Federal Law No. (35) of 1992 Concerning The Criminal Procedural Law

Preamble

***** *Amended by:*

Federal Law No. (29) of 2005 dated 30/11/2005
Federal Law No. (35) of 2006 dated 09/10/2006

We Zayed Bin Sultan Al Nahyan, President of the United Arab Emirates State,

Pursuant to the perusal of:

The provisional* Constitution;

***** *The word " Provisional " has been deleted from the Constitution of the United Arab Emirates, wherever mentioned, by virtue of Article (1) of the Constitutional Amendment No. (1) of 1996 dated 02/12/1996; this Constitution has become the permanent Constitution of the State.*

Federal Law No. (1) of 1972 On the Jurisdiction of Ministries, the Powers of the Ministers and its amending laws;

Federal Law No. (10) of 1973 On the Federal Supreme Court and its amending laws;

Federal Law No. (11) of 1973 Regulating the Judicial Relations between the Emirates Members of the Federation;

Federal Law No. (6) of 1978 On the Establishment of Federal Courts and Transferring to It the Jurisdictions of Local Judicial Organizations in Some Emirates, and its amending laws;

Federal Law No. (17) of 1978 Regulating the Cases and Procedures of Appeal before the Federal Supreme Court, and its amending laws;

Federal Law No. (3) of 1983 On the Federal Judicial Authority and its amending laws;

Federal Law No. (3) of 1987 Promulgating the Penal Code;

Federal Law No. (11) of 1992 Promulgating the Law on Civil Procedures; and

Acting upon the proposal of the Minister of Justice, the approval of the Cabinet and the ratification of the Federal Supreme Council,

Have promulgated the following Law:

Article (1)
The accompanying Law on Criminal Procedures shall come into effect and abrogate all laws, decrees, orders, measures and instructions in force as well as all provisions in contradiction with the provisions of this Law.

Article (2)
The ministers and the competent authorities in the Emirates, each within its jurisdiction, shall implement this Law which shall be published in the Official Gazette and shall come into force three months as of the date of its publication.

Promulgated by Us

at Presidential Palace in Abu Dhabi

On 15 June 1992,

Corresponding to 14 Dhu al - Hijjah 1412 H.

Zayed Bin Sultan Al Nahyan

President of the United Arab Emirates

CRIMINAL PROCEDURAL LAW OF THE UAE

INTRODUCTORY TITLE. GENERAL PROVISIONS

Article (1)
1. The provisions of this Law shall apply to the procedures concerning offences whose punishments are not specified (Ta'zirieh) as well as procedures relating to Dogma offences

(Hodoud) and punitive offences (Kassas) and blood money (Diyyah), if they do not violate the Sharia rules.

2. The provisions of this law shall also apply to pending lawsuits and uncompleted procedures prior to the effective date of this law, with the exception of:

a) Provisions amending jurisdiction, whenever they are put into effect subsequent to the close of pleadings in the case.

b) Provisions amending delays, whenever the delay has started to run prior to the effective date of these provisions.

c) Provisions regulating the means of appeals as concerns the judgments rendered prior to their effective date, whenever these laws were abrogated or were initiating one of these appeal means.

3. Any procedure validly taken, according to a law in force at that time, shall remain valid unless otherwise provided.

4. Newly introduced delays for the forfeiture of the criminal action or other procedural delays shall not take effect except as of the effective date of the law that has initiated such delays.

5. Criminal procedures provisions are applicable before the civil courts unless they are governed by a specific provision in this Law.

Article (2)

No criminal sanction may be adjudicated against any person unless he is proved guilty according to this Law.

No person may, as well, be arrested, searched, detained or imprisoned except in the cases and under the conditions provided for in this Law. Detention and imprisonment may not occur except in the places specially reserved for each and for the period specified in the order issued by the competent authority.

It is forbidden to cause bodily or moral harm to the accused or subject any person to torture or degrading treatment.

Article (3)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Members of the public authority may not ingress to any dwelling-place except in cases specified by law or in case of asking for assistance from within or occurrence of a highly rated risk threatening the body or the property.

Article (4)
Every person, accused of a felony punished by a death sentence or life imprisonment, must have a lawyer to defend him during the trial and, in case he has none, the court shall appoint an attorney for him taking in charge his fees for his services as specified by law.

The accused in a felony sanctioned by time imprisonment may ask the court to delegate an attorney for his defence in case his financial inability to appoint a lawyer is verified by it.

Should the delegated lawyer have excuses or impediments he wishes to rise, he must, without delay, submit these to the president of the criminal assize court and, in case the excuses are accepted, the president of the court shall delegate another lawyer.

Article (5)
The public prosecution is part of the judiciary; it investigates crimes and directs indictments in accordance with the provisions of this Law.

Article (6)
The public prosecution supervises punitive establishments, places of provisional detention, arrest and incarceration of debtors.

BOOK ONE. CRIMINAL ACTION BEFORE THE COURTS

TITLE ONE. CRIMINAL ACTION

Chapter One. Cases of Lodging the Criminal Case

Article (7)
Excluding the cases specified by law, the public prosecution has exclusive jurisdiction to lodge and pursue criminal cases.

Article (8)
Relinquishment, discontinuance of a criminal action or impeding it may not be done except in cases specified by law.

Article (9)
The Public Prosecutor, in person or through a member of the public prosecution, shall initiate and proceed with the lodging of the criminal action in the manner specified by law.

Article (10)
The criminal action may not be lodged, in the following cases, except upon a written or verbal complaint of the victim or his legal representative:

1) Theft, swindling, breach of trust, as well as concealment of objects obtained therefrom, in case the victim is a spouse of the perpetrator or one of his ascendants or descendants and these objects are not seized judicially or administratively or encumbered by a lien in favour of another person.

2) Abstention from delivering a minor to the one who has the right to ask it or take him away from the authority of his custodian or surety.

3) Abstention from paying the adjudicated alimony, or cost of fostering, suckling or housing.

4) Insult and slander.

5) Other crimes specified by law.

Unless otherwise provided by law, the complaint shall not be accepted after the lapse of three months as of the victim's knowledge of the crime and its perpetrator.

Article (11)
The complaint shall be submitted to one of the judiciary police and, in case of a red-handed crime, it may be submitted to the public authority officer in presence.

Article (12)

Should there be a multiplicity of the agreed in the crimes provided for in Article (10), filing a complaint by any one of them shall be sufficient.

Should there be a multiplicity of the accused and in case the complaint is filled against one of them shall be deemed as well filled against the others.

Article (13)
In case the victim in one of the crimes referred to in Article (10) did not complete his fifteen years of age or suffers a brain disability, the complaint shall be submitted by his tutor.

Should the crime be perpetrated on a property, the complaint may be submitted by the guardian or the curator.

In both these instances, all the above provisions concerning the complaint shall apply.

Article (14)
If there is a conflict of interest between the victim and whoever represents him, or if the former is not represented, the public prosecution shall act for him.

Article (15)
The right to submit a complaint, in the instances stated in Article (10), shall be forfeited by the death of the victim.

Should death occur subsequent to the filing of the complaint, it shall not affect the action process.

Article (16)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In the crimes referred to in Article (10) of this Law, the party submitting the complaint may relinquish his complaint at any time prior to reaching a final decision on the complaint.

The criminal action shall be foreclosed by relinquishment.

Where there are several victims, relinquishment shall not be effective unless done by all those who have submitted the complaint.

In case there are several accused, the relinquishment of the complaint in respect of one of them shall be effective as concerns all others.

If the victim trespasses subsequent to the filing of the complaint, the right to relinquish it shall pass to all his heirs.

Article (17)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Should it be noticed by the criminal court that there are other culprits that have not been prosecuted in the criminal action or that there exist other facts which have not been imputed to the parties thereto, or if a felony or misdemeanour related to the accusation has been perpetrated, it has to remit the lawsuit's paper to the public prosecution for investigation and disposal thereof.

Article (18)

In case of perpetration of an offense against the court, one of its judges or one of its staff or if the offence results in a breach of its orders or of the respect due to it or exercise an influence on one of its members or of the witnesses, in the course of examining a case submitted to it, the court has to refer the accused to the public prosecution for investigation.

Article (19)

1. With due observance of the Law regulating the lawyer's profession, should a misdemeanour or contravention be perpetrated during the hearings, the court has to immediately sue the accused and give its decision thereon after hearing the public prosecution and its judgment shall be executory even if appealed. Should the offence be a felony or a misdemeanour of perjury, the court shall order the arrest of the culprit and refer him to the public prosecution.

2. In this case, the filing of the action is not dependent on filing a complaint, if the law requires for such an offence filing such complaint as a condition precedent.

3. In all other circumstances, the court shall order, where necessary, the arrest of the culprit.

Chapter Two. Termination of the Criminal Action

Article (20)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The criminal action shall terminate by the death of the accused, by rendering a decisive judgment, by relinquishing from the part of the party entitled to this, by amnesty or the abrogation of the law penalizing such act.

In other than offenses against public order, punitive offenses, blood money offenses, felonies punished by death sentence or life imprisonment, the criminal action is extinguished by a twenty year-limitation, in other felonies; five years in misdemeanors; and one year in contraventions, as from the date of perpetration of the offense in all cases.

The period of limitation of the criminal action shall not stop for any reason whatsoever.

Article (20/1)

* *Added by Federal Law No. (35) of 2006 dated 9/10/2006*

In misdemeanours provided for in Articles (339), (394), (395), (403), (404), (405) of the Penal Code and in the other instances provided for by law, the victim or his special attorney may ask the public prosecution or the court, as the case may be, to record his conciliation with the accused, on which shall result the extinguishment of the criminal action.

Article (21)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The period of limitation of the criminal action shall be interrupted by the investigation or indictment procedures or trial, as well as by prosecution measures if taken in the presence of the accused or if officially notified. In case there are several causes interrupting the period of limitation, the period shall run as of the date of the last measure taken.

In case the accused persons are several, the interruption of the period as regards one of them shall result in its interruption for the others.

TITLE TWO. THE CIVIL ACTION RELATED TO THE CRIMINAL ACTION

Article (22)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Whoever sustained a direct personal prejudice from the crime is entitled to claim from the accused his civil rights during the gathering of evidence, proceeding with the investigation or before the court examining the criminal case, at any stage of trial up to the close of the oral pleadings but he is not entitled to do so before the appellate court.

In case the prejudice is sustained by a juristic person, the court must ipso jure adjudicate damages if they are specified by law or in a regulation issued under a law.

Article (23)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

If the victim of a crime, having sustained a prejudice, is under legal age and is not legally represented, the court examining the criminal case must appoint a representative to claim his civil rights.

Likewise, if the accused, defendant in the civil case, does not have the capacity to appear before the court and is not legally represented, the court must appoint to him a representative.

Article (24)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The civil action may be brought before the criminal court against the insurer in order to repair the prejudice resulting from the crime.

Each of the person assuming civil responsibility and the insurer may, on his own judgment, intervene in the action at any stage of the trial.

Article (25)

The accused may ask the court to indemnify him for the prejudice sustained because of directing to him a vexatious accusation by the accuser or the victim. The criminal court shall, upon request of the accused, condemn whoever is found guilty of perjury or false accusation to indemnify him.

Article (26)

Should the criminal court deem that deciding on the damages claimed by the plaintiff asking his civil rights or the accused requires a special investigation which may delay the settlement of the criminal case, it shall refer the civil action to the competent civil court.

Article (27)
The plaintiff in the civil claim may relinquish his claim at any stage of the action and should he does so as concerns the action brought before the criminal court, he may file his case with the civil court.

Article (28)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Where the civil case is brought before the civil court, it must be stopped until a decisive judgment is rendered in the criminal action filed prior to or during the examination of the civil case. However, if the criminal action is stayed due to the insanity of the accused, the civil action shall be decided in the presence of his curator.

Stopping the civil action shall not prevent taking the summary precautionary measures. Procedures prescribed in this Law shall be followed when deciding the civil action brought before the criminal court.

Stopping of the civil action brought before the civil court shall cease, when the criminal court renders an incriminating judgment in the absence of the accused, as from the day on which expired the delay allowed for the appeal to be lodged by the public prosecution or from the day of deciding the appeal.

Article (29)
If the criminal action is filed then extinguished for any reason whatsoever, the court shall refer the civil action brought before it to the civil court unless the action is ready for judgment on its merits.

