Chapter 1. PRELIMINARY PROVISIONS

Article: 1
(Organic Law no 20/2006 of 22/04/2006)

This law governs criminal investigation and prosecution aimed at imposing penal sanctions against acts that contravene the penal law.
Criminal judgements must be held in public audience, be fair, impartial, comply with the principle of self defense, cross examination, treat litigants equal in the eyes of the law, base on evidences legally produced and be rendered without any undue delay.

Section 1. Actions arising from offences

Sub-section 1. Criminal action

Article: 2

A criminal action is one brought in the name of the public, before a criminal court, seeking to impose punishment on an individual convicted of having committed a criminal offence.
Such an action is prosecuted by the Prosecution.
It can also be prosecuted by the victim, by filing a claim directly to a criminal court without basing his or her claim on the prosecution.

Article: 3

A criminal action abates upon death of the offender, in case of prescription of offence, when there is amnesty, when a law is repealed or following a court's final judgment on a particular offence.
In case the law provides otherwise, the action can also be extinguished if the defendant accepts to pay a fine without trial or in case a complainant withdraws his or her claim.

Article: 4
(Organic Law No 20/2006 of 22/04/2006)

Apart from criminal action against murder and violence against children that are unprescriptible, or where the law provides otherwise, a criminal action shall be extinguished:
1° in a period of ten (10) years for felonies;
2° in a period of three (3) years for misdemeanours;
3° in a period of one (1) year for contraventions.
Prescription of prosecution of an offence starts to run from the day on which the offence was committed when during that interval there have not been any measures of criminal investigation or prosecution conducted.

Article: 5

In this law, an investigative measure refers to all actions which are meant to search for offences, to collect evidence whether for the prosecution or the defence, as well as those of examining whether to prosecute the accused for trial or not.
Likewise actions of prosecution of offences shall mean all actions which are meant for instituting proceedings before courts of law, summoning parties, the appearing in courts, preparation of trial, hearing as well as exercising the procedures of appeal.

Article: 6

In regard to instantaneous offences, the prescription of prosecution of an offence starts to run from the day on which the offence was committed.
In respect of continuous offences, the prescription of prosecution of an offence starts to run from the day on which the last criminal act was completed.
When several acts constitute a common intent to prosecute an unlawful purpose, the prescription of prosecution of an offence starts to run from the day on which the last criminal act was committed.

Article: 7

The prescription of prosecution of an offence is suspended by acts of investigation or prosecution measures, if they are carried out within the time prescribed under article 4 of this law.
If, meanwhile, there has been any criminal action, the prosecution prescription starts to run again from the day of the last criminal act until the time provided thereof.
The same applies to the accused who may not have been implicated in the investigation or any prosecution.

Article: 8

Prescription of prosecution of an offence is suspended whenever the proceeding is interrupted by an inevitable obstacle provided for by the law or by a case of force majeur.
When such an obstacle is removed, the prescription time suspended from the day of the occurrence of the obstacle to its removal continues to run.

Sub-section 2. Civil action

Article: 9

A civil action is an action filed to seek redress for damage caused by the offence.
Such an action is solely aimed at seeking civil damages.
It is brought in the manner provided for under this law.

Article: 10

Any person who has been injured by an offence can file a civil action. Such a person can be a natural or legal person, whether public or private.

However, associations, which have been legally constituted to fight against violence, can exercise the right available to civil parties on behalf of a victim, claiming damages arising from the offences.

Article: 11

Civil action can be brought against principal offenders, their accomplices and accessories as well as against those liable to pay for the damages.
They can also be brought against successors to the estates of offenders.

Article: 12

When a civil action has been brought in a criminal court, the procedure to be followed in respect of civil claims is that applicable to civil cases.

Article: 13

When a civil action is brought in a criminal court, the court may, on its own motion or upon application by any of the parties, separate the civil action from criminal proceedings when the civil claim is likely to prejudice or delay the hearing of the criminal case.

