為提起自訴之人，為前項之聲請。

a sentenced person may be made by the procurator of a court having jurisdiction or by a private complainant; Provided, that in a private prosecution, an application for retrial may be made only if the circumstances specified in item 1 of Article 422 are present.

Where a private prosecutor has lost his legal capacity or is dead, an application specified in the preceding paragraph may be filed by one of such persons capable of filing a private prosecution as specified in paragraph I of Article 319.

第 429 條 (聲請之程式)

聲請再審，應以再審書狀敘述理由，附具原判決之繕本及證據，提出於管轄法院為之。

第 429 條

聲請再審，應以再審書狀敘述理由，附具原判決之繕本及證據，提出於管轄法院為之。

Article 429

An application for retrial shall be made by means of a written retrial petition which shall set forth the reasons for retrial and which shall be filed with the court having jurisdiction with a copy of the original judgment and the evidence.

第 430 條 (聲請再審之效力)

聲請再審，無停止刑罰執行之效力。但管轄法院之檢察官於再審之裁定前，得命停止。

第 430 條

聲請再審，無停止刑罰執行之效力。但管轄法院之檢察官於再審之裁定前，得命停止。

Article 430

An application for a retrial shall not be effective to suspend the execution of punishment; Provided, that a procurator of a court having jurisdiction may order such suspension prior to a ruling upon a retrial.

第 431 條 (再審聲請之撤回及其效力)

再審之聲請，於再審判決前，得撤回之。

撤回再審聲請之人，不得更以同一原因聲請再審。

第 431 條

再審之聲請，於再審判決前，得撤回之。

撤回再審聲請之人，不得更以同一原因聲請再審。

Article 431

An application for retrial may be withdrawn at any time, before judgment on the application is given.

A person who has withdrawn an application for retrial shall not apply for it again for the same reason.

第 432 條 (撤回上訴規定之準用)

第三百五十八條及第三百六十條之規定，於聲請再審及其撤回準用之。

第 432 條

第三百五十八條及第三百六十條之規定，於聲請再審及其撤回準用之。

Article 432

The provisions of Articles 358 and 360 shall apply mutatis mutandis to an application for retrial and to a withdrawal thereof.

第 433 條 (聲請不合法之裁定－裁定駁回)

法院認為聲請再審之程序違背規定者，應以

第 433 條

法院認為聲請再審之程序違背規定者，應以裁

Article 433

If a court considers that an application for retrial is contrary to procedural provisions,

裁定駁回之。	定駁回之。	it .shall dismiss such application by a ruling.
第 434 條 (聲請無理由之裁定－裁定駁回)	**第 434 條**	**Article 434**
法院認為無再審理由者，應以裁定駁回之。	法院認為無再審理由者，應以裁定駁回之。	If a court considers that an application for a retrial is groundless, it shall dismiss such application by a ruling.
經前項裁定後，不得更以同一原因聲請再審。	經前項裁定後，不得更以同一原因聲請再審。	After a ruling has been given as provided in the preceding paragraph, another application for retrial shall not be made for the same reason.
第 435 條 (聲請有理由之裁定－開始再審之裁定)	**第 435 條**	**Article 435**
法院認為有再審理由者，應為開始再審之裁定。	法院認為有再審理由者，應為開始再審之裁定。	If a court considers that an application for retrial is well grounded, it shall, by a ruling, order commencement of the retrial.
為前項裁定後，得以裁定停止刑罰之執行。	為前項裁定後，得以裁定停止刑罰之執行。	After a ruling provided in the preceding paragraph is made, a court may, by a ruling, order the execution of punishment to be suspended.
對於第一項之裁定，得於三日內抗告。	對於第一項之裁定，得於三日內抗告。	An interlocutory appeal may be made within three days against a ruling specified in paragraph I.
第 436 條 (再審之審判)	**第 436 條**	**Article 436**
開始再審之裁定確定後，法院應依其審級之通常程序，更為審判。	開始再審之裁定確定後，法院應依其審級之通常程序，更為審判。	If a ruling which orders commencement of retrial has become final, the court shall retry the case according to the ordinary procedure applicable to courts of the same grade.
第 437 條 (言詞審理之例外(四))	**第 437 條**	**Article 437**
受判決人已死亡者，為其利益聲請再審之案件，應不行言詞辯論，由檢察官或自訴人以書狀陳述意見後，即行判決。但自訴人已喪失行為能力或死亡者，得由第三百三十二條規定得為承受訴訟之人於一個月內聲請法院承受訴訟；如無承受訴訟之人或逾期不為承受者，法院得逕行判決，或通知檢察官陳述意見。	受判決人已死亡者，為其利益聲請再審之案件，應不行言詞辯論，由檢察官或自訴人以書狀陳述意見後，即行判決。但自訴人已喪失行為能力或死亡者，得由第三百三十二條規定得為承受訴訟之人於一個月內聲請法院承受訴訟；如無承受訴訟之人或逾期不為承受者，法院得逕行判決，或通知檢察官陳述意見。	If an application for retrial is made for the benefit of a sentenced person who is dead, judgment thereon shall be rendered immediately without verbal argument after the procurator or private complainant has expressed his opinion in writing; Provided, that where the private complainant has lost his legal capacity or is dead, one of the persons capable of undertaking the litigation for him as specified in Article 332 hereof may apply to the court within one month for undertaking the litigation; and that where there is no person to undertake the litigation or such person fails to do so within the prescribed period, the court may immediately

		render a judgment, or notify the procurator to express his opinion on the case.
為受判決人之利益聲請再審之案件，受判決人於再審判決前死亡者，準用前項規定。	為受判決人之利益聲請再審之案件，受判決人於再審判決前死亡者，準用前項規定。	The provisions of the preceding paragraph shall apply mutatis mutandis to an application for a retrial made for the benefit of a sentenced person who dies before judgment at the retrial.
依前二項規定所為之判決，不得上訴。	依前二項規定所為之判決，不得上訴。	An appeal is not allowed from a judgment made in accordance with the provisions of one of the two preceding paragraphs.
第 438 條 (終結再審程序)	**第 438 條**	**Article 438**
為受判決人之不利益聲請再審之案件，受判決人於再審判決前死亡者，其再審之聲請及關於再審之裁定，失其效力。	為受判決人之不利益聲請再審之案件，受判決人於再審判決前死亡者，其再審之聲請及關於再審之裁定，失其效力。	If an application for a retrial not for the benefit of a sentenced person is made and if .such person dies before judgment at the retrial, such application and all rulings relating thereto shall be invalid.
第 439 條 (禁止不利益變更原則(二))	**第 439 條**	**Article 439**
為受判決人之利益聲請再審之案件，諭知有罪之判決者，不得重於原判決所諭知之刑。	為受判決人之利益聲請再審之案件，諭知有罪之判決者，不得重於原判決所諭知之刑。	If an application for a retrial is made for the benefit of a sentenced person and a judgment of "Guilty" is pronounced on retrial, the punishment shall not be more severe than the one pronounced in the original judgment.
第 440 條 (再審諭知無罪判決之公示)	**第 440 條**	**Article 440**
為受判決人之利益聲請再審之案件，諭知無罪之判決者，應將該判決書刊登公報或其他報紙。	為受判決人之利益聲請再審之案件，諭知無罪之判決者，應將該判決書刊登公報或其他報紙。	If an application for retrial is made for the benefit of a sentenced person and a judgment of "Not Guilty" is pronounced on retrial, such written judgment shall be published in an official or other newspaper.
第六編 非常上訴	第六編 非常上訴	**PART VI Extraordinary Appeal**
第 441 條 (非常上訴之原因及提起權人)	**第 441 條**	**Article 441**
判決確定後，發見該案件之審判係違背法令者，最高法院檢察署檢察總長得向最高法院提起非常上訴。	判決確定後，發見該案件之審判係違背法令者，最高法院之檢察長得向最高法院提起非常上訴。	If it is discovered after judgment becomes final that a trial was conducted contrary to law, the procurator general of the Supreme Court may file an extraordinary appeal with the Supreme Court.
第 442 條 (聲請提起非常上訴之程式)	**第 442 條**	**Article 442**