BOOK TWO. INQUIRY AND INVESTIGATION OF CRIMES AND COLLECTING EVIDENCE

TITLE ONE. COLLECTING EVIDENCE BY THE JUDICIAL POLICE

Chapter One. Judicial Police and Their Duties

Article (30)
The judicial police shall inquire about crimes, search for their perpetrators and collect the necessary information and evidence for investigation and indictment.

Article (31)
Members of the judicial police are answerable to the public prosecutor and are under his supervision as concerns the performance of their duties.

Article (32)
The public prosecutor shall ask the competent body of which depends on the member of the judicial police to examine his case should he commit a breach of duty or fails to perform his duties in a satisfactory manner. He may as well ask the said authority to institute a disciplinary action against him without prejudice, in any case, to the right of filing the criminal action.

Article (33)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The following shall have the status of judicial police officers:

1) Members of the public prosecution.

2) Officers and non commissioned officers and lower-ranked members of the gendarmerie.

3) Officers and non commissioned officers and lower-ranked members of frontiers and coast guards.

4) Passport officers.

5) Seaport and airport officers from the police and armed forces.

6) Officers and non commissioned officers of the Civil Defense.

7) Municipal inspectors.

8) Inspectors of the Labor and Social Affairs ministries.

9) Ministry of Health inspectors.

10) Civil servants authorized to act as judicial police officers under the laws, decrees and regulations in force.

Article (34)
In agreement with the competent minister or authority, the Minister of Justice may issue a decision granting some civil servants the capacity of judicial police officers as concerns the offences perpetrated within their jurisdiction and related to the performance of their duties.

Article (35)
The judicial police officers must accept incoming notifications and complaints about the offences. They and their subordinates, must obtain clarifications and perform the necessary inspection in order to facilitate the examination of the facts reported to them or those that came to their knowledge by any means. They have to take all precautionary measures necessary for the preservation of the crime's pieces of evidence.

Article (36)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

All measures taken by the judicial police officers must be recorded in reports signed by them showing the date and place of the measures taken as well as the signatures of the accused, the witnesses and experts questioned.

In case the translator's assistance is sought, he must sign the above-mentioned reports which shall be forwarded to the public prosecution together with the papers and objects seized.

Article (37)
Whoever has knowledge of the perpetration of a crime, that the public prosecution could prosecute and file an action without being asked to do so through a complaint or request, must report this to the public prosecution or one of the judicial police officers.

Article (38)
Whoever among public servants or those in charge of a public service who has knowledge during, or because of, the performance of his duties, of the perpetration of one of the crimes that the public prosecution could prosecute and file an action without being asked to do so through a complaint or request, must report this to the public prosecution or one of the judicial police officers.

Article (39)
The complaint in which the plaintiff their not make any civil right claim shall be deemed a notification, and the grievant shall not be considered a claimant of the civil right unless he declares such in his complaint or in a paper presented by thereby at a later date or in case he requests compensation in any one of them.

Article (40)
During the collection of evidence, the judicial police officers have to hear the statements of those who may have information on criminal acts and their perpetrators and question the accused about it. They may also seek the assistance of physicians and other experts but they may not ask the witnesses and experts to take the oath unless there is fear that there is an impossibility of hearing their testimony later on.

Article (41)
The judicial police officers, during the performance of their duties, may directly seek the assistance of the public force.

Chapter Two. Red-Handed Crimes

Article (42)
A crime shall be considered red-handed upon its perpetration or a short while thereafter.

The crime shall also be considered perpetrated red-handed if the victim chases the perpetrator; if the latter is chased by the public with shouts upon perpetration of the crime; if the perpetrator is found, after a short while of the perpetration of the crime carrying tools, weapons, wears or objects indicating that he is the perpetrator or the accomplice or if there exists at that time traces or signs so indicating.

Article (43)
In case of a red-handed crime, the judicial police officer has to go forthwith to the place where the fact occurred, examine and preserve the material facts of the crime, write down the existing state of places and persons and anything else that may lead to revealing the truth and he has to take the statements of those present or those who might give some explanations as concerns the fact and the perpetrator. He has, in addition, to inform immediately the public prosecution of his move.

The public prosecution has, upon its notification of a red-handed crime, to proceed immediately to the place of occurrence of the fact.

Article (44)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In a red-handed crime, the judicial police officer has, as soon he moves to the place where it occurs, to prevent the persons in presence to leave or go away of the premises until drafting a report and he is entitled to ask immediately whoever may have any clarification of the fact to appear before him and give his statement.

Should any of the persons present violate the order issued to him by the judicial police officer, or if any of the summoned persons refuse to appear before him, the said officer shall mention this in his report and submit the matter to the public prosecution to take any action deemed necessary.

The competent court shall condemn the violator or the abstaining person, after hearing his defence, to a fine not exceeding five hundred Dirhams.

Chapter Three. Arrest of the Convict

Article (45)

The judicial police officer may order the arrest of the accused, present and against whom there are enough evidence that he committed a crime, in any of the following instances:

1) In matter of felonies;

2) In suspected misdemeanours sanctioned by a penalty other than the fine;

3) In misdemeanours sanctioned by a penalty other than the fine, if the accused is put under surveillance or there is an apprehension of his escape;

4) In misdemeanours of theft, deceit, breach of trust, severe transgression, resistance by force to public authority officers, violation of public morals, misdemeanours concerning arms, ammunition, intoxicants and dangerous drugs.

Article (46)

In case the accused is not present, the judicial police officer may order his apprehension and arraignment and this should be mentioned in the report.

The apprehension and arraignment order shall be executed by one of the public authority officers.

Article (47)

The judicial police officer must hear the deposition of the accused immediately upon his arrest, apprehension and arraignment and if he does not submit proof of his innocence, he shall be sent, within forty-eight hours to the competent public prosecution.

The public prosecution shall interrogate the accused within twenty-four hours then it shall order either his arrest or his release.

Article (48)

Whoever has seen the offender red-handed during the perpetration of a felony or a misdemeanour he must deliver him to the nearest public authority officer without the need to an order of apprehension.

Article (49)

In felonies, as well as in misdemeanours sanctioned by a penalty other than fine, the public authority officers have to arraign the accused and deliver him to the nearest judicial authority officer.

Article (50)

If the red-handed crime is one in which the criminal action should be preceded by a complaint, the arrest of the accused may not take place unless the complaint is authorized by the one who has the right to submit it.

The complaint, in this case, may be submitted by any of the present members of the public authority.

Chapter Four. Search of Persons and Dwellings

Article (51)
The judicial police officer has to inspect the accused in the instances where the law allows his arrest. Inspection means the search of the body, clothes or luggage for any trace or things related to the crime or required for the investigation.

Article (52)
In case the accused is a female person, the inspection must be done by a female delegated by the judicial police officer after she takes the oath that she will discharge her duties with loyalty and honesty. Witnesses attending the inspection must also be females.

Article (53)
The judicial police officer may not inspect the dwelling of the accused without a written authorization from the public prosecution unless the crime has been committed red-handed and there are strong indications that the accused is hiding in his house objects or papers which may lead to the truth. Inspection, as well as the seizure of the objects and papers, shall take place in the manner specified by law. The search for these objects and papers shall be done in all parts of the house, its appurtenances and contents.

Article (54)
The judicial police officer, even in cases other than red-handed crimes, may inspect dwellings of persons put under surveillance, either according to a law provision or a court decision, should there be strong indications that they may be suspected of perpetrating a felony or a misdemeanour.

Article (55)
The dwelling of the accused may not be inspected except for the search of the things related to the crime, for which evidence is collected, or constitute the object of investigation. Nevertheless, if during the inspection, some objects are incidentally discovered which possession constitutes per se a crime or which may lead to revealing the truth in another crime, the judicial police officer shall proceed with their seizure.

Article (56)
Should there be in the house women and the purpose of entering it is not their arrest or their search, the judicial police officer must take into consideration the usages followed in treating with them and allow them to cover their faces or leave the house and grant them the necessary

facilities to this end to the extent that these are not detrimental to the objective or result of the search.

Article (57)
Where during the search of the dwelling of the accused, there are strong presumptions against him or against a person present in it that he is concealing with him something which may reveal the truth, the judicial police officer may search him.

Article (58)
Should there be in the dwelling of the accused documents sealed or closed by any other means, the judicial police officer may not unseal or open these but must mention them in the inspection report and submit them to the public prosecution.

Article (59)
The search shall, whenever possible, be done in the presence of the accused or his delegate, otherwise in the presence of two witnesses who, if possible, must be of legal age among his relatives, or those residing with him in the house or among his neighbours. This should be mentioned in the report.

Article (60)
The judicial police officers shall affix the seals on places and objects, in which there are traces helping to reveal the truth, and put them under custody and report forthwith the matter to the public prosecution.

Any interested person may file a grievance against this procedure with the president of the first instance court or the judge, as the case may be, through a petition submitted to the public prosecution which in turn shall immediately refer it, together with its opinion, to the president of the court or the judge.

Article (61)
The judicial police officers have to sequestrate the objects which may have been used in the perpetration of the crime, resulted therefrom or if the crime has been committed thereon; in addition to whatever may lead to the truth in the matter.

These objects shall be described and submitted to the accused in order to give his remarks thereon after which a report shall be made that will be signed by the accused or mention shall be made therein that he refused to sign it.

The sequestrated objects and papers shall be put in a closed and sealed package on which shall be written the date of the sequestration report and mention shall be made as to the subject matter for which the objects were sequestrated.

Article (62)
The break of the seals affixed on the places and objects shall be done in accordance with Articles (60) and (61) in the presence of the accused or his attorney and the person with whom these objects were seized, or after convening them to attend.

Article (63)
Whoever came to his knowledge, because of the search, information on the sequestrated objects under search and disclosed this information to a non-qualified third person, or if he drew benefit from it in whatever manner, shall be sanctioned to the same penalty imposed for the crime of disclosing secret information.

Article (64)
In case the person with whom the papers were seized has an urgent interest in it, he shall be given a copy thereof countersigned by the public prosecution unless this would be detrimental to the investigation.

TITLE TWO. PUBLIC PROSECUTION INVESTIGATION

Chapter One. Proceeding with the Investigation

Section I. General Provisions

Article (65)
The public prosecution shall by itself proceed with the investigation in felonies and in misdemeanours, where deemed necessary.

Article (66)
In all investigation procedures taken by a member of the public prosecution, he must be accompanied by one of the public prosecution's clerk or, if necessary, he may assign this duty to another person after having him take the oath.

The member of the public prosecution and the clerk shall sign every page of the reports which shall be kept and the other papers with the clerks' office.

The member of the public prosecution shall, before the presence of the clerk, record all required investigation procedures taken.

Article (67)
The investigation procedures in themselves and the ensuing results shall be considered secret information which the members of the public prosecution and their assistants, clerks, experts and others who are related to the investigation or attending it because of their office or profession, must not disclose it. Whoever breaches this duty shall be punished by the same penalty prescribed for the crime of disclosing secret information.

Article (68)
The member of the public prosecution may assign to one of the judicial police officers one or more task of the investigation, except the interrogation of the accused. He may also, if required to take any of the measures outside his jurisdiction, to delegate for its performance a member of the public prosecution or a judicial police officer within this area of performance and, in all cases, the delegated person shall, for the investigation, all powers that the principal may have in order to carry out, in his jurisdiction, the investigation.

Article (69)
Under all circumstances, the member of the public prosecution who delegates to another person to perform some investigations has to specify the matters to investigate and the procedures required to be taken. The delegate may carry out any other investigation including the interrogation of the accused in the instances where it would be too late to take such action whenever it is necessary for reaching the truth.

Article (70)
Investigation shall be carried out in Arabic.

In case the accused, one of the parties, the witness or others whose statements are deemed by the public prosecution necessary to be heard, ignore the Arabic language, the member of public prosecution may seek the assistance of a translator after having him taking oath that he will perform his duties in all loyalty and honesty.

Section II. Examination, Search and Sequestration of the Objects Related to Crime

Article (71)

The member of the public prosecution shall go to any place in order to determine the status of persons, places and objects related to crimes and all what requires this procedure.

Should the case require to take action in an area situated outside his jurisdiction, he shall delegate to a member of the competent prosecution in order to accomplish such action.