Article: 14

Proceedings of the civil action are kept in abeyance as long as the criminal case has not been finally determined, whether the criminal proceedings were instituted before or in course of the civil proceedings.

Article: 15

A civil action arising from a criminal offence becomes time-barred after five (5) years from the time when the offence was committed.
However, if the prescription of a civil action precedes the prescription of a criminal action, a civil action becomes time-barred at the same time with that of the criminal offence.

Article: 16

A civil action cannot be brought before a criminal court after prescription of prosecution of a criminal case.
However, when a criminal court has been seized with civil actions, it can, when there are sound prosecution evidence, proceed with its trial if the criminal action has been time– barred, if the accused died, in case of commission of an offence or in case of amnesty.

Article: 17

The waiver of a civil action does not bar the prosecution of a criminal case.

Section 2. Services responsible for prosecution

Sub-section 1. The Judicial Police

a) Organisation of the Judicial Police

Article: 18

Criminal investigation and prosecution are carried out by judicial police officers under the control and supervision of the Prosecution Service.
The Criminal Investigation and Prosecution shall always communicate to the victim his/her right to claim for damages.

Article: 19

The Judicial police is responsible for investigation of crimes, receiving complaints and documents relating to the offences, gathering evidence for the prosecution and defence and, searching for perpetrators of the crimes, their accomplices and accessories so that they can be prosecuted by the Prosecution.

Article: 20

The Judicial Police shall comprise the following:
1° Judicial Police Officers;
2° Military Judicial Police;
3° Civil servants who are appointed in accordance with the law or appointed by the Minister in charge of Justice and empowered to act as judicial police officers.
Such judicial police officers shall perform their duties only in particular offences assigned to them and within their jurisdictions.
They are governed by regulations relating to their initial professions.
However, in the discharge of their judicial police functions, provisions of article 3 of this law shall be applicable. In case of military Judicial police officer, he or she is directed and supervised by the Military Prosecution.

b) Responsibilities of the Judicial Police

1. Investigation by Judicial Police officers

Article: 21

Unless the law provides otherwise, the process of criminal investigation and the search for evidence are carried out in secrecy.
Any person who is involved in the process of criminal investigation is under obligation to observe professional secrecy in the manner provided for under the penal code.

Article: 22

Judicial police officers shall commence criminal investigation on their own initiative, following a complaint or upon instructions from the public prosecution.
They are responsible for conducting criminal investigation in the first instance. However, if they refuse to receive a complaint or to conduct investigation on it without any cause, the person who filed the complaint in the judicial police may take the complaint direct to the public prosecution.

Article: 23

A complaint can be made to the judicial police either orally or in writing. When a complaint is made orally, it must be reduced into writing.

Article: 24

Upon receiving report about the commission of an offence, a Judicial Police Officer shall immediately visit the scene of the incident and take note of the commission.
If the offence committed is a felony or misdemeanour, the judicial police officer who receives the information shall immediately report it to the Prosecution Service.

Article: 25

A Judicial police officer must preserve evidence which is likely to disappear as well as all other facts which can serve to identify the truth. Any unauthorized person is strictly prohibited from altering the condition of the scene of crime or to remove anything from there before a Judicial Police Officer commences investigation.
However, for the sake of security and public health as well as rescuing the victim of the crime, it may be necessary to alter the state of the scene of the crime or remove some of the evidence.

Article: 26

A Judicial police officer interrogates suspects and records their statements. The interrogation is conducted in a language the suspect comprehends.
A Judicial police officer can as well interrogate any person presumed to have any detail to clarify, and compel him or her to give testimony, after oath, in the manner provided for by article 56 of this law. He or she can also deny any person from moving away from a specified area until a statement has been taken note of and, if necessary, to compel him or her to remain there.

Article: 27

Persons summoned by a judicial police office for investigation reasons are bound to appear before him or her. Failure to do so, he or she may issue a warrant compelling them to appear. The warrant is valid for three (3) months renewable.