檢察官發見有前條情形者，應具意見書將該案卷宗及證物送交最高法院檢察署檢察總長，聲請提起非常上訴。	檢察官發見有前條情形者，應具意見書將該案卷宗及證物送交最高法院之檢察長，聲請提起非常上訴。	If a procurator discovers that the circumstances mentioned in the preceding article are present, he shall transmit the record, exhibits, and his written opinion to the procurator general of the Supreme Court together with a request that an extraordinary appeal be filed.
<u>第 443 條</u> (提起非常上訴之程式)	**第 443 條**	**Article 443**
提起非常上訴，應以非常上訴書敘述理由，提出於最高法院為之。	提起非常上訴，應以非常上訴書狀敘述理由，提出於最高法院為之。	An extraordinary appeal shall be made by means of a written extraordinary appeal petition which shall se forth the reason, therefor and which shall be filed with the Supreme Court.
<u>第 444 條</u> (言詞審理之例外(五))	**第 444 條**	**Article 444**
非常上訴之判決，不經言詞辯論為之。	非常上訴之判決，不經言詞辯論為之。	Judgment in an extraordinary appeal shall be given without verbal argument.
<u>第 445 條</u> (調查之範圍)	**第 445 條**	**Article 445**
最高法院之調查，以非常上訴理由所指摘之事項為限。 第三百九十四條之規定，於非常上訴準用之。	最高法院之調查，以非常上訴理由所指摘之事項為限。 第三百九十四條之規定，於非常上訴準用之。	The Supreme Court shall confine its investigation in an extraordinary appeal to the matters set forth in the reasons herefor. The provisions of Article 394 shall apply mutatis mutandis to an extraordinary appeal.
<u>第 446 條</u> (非常上訴無理由之處置－駁回判決)	**第 446 條**	**Article 446**
認為非常上訴無理由者，應以判決駁回之。	認為非常上訴無理由者，應以判決駁回之。	If an extraordinary appeal is considered to be groundless, it shall be dismissed by a judgment.
<u>第 447 條</u> (非常上訴有理由之處置)	**第 447 條**	**Article 447**
認為非常上訴有理由者，應分別為左列之判決： 一、原判決違背法令者，將其違背之部分撤銷。但原判決不利於被告者，應就該案件另行判決。 二、訴訟程序違背法令者，撤銷其程序。 前項第一款情形，如係	認為非常上訴有理由者，應分別為左列之判決。 一、原判決違背法令者，將其違背之部分撤銷。但原判決不利於被告者，應就該案件另行判決。 二、訴訟程序違背法令者，撤銷其程序。 前項第一款情形，如係	If an extraordinary appeal is considered to be well-grounded, judgment shall be given as follows: 1. If the original judgment is contrary to law or order, the part which is contrary to law or order shall be set aside; Provided, that if the original judgment is not for the benefit of the accused, another judgment shall be given; 2. If the procedure is contrary to law or order, such procedure shall be set aside. If, under the circumstances set forth in item 1

誤認為無審判權而不受理，或其他有維持被告審級利益之必要者，得將原判決撤銷，由原審法院依判決前之程序更為審判。 但不得諭知較重於原確定判決之刑。	誤認為無審判權而不受理，或其他有維持被告審級利益之必要者，得將原判決撤銷，由原審法院依判決前之程序更為審判。但不得諭知較重於原確定判決之刑。	of the preceding paragraph of this Article, it is considered that there is no right to try the case, that such case should not be entertained, or that it is otherwise necessary to preserve the benefit accruing to the accused from one of the stages of trial, the court may set aside the original decision; the original court may again try the case by using the proceedings before judgment, but it may not pronounce a punishment more severe than that in the original final judgment.
第 448 條 (非常上訴判決之效力)	**第 448 條**	**Article 448**
非常上訴之判決，除依前條第一項第一款但書及第二項規定者外，其效力不及於被告。	非常上訴之判決，除依前條第一項第一款但書及第二項規定者外，其效力不及於被告。	A judgment in an extraordinary appeal shall not affect the accused except as provided in the proviso of item 1 of paragraph I of Article 447 or as provided in paragraph II of Article 447
第七編 簡易程序	**第七編 簡易程序**	**PART VII Summary Procedure**
第 449 條 (聲請簡易判決之要件)	**第 449 條**	**Article 449**
第一審法院依被告在偵查中之自白或其他現存之證據，已足認定其犯罪者，得因檢察官之聲請，不經通常審判程序，逕以簡易判決處刑。但有必要時，應於處刑前訊問被告。	刑法第六十一條所列各罪之案件，第一審法院依被告在偵查中之自白或其他現存之證據，已足認定其犯罪者，得因檢察官之聲請，不經通常審判程序，逕以簡易判決處刑。但有必要時，應於處刑前訊問被告。	Upon application by a procurator, in a case involving an offence specified in Article 61 of the Criminal Code, the court of first instance may, by relying upon a confession made by an accused during investigation or upon other evidence at hand which is considered sufficient to convict, pass a sentence direct by a simplified judgment without following the usual trial procedure; provided that if necessary, an accused may be examined before punishment is imposed.
前項案件檢察官依通常程序起訴，經被告自白犯罪，法院認為宜以簡易判決處刑者，得不經通常審判程序，逕以簡易判決處刑。 依前二項規定所科之刑以宣告緩刑、得易科罰金或得易服社會勞動之有期徒刑及拘役或罰金為限。	依前項判決所科之刑，以拘役或罰金為限。	Punishment imposed by a judgment as specified in the preceding paragraph shall be limited to detention, or a fine.
第 449-1 條 (簡易程序		

案件之辦理)

簡易程序案件，得由簡易庭辦理之。

第 450 條 (法院之簡易判決(一)－處刑、免刑判決)

以簡易判決處刑時，得併科沒收或為其他必要之處分。

第二百九十九條第一項但書之規定，於前項判決準用之。

第 450 條

以簡易判決處刑時，得併科沒收或為其他必要之處分。

第二百九十九條第一項但書之規定，於前項判決準用之。

Article 450

A punishment imposed by simplified judgment may also include confiscation or other necessary measures.

The provisions of the proviso of paragraph I of Article 299 shall apply mutatis mutandis to a judgment as specified in the preceding paragraph.

第 451 條 (簡易判決之聲請)

檢察官審酌案件情節，認為宜以簡易判決處刑者，應即以書面為聲請。

第二百六十四條之規定，於前項聲請準用之。

第一項聲請，與起訴有同一之效力。

被告於偵查中自白者，得請求檢察官為第一項之聲請。

第 451 條

檢察官偵查刑法第六十一條所列各罪之案件時，審酌情節認為宜以簡易判決處刑者，應即以書面為聲請。

第二百六十四條之規定，於前項聲請準用之。

第一項聲請，與起訴有同一之效力。

Article 451

During the investigation of an offence specified in Article 61 of the Criminal Code, if a procurator considers, after weighing the circumstances, that it is appropriate for sentence to be passed by a simplified judgment, he shall immediately make such application in writing.

The provisions of Article 264 shall apply mutatis mutandis to an application specified in the preceding paragraph.

An application specified in paragraph I shall have the same effect as the initiation of a public prosecution.

第 451-1 條 (檢察官得為具體之求刑)

前條第一項之案件，被告於偵查中自白者，得向檢察官表示願受科刑之範圍或願意接受緩刑之宣告，檢察官同意者，應記明筆錄，並即以被告之表示為基礎，向法院求刑或為緩刑宣告之請求。

檢察官為前項之求刑或請求前，得徵詢被害人之意見，並斟酌情形，經被害人同意，命被告為左列各款事

項：
一、向被害人道歉。
二、向被害人支付相當數額之賠償金。
被告自白犯罪未為第一項之表示者，在審判中得向法院為之，檢察官亦得依被告之表示向法院求刑或請求為緩刑之宣告。
第一項及前項情形，法院應於檢察官求刑或緩刑宣告請求之範圍內為判決，但有左列情形之一者，不在此限：
一、被告所犯之罪不合第四百四十九條所定得以簡易判決處刑之案件者。
二、法院認定之犯罪事實顯然與檢察官據以求處罪刑之事實不符，或於審判中發現其他裁判上一罪之犯罪事實，足認檢察官之求刑顯不適當者。
三、法院於審理後，認應為無罪、免訴、不受理或管轄錯誤判決之諭知者。
四、檢察官之請求顯有不當或顯失公平者。