Article (72)

The member of the public prosecution shall search the dwelling of the accused upon a charge imputed to him of perpetrating a crime or by acting as an accomplice in it. He may, in this respect search any place and seize any papers, arms and all what may likely be used in the perpetration of the crime or resulting therefrom, as well as anything that may help in revealing the truth.

Article (73)

Searching the house of the accused shall be made in his presence or in the presence of his representative, wherever possible. Should a search be made in other than the house of the accused the owner thereof shall be called to attend, by himself or through his representative whenever possible.

Article (74)

In searching for a female person, the provisions of Article (52) of this Law shall be observed.

Article (75)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The member of the public prosecution shall search the accused and may not search any other person or any other house unless there are strong presumptions that he is in possession of objects related to the crime. He may, with the approval of the Chief Prosecutor, seize at the post offices all correspondence, letters, papers, printed materials, parcels and at the telegrams' offices, all cables. He may in addition control and record wire and wireless conversations, whenever the investigation requirements so necessitate.

Article (76)
The member of the public prosecution may exclusively read the correspondence, letters and other seized papers and, as the examination reveals, he is entitled to order the joining of these papers to the action file or return same to its original possessor or to their addressee.

Article (77)
The member of the public prosecution may not seize, under the hands of the Attorney for the accused, the papers and documents which were delivered to him by the accused in order to discharge the task entrusted to him, or the correspondence exchanged between them in the case.

Article (78)
The member of the public prosecution shall order the person in possession of something which he deems that it should be seized or perused, to submit it. The provisions prescribed for the refusal to testify shall apply in case of refraining from executing this order.

Article (79)
Correspondence, letters, cables or similar papers seized or addressed to the accused shall be notified to him or he shall be given, within the shortest period possible, a copy thereof, unless this is prejudicial to the good run of the investigation.

Whoever claims that he has a right on the seized objects, may ask the member of the public prosecution to deliver these to him.

Section III. Return of the Seized Objects and the Disposal Thereof

Article (80)

Objects seized in the course of the investigation, even before the judgment, may be restituted unless they are necessary for the action process or under confiscation.

Article (81)
Return of the seized objects to the person who was in possession thereof at the time of their detainment. However, if the seized objects are those on which the crime was perpetrated or resulting thereof, their return shall be to the one who lost its possession as a result of the crime, unless the person with whom they were seized has a right to detain them under the law.

Article (82)
The writ of replevin is issued by the public prosecution and the court may order restitution during the examination of the criminal action.

Article (83)
The writ of replevin does not prevent the interested persons to claim their rights before the civil court but this claim is not available to the accused or the civil party in the criminal case if the writ was issued by the criminal court upon request of either of them against the other.

Article (84)
The writ may be ordered even without a request.

The public prosecution may not order the replevin of a disputed object or of any other object where there is doubt about the person having the right of reception thereof.

Article (85)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Whenever is issued an order to discontinue the case or a decision on the counts to institute a case, the member of the public prosecution must decide the issue of the seized objects.

When deciding the case, the criminal court has to decide the issue of the arrested objects should the claim for replevin be filed before it as it may order, if it deems necessary, to refer the parties to the civil court and, in this case, put the arrested objects in custody and take other measures to preserve them.

Article (86)
If the arrested object is exposed to damage in time or that maintaining it would depreciate its total value, an order may be issued to sell it by public auction, in case the investigation requirements so allows, and the sale proceeds shall be reserved for its rightful owner.

Article (87)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Arrested objects not claimed by their rightful owners within one year as of the date of closing the criminal case, may be subject to an order for sale by public auction and the proceeds shall be reserved for their rightful owners.

Section IV. Hearing the Witnesses

Article (88)
The member of the public prosecution shall hear the witnesses which the parties ask to be heard, unless he deems it useless. He may hear those witnesses considered by him useful to be heard as concerns the established facts or those evidencing the crime, its circumstances and its imputation to the accused or his innocence therefrom.

Article (89)
The member of the prosecution shall summon the witnesses, decided to be heard, through the public authority personnel. He may also hear the testimony of any witness who attends the hearing session on his own and this shall be recorded in the minutes.

Article (90)
The member of the public prosecution may hear each witness separately or he may make them confront each other.

Article (91)
The member of the public prosecution shall ask each witness to specify his name, surname, age, profession, nationality, residence; his relation to the accused, the victim and the civil party plaintiff and he shall check his identity.

The witness who has completed is fifteen years of age must, before giving his testimony, to swear under oath that he will say the truth, the whole truth and nothing but the truth. Witnesses under this age may be heard for all useful purposes but without being sworn.

The above information, the testimony of witnesses and their hearing procedure shall be recorded in the minutes without modification, crossing out, erasure, insertion or addition. None of these shall be considered unless ratified by the member of the public prosecution, the clerk and the witness.

Article (92)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The member of the public prosecution and the clerk shall each appose their signature on each page of the testimony. The witness shall follow suit after reciting it to him and, if he abstains from signing or apposing his thumbprint, or if unable to do so, this should be mentioned in the minutes together with the reasons therefore as explained by him.

Article (93)

Whoever is summoned to appear before the public prosecution to give his testimony must comply with the convocation addressed to him and, if he abstains without excuse, the member of the prosecution shall issue a warrant to arrest and have him appear before the public prosecution.

Article (94)

In case the witness is sick or has his excuse for not appearing, his testimony shall be heard where he is present.

Article (95)

Upon request of the witnesses, the member of the public prosecution shall assess the amount of expenses and compensation to which they are entitled because of their appearance to give their testimony.

Section V. Experts Assignment

Article (96)
Should the investigation require the assistance of a physician or other experts to establish a status quo, the member of the public prosecution shall issue an order of assigning him to submit a report on the task he was assigned for.

The member of the public prosecution shall be present when the expert is to perform his task and the expert may discharge his duty without the presence of the parties.

Article (97)
If the expert's name is not recorded in the roll, he must take the oath before the member of the public prosecution to perform the duties of his assignment with trust and loyalty.

Article (98)
The expert shall submit his report in writing at the time fixed by the member of the public prosecution. In case he fails to submit his report in time or if the investigation so requires, the member of the public prosecution shall replace the expert by another one.

Section VI. Interrogation and Confrontation

Article (99)
The member of the public prosecution must, upon the presence of the accused for the first time before the investigation authority, write down all the information concerning proof of his identity and inform the accused of the charge imputed to him and mention in the report the answer of this latter on this charge.

Article (100)
The attorney for the accused must be enabled to attend the investigation with him and take knowledge of the investigation papers, unless otherwise decided by the member of the public prosecution in the interest of the investigation.

Section VII. Subpoena and Writ of Capias

Article (101)
The member of the public prosecution shall, according to circumstances, issue a subpoena or a writ of capias to the accused.

Each of these instruments must include the accused name, surname, profession, nationality, residence, the charge imputed to him, date of the writ, place and time of appearance, name of the public prosecution member, his signature, the official seal and the writ of capias must, in addition, include assigning to a member of the public authority the task of arresting the accused and bringing him before the public prosecution member in case he refuses to willfully and instantly appear.

The said writs shall be notified to the accused by the members of the public authority and he shall be delivered a copy of this notification.

Article (102)
If the accused does not appear after summoning him to do so, without an acceptable excuse, or if it is feared that he will escape, or if he has no known place of residence, or if the crime is committed red-handed, the public prosecution member may order to arrest and bring the accused even where the event is not one that allows putting the accused under provisional detention.

Article (103)
Orders issued by the public prosecution member shall be executory in all parts of the State and the arrest warrant may not be executed after the lapse of six months following the date of its issue unless confirmed by the public prosecution member for another period.

Article (104)
The public prosecution member must immediately interrogate the arrested person or, if this be impossible, he should be put in one of the specialized places of detention until his interrogation. The period of detention must not exceed twenty-four hours after which the administrator of this place has to send the detained person to the public prosecution which must instantly interrogate him, otherwise order his release.

Article (105)
With due observance of the provisions of the Federal Law No. (11) of 1973, Organizing the Relations between the Emirates Members of the Federation, if the accused is arrested outside the scope of jurisdiction of the court where the interrogation takes place, he shall immediately be

sent to the public prosecution of the place of his arrest which shall verify all information concerning the identity of this person, then refer him to the public prosecution of the court where he is interrogated through the public authority which has to deliver him there as quickly as possible.

In case the accused objects to his moving or if his condition does not allow his transport, the public prosecution member shall inform the investigator of this matter who shall forthwith order what should be followed.

Section VIII. Provisional Detention Order

Article (106)

With due observance of the provisions provided in the Law on Juvenile Delinquents and Homeless Persons, the public prosecution member may, after interrogating the accused, order his provisional detention if there is enough evidence and if the act constitutes a felony or a misdemeanour sanctioned by other than the fine penalty.

Article (107)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In addition to the information stated in clause 2 of Article (101), the order of detention must include an instruction to the person in charge of the administration of the place of detention to accept the accused and place him therein. The order should mention the law provision applicable to the case and shall be governed by the law provisions provide for by the last paragraph of Article (108).

Article (108)

When confining the accused in the place of detention, a copy of the order of detention must be delivered to the person in charge of the administration of the place after securing his signature on the original stating that he received the copy thereof.

The administrator of the place of detention may not allow any member of the public authority to have any contact with the person under provisional detention inside the place except by a written authorization from the public prosecution and, if this be the case, he must write down in the book kept for the purpose, the name of the person giving the authorization, the time of the visit and the date and contents of the authorization.

Article (109)
Should the investigation procedures so necessitate, the public prosecution member shall issue an order forbidding any contact between the provisionally detained accused and the other detained and any visits by any person whatsoever, without prejudice to the right of the accused to permanently contact in private his attorney.

Article (110)
The detention order given by the public prosecution shall be issued, subsequent to his interrogation, and for a period of seven days renewable for another period not exceeding fourteen days.

Should in the interest of the investigation that the provisional detention be continued after the lapse of the periods mentioned in the above paragraph, the public prosecution must submit the papers to one of the judges of the competent criminal court who may, after perusing the papers and hearing the accused statements, order the extension of the detention period for another period not exceeding thirty days, renewable, or the release of the detained with or without bail.

The accused may submit a grievance to the president of the court against the order issued in his absence extending the detention. The grievance should be submitted within three days as of the date of his notification of the order or from the date of taking knowledge thereof.

Section IX. Provisional Release

Article (111)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The provisional detained person convicted in a crime sanctioned by a death penalty or a life imprisonment sentence, may not be released.

The public prosecution may order a provisional release of the accused under provisional detention, for a felony or a misdemeanor, at any time whether on its own decision or upon request of the accused unless the latter has been referred to the competent court for trial, in which case his release falls within the jurisdiction of the said court.

Article (112)

In cases other than those the provisional release is a must, the release may be conditioned on a personal or pecuniary bail to be determined by the public prosecution or the judge, as the case may be, and the amount of the bail shall be allocated as an adequate penalty for the abstention of the accused from appearing in any of the procedures during investigation or trial and as a remedy against his evasion from the enforcement of the judgment and an incentive to perform all the other duties imposed on him.

Article (113)

The amount of bail shall be paid by the accused, or others, through depositing the assessed amount with the court treasury. The bail may also consist of an undertaking made by a solvent person to pay the assessed amount of bail in case the accused does not fulfil the release conditions. This undertaking shall be recorded in the investigation report or by making a declaration in the clerks' office and both the report and the declaration shall have the force of an executory instrument.

Article (114)

Should the accused, without an acceptable excuse, fail to fulfil one of the obligations imposed on him under Article (112), the pecuniary bail shall be the property of the government without the need to a judgment to this effect.

The amount of bail shall be returned in full if a non-suit decision is rendered in the case or if the accused is declared innocent. The court may, in any case, decide to refund the amount of the bail, any portion thereof or even discharge the bailor from his obligation.

Article (115)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The order of releasing the accused does not prevent the public prosecution member from issuing another order to arrest and detain the accused should the evidence against him become stronger, if he fails to fulfil the duties imposed on him or if there are circumstances that require such a measure.

In case the release order is issued by the court, the new order to detain the accused shall be given by the same court upon request of the public prosecution.

Article (116)

Once the accused is referred to the court, his release, if detained, or his detention, if released, shall be of the jurisdiction of this court.

In case of adjudicating non-jurisdiction of the court, the court that rendered this judgment shall have jurisdiction to examine the application for release or detention until the case is brought before the competent court.