Article: 28

A Judicial police officer records in his or her statement the nature and circumstances under which offences were committed, the time and place where they were committed, evidence or clues for prosecution or defence and statements of persons who were present at the time of commission or who may have any other information to give.
A statement is concluded by the following written declaration: "I hereby declare that this statement contains nothing but the truth".

Article: 29

If a Judicial police officer, thinks that the nature of the evidence required is likely to be made up of papers and other documents and other things under the possession of the suspect or any other person, he or she can proceed to search where they are kept after obtaining a warrant from a public prosecutor.
If the prosecutor conducts search in an officer of a special profession, it shall be conducted in the presence of the person under search or his or her representative. If such a person is a member of a professional association, the search shall be conducted in presence of the representative of the association.

Article: 30

A Judicial police officer can seize property anywhere if it can be confiscated in accordance with the law, as well as any other property which can serve as evidence for the prosecution or defence. Seized property should be shown to the owner, so that he or she can acknowledge them. A statement relating to the seizure should indicate the seized property and be signed by the person in possession and witnesses if any. In case of absence or inability of the possessor, or his refusal to sign on the statement of seizure, it shall be noted down in such a statement and the possessor shall be given a copy.

Article: 31

When seized property is of a perishable nature or can be depreciated or can cause a serious danger to people's health or their security or to property, a Public Prosecutor can, on his or her own initiative or upon application by an interested party, take any necessary preservation measures, make a statement thereof and its copy shall be given to the owner if possible and another copy shall be given to the Prosecutor General of the Republic or the Military Prosecutor General for the case of military statement.

Article: 32

If deemed necessary to carry out investigation on matters requiring special technical or scientific expertise, a Judicial Police Officer can enlist the assistance of experts qualified on the matter. An expert called as such, must swear to serve the course of Justice consciously and honourably before embarking on the exercise.

Article: 33

If a person is caught red-handed or taken to be committing an offence, any person, in the absence of a judicial police officer, can arrest such an offender and immediately take him or her to the nearest Judicial Police Officer.
A Judicial Police Officer who receives the person caught red-handed must complete his or her criminal case file within forty-eight (48) hours and send it to a competent public prosecutor, who, in turn, if necessary, institutes a suit within forty-eight (48) hours in a competent court.
For the purposes of investigation, the Prosecution Service can extend such a period to not more that twenty-four (24) hours.
The seazed Court must examine the case within fifteen (15) days from the reception of the case.

Article: 34

A person caught red-handed is the one caught in the course of committing an offence or immediately after committing it.
A person presumed to have been caught red-handed is one who is haunted with a hue and cry or is found in possession of property, arms, instruments or documents leading to the suspicion that he or she might be the one responsible for committing the offence or aided and abetted the author of crime, provided it is soon after the commission of the crime.

Article: 35

When a person unequivocally admits to have committed an offence, the provisions of article 33, paragraphs 2 and 3 of this law shall apply in the course of investigation and prosecution and the trial judge or magistrate can reduce the applicable sentence to a half.

Article: 36

For any offence that falls under his or her competence if a Judicial Police Officer estimates that due to circumstances that led to its commission, a court is likely to impose a punishment of fine and if necessary, to order the eventual forfeiture of property, the Judicial Police can request the Public Prosecutor to invite the suspect to make a choice between filing a case against him or payment of a fine not exceeding the maximum fine to which are increments that are provided for by the law.
When the accused has completed his or her choice, investigation is discontinued except when the Public Prosecutor decides to go on with the prosecution.
The payment of fine does not imply admission of an offence.

