

CRIMINAL PROCEDURE CODE

Pursuant to the Constitution of the Socialist Republic of Vietnam;

National Assembly issues the Criminal Procedure Code

PART ONE

GENERAL

Chapter I

SCOPE OF REGULATION, OBJECTIVES AND EFFECT OF THE CRIMINAL PROCEDURE CODE

Article 1. Scope of regulation

Criminal procedure code prescribes the procedures and formalities for lodging and processing of criminal information, filing of charges, investigation, prosecution, adjudication, and certain courses of action for the enforcement of criminal judgments. Furthermore, the Law regulates the missions, authority and liaisons of authorities and individuals given authority to institute proceedings (referred to as competent procedural authorities and persons), the rights and duties of entities engaging in proceedings, other authorities and entities, and international cooperation in criminal procedure.

Article 2. Objectives of the Criminal procedure code

Criminal procedure code is intended to expose and settle every criminal act in precise, just and timely manners, to preclude, protest and combat crime for omission of no infractions, to protect guiltless people from unjust conviction, to uphold justice, to defend human rights and citizenship rights, to conserve socialism, to secure the Government's benefits, to protect the legitimate rights and interests of organizations and individuals, to educate people to consciously conform to the laws.

Article 3. Effect of Criminal procedure code

1. Criminal procedure code governs every activity of criminal procedures in territories of the Socialist Republic of Vietnam.
2. International agreements, which the Socialist Republic of Vietnam has signed, or the principles of reciprocity shall govern the criminal procedure against aliens committing offences in territories of the Socialist Republic of Vietnam.

If diplomatic or consular immunity is conferred on an alien according to the laws of Vietnam, international treaties, which the Socialist Republic of Vietnam observes, or international practices, such international treaties or practices shall prevail. If relevant international treaties or practices do not exist, matters shall be resolved through diplomacy.

Article 4. Terminology

1. In this Law, words and phrases below are construed as follows:

a) *Authorities given authority to institute legal proceedings (referred to as competent procedural authorities)* indicate presiding authorities and those assigned to carry out certain activities of investigation.

b) *Individuals given authority to institute proceedings (referred to as authorized procedural persons)* include presiding officers and those assigned to carry out certain activities of investigation.

c) *Participants in legal proceedings* refer to persons, authorities, and organizations participating in legal proceedings according to this Law.

d) *Criminal information* includes denouncement, provision of criminal information, entities' requisitions for charges, perpetrators' confessions, and criminal information directly gathered by competent procedural authorities.

dd) *Accused persons* include those arrest, detainees, suspects, defendants.

e) *Kindred of persons engaging in or commission to institute proceedings* is composed of individuals having relationships with persons participating or authorized to conduct proceedings. Such individuals include spouse, biological and adoptive parents, parents in law, biological and adopted children, paternal and maternal grandparents, biological siblings, maternal and paternal great grandparents, biological uncles and aunts, biological nephews and nieces.

g) *Litigants* include civil plaintiffs, civil defendants and persons incurring interests and duties from a criminal lawsuit.

h) *Confession* means that a perpetrator voluntarily gives statements on his offences to authorities prior to the happening of such offences or after the exposure of the perpetrator.

i) *Surrender* refers to a perpetrator, after exposed, voluntarily turning himself in and giving statements on his offences to competent authorities.

k) *Coercive delivery* refers to competent authorities' compulsion of the attendance of persons who are held in emergency custody, apprehended or temporarily detained, or suspects and defendants at a place of investigation, prosecution or adjudication.

l) *Forced escort* refers to competent authorities' coercive taking of witness testifiers, persons denounced or facing requisitions for charges to a place of investigation, prosecution or adjudication, or crime victims refusing to undergo expert examinations.

m) *Full record of identity* refers to the document summarizing a suspect's profile, identity with photos of three postures and two thumbprints, made and retained by competent authorities.

n) *Basic record of identity* refers to the document summarizing a suspect's profile with all fingerprints, made and retained by competent authorities.

o) *Serious breach of legal proceedings* means that authorities and persons given authority to institute proceedings have not executed or have implemented improperly and inadequately the formalities and procedures, as defined by this Law, have infringed severely the legitimate rights and benefits of entities engaging in proceedings, and have influenced the identification of equitable and comprehensive truths of a lawsuit.