Article (117)
The application to detain the accused submitted by the victim, the civil party in the case, shall not be accepted and his statements in the discussions related to the release of the accused shall not be heard.

Chapter Two. Disposal of the Accusation and of the Action

Article (118)
Subsequent to the investigation done by it, the public prosecution may issue a nonsuit order and order the release of the accused unless he is detained for another reason.

The nonsuit order in felonies may only be issued by the Head of the public prosecution department or his substitute and shall not be executory except after its ratification by the Public Prosecutor.

The order shall state the name and surname of the accused, his age, birthplace, residence, profession, nationality and the charge imputed to him together with its legal characterization.

The order must include the reasons on which it is based and should be notified to the civil party in the suit, or if deceased, to his heirs as a whole without detailing their names, at the last domicile of the decedent.

Article (118/1)
* *Added by Federal Law No. 29 of 2005 dated 30/11/2005*

Should the public prosecution, in misdemeanours and petty offences, find from the evidence collected that the action is ready to be lodged, it shall summon the accused to appear immediately before the competent criminal court. If, on the contrary, it deems that there is no reason to pursue the action, it shall order that it be archived.

Article (119)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In misdemeanours, the Public Prosecutor may cancel the order referred to in Article (118) of this Law within three months following its issuance unless it has been appealed and the appeal rejected.

Article (120)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In case the public prosecution deems that the act is a misdemeanour or a petty offence and there is sufficient evidence against the accused, it shall refer the case for examination to the competent criminal court.

Article (121)

Should the Head of the prosecution department, or his substitute deem that the act constitutes a felony and the evidence against the accused is sufficient, he shall order the referral of the accused to the assize court. If there is any doubt as to whether the act constitutes or a misdemeanour, the accused shall be referred to the court of assizes under the charge of a felony.

Article (122)

If a final decision of non-jurisdiction has previously been rendered by the criminal court examining misdemeanours because the act constitutes a felony, the public prosecution must decide the referral of the action to the court of Assizes.

Article (123)

The order of referral shall include the name and surname of the accused, his age, place of birth, residence and nationality; it shall also specify the charge imputed to him with all its constituting elements, the extenuating or aggravating circumstances and the applicable articles of the governing law.

The public prosecution shall notify this order to the parties within three days from its issuance.

Article (124)

Without prejudice to the provisions of the Federal Law No. (11) of 1973 Concerning the Regulation of the Judicial Relations between the Emirates Member of the Federation, should the accusation comprise more than one offence falling within the jurisdiction of more than one court

of first degree, they shall all be referred through one order to the court having ratione loci jurisdiction in one of these offences.

Should the offences fall within the jurisdiction of courts of different degrees, the action shall be referred to the court of the highest degree.

Article (125)

The accused detained on remand shall be released if the order referring him to the competent court does not include maintaining him under detention.

Article (126)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

When the public prosecution issues an order of referral to the criminal court, it shall ask the accused, the civil party and the party liable for the damages to submit forthwith a list of the witnesses to be heard before the court showing their names and places of residence.

The public prosecution shall make a list of its witnesses and of those mentioned in the preceding clause. The list shall be notified to the accused and to the witnesses mentioned therein.

Article (127)

Each of the parties shall summon, through the process server and at his own expense, his witnesses mentioned in the list prepared by the public prosecution and shall deposit with the clerks' office their transport expenses.

Article (128)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

As soon as the public prosecution finishes with the investigation and disposes of the case file by referral, it shall forward the file to the competent court.

Article (129)

If an order is issued in absentia to refer an accused of a felony to the court of assizes then he shows up or is arrested, the case shall be re-trialled anew, before the court, in his presence.

Article (130)
Where, subsequent to the issuance of an order of referral, an event occurs that necessitates a complementary investigation, the public prosecution has to proceed with it and submit the report to the court.

Article (131)
The non-suit order issued by the public prosecution prevents from recurring to the investigation unless new pieces of evidence are discovered.

Shall be considered new evidence, a testimony of witnesses, reports and the other papers that were not submitted to the public prosecution and which shall reinforce the existing evidence considered insufficient or add more clarification which may lead to the truth.

TITLE THREE. APPEAL OF ORDERS AND DECISIONS ISSUED AT THE STAGE OF INVESTIGATION

Article (132)
The public prosecution should appeal the decision rendered by the judge ordering the provisional release of the detained on remand and this decision may not be executed prior to the expiry of the delay of the appeal or prior to reaching a decision thereon if lodged within the prescribed delay.

Article (133)
The party in a criminal case claiming damages may appeal the nonsuit decision issued by the public prosecution on grounds of negation of the charge, the act is not punishable or if the evidence against the accused is insufficient.

Article (134)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The appeal mentioned in Articles (132) and (133) above shall be lodged through a report deposited with the clerks' office of the criminal court and the delay of appeal shall be twenty-four hours in the case provided for in Article (132) and ten days in the case stated in Article (133).

The delay of appeal shall start as of the date of issuance of the decision, as concerns the public prosecution and as of the notification of the order, as concerns the other parties.

Article (135)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The date of the hearings shall be fixed to the appellant in the appeal report and this date shall be within three days. The public prosecution shall summon the other parties to be present in the fixed hearing and shall forward forthwith the papers to the clerks' office of the criminal court.

Article (136)

The appellate court shall examine the appeal, in challenge of the orders and decisions referred to in this Title, in closed chambers, as it may also, whenever necessary, examine it outside the days fixed for holding these hearings and outside the seat of the court.

Article (137)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The court of appeal shall issue the nonsuit decisions after perusing the papers and hearing the explanations that it deems necessary to ask the parties to give. It may also perform everything required for reaching a decision in the appeal including complementary investigations or delegating for this purpose one of its members or the public prosecution.

When deciding the cancellation of the nonsuit order, the court of appeal should remand the case to the public prosecution through a decision stating the grounds on which it is based detailing the offence, its constituting elements and the provisions of the governing law in order to refer it to the competent criminal court.

Under all circumstances, the decisions of the court of appeal may not be challenged.

Article (138)

When examining the appeal against the order releasing the accused detained on remand, the court of appeal should, after detaining him and in case it does not take a decision concerning the appeal within three days from filing the report, immediately execute the order of release.

BOOK THREE. THE COURTS

TITLE ONE. JURISDICTION

Chapter One. Jurisdiction in Criminal Matters

Article (139)
With the exception of the offences falling within the jurisdiction of the Supreme Federal Court, the first degree court composed of three judges shall have jurisdiction to examine the felonies transmitted to it by the public prosecution, referred to in this Law as the Felonies Criminal Court, and when composed of one judge, it shall have jurisdiction to examine all cases of misdemeanours and petty offences and is referred to in this law as the Misdemeanours Criminal Court.

Article (140)
Should the Misdemeanours Criminal Court notice that the act constitute a felony, it shall decide that the case is beyond its jurisdiction and shall return the papers to the public prosecution to take the legal prescribed measures.

Article (141)
Should the Felonies Criminal Court notice that the act, as described in the referral order and prior to its investigation in session, is a misdemeanour, it shall decide its lack of jurisdiction and refer the case to the Misdemeanour Criminal Court.

Article (142)
Jurisdiction shall be determined by the place where the crime occurred.

Article (143)
In case of an attempt, the crime shall be considered perpetrated in each place where one of the acts of commencement of execution has taken place. In continuous crimes, it shall be considered the place of the crime each place where a state of continuity is present. In case of recidivism and in successive crimes, the place of the crime is each place where one of the inclusive acts is perpetrated.

Article (144)
Where any crime is perpetrated abroad and is governed by the provisions of the national law, the perpetrator shall be sued before the criminal courts of the capital.

Article (145)
If one or more of the accused, in a single crime or in connected crimes included in the same investigation, is brought before two trial instances and where both instances are competent, the case shall be transferred to the court to which it was first submitted.

Article (146)
Should the court notice, at any stage of the proceedings, that it lacks jurisdiction to examine the case, it shall decide its incompetence even without any request to this effect.

Chapter Two. Jurisdiction as to the Civil Case for Damages and in Matters Which Settlement Is Dependent on the Decision to Be Rendered in the Criminal Action

Article (147)
The civil action, regardless of the amount involved, may be brought before the criminal court in order to be examined in conjunction with the criminal case after payment of the prescribed legal fees.

Article (148)
Unless otherwise provided by law, the criminal court has jurisdiction to decide on any matter that is dependent on the adjudication of the case pending before it.

Article (149)
In case the judgment in a criminal case depends on the result of settling another criminal case, the first case should be stopped until the decision in the second case is rendered.

Article (150)

Should the adjudication of a criminal action depends on deciding a personal status matter, the criminal court may order the stay of this action and fix a delay to the accused, the party claiming damages or the defendant, as the case may be, to submit the mentioned matter to the competent authority; but the stay of the action shall not prevent taking the necessary or urgent measures or investigations.

Article (151)

If the delay referred to in the preceding Article has lapsed without submitting the mentioned matter to the competent authority, the court may disregard the order to stay the action and adjudicate it, as it may fix another delay in case it is justified.

Article (152)

The criminal courts, in non-criminal matters to be decided by it in conjunction with the criminal action, shall follow the means of evidence prescribed by the law governing these matters.

Chapter Three. Conflict of Jurisdictions

Article (153)

In case two final judgments upholding or denying jurisdiction are rendered, concerning the same object under litigation, the application to designate the competent court shall be submitted to the Federal Supreme Court according to the following two articles.

Article (154)

Each of the public prosecution and the parties to the litigation may apply for the designation of the competent court through a petition sustained by documents in support thereof.

The court to which the application has been submitted shall, within Twenty Four hours from its submission, order the deposit of the papers with the clerks' office.

The clerks' office shall notify the other parties of this deposit within the three days following this notification in order for them to peruse the deposited papers and submit a Memorandum of their statements thereon within the ten days following their notification of this deposit.

The order of deposit shall entail stay of the action for which the application is submitted, unless otherwise decided by the court.

Article (155)
After taking knowledge of the papers, the court to which the application was submitted, shall designate the competent court and shall also render a decision as concerns the measures and judgments that may have been taken or rendered by the other court whose jurisdiction has been cancelled.

TITLE TWO. TRIAL PROCEDURES

Chapter One. General Provisions

Section I. Notification of the Parties

Article (156)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Should the action be referred to one of the criminal courts, the public prosecution shall summon the accused to appear before the competent court specified in the referral order.

Article (157)
The summons addressed to the accused to appear before the court may be dispensed with if the accused attended the session and was faced by the charge addressed to him by the public prosecution and he accepted the trial.

Article (158)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Summoning the parties to appear before the court shall be prior to holding the session for at least one full day in minor offences, three days in misdemeanours and ten days in felonies.

The summons to appear shall mention the charge and the law articles specifying the sanction.

Article (159)
The summons to appear shall be notified to the accused in person or at the place of residence or work in the manner prescribed by the law on the procedures followed before the civil courts.

If, despite the search, the place of residence or work of the accused is not known, the notice shall be delivered to the police station of which depends on the last known residence of the accused and the place of the crime shall be considered as his last residence unless otherwise established.

In misdemeanours and minor offences, the notification may be served by a member of the public authority.

Section II. The Session Order and Procedures

Article (160)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The accused of a felony or a misdemeanour, sanctioned by a penalty other than a fine, has to appear in person. In other misdemeanours or petty offences, however, he may delegate an attorney to submit his defence but without prejudice to the right of the court to order his presence in person.

However, in all circumstances, his attorney or one of his relatives or in-laws may attend and submit the excuse of the accused for his absence and, in case the court accepts the excuse, it shall fix another date for the accused to appear before it and the public prosecution shall notify him of this date.

Article (161)
The hearing must be public but the court may for reasons relating to public policy or morals order that the action, in whole or in part be examined in closed session or prevent some class of people to attend.

Article (162)
A member of the public prosecution must attend the hearings of the criminal court which has to hear him and rule over his demands.

Article (163)
Order and administration of the hearing are entrusted to its presiding judge who, with due compliance with the law on the Law Profession, may in this respect oust whoever disturb the order and, if he refuses to obey, the court may condemn him instantly to a twenty-four-hour-detention or to a fine of one hundred Dirhams and its judgment in this respect is final.

The court may, at any time prior to the end of the hearing, go back on its judgment or decision issued under the preceding paragraph.