第 452 條 (審判程序)	**第 452 條**	**Article 452**
檢察官聲請以簡易判決處刑之案件，經法院認為有第四百五十一條之一第四項但書之情形者，應適用通常程序審判之。	檢察官聲請以簡易判決處刑案件，經法院認為不得或不宜以簡易判決處刑者，應適用通常程序審判之。	If a procurator applies for imposition of punishment by a simplified judgment and the court considers that it is unable or improper to impose punishment by a simplified judgment, the case shall be tried in accordance with ordinary procedure.
第 453 條 (法院之簡易判決(二)－立即處分)	**第 453 條**	**Article 45:3**
以簡易判決處刑案件，法院應立即處分。	以簡易判決處刑案件，法院應立即處分。	A case in which punishment is to be imposed by a simplified judgment shall be immediately disposed of by the court.
第 454 條 (簡易判決應載事項)	**第 454 條**	**Article 454**

簡易判決，應記載下列事項： 一、第五十一條第一項之記載。 二、犯罪事實及證據名稱。 三、應適用之法條。 四、第三百零九條各款所列事項。 五、自簡易判決送達之日起十日內，得提起上訴之曉示。但不得上訴者，不在此限。 前項判決書，得以簡略方式為之，如認定之犯罪事實、證據及應適用之法條，與檢察官聲請簡易判決處刑書或起訴書之記載相同者，得引用之。	簡易判決，應記載左列事項： 一、第五十一條第一項之記載。 二、犯罪之事實及證據與其認定之理由。 三、應適用之法條。 四、第三百零九條各款所列事項。 五、自簡易判決送達之日起十日內，得提起上訴之曉示。	A simplified judgment shall contain the following matters: 1 That which is -recorded in paragraph I of Article 51; 2. Facts and evidence of the offence accompanied by reasons for admission thereof. 3. Law applicable; 4. That which is specified in each item of Article 309; 5. A statement that an application for appeal may be made within ten days after receipt of such simplified judgment.
第 455 條 (簡易判決正本之送達)	**第 455 條**	**Article 455**
書記官接受簡易判決原本後，應立即製作正本為送達，並準用第三百十四條第二項之規定。	書記官接受簡易判決原本後，應立即制作正本送達於當事人。	The clerk shall, after receipt of an original copy of the simplified judgment, immediately make true copies of such judgment and serve them on the parties.
第 455-1 條 (對簡易判決不服之上訴)		
對於簡易判決有不服者，得上訴於管轄之第二審地方法院合議庭。 依第四百五十一條之一之請求所為之科刑判決，不得上訴。 第一項之上訴，準用第三編第一章及第二章除第三百六十一條外之規定。 對於適用簡易程序案件所為裁定有不服者，得抗告於管轄之第二審地方法院合議庭。 前項之抗告，準用第四編之規定。		

第七編之一 協商程序

第 455-2 條（協商程序之聲請）

除所犯為死刑、無期徒刑、最輕本刑三年以上有期徒刑之罪或高等法院管轄第一審案件者外，案件經檢察官提起公訴或聲請簡易判決處刑，於第一審言詞辯論終結前或簡易判決處刑前，檢察官得於徵詢被害人之意見後，逕行或依被告或其代理人、辯護人之請求，經法院同意，就下列事項於審判外進行協商，經當事人雙方合意且被告認罪者，由檢察官聲請法院改依協商程序而為判決：

一、被告願受科刑之範圍或願意接受緩刑之宣告。

二、被告向被害人道歉。

三、被告支付相當數額之賠償金。

四、被告向公庫或指定之公益團體、地方自治團體支付一定之金額。

檢察官就前項第二款、第三款事項與被告協商，應得被害人之同意。

第一項之協商期間不得逾三十日。

第 455-3 條（撤銷協商）

法院應於接受前條之聲請後十日內，訊問被告並告以所認罪名、法定刑及所喪失之權利。

被告得於前項程序終結前，隨時撤銷協商之合意。被告違反與檢察官協議之內容時，檢察

官亦得於前項程序終結前，撤回協商程序之聲請。

第 455-4 條 (不得為協商判決之情形)

有下列情形之一者，法院不得為協商判決：
一、有前條第二項之撤銷合意或撤回協商聲請者。
二、被告協商之意思非出於自由意志者。
三、協商之合意顯有不當或顯失公平者。
四、被告所犯之罪非第四百五十五條之二第一項所定得以聲請協商判決者。
五、法院認定之事實顯與協商合意之事實不符者。
六、被告有其他較重之裁判上一罪之犯罪事實者。
七、法院認應諭知免刑或免訴、不受理者。
除有前項所定情形之一者外，法院應不經言詞辯論，於協商合意範圍內為判決。法院為協商判決所科之刑，以宣告緩刑、二年以下有期徒刑、拘役或罰金為限。
當事人如有第四百五十五條之二第一項第二款至第四款之合意，法院應記載於筆錄或判決書內。
法院依協商範圍為判決時，第四百五十五條之二第一項第三款、第四款並得為民事強制執行名義。

第 455-5 條 (公設辯護人之指定)

協商之案件，被告表示

所願受科之刑逾有期徒刑六月，且未受緩刑宣告，其未選任辯護人者，法院應指定公設辯護人或律師為辯護人，協助進行協商。
辯護人於協商程序，得就協商事項陳述事實上及法律上之意見。但不得與被告明示之協商意見相反。

第 455-6 條 (裁定駁回)
法院對於第四百五十五條之二第一項協商之聲請，認有第四百五十五條之四第一項各款所定情形之一者，應以裁定駁回之，適用通常、簡式審判或簡易程序審判。
前項裁定，不得抗告。

第 455-7 條 (協商過程中之陳述不得於本案或其他案採為對被告或共犯不利之證據)
法院未為協商判決者，被告或其代理人、辯護人在協商過程中之陳述，不得於本案或其他案件採為對被告或其他共犯不利之證據。

第 455-8 條 (協商判決書製作送達準用規定)
協商判決書之製作及送達，準用第四百五十四條、第四百五十五條之規定。

第 455-9 條 (宣示判決筆錄送達準用規定及其效力)
協商判決，得僅由書記官將主文、犯罪事實要旨及處罰條文記載於宣示判決筆錄，以代判

決書。但於宣示判決之日起十日內，當事人聲請法院交付判決書者，法院仍應為判決書之製作。
前項筆錄正本或節本之送達，準用第四百五十五條之規定，並與判決書之送達有同一之效力。

第 455-10 條（不得上訴之除外情形）
依本編所為之科刑判決，不得上訴。但有第四百五十五條之四第一項第一款、第二款、第四款、第六款、第七款所定情形之一，或協商判決違反同條第二項之規定者，不在此限。
對於前項但書之上訴，第二審法院之調查以上訴理由所指摘之事項為限。
第二審法院認為上訴有理由者，應將原審判決撤銷，將案件發回第一審法院依判決前之程序更為審判。

第 455-11 條（協商判決之上訴準用規定）
協商判決之上訴，除本編有特別規定外，準用第三編第一章及第二章之規定。
第一百五十九條第一項、第二百八十四條之一之規定，於協商程序不適用之。

第八編執行	第八編 執行	**PART VIII Execution**
第 456 條（執行裁判之時期）	**第 456 條**	**Article 456**