2. In this Law, the following abbreviations apply to phrases below:

a) Police investigation authorities in districts, communes, provincial cities and centrally-affiliated cities' metropolis are referred to as district investigation authorities.

- b) Police investigation authorities in provinces and centrally-affiliated cities are referred to as provincial-level investigation authorities.
- c) Military investigation authorities in military zones and equivalents are referred to as military investigation authorities of military zone.
- d) People's Procuracy in districts, communes, provincial cities and centrally-affiliated cities' metropolis is referred to as district People's Procuracy.
- dd) People's Procuracy in provinces and centrally-affiliated cities is referred to as provincial-level People's Procuracy.
- e) Military procuracy in military zones and equivalents are referred to as Military procuracy of military zone.
- g) People's Courts in districts, communes, provincial cities, centrally-affiliated cities' metropolis are referred to as district People's Courts.
- h) People's Courts in provinces and centrally-affiliated cities are referred to as provincial-level People's Courts.
- i) Military Courts in military zones and equivalents are referred to as military Courts of military zone.

Article 5. Responsibilities of governmental authorities and entities in precluding and combating crime

1. Governmental authorities, as per the range of their responsibilities, must adopt measures to forestall crime and cooperate with competent procedural authorities for the preventive fight against crime.

Governmental authorities must regularly inspect the performance of functions and assignments, detect and handle violations of laws in timely manner and make prompt reports to investigation authorities and Procuracy about every criminal act happening inside such authorities and sectors under their management. Moreover, state authorities must propound and adduce relevant documents to investigation authorities and Procuracy for the latters' inspection and filing of charges against perpetrators of criminal acts.

Heads of governmental authorities must be held liable for providing investigation authorities and Procuracy with false or no information on criminal acts committed inside their premises and sectors under their management.

- 2. Entities are entitled to and responsible for exposing, denouncing, reporting, and combating crime.
- 3. Competent procedural authorities are responsible for supporting governmental authorities and entities to fight against crime.
- 4. Governmental authorities and entities are responsible for fulfilling requests and supporting authorities and persons given authority to institute proceedings to accomplish their missions.
- 5. Inspectorate and governmental audit agencies are responsible for cooperating with competent procedural authorities in exposing and tackling crime. Upon detecting signs of criminal activities, governmental authorities must promptly propound relevant documents and items to investigation authorities and Procuracy for inspection and filing of criminal charges.
- 6. Every action of obstructing competent procedural authorities and persons' completion of duties is inhibited.

Article 6. Exposure and correction of justifications and factors for crime

1. Competent procedural authorities, when taking criminal proceedings, are responsible for uncovering reasons and elements leading to crime and proposing concerned entities to enforce measures of correction and preclusion.
2. Concerned entities must fulfill such requests by competent procedural authorities. In 15 days upon receiving requests, concerned parties must respond in writing to such propositions by competent procedural authorities.

PART EIGHT

INTERNATIONAL COOPERATION

Chapter XXXV

GENERAL

Article 491. Scope of international cooperation in criminal procedure

1. International cooperation in criminal procedure means that competent authorities of the Socialist Republic of Vietnam and competent foreign authorities collaborate and support each other to carry out activities of investigation, prosecution, adjudication and enforcement of criminal sentences.
2. International cooperation in criminal procedure includes judicial assistance in criminal matters, extradition, acquisition and transfer of persons serving time and other international cooperation activities as defined in this Law, the laws on judicial assistance and international agreements that the Socialist Republic of Vietnam has signed.
3. International cooperation in criminal procedure in the territories of the Socialist Republic of Vietnam shall be governed by international agreements that the Socialist Republic of Vietnam has signed or by the principle of reciprocity, in adherence to this Law, the laws on judicial assistance and other relevant laws of Vietnam.