Article (164)
The accused shall be brought to the court hands-free but under the necessary surveillance.

He may not be ousted from the hearing during the examination of the action unless he commits any act of disturbance justifying this measure. In this case, the procedures shall continue until he is allowed to attend again, then the court shall keep him informed of the procedures taken in his absence.

Article (165)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The investigation shall commence by calling on the parties and the witnesses. The accused shall be asked to state his name, surname, his profession, nationality, place of residence and place of birth, after which the charge imputed to him shall be recited and the public prosecution and the party claiming damages, if any, shall submit their claims. Thereafter the accused shall be asked if he avows having perpetrated the act that is imputed to him and in the positive the court may be satisfied with his avowal and condemn him without listening to the witnesses, otherwise it shall listen to the testimony of the witnesses to the prosecution unless the crime is sanctioned by the death penalty in which case the court has to complete the investigation.

The public prosecution shall first address the questions to these witnesses then the victim followed by the party claiming damages, if any, as concerns his claim, and the person liable to pay these damages. The public prosecution, the victim and the responsible for damages shall, in turn, shall interrogate a second time the mentioned witnesses in order to clarify the facts for which they testified in their answers, provided that the court shall hear their testimony individually.

Article (166)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

After hearing the witnesses to the prosecution, the court shall listen to the witnesses to the defence who shall be questioned first by the accused, then by the responsible for the damages, the public prosecution, and the person claiming damages. The accused and the responsible for the damages shall address to the mentioned witnesses other questions in order to clarify the facts for which they testified in their answers to the questions addressed to them.

Each of the parties may ask the rehearing of the mentioned witnesses in order to clarify or investigate the facts for which they testified, or ask to hear other witnesses for this purpose.

Article (167)

The witnesses shall be called, by their names one by one, to give their testimony and the one whose testimony was heard shall remain in the hearings room until closing the debates unless the court authorizes him to leave. Where necessary, a witness may be asked to leave the room while hearing the testimony of another witness, or the witnesses may be confronted with each other.

Article (168)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The court may, at any stage of the proceedings, address to the witnesses any question it deems necessary to reveal the truth as it may authorize the parties to do so.

It must prevent addressing questions to the witnesses if irrelevant to the case or unacceptable.

Moreover, it must protect the witness from any word express or implied, as well as any sign that may confuse his thoughts or frighten him.

The court may also refuse to hear the testimony of witnesses on facts that it deems clear enough.

Article (169)

After hearing the witnesses to the prosecution and to the defence, the public prosecution, the accused and all other parties in the action may speak but in any case, the accused shall be the last to speak.

The court may prevent the accused, the remaining parties and those assuming their defence to talk any further in case they speak beyond the subject or repeat themselves.

Article (170)

Should the absent accused appear before the end of the hearing in which the judgment was rendered, the case should be reexamined in his presence.

Article (171)

A report should be drawn up of all what takes place during the trial and each page thereof should be signed by the presiding judge and the clerk.

This report shall include the date of the hearing, with mention whether it is public or closed, the names of the judges and the member of the public prosecution who assisted in the hearing, the names of the clerk, the parties and their defenders, the testimony of the witnesses, the statements of the parties and reference should be made in it to the papers that were recited and all measures taken, the claims submitted during the examination of the case, the decisions taken in ancillary matters, the decision clause in the judgments rendered and all other things that took place during the hearing.

Section III. Witnesses and Other Evidence

Article (172)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The witnesses are summoned to appear upon request of the parties, through the process server or one of the members of the public authority, twenty-four hours at least prior to the hearing to which shall be added the distance delays. The witness may attend the hearing upon request of the parties without being notified.

The court may, during the examination of the case, ask any person to be present and give his statement even if it has, where necessary, to issue a writ of arrest and force him to appear. It may also order to subpoena him for another hearing.

Article (173)

Should the witness fail to appear before the court after he has been subpoenaed he may, after hearing the public prosecution, be condemned to a fine not exceeding a thousand Dirhams.

If the court deems that his testimony is important, it shall postpone the action to notify him again to appear, as it may order that he be arrested and brought by force.

Should the witness appear, after he has been notified for the second time or by himself or by submitting an acceptable excuse, he may be exempted from the fine, after hearing the public prosecution.

If the witness fails to appear after he has been notified for the second time, he may be condemned to a fine not exceeding double the maximum fine prescribed in the first paragraph. The court may order his arrest and that he be brought by force to the same hearing or to another hearing to which the action was adjourned.

Article (174)
Should the witness fail to appear before the court until the action is adjudicated, he may complain from the judgment condemning him to a fine before the court that rendered the judgment.

Article (175)
In case the witness submitted as an excuse his illness or any other excuse preventing him from appearing to give his testimony, the court shall go to him and hear his testimony after informing the public prosecution and the other parties. The parties may attend in person or through their attorneys and address the questions to the witness that they deem necessary.

Should the court, after displacing itself, find out that the excuse was fake, it may condemn the witness to detention for a period not exceeding three months or to a fine not in excess of two thousand Dirhams.

Article (176)
The provisions of Article (91) of this Law shall apply as concerns the witnesses.

Article (177)
In case it was impossible to hear the witness for whatever reason, the court may decide the recital of the testimony made in the preliminary investigation or in the report, concerning the collection of evidence, or after giving oath according to Article (40) of this Law.

Article (178)
Should the witness state that he does not remember one of the facts, it is possible to recite from the investigation or from his statements in the report concerning the collection of evidence the part relating to this fact.

This shall be the case where his testimony in the hearing is in contradiction to his previous statements.

Article (179)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The court may of its own accord, during the examination of the case, order the producing of any evidence deemed necessary to reveal the truth.

Article (180)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The Court, of its own accord or upon request of the parties, may appoint one or more experts in the lawsuit and, if necessary, a committee of experts whose number must be odd.

As it may, of its own accord, order the notification of the experts to discuss with them the content of the reports submitted by them in the preliminary investigation or during the trial; or it must issue such order if so requested by the parties to the litigation.

If it is impossible to verify a proof before the court, it may verify it on spot.

Section IV. The Ancillary Action of Forgery

Article (181)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The public prosecution and the parties may, at any stage reached by the action, to challenge in forgery any paper submitted in the case.

The challenge shall be made by a statement in the minutes of the hearing and the challenger must indicate where the forgery occurred and produce the proof to such a forgery.

Article (182)

Should the court examining the action deem that the decision to be taken is dependent on the challenged paper and there is a reason to proceed with the verification of the evidence to such

forgery, it has to refer the papers to the public prosecution and stay the action until a decision is reached in the forgery by the competent authority. It may also, if the decision to be taken concerning the forgery is within its jurisdiction, the court may investigate the challenge and take its decision as to the validity of this paper.

The court may condemn the party claiming forgery to a fine not exceeding one thousand Dirhams in case a judgment or a decision is rendered rebutting the claim of forgery.

Article (183)

In case the judgment confirms the existence of forgery in all or part of an official paper, the court that rendered the judgment shall order the cancellation of the forged paper or its correction, as the case may be, and a report shall be drawn up and mention this on the forged paper.

Section V. The Accused Suffering of a Mental Handicap or a Psychic Disorder

Article (184)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

If the case requires that the accused state of mind or his psychic condition be examined, the public prosecution during the investigation, or the court examining the case may order to put the accused, if detained under remand, under observation in a specialized treatment asylum for successive periods not exceeding fifteen days each and forty five days in total. Should the public prosecution do not complete the investigation procedures with the accused and the extension of the detention period is required, the Head of the prosecution department shall submit the matter to the competent court for decision to maintain the detention under remand for a specified period or to release the accused.

In case the accused is not detained under remand, the Head of the prosecution department or the competent court may put the accused under observation in any other place.

Article (185)

If it is established that the accused is unable to defend himself due to a condition of lunacy, brain disorder or weakness or a serious psychic disease occurring after the perpetration of the crime, the action or the trial shall be stopped until recovery from this condition.

The accused shall, in this case, be put in a treatment asylum by order of the public prosecution or the court examining the action, as the case may be.

The stay of the action shall not prevent taking the investigation measures deemed urgent and necessary.

Article (186)

The period spent by the accused in the treatment asylum, under the two preceding articles, shall be deducted from the penalty or the measures to which he is condemned.

Article (187)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

If a nonsuit order is issued or a judgment declaring the accused not guilty is rendered on grounds of lunacy, mental disorder or weakness or serious psychic disease, the authority that issued the order or rendered the judgment shall order to put the accused in a treatment asylum until this authority decides his release, after taking knowledge of the report of the institution where he is detained and the statement of the public prosecution, in case it did not issue the order, and after making sure that the accused has recovered sound mind or is no more dangerous.

Section VI. Protection of Under-Aged and Imbecile Victims

Article (188)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In each crime perpetrated against an underaged, who did not reach fifteen years of age, it may, when necessary, be ordered that he be delivered to a trustworthy person who undertakes to watch over him and keep him in good condition or to a care hood institution acknowledged by the Ministry of Labor and Social Affairs until the case is settled.

If the crime is perpetrated against an imbecile, an order may be issued to put him provisionally in a sanatorium or a treatment institution or to deliver him to a trustworthy person, as the case may be, until the case is settled.

Under all circumstances and for the above purpose, the order shall be issued by the competent court.

Chapter Two. Special Procedures for the Misdemeanors and Minor Offenses Courts

Article (189)
In case the party legally summoned to appear on the day shown in the summons paper and does not send an attorney, in case he is allowed to be represented, the court shall judge him in absentia.

Should the action be lodged against several persons for the same act and some have appeared before the court to the exclusion of the others, the court must adjourn the action to a second hearing in order to notify those who did not show. The judgment shall be considered rendered in their presence for all of them.

Article (190)
The judgment shall be considered rendered in the presence of all who attended the hearing upon roll call of the action even if he left the courtroom afterwards or was absent at the hearings to which the action was adjourned.

Article (191)
In the above instances where the judgment is considered as rendered in the presence of the parties, the court has to investigate the case brought before it as if the accused is present.

Chapter Three. Special Procedures for the Criminal Court of Felonies

Article (192)
In each first instance court, shall be formed one or more Chamber for felonies composed of three of its judges.

Article (193)
The jurisdiction of the Criminal Court of Felonies shall include the territorial scope for the jurisdiction of the first degree courts at the seat of this court, and it may hold its hearings at any other place within its jurisdiction.

Article (194)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The attorney-at-law, assigned, or mandated by the accused, must defend him at the hearings or delegate someone to represent him, failing which he shall be condemned to a fine not exceeding one thousand Dirhams; without prejudice to the disciplinary trial, if applicable.

The said judgment shall be final.

The court may exempt him from the fine if he establishes that he has an acceptable excuse that prevented him from attending the hearing in person, or delegate someone in his place.

Article (195)

The assigned attorney-at-law may request the assessment of his fees on the public Treasury and the court shall assess these fees taking into consideration what has already been assessed to him in consideration of his efforts. This assessment may not be challenged by any means.

Article (196)

The President of the Court examining felonies has, upon receiving the case file, to transmit it to the members of the court and order to notify the accused and the witnesses of the day he fixed to examine the case. The public prosecution shall summon them to be present.

Should there be serious reasons for the adjournment of the case, it should be adjourned to a fixed date.

Article (197)

The court examining felonies shall order, in all instances, to arrest the accused and have him brought, as it may order the provisional detention thereof, and the release thereof on personal or pecuniary bail, or without bail for the provisionally detained accused

Article (198)

Should the accused of a felony fail to attend the hearing, after his legal notification of the writ of referral and the subpoena, the court may render its judgment in absentia as it may adjourn the action and order his summoning once more.

Article (199)

Every condemnation judgment rendered in absentia shall necessarily entail depriving him of disposing of or administering his properties or file any action in his name. Every act of disposition or undertaking done by the condemned person shall be void.

The court of first instance, in whose jurisdiction the properties of the condemned are located, shall appoint a guardian to administer them, upon request of the public prosecution or any interested person. The court shall obligate the appointed guardian to submit a guarantee and the latter shall be answerable to the court in all what relates to the guardianship and to the accounts he is bound to submit.

Article (200)
In case the accused is residing outside the country, the referral order and the subpoena shall be notified to him at his residence, if known, one month prior to the hearing fixed for the examination of the action to which shall be added the distance period. Judgment may be rendered in his absence if he fails to appear subsequent to his notification.