2. Arrest and necessary conditions

Article: 37

When an offence is punishable by at least an imprisonment of two (2) years or if there exist reasonable grounds to suspect that the accused is likely to escape or if his or her identity is unknown or is doubtful, a Judicial Police Officer can, if it is deemed necessary for the purposes of investigation, arrest and detain him or her in an official remand in a custody which is situated

at a police station if there are serious reasons to suspect that he or she committed the offence.
The Judicial Police Officer records a statement of the arrest in four (4) copies, one of which is immediately transmitted to the competent public prosecutor, another is filed in the criminal case file, another given to the in-charge of the remand prison and the last given to the accused.
A statement for arrest of an accused is valid for seventy-two (72) hours, which cannot be extended.
Any person against whom there is no sufficient evidence to suspect that he or she committed or attempted to commit an offence shall immediately be released.

Article: 38

Any person detained by the Judicial Police Department shall be informed of his or her charges as well as his or her rights including the right to inform his or her advocate or any other person he or she wishes to be informed. Such a notification is recorded in the statement of judicial police.

Article: 39

Any person detained by the judicial police shall have the right to consult with his or her legal counsel.
In case he or she falls to seek one, he or she shall inform the chairperson of the bar association for assigning a counsel to him or her, but he or she has the right to accept or refuse that counsel.

Article: 40
(Organic Law no 20/2006 of 22/04/2006)

Persons on remand in custody shall not be subject to a release in a place other than the custody availed for that matter and located within the area the National Police or Military Police office is located. As for soldiers, and their accomplices that place shall be located near the office of Military Prosecution.

Sub-section 2. Prosecution Service

Article: 41

The duty of prosecuting criminal offenders before courts of law is reserved for the Public Prosecution Service.

Chapter 2. PRELIMINARY INQUIRIES

Section 1. Transmission of case file to the Public Prosecution Service

Article: 42

After investigations the Judicial Police shall immediately transmit a case to the Public Prosecution Service.

Article: 43

Upon receiving a criminal case file, a Public Prosecutor may:

1° immediately file a suit to a competent court if he or she finds that the file is complete and the case is of the type which does not permit preventive detention;
2° decide to proceed with the investigation if he or she considers the evidence gathered in the file transmitted to him or her insufficient to enable him or her to make any of the decisions provided for under items 1 and 3 of this article;
3° initiate the procedure of settling the matter out of court if he or she deems it the appropriate measure to compensate the victim, redress the effects of the offence and rehabilitate the accused. This procedure cannot be respected on offences that are punishable with an imprisonment exceeding two (2) years;
4° Safe keep the case file if he or she finds the components of the offence are incomplete or the accused identify is unknown or if he or she finds prosecuting him or her is not necessary.
Such a safe keep of the case file is the decision of the administration which may not hinder the continuation of investigation in case the prosecution service gathers other proofs for prosecution provided prescription of prosecution of an offence does not prevail.

Section 2. Search of evidence

Sub-section 1. Evidence

Article: 44

If the prosecution, victim of an offence or his or her guardians, have filed an action for damages or have taken the accused to court, they have the duty to present evidence for the commission of the offence.
An accused is presumed innocent until proved guilty. Prior to proof of offence the accused shall not present his or her defence.
However, if evidence proving the offence has been adduced, the accused or his or her counsel should submit all the grounds of his or her defence, indicating why the claims should be dismissed, proving that the allegations against him or her do not constitute a criminal offence or that he or she is innocent and all other grounds to counter attack prosecution's case.

Article: 45

Evidence should be based on all grounds, of fact and law, provided that parties were given a chance to discuss on them.
A court gives a final ruling on whether the evidence tendered for the prosecution and defence are correct and admissible.

Article: 46

Upon request by a public prosecutor, or parties or on its own motion, a court can issue an order to tender any evidence which it thinks can settle disputes.
In order to decide a case, the court is under an obligation to search for evidence that has escaped the attention of the prosecution, the complainant and the accused person or their counsel.

Article: 47

In any case, judges or magistrates shall record all the evidence adduced by parties in support for the prosecution or defence to support their statements.