Article 492. Principles of international cooperation in criminal procedure

1. International cooperation in criminal procedure shall be carried out in deference to national independence, sovereignty, territorial integrity, non-intervention, equality and reciprocity in conformity to the Constitution and laws of Vietnam and international agreements that the Socialist Republic of Vietnam has signed.
2. If Vietnam does not sign or accede to a relevant international agreement, international cooperation in criminal procedure shall adhere to the principle of reciprocity and the laws of Vietnam, international laws and practices.

Article 493. Central governmental authorities' engagement in international cooperation in criminal procedure

1. Ministry of Public Security shall be the central governmental authority of the Socialist Republic of Vietnam, which extradites and transfers persons serving time.
2. Supreme People's Procuracy shall be the central governmental authority of the Socialist Republic of Vietnam, which is responsible for judicial assistance in criminal matters and other international cooperation activities as per the laws.

Article 494. Validity of documents and items acquired via international cooperation in criminal procedure

Documents and items, which are collected by foreign competent authorities as per the judicial delegation by competent Vietnamese authorities, or documents and items, which foreign

competent authorities send to Vietnam for the delegation of criminal prosecution, shall be regarded as evidences. Documents and items with attributes as defined in Article 89 of this Law shall be regarded as evidences.

Article 495. Legal proceedings taken by competent Vietnamese individuals in foreign countries and by foreign competent nationals in Vietnam

Legal proceedings taken by competent Vietnamese individuals in foreign countries and by foreign competent nationals in Vietnam shall abide by international agreements that the Socialist Republic of Vietnam has signed or by the principle of reciprocity.

Article 496. Overseas presence of witness testifiers, expert witnesses and persons serving time in Vietnam and vice versa

1. Competent Vietnamese authorities can propose foreign competent authorities to permit witness testifiers, expert witnesses and persons serving time abroad to be present in Vietnam for the settlement of a criminal case.
2. Competent Vietnamese authorities may permit witness testifiers, expert witnesses and persons serving time in Vietnam to be present in a foreign country, according to propositions by that country's competent authorities, for the settlement of a criminal case.

Chapter XXXVI

INTERNATIONAL COOPERATION ACTIVITIES

Article 497. Acquisition and transfer of documents and items in connection with a legal case

The acquisition and transfer of items and documents related to a legal case shall conform to international agreements that the Socialist Republic of Vietnam has signed, regulations of this Law, laws on judicial assistance and other relevant laws of Vietnam.

Article 498. Rejection of extradition of Vietnamese citizens

Competent Vietnamese authorities shall be held responsible for considering requests by foreign competent authorities to initiate criminal prosecution or enforce a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition is rejected.

Article 499. Sequence and procedure for the consideration and settlement of requisitions for criminal prosecution against Vietnamese citizens whose extradition is rejected

1. In 10 days upon the rejection of foreign competent authorities' request for extradition of a Vietnamese citizen, the Court that decided to reject extradition shall transfer documents from abroad to the Supreme People's Procuracy for the latter's consideration of criminal prosecution.
2. Supreme People's Procuracy shall consider and settle foreign entities' requisitions for criminal prosecution against Vietnamese citizens, whose extradition is rejected, according to the laws/
3. Charging, investigation, prosecution and adjudication of persons against whom criminal prosecution is requested shall be governed by this Law.
4. Competent Vietnamese authorities can request foreign competent authorities to provide and supplement evidences, documents and items to assure the justification and legitimacy of activities of investigation, prosecution and adjudication.

Article 500. Requirements for the enforcement of a foreign Court's criminal sentences and rulings against a Vietnamese citizen whose extradition is requested

A foreign Court's criminal sentences and rulings against a Vietnamese citizen whose extradition is rejected can be enforced in Vietnam upon the satisfaction of these requirements:

1. A foreign competent authority issues a written request for the enforcement of a foreign Court's criminal sentences and rulings against the Vietnamese citizen whose extradition is rejected.
2. Criminal acts committed by Vietnamese citizens sentenced overseas constitute crimes according to the Criminal Code of the Socialist Republic of Vietnam;
3. The foreign Court's criminal sentences and rulings against the Vietnamese citizen, who faces no other legal proceedings, have come into force.