Article (201)
The referral order shall be recited in the hearing and shall be followed by all the papers evidencing that the absentee has been notified, after which the public prosecution and the other parties shall state their claims and the court shall, if necessary, hear the witnesses and then decide the case.

Article (202)
As soon as rendered, the judgment given in absentia shall be executed as concerns all executable penalties and measures and the damages. In this case, the party claiming damages has to submit a personal or pecuniary guarantee, unless otherwise mentioned in the judgment, and the guarantee has to be refunded after two years from the time the judgment is rendered.

Article (203)
Should the convicted condemned in absentia appear before the court or if he has been arrested, the judgment be forfeited, whether as concerns the penalty, the measures or the damages and the action shall be reexamined by the court. If the previous judgment for damages has been executed, the court may order the refund of the amount collected in whole or in part.

Article (204)

The absence of a party shall not delay adjudicating the action as concerns the other accused with him. In case the accused of a misdemeanour, brought before the court examining felonies, absents himself, the procedures in force before the misdemeanours court shall be applied.

TITLE THREE. NON JURISDICTION OF THE JUDGE TO EXAMINE THE CASE, HIS CHALLENGE AND WITHDRAWAL

Article (205)

Provisions and procedures provided for in the Civil Procedural Law shall be followed in cases of non-jurisdiction of the judge to examine the case, his challenge and withdrawal; with due observance of the provisions of the two following articles.

Article (206)

Without prejudice to the provisions of Article (163), a judge is prohibited to examine the action if the crime has been perpetrated on him personally or if he assumed in the case the functions of the judiciary police, the public prosecution, the defence attorney for a party, has given his testimony or has performed an act of expertise.

He is also prohibited to participate in adjudicating the appeal in case the challenged judgment has been rendered by him.

Article (207)

Parties to litigation may challenge the judge in the instances provided for in the preceding Article and in all challenge cases stated in the Law on Civil Procedures.

Members of the public prosecution and of the judiciary police may not be challenged.

TITLE FOUR. THE SENTENCE

Chapter One. Issuance of the Sentence

Article (208)
The court is not bound to follow what is written in the preliminary investigation or the collection of evidence reports unless there is a law providing for the contrary.

Article (209)
The judge shall decide the case according to his personal conviction, however, he may not base his judgment on an evidence that was not submitted by the parties during the hearings.

Article (210)
The judgment shall be rendered in an open court hearing even if the action was examined in closed chambers and it must be recorded in the minutes and signed by the president of the court and the clerk.

The court may order taking all necessary measures to prevent the accused from leaving the courtroom before pronouncing the sentence, or to ensure his presence in the hearing to which is adjourned the judgment, even if this necessitates ordering his detention if the act allows detention under remand.

Article (211)
Should the act be not established or if the law does not punish it, the court shall declare the accused innocent and shall be released in case he is detained for this act alone.

Article (212)
If the act is established and constitutes a punishable one, the court shall order to apply the penalty as prescribed by law.

Article (213)
The court may not condemn the accused for an act other than that mentioned in the referral order or the subpoena, as it may not condemn a person other than the accused against whom the action is brought.

Article (214)

The court, in its judgment, may change the legal characterization of the act imputed to the accused and it may amend the charge as it deems appropriate according to what the investigation or the oral pleadings may reveal.

The court must draw the attention of the accused to this change and allow him a respite to prepare his defence in accordance with the new characterization or amendment, if he so asks.

The court may also correct any material mistake and remedy any omission in the text of the accusation as mentioned in the referral order or the subpoena.

Article (215)
The minutes of the hearings and the judgment complete each other as regards the trial procedures and the statements shown in the reasons adduced for the verdict.

Article (216)
The judgment must include the reasons on which it is based and each incriminating judgment must include a description of the punishable act, the circumstances surrounding its perpetration and refer to the provisions of the law according to which the judgment was rendered.

Article (217)
The court must decide the merits of the claims submitted by the parties and mention the grounds on which the decision is based.

Article (218)
The president shall collect all opinions starting with the most recently nominated judge then he gives his opinion and the sentence shall be rendered by a majority opinion except death sentences which requires unanimity and, if not reached, the death penalty shall be substituted by life imprisonment.

Article (219)
Upon pronouncing the sentence, the court must deposit with the clerks' office the first authentic copy of the judgment, comprising the reasoning, signed the soonest by the court president and the clerk.

Chapter Two. Correction and Amendment of the Sentence

Article (220)
Should a material mistake occur in a judgment or decision that does not entail nullity, the body of judges that rendered the judgment or issued the decision shall correct this mistake de jure, or upon request of one of the parties, after summoning them to be present.

Correction shall take place without pleadings, after hearing the statements of the parties, and it shall be annotated in the margin of the judgment or decision.

The same procedure shall be followed for the correction of the name or surname of the accused.

The decision ordering the correction may be challenged, if the body that issued it has gone beyond its powers to correct, by all means of challenging a judgment or a decision subject to correction.

The decision rejecting correction may not be challenged separately.

TITLE FIVE. VOIDANCE

Article (221)
The procedure is void if the law expressly provides for its voidance or if defective to the extent that the procedure did not reach its objective.

Article (222)
Should voidance be due to the violation of the law provisions relating to the formation of the court, its attributions or its jurisdiction as to the nature of the crime submitted to it or for other reasons relating to public policy, it may be raised at any stage of the trial and the court shall decide this plea even without request therefore.

Article (223)
With the exception of cases of voidance other than those related to public policy, none may avail himself of the plea of voidance except the one that such voidance has been prescribed in his interest, unless he was the cause for such voidance.

Article (224)
Voidance shall not be decided despite that it is provided for, if it is established that the objective was reached through the form or the statement requested.

Article (225)
Nullity shall be forfeited if it has been expressly or impliedly relinquished by the one in whose interest it was provided for, except in instances where nullity is connected to public policy.

Article (226)
If the accused attended the hearing in person or through an attorney, he is not entitled to invoke nullity of the summons but he may ask for its correction or remedy to any omission in it and be granted a delay to prepare his defence before the examination of the action. The court has to grant him what he applied for.

Article (227)
The void procedure may be renewed by a valid one, even after raising the plea of nullity, provided this be done within the period prescribed by law for performing such procedure. In case there is no period prescribed by law, the court shall fix an adequate period for its renewal which procedure shall not be taken into consideration except as of the date of his renewal.

Article (228)
The voidance of the procedure shall entail the voidance of all preceding procedures and the following ones, if not based on it.

TITLE SIX. CHALLENGE OF THE JUDGMENTS

Chapter One. Opposition

Article (229)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The condemned party, as well as the party claiming damages, may both challenge, by way of opposition, the judgments in absentia rendered in misdemeanors and petty offences within seven days from the date of his notification of the judgment by filing a report with the clerks' office of the criminal court that rendered the judgment. The date of the hearing set for the examination of the opposition shall be mentioned on the report and this shall be considered a notification of that date even if the report was submitted by an attorney.

The opposition shall result in the review of the case, as concerns the opposing party, before the court that rendered the judgment in absentia and the said party may not be prejudiced by his opposition. If the opposing party fails to attend the first hearing set for the examination of his opposition, it will be considered as if it never took place and the opposing party may not file an opposition on the judgment rendered in his absence.

Chapter Two. Appeal

Article (230)

Each of the accused and the public prosecution may appeal the judgments rendered by the criminal courts of first degree.

The appeal shall not result in staying the execution of the appealed judgment unless otherwise decided by the court that rendered it, under the conditions set forth by this court.

The judgment pronouncing the death sentence is considered de jure appealed and its execution stayed.

Article (231)

Crimes connected to each other in such a way as to form one non-severable entity may be appealed even if the appeal is not allowed except to some of these crimes.

Article (232)

Interlocutory judgments may not be appealed unless they serve as a basis for preventing to proceed with the action.

Appealing the judgment rendered on the merits of the case shall inevitably result in appealing all those judgments. Nevertheless, all non-jurisdiction judgments may be appealed.

Judgments confirming jurisdiction may be appealed in case the court is not competent to settle the subject matter of the action.

Article (233)

The party claiming damages, the responsible for these damages, the insurer and the accused may appeal the judgments rendered in the civil disputes by the civil court, only as concerns the civil right to these damages, if the claimed damages are beyond the limits of the amounts which the judge may finally adjudge, if the judgment is void or has been affected by the nullity of the procedures.

Article (234)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The appeal is lodged through a report to be submitted to the clerks' office of the criminal court within fifteen days as of the date of pronouncing the judgment in the presence of the parties or from the date of the judgment rendered in the opposition.

Should the condemned party be in prison, he may submit his appeal report to the officer in charge of the prison who has to forward it forthwith to the criminal clerk's office.

If the condemned is bailed the court of appeal may release him against an undertaking or any other guarantee as deemed by the court until the settlement of the appeal.

The public prosecutor may lodge his appeal within a time limit of thirty days from the time the judgment is rendered.

Article (235)

As concerns the party who has been sentenced in absentia, judgments considered as issued in his presence according to Articles (189) and (190), the period of appeal shall run as of the date of his notification thereof.

Article (236)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The clerks' office of the criminal court shall fix in the appeal report the date of the hearing set for the examination of the appeal and this shall be considered as a notification of it even if the report is submitted by an attorney. The public prosecution shall inform the other parties of fixed hearing.

Should the accused be imprisoned, the public prosecution must shift him in due time to the punitive institution where the appeal court is located and this court shall settle the appeal as urgently as possible.

Article (237)
The court shall listen to the statements of the appellant and the counts on which are based the appeal, then the other parties shall make their statements and the accused shall be the last one to speak. The court shall, then, render its judgment after perusing the papers.

Article (238)
The appeal filed by the convicted condemned to a penalty restricting his freedom shall be forfeited if it is not submitted for execution prior to the hearing set for the examination of the appeal.

Article (239)
The court of appeal shall hear by itself the witnesses who should have been listened to before the court of first instance court and shall remedy to any other shortage in the investigation procedures.

It may, in all circumstances, order to complete whatever investigation, or listening to witnesses as it deems appropriate. Serving a subpoena to any witness may not be done unless the court so orders.

Article (240)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In an appeal lodged by the public prosecution, the court of appeal, if it deems that the act condemned as a misdemeanour is, in fact, a felony, may decree the cancellation and the non-jurisdiction of the court of first instance and return the case to the public prosecution to take whatever action required.

Article (241)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

If the appeal is lodged by the public prosecution, the court may confirm, cancel or amend the appealed judgment, whether for or against the accused but a judgment acquitting the accused may only be appealed by a unanimous opinion.

In case the appeal is filed by other than the public prosecution, the court may only confirm, cancel or amend the judgment in favour of the appellant. In judgments in absentia and opposition thereto before the court of appeal, the same procedures prescribed for the first degree court shall apply.

Article (242)

Should the first degree court judge the merits of the case and the court of appeal deems that there is a nullity in the judgment or in the procedures affecting, it shall decree its cancellation and re-judge the case.

However, if the court of first instance decided its non-jurisdiction or accepted a corollary plea entailing stay of the action's progress and if the court of appeal decides to cancel the judgment and declare the jurisdiction of the court, or to reject the ancillary plea and examine the case, it must return the case to the first instance court and the public prosecution has to notify this to the absent parties.

Article (243)

In case the judgment allowing damages has been provisionally executed on these damages, they have to be returned upon the cancellation judgment.

Chapter Three. Cassation

Article (244)

***** *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

Each of the public prosecution, the condemned party, the responsible for the damages claimed, and the insurer may challenge by way of cassation the final judgments rendered by the court of appeal in a felony or a misdemeanour, in the following instances:

1) In case the challenged judgment is based on a violation of the law or a mistake in its application or interpretation.

2) If the judgment is void or there is a nullity in the procedures affecting the judgment.

3) If the court has adjudged the civil claim in excess of the amount claimed.

4) If the judgment is void of any justification or if it is insufficient or obscure.

5) If two contradictory judgments have been rendered on the same act.

The appellant in cassation may establish by all possible means that the procedures have been violated or disobeyed and they are neither mentioned in the minutes of the hearing nor in the challenged judgment. In case they are mentioned in either one, their non-fulfilment may not be established except by a challenge in forgery.