裁判除關於保安處分者外，於確定後執行之。但有特別規定者，不在此限。	裁判除關於保安處分者外，於確定後執行之。但有特別規定者，不在此限。	A decision other than one relating to a peace preservation measure shall be executed after it becomes final unless there are special provisions to the contrary.
第 457 條 (指揮執行之機關)	**第 457 條**	**Article 457**
執行裁判由為裁判法院之檢察官指揮之。但其性質應由法院或審判長、受命推事、受託推事指揮，或有特別規定者，不在此限。	執行裁判由為裁判法院之檢察官指揮之。但其性質應由法院或審判長、受命推事、受託推事指揮，或有特別規定者，不在此限。	A decision shall be executed under the supervision of a procurator of the court which made the decision; Provided, that this rule shall not apply if the nature of the decision requires the court, the presiding judge, commissioned judge, or requisitioned judge to supervise the execution or if there are special provisions to the contrary.
因駁回上訴抗告之裁判，或因撤回上訴、抗告而應執行下級法院之裁判者，由上級法院之檢察官指揮之。	因駁回上訴抗告之裁判，或因撤回上訴、抗告而應執行下級法院之裁判者，由上級法院之檢察官指揮之。	A procurator of a higher court shall supervise the execution of a decision of a lower court when such decision must be executed because of a decision by a higher court which dismisses an appeal or interlocutory appeal or because of the withdrawal of an appeal or interlocutory appeal.
前二項情形，其卷宗在下級法院者，由該法院之檢察官指揮執行。	前二項情形，其卷宗在下級法院者，由該法院之檢察官指揮執行。	Under the circumstances specified in the preceding paragraph, if the record is in a lower court, the decision shall be executed under the supervision, of the procurator of such court.
第 458 條 (指揮執行之方式)	**第 458 條**	**Article 458**
指揮執行，應以指揮書附具裁判書或筆錄之繕本或節本為之。但執行刑罰或保安處分以外之指揮，毋庸制作指揮書者，不在此限。	指揮執行，應以指揮書附具裁判書或筆錄之繕本或節本為之。但執行刑罰或保安處分以外之指揮毋庸制作指揮書者，不在此限。	The execution of a decision shall be pursuant to written instructions which are attached to a copy of the written decision or a complete or abbreviated copy of the notes; Provided, that with the exception of execution of punishment or a peace preservation measure, this rule shall not apply to a decision which does not require written instructions.
第 459 條 (主刑之執行順序)	**第 459 條**	**Article 459**
二以上主刑之執行，除罰金外，應先執行其重者，但有必要時，檢察官得命先執行他刑。	二以上主刑之執行，除罰金外，應先執行其重者。但有必要時，檢察官得命先執行他刑。	If a sentence consists of two or more principal punishments other than a fine, the most severe shall be executed first unless the procurator orders another punishment to be executed first because of necessity.
第 460 條 (死刑之執行(一)－審核)	**第 460 條**	**Article 460**

諭知死刑之判決確定後，檢察官應速將該案卷宗送交司法行政最高機關。	諭知死刑之判決確定後，檢察官應速將該案卷宗送交司法行政最高機關。	If a judgment imposing a death penalty becomes final, the procurator shall immediately transmit the record to the highest judicial administrative office.
第 461 條 (死刑之執行(二)－執行時期與再審核)	**第 461 條**	**Article 461**
死刑，應經司法行政最高機關令准，於令到三日內執行之。但執行檢察官發見案情確有合於再審或非常上訴之理由者，得於三日內電請司法行政最高機關，再加審核。	死刑，應經司法行政最高機關令准，於令到三日內執行之。但執行檢察官發見案情確有合於再審或非常上訴之理由者，得於三日內電請司法行政最高機關，再加審核。	A sentence of death shall be subject to approval of the supreme judicial administrative organ by issuance of an order and shall be executed within three days after receipt of said order; provided that where the procurator in charge of the execution has found that merits of the case actually present some grounds for a retrial or an extraordinary appeal, he may, within three days, request the supreme judicial administrative organ to re-examine the case.
第 462 條 (死刑之執行(三)－場所)	**第 462 條**	**Article 462**
死刑，於監獄內執行之。	死刑，於監獄內執行之。	A death penalty shall be executed in a jail.
第 463 條 (死刑之執行(四)－在場人)	**第 463 條**	**Article 463**
執行死刑，應由檢察官蒞視，並命書記官在場。 執行死刑，除經檢察官或監獄長官之許可者外，不得入行刑場內。	執行死刑，應由檢察官蒞視，並命書記官在場。 執行死刑，除經檢察官或監獄長官之許可者外，不得入行刑場內。	A Procurator shall be present to observe the execution of a death penalty and shall order a clerk to, attend. No person shall be admitted to an execution ground except by permission of the procurator or chief warden of the jail.
第 464 條 (死刑之執行(五)－筆錄)	**第 464 條**	**Article 464**
執行死刑，應由在場之書記官制作筆錄。 筆錄，應由檢察官及監獄長官簽名。	執行死刑，應由在場之書記官制作筆錄。 筆錄應由檢察官及監獄長官簽名。	The clerk who attends the execution of the death penalty shall take notes. The notes shall be signed by the procurator and the chief warden.
第 465 條 (停止執行死刑事由及恢復執行)	**第 465 條**	**Article 465**
受死刑之諭知者，如在心神喪失中，由司法行政最高機關命令停止執行。 受死刑諭知之婦女懷胎者，於其生產前，由	受死刑之諭知者，如在心神喪失中，由司法行政最高機關命令停止執行。 受死刑諭知之婦女懷胎者，於其生產前，由司	The execution of an insane person who is sentenced to death shall be suspended by order of the highest judicial administrative office. The execution of a pregnant woman who is sentenced to death shall be suspended by

司法行政最高機關命令停止執行。 依前二項規定停止執行者，於其痊癒或生產後，非有司法行政最高機關命令，不得執行。	法行政最高機關命令停止執行。 依前二項規定停止執行者，於其痊癒或生產後，非有司法行政最高機關命令，不得執行。	order of the highest judicial administrative office until she gives birth. If execution has been suspended in accordance with the provisions of one of the two preceding paragraphs, such execution may not be carried out after sanity returns or after child birth except by order of the highest judicial administrative office.
第 466 條 (自由刑之執行)	**第 466 條**	**Article 466**
處徒刑及拘役之人犯，除法律別有規定外，於監獄內分別拘禁之，令服勞役。但得因其情節，免服勞役。	處徒刑及拘役之人犯，除法律別有規定外，於監獄內分別拘禁之，令服勞役。但得因其情節，免服勞役。	Unless otherwise provided by law, persons sentenced to imprisonment or detention shall be separately confined in jail and ordered to perform labor; Provided, that, depending on the circumstances, such persons may be exempted from performing labor.
第 467 條 (停止執行自由刑之事由)	**第 467 條**	**Article 467**
受徒刑或拘役之諭知而有左列情形之一者，依檢察官之指揮，於其痊癒或該事故消滅前，停止執行： 一、心神喪失者。 二、懷胎五月以上者。 三、生產未滿二月者。 四、現罹疾病，恐因執行而不能保其生命者。	受徒刑或拘役之諭知而有左列情形之一者，依檢察官之指揮，於其痊癒或該事故消滅前，停止執行： 一、心神喪失者。 二、懷胎五月以上者。 三、生產未滿二月者。 四、現罹疾病，恐因執行而不能保其生命者。	If a person has been sentenced to imprisonment or detention and is under one of the following disabilities, such sentence shall be suspended at the direction of the procurator until recovery or removal of the cause of suspension: 1. Insanity; 2. Pregnancy of five months or more; 3. Childbirth within two months; 4. Sickness such that execution of sentenced may endanger life.
第 468 條 (停止執行受刑人之醫療)	**第 468 條**	**Article 468**
依前條第一款及第四款情形停止執行者，檢察官得將受刑人送入醫院或其他適當之處所。	依前條第一款及第四款情形停止執行者，檢察官得將受刑人送入醫院或其他適當之處所。	If execution of sentence is suspended in accordance with one of the items 1 or 4 of the preceding article, the procurator may send the sentenced person to a hospital or other suitable place.
第 469 條 (刑罰執行前之強制處分)	**第 469 條**	**Article 469**
受死刑、徒刑或拘役之諭知，而未經羈押者，檢察官於執行時，應傳喚之；傳喚不到者，應行拘提。 前項受刑人，得依第七	受死刑、徒刑或拘役之諭知，而未經羈押者，檢察官於執行時，應傳喚之；傳喚不到者，應行拘提。 前項受刑人，得依第七	If a person who has been sentenced to death, imprisonment, or detention is not detained, he shall be summoned by the procurator when time for execution arrives; if he fails to appear when summoned; he shall be arrested with a warrant. A sentenced person specified in the preceding