Sub-section 2. Summons

Article: 48
(Organic Law no 20/2006 of 22/04/2006)

A public prosecutor charged with the preparation of a case file may summon a party by issuing summons, a warrant to bring by force or a warrant of arrest.
Those warrants are valid throughout the entire country.
A public prosecutor charged with the preparation of a case file may also request the Prosecutor General of the Republic or to the Military Prosecutor General for the case of military courts to summon a party in a foreign country by means of an international warrant of arrest. That warrant is valid for six (6) months renewable.

Article: 49

A summon is a written notice issued by judicial Police officer or a public prosecutor to a person mentioned therein requesting him or her to appear before a public prosecutor or a judicial police officer on the date and time specified therein.

Article: 50

A summon to appear is a written order issued by a public prosecutor to a person mentioned therein requiring him or her to appear before the prosecutor or a judicial police officer on a date and time specified in the summon.
A summon is not a warrant for the arrest or detention of a person.
It is generally sent when a person called by an ordinary written notice has refused to comply, after having received it.
A summon to appear is issued against a suspect, an accused person or a witness of a case regardless of the gravity of the offence.

Article: 51
(Organic Law no 20/2006 of 22/04/2006)

A warrant to bring a suspect by force is a written order issued by a public prosecutor and executed by law enforcement agents to compel attendance of a suspect or a person against whom there is incriminating evidence or who has refused to show up after being legally required to do so by a public prosecutor.
A warrant to bring a suspect by force authorises an arrest but not detention.
It remains in force for a period of three (3) months starting from the date on which it was signed. After this time expires, it cannot be executed unless it is renewed by the officer who issued it.
If, for any reason, the officer who issued a warrant to bring the suspect is absent, the warrant shall be renewed by the prosecutor heading the public prosecution service to which the prosecutor who issued it is appointed.

Article: 52
(Organic Law no 20/2006 of 22/04/2006)

[The arrest warrant authorises detention and is issued by the public prosecutor in charge of the] preparation of the case file but necessarily after the prosecutor has informed the accused of his or her charges, when the offence is punishable by an imprisonment of at least two (2) years. In that case, the warrant shall remain valid for seven (7) days not renewable and persons thereby arrested are remanded in a police station cell.
The same warrant may also be issued against any person who has escaped if the offence he or she is alleged to have committed is punishable by an imprisonment of at least one year. Where that person is arrested, provisions of the first paragraph of this article shall be applicable.
An international warrant of arrest is an order signed by the Prosecutor General of the Republic or the Military Prosecutor General against a person staying in a foreign country while he or she is alleged to have committed a crime and other offences related to the property. That warrant shall remain valid for six (6) months renewable.

Article: 53

A warrant to bring a suspect forcibly and that of arrest are executed by any law enforcement agents and must be shown to the people under search and copies thereof given to them.
In case of urgency they can be sent by using any available means. The original warrant of arrest or of forcibly to bring a person or its copy thereof is sent to the person supposed to execute it without delay.

Sub-section 3. Questioning of Witnesses

Article: 54

A public prosecutor can summon by using written notice, summons to appear or warrant bringing by force, any person he or she thinks has some important information to give. The summoned person is given a copy of the summoning document.
Witnesses are summoned through the administrative organs, by using court bailiffs or security organs although they can as well appear voluntarily.
Any person summoned in accordance with the law is obliged to appear.

Persons who, by the nature of their trade or profession, are custodians of secrets are exempted from testifying as regards those secrets.

Article: 55

A public prosecutor can issue a warrant to bring by force any witness who has defaulted to appear.
Any witness who is legally summoned and falls to appear without any lawful reason, or who refuses to discharge the obligation of testifying can be handed over to court without any further formalities.
A witness who defaults to appear after being summoned for the second time or who, after being called by warrant to bring him or her by force advances legitimate reasons is absolved from punishment.

Article: 56

After submission of their particulars and swearing to tell the truth, witnesses are interviewed, each separately in the absence of the accused. Statements of their testimonies are recorded in writing.