Article (245)

The challenge shall consist of a report embodying the reasons therefore to be deposited with the clerks' office of the court, to which the challenge is lodged, within thirty days as of the date of issue of the judgment, unless it is considered rendered in the presence of the parties then this period shall start from the date of its notification. The challenge shall be entered in the register kept for this purpose.

If the challenge is filed by the public prosecution, the reasons thereof must be signed, at least, by a Head of the prosecution department and if filed by someone else, the reasons should be signed by an attorney-at-law admitted to exercise before the court.

The court clerks' office shall notify the respondent a copy of the challenge within a period not exceeding eight days from the date of recording the challenge in the ad hoc register and the respondent has to deposit with the court clerks' office a memorandum including the answer to the challenge, within eight days as of its notification to him.

Article (246)

No other counts of challenge may be raised before the court in the appeal for cassation except those previously stated within the period prescribed for the challenge.

Nonetheless, the court may, of its own motion, quash the judgment in favor of the accused if it notices from what is established by the papers that the challenged judgment is based on a violation relating to public policy, a violation of the law, a misapplication or a misinterpretation thereof, that the court that rendered it is not legally formed or the dispute was not among the disputes that it has the power to settle or if, subsequent to the challenged judgment, a law was enacted, more favorable to the accused and applicable to the case.

Article (247)

In case the challenge was not filed by the public prosecution or the party condemned to a death penalty or one that restricts his freedom, it is accepted only if the appellant deposits with the court treasury, as a guarantee, an amount of one thousand Dirhams.

Article (248)

The court clerk's office has to ask for joining of the case file, which judgment is challenged, within three days as of filing the pleading in cassation and the clerks' office of the court that rendered the challenged judgment has to remit the case file within six days at most as of the receipt of the application asking for the file.

The court, after deliberation and without pleadings, and after reciting the report prepared by of its members, shall render its judgment and it may listen to the statement of the public prosecution and the Attorneys of the parties or the parties themselves, if it deems it necessary.

Article (249)

* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

In the challenge is not filed in accordance with what is prescribed in Article (245), the court shall decide its non-admittance.

Should the court accept the challenge and its subject matter is ready for judgment, or if the challenge was for the second time, it shall adjudicate it and complete the necessary procedures. However, in the other instances, the court shall quash the judgment, totally or partially and refer the case to the court that rendered it for review by another panel of judges or refer it to the competent court for adjudicating it anew. The court to which the case was referred shall be bound by the cassation decision in the points settled by the said decision.

The second paragraph of this Article is applicable to the quashed judgment according to the second paragraph of Article (246).

Article (250)

In case the reasons of the challenged judgment include a mistake in law or in mentioning the applicable law provisions, the judgment may not be quashed as long as the adjudicated penalty is prescribed by law for the crime and the court shall correct the occurring mistake.

Article (251)

The judgment shall be quashed only as concerns the counts on which were based the appeal in cassation unless the fractioning thereof is not possible. If the challenge is not lodged by the

public prosecution, the judgment shall be quashed only as regards the challenger unless the counts on which the challenge in cassation was based have a relation to other accused then the judgment shall be quashed in their respect even if they did not submit a challenge.

Article (252)
Should the challenged judgment decide to accept a plea in law staying the action and the court quashed it and referred back the case to the court that rendered it to review the merits of the case, the said court may not render a decision in contradiction to that rendered by the judgment in cassation.

Article (253)
Without prejudice to the above provisions, the judgment ordering the death penalty shall be considered challenged in cassation and its execution stayed until the settlement of the challenge. The clerks' office of the appellate court that rendered the judgment has to transmit the case file to the clerks' office of the court, before which the challenge is filed, within three days as of the date of its issue.

The public prosecution has to deposit with the clerks' office of the court, within twenty days from the date of rendering the judgment, a memorandum of its opinion in it and commission to the condemned party a lawyer to defend him. The court shall adjudge the challenge in accordance with paragraph two of Article (246) and paragraph two of Article (249).

Article (254)
Should the court examining the challenge decide the non acceptance of the challenge or its rejection, in whole or in part, or is not admitted for examination, it shall condemn the challenger to the adequate expenses in addition to the confiscation of the deposit made in guarantee, in whole or in part as the circumstances may require.

Should the court deem the challenge vexatious, it shall decide the payment of damages to the harassed party in case he so claims.

Article (255)
In case the quashing of the judgment is ordered upon request of one of the parties, other than the public prosecution, he shall not be prejudiced as a result thereof.

Article (256)

The public prosecutor shall, directly or upon a written request of the minister of Justice, challenge in cassation, in favor of the Law, the final judgments, regardless of the court that rendered it, in case the challenge is based on a violation, misapplication or misinterpretation of the law, in the following two instances:

1) Judgments which the law does not allow the parties to challenge.

2) Judgments, in which the parties have allowed the time limit set for challenge to expire, have relinquished their right to challenge or have filed one but it was not accepted.

This appeal in cassation shall be lodged by way of a pleading signed by the public prosecutor and the court shall examine the challenge after having summoned the opposing parties. The judgment in the challenge shall have no effect unless it is rendered in favour of the condemned party or the party liable to pay the damages.

Chapter Four. Review

Article (257)

Final judgments inflicting a penalty or a measure may be subject to review in the following instances:

1) If the accused is condemned in a crime of murder and the victim was found alive.

2) If a person was condemned for an act then another person was condemned for the same act and the two judgments were contradictory, resulting in that one of the condemned is innocent.

3) Where one of the witnesses or experts is condemned to the penalty of perjury or of forging a paper produced as an exhibit during the examination of the case, if the testimony, the report or the paper has a bearing on the judgment.

4) In case the judgment is based on another judgment, rendered by one of the civil or personal status division, which was cancelled.

5) Should facts occur or be revealed after the judgment or if papers were submitted that were unknown to the court during the trial and these facts or papers establish the innocence of the condemned.

Article (258)

In the first four instances mentioned in the preceding article, each of the public prosecutor or the condemned, or his legal representative, if incapacitated, absent or one of his relatives or spouse subsequent to his death, are entitled to ask for review.

Should the applicant be someone else than the public prosecution, he has to submit his request to the public prosecution by way of a pleading stating the judgment to be reviewed, the justification it was based upon to which he shall attach the supporting documents.

The public prosecutor, whether the application is submitted by him or by others, shall submit the application together with the investigations that he may have made to the criminal cassation division through a report stating his opinion and the reasons on which he based himself.

The request should be filed with the court within three months following its presentation.

Article (259)
The request for review, in the case provided for in clause 5 of Article (257) is exclusively reserved for the public prosecutor, whether directly or upon request of the concerned persons. Should he be convinced that there is a reason for it, he shall refer it to the criminal cassation division stating in the request the fact or the paper on which he based himself.

The mentioned division shall decide upon this request after perusing the papers and completing whatever investigation deemed necessary, in conformity with the procedures prescribed for the examination of an appeal in cassation in criminal matters.

Article (260)
The public prosecution shall notify the parties of the hearing that will be fixed for the examination of the request before the criminal cassation division, three days at least prior to the date fixed for holding it.

Article (261)
The criminal cassation division shall decide upon the request after hearing the statement of the public prosecution and the parties and after taking the investigation measures it deems necessary in accordance with the procedures prescribed for the appeal in cassation. Should it decide the acceptance the request, it shall order the cancellation of the judgment and declare the condemned not guilty, if his innocence is apparent, otherwise it shall refer the case to the court that has rendered the judgment, unless the said criminal division deems that it should be examined before a division composed of other judges or be referred to the competent court for review. The court to which the case is referred shall be bound to follow the cassation decision as to the points settled by it.

However, if the review is not made possible, i.e. in case of death of the condemned, his incapacity due to lunacy, mental disorder or weakness or serious psychic disease, the criminal cassation division shall examine the case.

The said division shall cancel of the judgment only the part where the mistake occurred.

Article (262)
The request for review shall not cause the stay of execution except in case of a death sentence. In other cases, the court may order the stay of execution in its decision accepting the request in review.

Article (263)
Every judgment declaring the condemned innocent subsequent to a request for review must be published, on the government's expense, in the Official Gazette and in two papers indicated by the person concerned.

Article (264)
The cancellation of the challenged judgment shall entail the forfeiture of the judgment allowing damages and creates an obligation to refund the executed part of it.

Article (265)
Should the condemned claim damages for the prejudice sustained as a result of the judgment deciding its cancellation, the court may adjudicate it to him in the judgment declaring his innocence.

If the condemned is dead when reviewing the judgment rendered against him, the right to claim damages shall devolve to his rightful heirs.

Damages may be claimed at any stage of the judgment review.

Article (266)
Judgments rendered on the merits of the case, upon review from other than the criminal cassation division, may be challenged by all means of challenge prescribed by law.

The accused may not be condemned to a more severe penalty or measures to which he was previously condemned.

Article (267)
In case the request for review is turned down, it may not be renewed on the same facts on which it was based.

TITLE SEVEN. RES JUDICATA

Article (268)
As concerns the accused, the action raised against him and the facts imputed to him, the criminal action is extinguished by the issue of a decisive judgment declaring him innocent or guilty.

If a judgment is rendered in the criminal action, it may not be reviewed except by way of challenging the judgment through the means prescribed by law.

Article (269)
The conclusive criminal judgment rendered on the merits of a criminal action declaring innocence or guilt has res judicata and is binding on the civil courts, in cases not yet settled by a conclusive judgment, as concerns the perpetration of the crime, its legal characterization and in its imputation to its perpetrator. The judgment declaring innocence has the same res judicata, whether based on the negation of the charge or lack of sufficient proof, but not if grounded on basis that the fact is not penalized by law.

Article (270)
Judgments rendered in civil matters have no res judicata before the criminal courts as concerns the perpetration of the crime and its imputation to the perpetrator.

Article (271)
Judgments rendered in personal status matters shall have res judicata before the criminal courts in matters of which depends on the settlement of the criminal action.

BOOK FOUR. EXECUTION

TITLE ONE. GENERAL PROVISIONS

Chapter One. Executory Judgments

Article (272)
The public prosecution is entrusted with the execution of all judgments rendered in criminal actions brought before the courts and, when necessary it may directly seek the assistance of the public authority.

Article (273)
With due observance of the provisions of Book One of the Penal Law No. (3) of 1987 penalties or measures provided for therein or in any other law may not be substituted or modified when adjudicating or executing it.

Application and execution thereof shall be as stated in this Law.

Article (274)
Judgments rendered in crimes against dogma and reproved behaviour are not susceptible to summary execution.

Article (275)
The detained on remand shall immediately be released if the judgment declares innocence, orders taking measures that do not restrict freedom, a penalty whose execution does not require detention, orders stay of execution of the penalty or if the accused has been detained on remand for the total adjudicated period of the penalty or the measure.

Chapter Two. Opposition to Execution

Article (276)

The oppositions to execution of the criminal judgment shall be filed with the court that rendered the judgment.

Article (277)
The opposition is made by way of a report to be deposited with the clerks' office of the court where execution shall take place within its jurisdiction. The date of examination of the opposition by the competent shall be mentioned in the report and this date should not be beyond the seven days following the filing of the opposition report. The opposing party shall be advised to attend on that day and the public prosecution shall summon the parties to be present this day.

Article (278)
If the opposition is on the execution of a death sentence, the report may be made before the manager of the establishment or the place where the execution shall occur and this person shall immediately submit the report to the public prosecution in order to fix the date on which it shall be examined and to summon the parties for attendance on this day.

Article (279)
The opposition shall not stay the execution of the judgment unless it includes a death sentence, but for any other penalty the court may order a stay of execution until a decision is taken on the opposition.

Article (280)
The opposing party may, under all circumstances, be represented by an attorney to defend him but without prejudice to the right of the court to order his presence in person.

Article (281)
A decision shall be taken as regards the opposition after hearing the public prosecution and the concerned parties. The court may make the necessary investigations and decide on the merits of the opposition whether by ordering that the execution is unacceptable, rejected or should be continued and its decision on the opposition may not be challenged.

TITLE TWO. EXECUTION OF THE DEATH SENTENCE

Article (282)
The person condemned to death shall be put in one of the penitentiaries upon an order issued by the public prosecution until the sentence is executed on him.

Article (283)
Should the judgment rendered by a Federal court become conclusive, the case papers must be submitted through the minister of Justice to the State President for ratification.

Article (284)
The relatives of the condemned to the death penalty may meet him the day fixed for the execution of the judgment provided it is far from the place of execution.