十六條第一款及第二款之規定，逕行拘提，及依第八十四條之規定通緝之。	十六條第一款及第二款之規定，逕行拘提，及依第八十四條之規定通緝之。	paragraph may be arrested immediately with a warrant in accordance with items 1 or 2 of Article 76 or with a circular order in accordance with Article 84.
<u>第 470 條</u> (財產刑之執行)	**第 470 條**	**Article 470**
罰金、罰鍰、沒收、沒入、追徵、追繳及抵償之裁判，應依檢察官之命令執行之。但罰金、罰鍰於裁判宣示後，如經受裁判人同意而檢察官不在場者，得由法官當庭指揮執行。	罰金、罰鍰、沒收、沒入及追徵之裁判，應依檢察官之命令執行之。但罰金、罰鍰於裁判宣示後，如經受裁判人同意而檢察官不在場者，得由推事當庭指揮執行。	A decision imposing a fine, pecuniary penalty, confiscation, forfeiture, or recovery of money shall be executed in accordance with the order of the procurator; Provided, that a fine or pecuniary penalty may be executed under the instructions of a judge in open court if, after the judgment is pronounced, the sentenced person agrees with the decision and the procurator is not present.
前項命令與民事執行名義有同一之效力。	前項命令與民事執行名義有同一之效力。	An order issued as provided in the preceding paragraph shall have the same effect as an execution in a civil case.
罰金、沒收、追徵、追繳及抵償，得就受刑人之遺產執行。	罰金、沒收及追徵，得就受刑人之遺產執行。	A fine, confiscation, or recovery of money may be executed upon the estate left by a sentenced person.
<u>第 471 條</u> (民事裁判執行之準用及囑託執行)	**第 471 條**	**Article 471**
前條裁判之執行，準用執行民事裁判之規定。	前條裁判之執行，準用執行民事裁判之規定。	Provisions relating to the execution of civil decisions shall mutates mutandis apply to the execution of a decision specified in the preceding article.
前項執行，檢察官於必要時，得囑託地方法院民事執行處為之。	前項執行，檢察官於必要時，得囑託地方法院民事執行處為之。	Execution of a decision specified in the preceding paragraph may, when deemed necessary by the procurator, be entrusted to the civil execution department of the district court.
檢察官之囑託執行，免徵執行費。	檢察官之囑託執行，免徵執行費。	An execution entrusted by the procurator shall be exempt from levy of execution fee.
<u>第 472 條</u> (沒收物之處分機關)	**第 472 條**	**Article 472**
沒收物，由檢察官處分之。	沒收物，由檢察官處分之。	Confiscated property shall be disposed of by a procurator.
<u>第 473 條</u> (沒收物之聲請發還)	**第 473 條**	**Article 473**
沒收物，於執行後三個月內，由權利人聲請發還者，除應破毀或廢棄者外，檢察官應發還之；其已拍賣者，應給	沒收物，於執行後三個月內，由權利人聲請發還者，除應破毀或廢棄者外，檢察官應發還之；其已拍賣者，應給	If an application for the return of confiscated property is made within three months after execution by a person entitled to such property, the part thereof which has, not been destroyed or abandoned shall be returned by

與拍賣所得之價金。	與拍賣所得之價金。	the procurator; if the confiscated property has been sold at a public auction, the amount realized from the sale shall be returned.
第 474 條 (發還偽造變造物時之處置)	**第 474 條**	**Article 474**
偽造或變造之物，檢察官於發還時，應將其偽造、變造之部分除去或加以標記。	偽造或變造之物，檢察官於發還時，應將其偽造、變造之部分除去或加以標記。	The procurator shall, at the time he returns counterfeit or altered property, remove the counterfeit or altered part or mark the property.
第 475 條 (扣押物發還不能之公告及其效果)	**第 475 條**	**Article 475**
扣押物之應受發還人所在不明，或因其他事故不能發還者，檢察官應公告之；自公告之日起滿六個月，無人聲請發還者，以其物歸屬國庫。	扣押物之應受發還人所在不明，或因其他事故不能發還者，檢察官應公告之；自公告之日起滿六個月，無人聲請發還者，以其物歸屬國庫。	If attached property cannot be returned because the address of the owner is unknown or for other reason, public notice thereof shall be given by the procurator; If application for the return of attached property is not made within six months after the day public notice is given, such property shall escheat to the national treasury.
雖在前項期間內，其無價值之物得廢棄之；不便保管者，得命拍賣保管其價金。	雖在前項期間內，其無價值之物得廢棄之；不便保管者，得命拍賣保管其價金。	Valueless property or property which is inconvenient to keep may be destroyed or converted into money by an auction and the proceeds retained notwithstanding that the period specified in the preceding paragraph has not elapsed.
第 476 條 (撤銷緩刑宣告之聲請)	**第 476 條**	**Article 476**
緩刑之宣告應撤銷者，由受刑人所在地或其最後住所地之地方法院檢察官聲請該法院裁定之。	緩刑之宣告應撤銷者，由受刑人所在地或其最後住所地之地方法院檢察官聲請該法院裁定之。	If a suspended punishment is to be set aside, the procurator of a district court at the place a sentenced person is found or at his last residence shall make an application for a ruling to such court.
第 477 條 (更定其刑之聲請)	**第 477 條**	**Article 477**
依刑法第四十八條應更定其刑者，或依刑法第五十三條及第五十四條應依刑法第五十一條第五款至第七款之規定，定其應執行之刑者，由該案犯罪事實最後判決之法院之檢察官，聲請該法院裁定之。	依刑法第四十八條應更定其刑者，或依刑法第五十三條及第五十四條應依刑法第五十一條第五款至第七款之規定，定其應執行之刑者，由該案犯罪事實最後判決之法院之檢察官，聲請該法院裁定之。	It punishment must again be imposed according to Article 48 of the Criminal Code or if punishment to be executed according to one of the Articles 53 or 54 of the Criminal Code should be determined in accordance with the provisions of one of the items 5 through 7 of Article 51 of the Criminal Code, the procurator of the court which gave the last judgment determining the facts of the offence shall make an application to such court for a ruling.

前項定其應執行之刑者，受刑人或其法定代理人、配偶，亦得請求前項檢察官聲請之。	前項定其應執行之刑者，受刑人或其法定代理人、配偶，亦得請求前項檢察官聲請之。	For determining the sentence to be executed as specified in the preceding paragraph, the convict, or his statutory agent or spouse may also request the procurator referred to therein to file an application therefor.
第 478 條 (免服勞役之執行)	**第 478 條**	**Article 478**
依本法第四百六十六條但書應免服勞役者，由指揮執行之檢察官命令之。	依本法第四百六十六條但書應免服勞役者，由指揮執行之檢察官命令之。	If an exemption from the performance' of labor should be given in accordance with the proviso of Article 466, the order shall be given by the procurator who supervises the execution.
第 479 條 (易服勞役之執行)	**第 479 條**	**Article 479**
依刑法第四十一條、第四十二條及第四十二條之一易服社會勞動或易服勞役者，由指揮執行之檢察官命令之。 易服社會勞動，由指揮執行之檢察官命令向該管檢察署指定之政府機關、政府機構、行政法人、社區或其他符合公益目的之機構或團體提供勞動，並定履行期間。	依刑法第四十二條第一項罰金應易服勞役者，由指揮執行之檢察官命令之。	If the payment of a fine should be commuted to labor pursuant to paragraph I of Article 42 of the Criminal Code, the order shall be given by the procurator supervising the execution.
第 480 條 (易服勞役之分別執行與準用事項)	**第 480 條**	**Article 480**
罰金易服勞役者，應與處徒刑或拘役之人犯，分別執行。 第四百六十七條及第四百六十九條之規定，於易服勞役準用之。 第四百六十七條規定，於易服社會勞動準用之。	罰金易服勞役者，應與處徒刑或拘役之人犯，分別執行。 第四百六十七條及第四百六十九條之規定，於易服勞役準用之。	If payment of a line is commuted to labor, the punishment shall be executed separately from the prisoners sentenced to imprisonment or detention. The provisions of Articles 467 and 469 shall apply mutatis mutandis to commutation of a fine to labor.
第 481 條 (保安處分之執行)	**第 481 條**	**Article 481**
依刑法第八十六條第三項、第八十七條第三項、第八十八條第二項、第八十九條第二	依刑法第八十六條第四項或第八十八條第三項免其刑之執行，第九十六條但書之付保安處	If execution of punishment should be remitted according to paragraph IV of Article 86 or paragraph III of Article 88 of the Criminal Code; if a peace preservation measure is