Article: 57

A witness who falls to appear to testify without advancing any justifiable excuse after being summoned in accordance with the law or refuses to take an oath or to testify after being ordered to do so can be sentenced to a maximum punishment of one month and a fine which does not exceed fifty thousand francs (50.000) or one of them. If need be, public force can order his or her arrest following a warrant to bring him or her by force issued by a public prosecutor charged with investigation of the case.

Article: 58

A witness who is punished due to disobeying a summon and who is called for a second time or is sent a warrant to appear by force and later shows legitimate reasons for the default, he or she may be exempted from the intended penalty.

Article: 59

Persons against whom the prosecution has evidence to suspect that they were involved in the commission of an offence cannot be heard as witnesses.

Article: 60

Children who have attained the age of 12 can testify as adults.
Children under the age of 12 can also be heard but a court's decision cannot be solely based on their testimony. In this respect, the evidence of a minor should be supported by other corroborative evidence.

Article: 61

Every page of a statement is signed by the prosecutor and the person interviewed. The latter should be asked to read the statement to see whether it conforms to what he or she said before signing it. If he or she does not know how to read, the statement is read to him or her.
If he or she refuses to sign or unable to do so, it is indicated in the statement.

Article: 62

Statements should be recorded with enough spacing between line and words. Words erased or crossed should be approved by both the prosecutor and the witness.
Failure to do so may render the words worthless. The same applies to statements that do not bear the required signatures.

Article: 63

If a witness is unable to appear before a public prosecutor, the latter shall go to interview the person where he or she is or delegate someone else to do it on his or her behalf.

Sub-section 4. Examination and cross-examination

Article: 64

When the accused appears, a public prosecutor starts by verifying his or her particulars, informing him or her each of the charges against him or her and the provisions of law. These are recorded into the statement.
When the accused has already asked to be defended by a counsel and the latter has been duly informed, a public prosecutor proceeds with the interrogation.
In all other circumstances, a public prosecutor informs the accused of the right to seek a defence counsel. The counsel is allowed to read the case file as well as to communicate with the accused. The public prosecutor then informs the accused that he or she can be interrogated immediately if he or she is willing to do so. Such information is recorded in a statement.
However, if the accused wishes to make any declaration, the public prosecutor immediately interrogates him or her. At the close of the interview, the accused gives his or her residential address. The accused is also told to inform the public prosecutor who investigates the case of any changes in the given address, that any service made at the last mentioned address will be regarded as having been duly served on him or her. That information as well as the address is recorded in the statement.

Article: 65

A public prosecutor can immediately proceed to carry out the interview or confront witnesses if a witness is likely to die or if some evidence is likely to disappear. A statement made to the effect indicates reasons for the urgency.

Article: 66

Where it is necessary, the public prosecutor who is charged with the investigation of a case can carry out confrontation between accused persons, between witnesses or between accused persons and witnesses either on his or her own initiative or at the request of any interested party.

Sub-section 5. Visits to the scene of crime, search and seizure

Article: 67

A public prosecutor charged with the investigation of a case can proceed to search any places where any evidence that can help to demonstrate the truth can be obtained.
If the search involves residential premises, it cannot be carried out before 6.00a.m to and after 6.00 p.m., unless there are serious reasons to suspect that the evidence sought is likely to disappear.
Public prosecutors can delegate such activities to judicial police officers.
In all cases search is conducted in the presence of administrative authorities in the area.

Article: 68

Visits to the scenes of crimes and search are conducted in the presence of the suspect or the owner of the house. However, in their absence or they have refused the search, it doesn't hinder search in case of commission of a felony or misdemeanour and in case evidence may be interfered or disappear.

Article: 69

A public prosecutor or judicial police officers who have been entrusted with the duty to search and visit suspected scenes of crimes should prove their authority and show warrants which have been signed by competent people, authorising them to carry out such activities. A copy of the warrant is given to the suspect.