If the condemned asks to meet the preacher of the penitentiary, or a religious member of his religion, prior to the execution of the sentence, all necessary facilities should be provided in order to make this possible.

Article (285)
The death penalty shall be executed inside the penitentiary or in any other place upon a written request of the public prosecutor in which he specifies the necessity of fulfilling the procedure provided for in Article (287).

Article (286)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The execution shall take place in the presence of a member of the public prosecution, a delegate of the Ministry of Interior, the administrator of the penitentiary and its doctor or another doctor delegated by the public prosecution.

The rightful claimants by blood in a crime of murder have the right to attend to the execution procedures and the public prosecution has to notify this to them thirty days prior to the fixed date of execution.

None of the persons not mentioned above may attend the execution except by a special authorization of the public prosecution. The defence attorney of the condemned may always be granted an authorization to attend.

Article (287)
The person in charge of the administration of the penitentiary shall recite, in the place of execution and in audible voice, the conclusive part of the sentence imposing the death penalty and the charge on basis of which the judgment was rendered. Should the condemned wish to speak, the public prosecution member shall draft a report thereof.

Upon termination of the execution, the public prosecution member shall draw up the relevant report in which he shall record the doctor's certificate attesting death and the hour of its occurrence.

Article (288)
The death penalty may not be executed during official holidays or religious feasts relative to the religion of the condemned person.

Article (289)
The death sentence on a pregnant woman shall be adjourned until delivery and suckling her newborn for two Hegira years during which she will be detained until the time fixed for execution.

TITLE THREE. EXECUTION OF PENALTIES RESTRICTING FREEDOM

Article (290)
Judgments ordering penalties restricting freedom shall be executed in the appropriate penitentiary upon an order to be issued by the public prosecution.

Article (291)
The day of commencement of execution on the condemned convict shall be counted within the period of the penalty and he shall be released on the day following the expiry of the penalty at the time fixed for the release of the prisoners.

Article (292)

The period of the penalty restricting freedom shall start the day the condemned was arrested, in implementation of the executory judgment, taking into consideration its reduction by the period of detention on remand and the period of arrest.

Article (293)
If the accused was found by the court not guilty of the crime for which he was detained on remand, or if an order of nonsuit is issued, the period of detention on remand shall be deducted from the adjudicated period in any criminal offence he may have perpetrated during or prior to the detention on remand.

Article (294)
In case of multiple penalties restricting freedom inflicted by judgment on the accused, the period of detention on remand as well as the period of arrest shall be deducted first from the less severe penalty.

Article (295)
If the condemned woman, for a penalty restricting freedom, is pregnant, execution of the sentence may be adjourned until delivery and three months thereafter.

Article (296)
Where the condemned to a penalty restricting freedom has a disease which by itself, or because of the execution, threatens his life, the execution of the penalty may be adjourned.

Article (297)
If the condemned to a penalty restricting freedom suffers lunacy, disruption or diminution of his mental capacity or a serious psychic disease causing absolute loss of his ability to control his acts, the execution of the penalty must be adjourned until his recovery and he shall be put in a treatment asylum and the period spent in it shall be deducted from the period of the adjudicated penalty.

Article (298)
If a man and his wife are condemned to a penalty restricting freedom, the execution of the penalty on one of them may be delayed until the release of the other should they be in charge of a

youngster who has not reached fifteen years of age and provided they have a known place of residence in the State.

Article (299)
The postponement of the execution of the penalty restricting freedom in accordance with the preceding articles, shall be by order of the Head of the prosecution department, whether directly or upon request of the concerned persons, and he may order taking any precautionary measure deemed necessary to prevent the condemned from escape.

In instances other than those mentioned in the preceding articles, the adjournment of execution may exclusively be upon an order of the public prosecutor, in cases where the provisions of the Sharia so require and the order shall specify the period of adjournment and the measures taken to prevent the condemned from escaping.

Article (300)
Should there be a variety of penalties restricting freedom, execution shall commence with the most severe one.

TITLE FOUR. IMPLEMENTATION OF THE MEASURES

Article (301)
In instances other than those specified by law, the detained convict may not be released prior to serving the penalty period.

Article (302)
Every condemned to a penalty restricting freedom may be conditionally released provided he fulfils the conditions provided for in the law on penitentiaries.

The conditionally released person shall be subject, during the balance of the penalty period, to the conditions specified in the law on penitentiaries.

Conditional release may be cancelled upon request of the public prosecution should the released person violate the restrictions specified in the above paragraph.

Article (303)
Execution of the judgments ordering detention in one of the labour institutions or in a treatment asylum shall be in the places habilitated for the purpose.

Detention of the condemned shall be upon an order from the public prosecution.

Detention in a treatment asylum shall be governed by the provision of Article (297).

Detention in one of the labour institutions shall be governed by the provisions of Articles (295) and (296) and Articles (200) to (304).

Article (304)
Measures shall not be implemented except after executing the penalties restricting freedom.

As an exception to the preceding paragraph, the measure of detention in a treatment asylum shall be implemented prior to the execution of any penalty or other measures. Unless otherwise provided, material measures shall be immediately implemented.

TITLE FIVE. SETTLEMENT OF THE ADJUDICATED AMOUNTS

Article (305)
When settling the amounts due to the government, as fines, the amounts to restituted and the damages to be paid, the public prosecution must, prior to execution, notify the condemned of the aggregate of these amounts unless they are assessed in the judgment.

Article (306)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

If the fines, the amounts to be restituted and the damages are adjudicated and the funds of the condemned are not sufficient to settle all these, the amount recovered must be allocated between those entitled according to the following order:

First – Fines and other material penalties.

Second – Amounts due to the claimant of damages in the civil claim.

Third – Amounts due to the government as restituted amounts and the damages.

In case the adjudicated crimes are different, the amount paid or resulting from the forced execution on the properties of the condemned shall first be deducted from the amounts adjudicated for the felonies, then those for misdemeanours and lastly for minor offences.

Article (307)
Should a person be detained on remand and he was condemned only for paying a fine, a hundred Dirhams per each day of this detention should be deducted from it if he was condemned to detention and fine and the period spent in detention on remand exceeds the period adjudicated, the amount of the fine should be reduced the amount stated per each day of the mentioned excess.

Article (308)
The public prosecution may grant the condemned, upon his request and when necessary, a respite to pay the amounts due by him to the government or to allow him paying it in instalments provided the period of payment does not exceed two years and, in case of default of paying an instalment on time all the other instalments become due.

The public prosecution may withdraw the order issued by it if there is any reason for this.

Article (309)
Bodily constraint may be used for the recovery of the fines and other pecuniary penalties and this constraint may be by detention of the condemned for a period equivalent to one day per each one hundred Dirhams or less provided that the period may not exceed six months.

Article (310)
Bodily constraint shall be subject to the provisions of Articles (299) to (304).

Article (311)
In case there are several judgments, execution shall be done in consideration of the total adjudicated amounts provided the total period of constraint does not exceed one year.

Article (312)

Bodily constraint shall be by order of the public prosecution and is legitimate if taken subsequent to the notification of the condemned and after having served all adjudicated periods of penalties restricting freedom.

Article (313)
Bodily constraint shall end when the amount corresponding to the period spent by the condemned in constraint, according to the preceding articles, in detention for a period equivalent to the amount originally claimed after deduction of what the condemned has paid or has been forcibly recovered from the execution on his properties.

Article (314)
The condemned shall be discharged of the fine and other pecuniary penalties by executing the bodily constraint, considering one hundred Dirhams per each day.

TITLE SIX. FORFEITURE OF THE PENALTY BY LIMITATION AND BY DEATH OF THE CONDEMNED

Article (315)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

With the exception of offences against dogma and reproved behaviour as well as blood money and felonies adjudicated by a final judgment ordering capital punishment or life imprisonment, forfeiture of the penalty in the shall be by the lapse of thirty years in all other felonies, seven years in misdemeanours and two years in minor offences. The period shall commence when the judgment becomes final unless the penalty has been adjudicated in absentia by the criminal court of felonies in a matter of felony and, in this instance, the period shall run as of the day of rendering the judgment.

Article (316)
* *As amended by Federal Law No. (29) of 2005 dated 30/11/2005*

The period of limitation shall be interrupted by arresting the condemned to a penalty restricting freedom and by every execution measure taken in his presence or which reaches his knowledge.

Likewise, the period is interrupted should the condemned perpetrate meanwhile a crime of the same type as the one object of the judgment rendered against him or similar to it, excluding minor offences.

Article (317)
The period of limitation is stayed by each impediment preventing the execution, whether it is legal or material.

Article (318)
Provisions prescribed for limitation in the Procedural Law on Civil Transactions shall be followed as concerns damages, amounts to be restituted and adjudicated expenses. Nevertheless, execution by bodily constraint may not be applied after the expiry of the period prescribed for the forfeiture of the penalty.

Article (319)
In case the death of the condemned occurs subsequent to a final judgment is rendered against him, the damages, the amounts to be restituted and the expenses shall be levied from his estate.

BOOK FIVE. MISCELLANEOUS PROVISIONS

TITLE ONE. JUDICIAL SUPERVISION OVER MENTAL ESTABLISHMENTS

Article (320)
Members of the public prosecution are entitled to enter mental institutions situated within the scope of jurisdiction of the courts in which they operate or the purpose of verifying that there is no illegally detained person. They have, in this respect, to peruse the registers, the writs of arrest and detention, to take copies thereof, to contact any detained person and listen to any complaint he wishes to make. In their endeavour to obtain all the required information, they must receive all the assistance needed.

Article (321)

Every detained person, in the places referred to in the preceding Article (is entitled to submit, at any time, to the person in charge of its administration a written or verbal complaint asking to notify it to the public prosecution and the administrator has to accept it and immediately inform the public prosecution thereof after entering the complaint in the register kept for this purpose.

Whoever has knowledge of the presence of an illegally detained person or in a place not allocated for this purpose, is under duty to inform a member of the public prosecution who, upon taking knowledge thereof, has to immediately go to the place where the person is detained, make the investigation and order the release of the illegally detained person and to write a report in this respect.

Chapter One. Loss of Documents

Article (322)
Should the original copy of the judgment be lost prior to its execution or if the investigation papers be lost totally or partially before a decision is taken in this regard, the procedures prescribed in the following articles shall be followed.

Article (323)
In case a true copy of the judgment is found, it shall replace the original and if the said copy is in the hands of any person or a body, the public prosecution shall get an order from the president of the court that rendered the judgment to have the copy delivered to it.

Article (324)
The loss of the original copy of the judgment shall not entail a retrial if the means of challenging the judgment have been exhausted.

Article (325)
If the case is examined before the criminal section of the court of cassation and it was not possible to obtain a copy of the judgment, the court shall order a retrial as long as the procedures prescribed for the challenge have been fulfilled.

Article (326)

In case all or part of the investigation papers have been lost prior to taking a decision in its regard, the investigation shall be redone as concerns the part concerned with the lost papers. If the case is brought before the court, it shall make whatever investigation it deems necessary.

Article (327)
Should the papers be totally or partially lost and there was a judgment rendered and the case is examined before the criminal section of the court of cassation, the procedures shall not be repeated unless the court otherwise decides.

Chapter Two. Computation of Delays and Periods

Article (328)
Any notification may not take place before seven o'clock in the morning and after six in the evening, as it may not be done in official holidays, except by permission of the judge concerned in cases of emergency and this permission shall be mentioned in the original of the notification.

Article (329)
Unless otherwise provided, periods and delays specified in this Law shall be computed according to the Gregorian calendar.

Article (330)
If the law specifies, for attendance or for completing a procedure a period, assessed in days, months or years, the notification day or the occurrence of the event that the law considers as a start for the period shall not be counted. The period expires upon the end of the official working hours on the last working day.

However, if the period should expire prior to taking a procedure, this procedure may not be taken prior to the expiry of the last day of the period.

Delays assessed in months or years shall end the corresponding day of the following month or year.

Under all circumstances, if the end of the period happens to be an official holiday, the period shall extend to the first following working day.

Article (331)
Shall be added to the periods specified in this Law, distance delays amounting to ten days for the persons domiciled in places outside the jurisdiction of the court and ninety days to those domiciled outside the country. These delays, due to transportation facilities and urgent circumstances, may be reduced by order of the competent judge and this matter shall be notified with the notice.