項、第九十條第二項或第九十八條第一項前段免其處分之執行，第九十條第三項許可延長處分，第九十三條第二項之付保護管束，或第九十八條第一項後段、第二項免其刑之執行，及第九十九條許可處分之執行，由檢察官聲請該案犯罪事實最後裁判之法院裁定之。第九十一條之一第一項之施以強制治療及同條第二項之停止強制治療，亦同。	分，第九十七條延長或免其處分之執行，第九十八條免其處分之執行及第九十九條許可處分之執行，由檢察官聲請法院裁定之。	imposed according to the proviso of Article 96 of the Criminal Code; if execution of the peace preservation measure is extended or remitted according to Article 97 of the Criminal Code; if execution of the peace preservation measure is remitted according to Article 98 of the Criminal Code, or if execution of the peace preservation measure is permitted according to Article 99 of the Criminal Code, the procurator shall apply to the court for a ruling.
檢察官依刑法第十八條第一項或第十九條第一項而為不起訴之處分者，如認有宣告保安處分之必要，得聲請法院裁定之。	檢察官因被告未滿十四歲或心神喪失而為不起訴之處分者，如認有宣告保安處分之必要，得聲請法院裁定之。	Where the procurator has rendered a decision not to prosecute because the accused is below fourteen years old or is mentally enfeebled yet considers pronouncement of a peace preservation measure necessary, he may request the court to pass a ruling thereon.
法院裁判時未併宣告保安處分，而檢察官認為有宣告之必要者，得於裁判後三個月內，聲請法院裁定之。	法院裁判時未併宣告保安處分，而檢察官認為有宣告之必要者，得於裁判後三個月內，聲請法院裁定之。	Where the court has not concurrently pronounced a peace preservation measure at the time of rendering its decision yet the procurator considers a pronouncement of a peace preservation measure necessary, he may request the court to pass a ruling thereon within three months after the decision.
第 482 條 (易以訓誡之執行)	**第 482 條**	**Article 482**
依刑法第四十三條易以訓誡者，由檢察官執行之。	依刑法第四十三條易以訓誡者，由檢察官執行之。	If punishment is commuted to an admonition according to Article 43 of the Criminal Code, such admonition shall be executed by a procurator.
第 483 條 (聲明疑義－有罪判決之文義)	**第 483 條**	**Article 483**
當事人對於有罪裁判之文義有疑義者，得向諭知該裁判之法院聲明疑義。	當事人對於有罪裁判之文義有疑義者，得向諭知該裁判之法院聲明疑義。	Where a party has doubt as to the meanings of a "Guilty" decision, he may state his doubts to the court which rendered the decision.
第 484 條 (聲明異議－檢察官之執行指揮)	**第 484 條**	**Article 484**
受刑人或其法定代理人或配偶以檢察官執行之指揮為不當者，得	受刑人或其法定代理人或配偶以檢察官執行之指揮為不當者，得向諭	If a sentenced person, his legal agent, or his spouse considers that execution of punishment has been improperly supervised

向諭知該裁判之法院聲明異議。	知該裁判之法院聲明異議。	by the procurator, he may object clearly to the court which pronounced the decision.
第 485 條 (疑義或異議之聲明及撤回)	**第 485 條**	**Article 485**
聲明疑義或異議，應以書狀為之。	聲明疑義或異議，應以書狀為之。	A question or an objection shall be made by a written petition.
聲明疑義或異議，於裁判前得以書狀撤回之。	聲明疑義或異議，於裁判前得以書狀撤回之。	A question or objection may be withdrawn by a written petition at any time before a decision is made.
第三百五十一條之規定，於疑義或異議之聲明及撤回準用之。	第三百五十一條之規定，於疑義或異議之聲明及撤回準用之。	The provisions of Article 351 shall apply mutatis mutandis to the making or withdrawal of a question or objection.
第 486 條 (疑義、異議聲明之裁定)	**第 486 條**	**Article 486**
法院應就疑義或異議之聲明裁定之。	法院應就疑義或異議之聲明裁定之。	The court shall give a ruling upon a question or an objection.
第九編 附帶民事訴訟	**第九編 附帶民事訴訟**	**PART IX Supplementary Civil Action**
第 487 條 (附帶民事訴訟之當事人及請求範圍)	**第 487 條**	**Article 487**
因犯罪而受損害之人，於刑事訴訟程序得附帶提起民事訴訟，對於被告及依民法負賠償責任之人，請求回復其損害。	因犯罪而受損害之人，於刑事訴訟程序得附帶提起民事訴訟，對於被告及依民法負賠償責任之人，請求回復其損害。	A person who has been injured by the commission of an offence may, together with the criminal case, bring a supplementary civil action, against the accused or another person who may be liable according to civil law and claim recovery of damages.
前項請求之範圍，依民法之規定。	前項請求之範圍，依民法之規定。	The extent of a claim specified in the preceding paragraph shall be determined in accordance with the provisions of civil law.
第 488 條 (提起之期間)	**第 488 條**	**Article 488**
提起附帶民事訴訟，應於刑事訴訟起訴後第二審辯論終結前為之。但在第一審辯論終結後提起上訴前，不得提起。	提起附帶民事訴訟，應於刑事訴訟起訴後第二審辯論終結前為之。但在第一審辯論終結後提起上訴前，不得提起。	A supplementary civil action shall be filed after the initiation of a criminal prosecution but before the close of argument at the second trial; Provided, that such action shall not be filed after close of argument at the first trial and before the filing of an appeal.
第 489 條 (管轄法院)	**第 489 條**	**Article 489**
法院就刑事訴訟為第六條第二項、第八條至第十條之裁定者，視為就附帶民事訴訟有同一之裁定。	法院就刑事訴訟為六條第二項，第八條至第十條之裁定者，視為就附帶民事訴訟有同一之裁定。	If a court makes a ruling specified in paragraph II of Article 6 or one of the Articles 8 through 10 of this Code in a criminal action, a similar ruling shall be considered to have been made in a

就刑事訴訟諭知管轄錯誤及移送該案件者，應併就附帶民事訴訟為同一之諭知。	就刑事訴訟諭知管轄錯誤及移送該案件者，應併就附帶民事訴訟為同一之諭知。	supplementary civil action. If a pronouncement of "Mistake in Jurisdiction" or "Case to be Transferred" is made in the criminal action, a similar pronouncement shall be made in a supplementary civil action.
第 490 條 (適用法律之準據(一)－刑訴法)	**第 490 條**	**Article 490**
附帶民事訴訟除本編有特別規定外，準用關於刑事訴訟之規定。但經移送或發回、發交於民事庭後，應適用民事訴訟法。	附帶民事訴訟除本編有特別規定外，準用關於刑事訴訟之規定。但經移送或發回、發交於民事庭後，應適用民事訴訟法。	Unless otherwise provided by special provisions in this Part but not italics of this Code, provisions relating to criminal procedure shall apply mutatis mutandis 10 a supplementary civil action; Provided, that after a supplementary civil action is returned, delivered, or transferred to a civil court, the provisions of the Code of Civil Procedure shall apply.
第 491 條 (適用法律之準據(二)－民訴法)	**第 491 條**	**Article 491**
民事訴訟法關於左列事項之規定，於附帶民事訴訟準用之： 一、當事人能力及訴訟能力。 二、共同訴訟。 三、訴訟參加。 四、訴訟代理人及輔佐人。 五、訴訟程序之停止。 六、當事人本人之到場。 七、和解。 八、本於捨棄之判決。 九、訴及上訴或抗告之撤回。 一○、假扣押、假處分及假執行。	民事訴訟法關於左列事項之規定，於附帶民事訴訟準用之： 一、當事人能力及訴訟能力。 二、共同訴訟。 三、訴訟參加。 四、訴訟代理人及輔佐人。 五、訴訟程序之停止。 六、當事人本人之到場。 七、和解。 八、本於捨棄之判決。 九、訴及上訴或抗告之撤回。 十、假扣押、假處分及假執行。	The provision of the Code of Civil Procedure relating to the following matters shall apply mutatis mutandis to a supplementary civil action: 1. Legal and procedural capacity of a party; 2. Joint action; 3. Intervention; 4. Agent ad litem and representative; 5. Presence of a party in person; 6. Suspension of proceedings; 7. Compromise; 8. Judgment after waiver; 9. Withdrawal of prosecution, appeal, or interlocutory appeal; 10. False detention, false punishment, or false execution.
第 492 條 (提起之程式(一)－訴狀)	**第 492 條**	**Article 492**
提起附帶民事訴訟，應提出訴狀於法院為之。 前項訴狀，準用民事訴訟法之規定。	提起附帶民事訴訟，應提出訴狀於法院為之。 前項訴狀，準用民事訴訟法之規定。	A supplementary civil action shall be initiated by filing a written petition with the court. The provisions of the Code of Civil Procedure shall apply mutatis mutandis to a written petition specified in the preceding paragraph.