Article 501. Sequence and procedure for the consideration of requisitions for the enforcement of a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition is rejected

1. In 30 days upon the receipt of competent foreign authorities' requisitions for the enforcement of a foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition has been rejected, the provincial People's Court that rejected extradition shall consider such requisitions from abroad.
2. A competent Court shall summon a meeting via a Panel of three Judges to consider the requisitions for the enforcement of the foreign Court's criminal sentences and rulings against Vietnamese citizens whose extradition has been rejected. The procurator of the equivalent Procuracy, the person against whom the enforcement of the foreign Court's criminal sentences and rulings are requested, his lawyer or representative (if any) must attend the meeting.
3. Upon the commencement of the meeting, a member of the Panel shall express matters related to the requisitions for the enforcement of the foreign Court's criminal sentences and rulings against Vietnamese citizens and present legal grounds for the enforcement of such in Vietnam.

The procurator states the Procuracy's opinions on the enforcement of the foreign Court's criminal rulings and sentences against Vietnamese citizens in Vietnam.

The person against whom the enforcement of foreign criminal sentences and rulings are requested, his lawyer or representative shall state their opinions (if any).

The panel shall discuss and decide to approve or reject the enforcement of foreign criminal sentences and rulings under majority rule.

4. The approval of the enforcement of the foreign Court's criminal sentences and rulings against a Vietnamese citizen in Vietnam must specify the length of time of that citizen's prison sentence in Vietnam on the grounds that:

- a) If the length of time of the foreign penalty corresponds with the laws of Vietnam, the time served in Vietnam shall be equal to that length of time;
- b) If the nature or length of time of the foreign Court's penalty does not correspond with the laws of Vietnam, such penalty shall be converted according to the laws of Vietnam but shall not exceed the length of the foreign sentence passed.

5. In no later than 10 days upon the issuance of the decision to approve or reject the enforcement of the foreign Court's criminal sentences and rulings, the provincial People's Court shall send such decision to the person bound by such foreign judgments, the equivalent People's Procuracy and Ministry of Public Security for execution of the decision.

The person bound to serve foreign criminal sentences and rulings or the equivalent People's Procuracy shall be entitled to lodge an appeal or protest, respectively, in 15 days upon the provincial People's Court's decision. However, the higher People's Procuracy shall be entitled to lodge its protest in 30 days .

The provincial People's Court must send the documents and appeal or protest to the higher People's Court in 07 days upon the expiration of the time limit for appeal or protest.

6. In 20 days upon the receipt of documents for the contemplation of requisitions for the enforcement of foreign criminal sentences and rulings under appeal or protest, the higher People's Court shall hold a meeting to contemplate the provincial People's Court's decisions under appeal or protest.

Procedures for the contemplation of a provincial Court's decisions under appeal or protest shall be governed by this Article.

7. A decision to implement a foreign Court's criminal sentences and rulings against a Vietnamese citizen shall comprise:

- a) The provincial People's Court's decisions under appeal or protest;
- b) The decisions by the higher People's Court.

8. The sequence and procedure for the enforcement of a foreign Court's criminal sentences and rulings against a Vietnamese citizen in Vietnam shall be governed by this Law and the Law on criminal sentence enforcement.

9. Upon the announcement of a reprieve, general amnesty, commutation or exemption of foreign sentences being served in Vietnam by a Vietnamese citizen whose extradition was rejected by Vietnamese authorities despite his commission of crimes on foreign soil, the Ministry of Public Security shall promptly inform the competent Court and Procuracy to consider details and make decisions.