第 493 條 (訴狀及準備書狀之送達) 訴狀及各當事人準備訴訟之書狀，應按他造人數提出繕本，由法院送達於他造。	**第 493 條** 訴狀及各當事人準備訴訟之書狀，應按他造人數提出繕本，由法院送達於他造。	**Article 493** The written petitions of each party shall be prepared in the same number as there are opposing parties and shall be served on such opposing parties by the court.
第 494 條 (當事人及關係人之傳喚) 刑事訴訟之審判期日，得傳喚附帶民事訴訟當事人及關係人。	**第 494 條** 刑事訴訟之審判期日，得傳喚附帶民事訴訟當事人及關係人。	**Article 494** The parties concerned in a supplementary civil action may be summoned on the date of trial of the criminal action.
第 495 條 (提起之程式(二)－言詞) 原告於審判期日到庭時，得以言詞提起附帶民事訴訟。 其以言詞起訴者，應陳述訴狀所應表明之事項，記載於筆錄。 第四十一條第二項至第四項之規定，於前項筆錄準用之。 原告以言詞起訴而他造不在場，或雖在場而請求送達筆錄者，應將筆錄送達於他造。	**第 495 條** 原告於審判期日到庭時，得以言詞提起附帶民事訴訟。 其以言詞起訴者，應陳述訴狀所應表明之事項，記載於筆錄。 第四十一條第二項至第四項之規定，於前項筆錄準用之。 原告以言詞起訴而他造不在場或雖在場而請求送達筆錄者，應將筆錄送達於他造。	**Article 495** A plaintiff may initiate a supplementary civil suit by verbal petition on the day he comes into court. If a plaintiff initiates a suit 'by verbal petition, he must state the items which should be explained in his written petition; this statement will be recorded. The provisions of paragraphs II through IV of Article 41 shall apply mutatis mutandis to a record referred to in paragraph II of this Article. If the plaintiff initiates a suit by verbal petition and the opposing party is not present in the court, or though present yet demands service upon him of a copy of record, the record shall be served on such opposing party.
第 496 條 (審理之時期) 附帶民事訴訟之審理，應於審理刑事訴訟後行之。但審判長如認為適當者，亦得同時調查。	**第 496 條** 附帶民事訴訟之審理，應於審理刑事訴訟後行之。但審判長如認為適當者，亦得同時調查。	**Article 496** The trial of a supplementary civil action shall be held after a trial of the criminal action has taken place; Provided, that if the presiding judge considers it appropriate, he may make simultaneous investigations.
第 497 條 (檢察官之毋庸參與) 檢察官於附帶民事訴訟之審判，毋庸參與。	**第 497 條** 檢察官於附帶民事訴訟之審判，毋庸參與。	**Article 497** It is not necessary for the procurator to participate in a trial of a supplementary civil action
第 498 條 (得不待陳述而為判決) 當事人經合法傳喚，無	**第 498 條** 當事人經合法傳喚，無	**Article 498** If a party, after having been legally

正當之理由不到庭或到庭不為辯論者，得不待其陳述而為判決；其未受許可而退庭者亦同。	正當之理由不到庭或到庭不為辯論者，得不待其陳述而為判決；其未受許可而退庭者亦同。	summoned, fails to appear without good reason or if he appears but does not make an argument, judgment may be given without waiting for his testimony; if he retires from the court without first obtaining permission, the same rule shall apply.
第 499 條 (調查證據之方法)	**第 499 條**	**Article 499**
就刑事訴訟所調查之證據，視為就附帶民事訴訟亦經調查。	就刑事訴訟所調查之證據，視為就附帶民事訴訟亦經調查。	If the evidence is investigated during a criminal action, the evidence in a supplementary civil action may be considered as having been investigated.
前項之調查，附帶民事訴訟當事人或代理人得陳述意見。	前項之調查，附帶民事訴訟當事人或代理人得陳述意見。	During an investigation as specified in the preceding paragraph, the party to a supplementary civil action or his statutory agent may state his views.
第 500 條 (事實之認定)	**第 500 條**	**Article 500**
附帶民事訴訟之判決，應以刑事訴訟判決所認定之事實為據。但本於捨棄而為判決者，不在此限。	附帶民事訴訟之判決，應以刑事訴訟判決所認定之事實為據。但本於捨棄而為判決者，不在此限。	Judgment in a supplementary civil action shall be made according to the facts established in the judgment of a criminal emitted in cases transferred pursuant.
第 501 條 (判決期間)	**第 501 條**	**Article 501**
附帶民事訴訟，應與刑事訴訟同時判決。	附帶民事訴訟，應與刑事訴訟同時判決。	Judgment in a supplementary civil action shall be made simultaneously with the judgment in a criminal action.
第 502 條 (裁判(一)－駁回或敗訴判決)	**第 502 條**	**Article 502**
法院認為原告之訴不合法或無理由者，應以判決駁回之。	法院認為原告之訴不合法或無理由者，應以判決駁回之。	If a court considers that the suit of a plaintiff is not in accordance with law or is groundless, it shall dismiss such suit by a judgment.
認為原告之訴有理由者，應依其關於請求之聲明，為被告敗訴之判決。	認為原告之訴有理由者，應依其關於請求之聲明，為被告敗訴之判決。	If a court considers the suit of a plaintiff to be well-grounded, it shall give judgment against the defendant as requested in the petition.
第 503 條 (裁判(二)－駁回或移送民庭)	**第 503 條**	**Article 503**
刑事訴訟諭知無罪、免訴或不受理之判決者，應以判決駁回原告之訴。但經原告聲請時，應將附帶民事訴訟移送管轄法院之民事	刑事訴訟諭知無罪、免訴或不受理之判決者，應以判決駁回原告之訴。但經原告聲請時，應將附帶民事訴訟移送管轄法院之民事庭。	If criminal proceedings result in a judgment of "Not Guilty," "Exempt from Prosecution", or "Case Not Entertained," the court shall dismiss the suit of the plaintiff by a judgment; Provided, That upon application by the plaintiff, the court shall transfer the

庭。		supplementary civil action to the civil division of a court haying jurisdiction.
前項判決，非對於刑事訴訟之判決有上訴時，不得上訴。	前項判決，非對於刑事訴訟之判決有上訴時，不得上訴。	If an appeal is not filed against the judgment rendered in a criminal action, an appeal may not be filed against a judgment specified in the preceding paragraph.
第一項但書移送案件，應繳納訴訟費用。	第一項但書移送案件，應繳納訴訟費用。	If a case is transferred pursuant to the proviso of paragraph I of this Article, the plaintiff must pay the costs of the suit;
自訴案件經裁定駁回自訴者，應以裁定駁回原告之訴，並準用前三項之規定。	自訴案件經裁定駁回自訴者，應以裁定駁回原告之訴，並準用前三項之規定。	If 'the case of a private complainant is dismissed by a ruling, the case of the plaintiff must be dismissed by a ruling and the provisions of the three preceding paragraphs shall apply mutatis mutandis.
第 504 條 (裁判(三)－移送民庭)	**第 504 條**	**Article 504**
法院認附帶民事訴訟確係繁雜，非經長久時日不能終結其審判者，得以合議裁定移送該法院之民事庭；其因不足法定人數不能合議者，由院長裁定之。	法院認附帶民事訴訟確係繁雜，非經長久時日不能終結其審判者，得以合議裁定移送該法院之民事庭；其因不足法定人數不能合議者，由院長裁定之。	Where the court considers a supplementary civil action too complicated that it will take long time to conclude the trial thereof, it may transfer the case to a civil tribunal of the court by a ruling passed by a full court; Where there is no full court owing to lack of a quorum, the president of the court shall pass a ruling thereon.
前項移送案件，免納裁判費。	前項移送案件，免納裁判費。	Costs shall be remitted in cases transferred pursuant to the provisions of the preceding paragraph.
對於第一項裁定，不得抗告。	對於第一項裁定，不得抗告。	An interlocutory appeal may not be filed against a ruling made pursuant to the provisions of paragraph I.
第 505 條 (裁判(四)－移送民庭)	**第 505 條**	**Article 505**
適用簡易訴訟程序案件之附帶民事訴訟，準用第五百零一條或五百零四條之規定。	適用簡易訴訟程序案件之附帶民事訴訟，準用第五百零一條或第五百零四條之規定。	Provisions of Article 501 or Article 504 shall apply mutatis mutandis to a supplementary civil action of a case that has been tried with summary procedure.
前項移送案件，免納裁判費用。	前項移送案件，免納裁判費用。	Costs shall be remitted in cases transferred pursuant to the provisions of the preceding paragraph.
對於第一項裁定，不得抗告。	對於第一項裁定，不得抗告。	An interlocutory appeal may not be filed against a ruling made pursuant to the provisions of paragraph I.
第 506 條 (上訴第三審之限制)	**第 506 條**	**Article 506**
刑事訴訟之第二審判決不得上訴於第三審	刑事訴訟之第二審判決不得上訴於第三審法院	Where no appeal against a judgment on a criminal case rendered by a court of second

法院者，對於其附帶民事訴訟之第二審判決，得上訴於第三審法院。但應受民事訴訟法第四百六十六條之限制。	者。對於其附帶民事訴訟之第二審判決。得上訴於第三審法院。但應受民事訴訟法第四百六十三條之限制。	instance can be filed with the court of third instance, an appeal against a judgment on its supplementary civil action rendered by a court of second instance can be filed with the court of third instance; provided, that such an appeal is subject to the restrictions as specified in Article 463 of the Code of Civil Procedure
前項上訴，由民事庭審理之。	前項上訴。由民事庭審理之。	An appeal referred to in the preceding paragraph shall be tried by a civil tribunal.
第 507 條 (附帶民訴上訴三審理由之省略)	**第 507 條**	**Article 507**
刑事訴訟之第二審判決，經上訴於第三審法院，對於其附帶民事訴訟之判決所提起之上訴，已有刑事上訴書狀之理由可資引用者，得不敘述上訴之理由。	刑事訴訟之第二審判決，經上訴於第三審法院，對於其附帶民事訴訟之判決所提起之上訴，已有刑事上訴書狀之理由可資引用者，得不敘述上訴之理由。	Where an appeal against a judgment on a criminal case rendered by a court of second instance has been filed with the court of third instance and the grounds for the criminal appeal as stated in the written petition thereof can also be cited in an appeal against a judgment rendered on its supplementary civil action, grounds for the latter appeal may be omitted.
第 508 條 (第三審上訴之判決(一)－無理由駁回)	**第 508 條**	**Article 508**
第三審法院認為刑事訴訟之上訴無理由而駁回之者，應分別情形，就附帶民事訴訟之上訴，為左列之判決： 一、附帶民事訴訟之原審判決無可為上訴理由之違背法令者，應駁回其上訴。	第三審法院認為刑事訴訟之上訴無理由而駁回之者，應分別情形，就附帶民事訴訟之上訴，為左列之判決： 一、附帶民事訴訟之原審判決無可為上訴理由之違背法令者，應駁回其上訴。	If the court of third instance considers that an appeal in a criminal case is groundless and dismisses it, the court shall give judgment on the appeal in a supplementary civil action according to the circumstances as follows: 1. If the original judgment in the supplementary civil action may not be considered to have a ground for appeal as being contrary to law or order, such appeal shall be dismissed;
二、附帶民事訴訟之原審判決有可為上訴理由之違背法令者，應將其判決撤銷，就該案件自為判決。但有審理事實之必要時，應將該案件發回原審法院之民事庭，或發交與原審法院同級之他法院民事庭。	二、附帶民事訴訟之原審判決有可為上訴理由之違背法令者，應將其判決撤銷，就該案件自為判決。但有審理事實之必要時，應將該案件發回原審法院之民事庭，或發交與原審法院同級之他法院民事庭。	2. If the original judgment in the supplementary civil action is considered to have a ground for appeal as being contrary to law or order, such judgment shall be set aside, and the court shall give its own judgment in the case; Provided, That if it is necessary to determine the facts, the court shall return the case to the civil division of the original court or refer it to the civil division of another court of the same grade.
第 509 條 (第三審上訴之判決(二)－自為判決)	**第 509 條**	**Article 509**

第三審法院認為刑事訴訟之上訴有理由，將原審判決撤銷而就該案件自為判決者，應分別情形，就附帶民事訴訟之上訴為左列之判決： 一、刑事訴訟判決之變更，其影響及於附帶民事訴訟，或附帶民事訴訟之原審判決有可為上訴理由之違背法令者，應將原審判決撤銷，就該案件自為判決。但有審理事實之必要時，應將該案件發回原審法院之民事庭，或發交與原審法院同級之他法院民事庭。 二、刑事訴訟判決之變更，於附帶民事訴訟無影響，且附帶民事訴訟之原審判決無可為上訴理由之違背法令者，應將上訴駁回。	第三審法院認為刑事訴訟之上訴有理由，將原審判決撤銷而就該案件自為判決者，應分別情形，就附帶民事訴訟之上訴為左列之判決： 一、刑事訴訟判決之變更，其影響及於附帶民事訴訟，或附帶民事訴訟之原審判決有可為上訴理由之違背法令者，應將原審判決撤銷，就該案件自為判決。 但有審理事實之必要時，應將該案件發回原審法院之民事庭，或發交與原審法院同級之他法院民事庭。 二、刑事訴訟判決之變更，於附帶民事訴訟無影響，且附帶民事訴訟之原審判決無可為上訴理由之違背法令者，應將上訴駁回。	If the court of third instance considers an appeal in a criminal case to be well-grounded, sets aside the original judgment, and gives its own judgment in the case, the court shall give judgment upon the appeal in the supplementary civil action according to the circumstances as follows: 1. If the alteration of the judgment in the criminal case affects the supplementary civil action or if the original judgment in the supplementary civil action is considered to have a ground for appeal as being contrary to law or order, such judgment shall be set aside, and the court shall give its own judgment in the case; Provided, that if it is necessary to determine the facts, the court shall return the case to the civil division of the original court or refer it to the civil division of another court of the same grade; 2. If the alteration of the judgment in the criminal case does not affect the supplementary civil action, or if the original judgment in the supplementary civil action may not be considered to have a ground for appeal as being contrary to law or order, the court shall dismiss the appeal.
<u>第 510 條</u> (第三審上訴之判決(三)－發回更審、發交審判)	**第 510 條**	**Article 510**
第三審法院認為刑事訴訟之上訴有理由，撤銷原審判決，而將該案件發回或發交原審法院或他法院者，應併就附帶民事訴訟之上訴，為同一之判決。	第三審法院認為刑事訴訟之上訴有理由，撤銷原審判決，而將該案件發回或發交原審法院或他法院者，應併就附帶民事訴訟之上訴，為同一之判決。	If the court of third instance considers that the appeal in a criminal case is well-grounded, sets aside the original judgment, and returns the case to the original court or refers it to another court, the court of third instance shall give a like judgment on the appeal in the supplementary civil action.
<u>第 511 條</u> (裁判(五)－移送民庭)	**第 511 條**	**Article 511**
法院如僅應就附帶民事訴訟為審判者，應以裁定將該案件移送該法院之民事庭。但附帶民事訴訟之上訴不合法者，不在此限。	法院如僅應就附帶民事訴訟為審判者，應以裁定將該案件移送該法院之民事庭。但附帶民事訴訟之上訴不合法者，不在此限。	If a court is required to try only the case of the supplementary civil action, it shall, by a ruling, transfer the case to its civil division; Provided, that if the appeal of the supplementary civil action is not in accordance with law, this provision shall not apply.
對於前項裁定，不得抗告。	對於前項裁定，不得抗告。	An interlocutory appeal may not be filed against a ruling specified in the preceding

paragraph.

第 512 條 (附帶民訴之再審)	**第 512 條**	**Article 512**
對於附帶民事訴訟之判決聲請再審者，應依民事訴訟法向原判決法院之民事庭提起再審之訴。	對於附帶民事訴訟之判決聲請再審者，應依民事訴訟法向原判決法院之民事庭提起再審之訴。	If an application is filed for retrial of the judgment in a supplementary civil action, an application for retrial in the civil division of the court which rendered the original judgment shall be made in accordance with the Code of Civil Procedure.