Article 502. Preventive measures, grounds and authority to implement preventive measures

1. Preventive measures that enable the consideration of requisitions for extradition or execution of extradition shall include arrest, temporary detainment, residential confinement, surety or exit restriction.

2. Preventive measures shall only apply to persons whose extradition is requested or executed upon the satisfaction of these requirements:

- a) The court has decided to consider the request for extradition or its decision to execute extradition has taken effect;
- b) The person whose extradition is requested is suspected of absconding or obstructing the consideration of the request for extradition or the execution of extradition.

3. The president and vice presidents of a provincial People's Court or higher People's Court shall make decisions on implementing preventive measures as defined in Section 1 of this Article. The presiding judge of the meeting for consideration of requests for extradition shall be entitled to make decisions on ordering residential confinement or surety to assure the attendance of the persons, whose extradition is requested, in the meeting.

Article 503. Detention of persons whose extradition is requested

1. The capture of persons, whose extradition is requested, for detention or execution of extradition shall conform to Article 133 of this Law.
2. The duration of detention for consideration of requests for extradition shall not exceed the length of time of the arrest warrant by competent authorities of the nation requesting extradition. Moreover, the duration of detention shall not exceed the full or remaining length of time of the criminal sentences and rulings by the Court of the countries requesting extradition.

In essential circumstances, the provincial People's Court or higher People's Court can request in writing, via the Ministry of Public Security, the competent authorities of the nation requesting extradition to issue orders or decisions to hold persons whose extradition is requested in detention or extended detention to enable the consideration of requests for extradition.

Article 504. Residential confinement, exit restriction

1. Residential confinement is a preventive measure applicable to persons, whose extradition is requested, with definite place of residence to guarantee their presence as per a Court's subpoenas.

The execution of residential confinement shall be governed by Article 123 of this Law.

The time limit for residential confinement shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

2. Exit restriction is a preventive measure applicable to persons whose extradition is requested to guarantee their presence as per a Court's subpoenas.

The execution of exit restriction shall be governed by the Article 124 of this Law.

The time limit for exit restriction shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

Article 505. Surety

1. Surety is a preventive measure applicable to persons whose extradition is requested and subject to conditions of their assets in order to guarantee their presence as per a Court's subpoenas.
2. The execution of surety shall be governed by Article 122 of this Law.
3. The time limit for surety shall not exceed the time limit for the consideration of the request for extradition and time limit for appeals or protests against a decision to approve or reject extradition according to the laws on judicial assistance.

Article 506. Termination or alteration of preventive measures

1. When a competent Court decides to reject extradition or the nation requesting extradition does not take in an extradited person in 15 days upon the execution of extradition, all preventive measures implemented shall be terminated.
2. Individuals authorized to implement preventive measures as defined in Article 502 of this Law must promptly terminate or alter preventive measures, if deemed unlawful or unnecessary, at their discretion.

Article 507. Handling of assets gained through crimes

1. Competent Vietnamese authorities shall cooperate with foreign competent authorities to seek, impound, distrain, freeze, seize and appropriate assets gained through crimes for activities of investigation, prosecution, adjudication and criminal sentence enforcement.
2. The pursuit, impoundment, distraintment, freezing and seizure of assets gained through crimes in Vietnam shall abide by this Law and other relevant laws of Vietnam.
3. Assets gained through crimes in Vietnam shall be handled according to international agreements that the Socialist Republic of Vietnam has signed or on a case-by-case basis between relevant competent Vietnamese authorities and foreign competent authorities.

Article 508. Cooperation in investigation and special investigation methods and proceedings

1. Competent Vietnamese authorities can cooperate with foreign competent authorities to jointly carry out investigation or implement special investigation methods and proceedings. The cooperation in investigation or special investigation methods and proceedings shall adhere to international agreements that the Socialist Republic of Vietnam has signed or on a case-by-case basis between relevant competent Vietnamese authorities and foreign competent authorities.
2. Investigation cooperation activities in the territories of the Socialist Republic of Vietnam shall be governed by this Law and other relevant laws of Vietnam.