Article: 70

A search warrant is a document which is issued by the Prosecution service on the authorization of the Prosecutor General of the Republic, the Military Prosecutor General for offences committed by soldiers or their accomplices, or the Public prosecutor who heads the prosecution service at a higher instance level or a lower instance level. Such a warrant authorises the person who is supposed to execute it the power to visit any premises with view to discover evidence or property that can assist in establishing the reality of the offence and the suspects to whom it is attributed.

Article: 71

When the search is in respect of documents, a public prosecutor charged with the preparation of the case or any other person to which the duty has been delegated is the only person authorised to know contents of the documents before their seizure.

Article: 72

All property and documents under custody of the prosecution are immediately taken stock of and shall bear a sign of seizure.
Seizure is made only in respect of property and documents which can be used to establish the truth.

Article: 73

After visiting scenes of crime, searching and seizing the property, the concerned officer makes a statement and issues a copy to the relevant parties.

Sub-section 6. Interception of correspondence transmitted through posts and telecommunication

Article: 74

When all other procedures of obtaining evidence to establish truth have failed, the prosecutor in charge of investigations, may, after obtaining a written authorisation by the Prosecutor General of the Republic, listen, acknowledge and intercept record communications, conversations, telegrams, postal cards, telecommunications and other ways of communications.

Article: 75

An order to listen to oral conversations and intercept written documents should be in written form and cannot be appealed. The order should contain facts relating to malls or lines to be intercepted as well as the offence that necessitate taking such measures.
The order remains in force for a period which does not exceed three (3) months, subject to renewal for such period of time only once.

Article: 76

All correspondences and messages meant for the Head of State cannot be intercepted or listened to.

Sub-section 7. Communication and co-operation in the course of investigation.

Article: 77

A public prosecutor charged with the investigation of a case can request a fellow public prosecutor or a Judicial Police Officer in another jurisdiction to do any necessary functions which he or she thinks can help to demonstrate the truth on his or her behalf. Such communication and cooperation should indicate acts relating only to the offence under investigation.
However, if deemed necessary, the Prosecutor General of the Republic can give Public Prosecutors at a higher instance level or a lower instance level special authorisation to go to other areas outside the ordinary territorial jurisdiction for the purposes of conducting criminal investigation activities.

Article: 78

Public prosecutors or judicial police officers delegated as such exercise the functions of an ordinary public prosecutor in relation to the assigned matters only.

Sub-section 8. Use of interpreters, translators, experts and physicians

Article: 79

Each person who has been legally required by a judicial police officer, a public prosecutor, a Judge or a Magistrate to assist as an interpreter, a translator, a physician or an expert witness is under an obligation to do so.

Article: 80

Before starting to discharge their duties, interpreters, translators, physicians and expert witnesses swear to act faithfully and compile their reports with professional consciousness and honour.

Article: 81

The President of the Supreme Court, the President of the High Court of the Republic, the President of Higher Instance Courts as well as those of Lower Instance Courts can, after inquiry and interview, appoint some members of staff in their jurisdictions to act as interpreters, translators or expert after they have taken oath, so that they can constantly and permanently discharge the duties in courts within their jurisdictions.
Such persons are appointed after they have taken oath before the appointing Judge or magistrate to discharge the duties faithfully and consciously.
After taking the oath, permanent interpreters and translators shall have the right to discharge the functions without having to repeat the oath provided for by Article 80 of the Law n° 13/2004 of 17/5/2004 relating to the Code of criminal procedure as modified and complemented to date every time they perform their duties.

Article: 82

The Presiding judge shall determine the amount of allowances parties to a case are supposed to pay to interpreters and translators, experts, physicians for the duties they perform in accordance with the provision of article 270 of the Law n° 13/2004 of 17/5/2004 relating to this Code of criminal procedure as modified and complemented to date.

Article: 83

Refusal to comply with an order of the court to discharge the duties or to take oath when requested to do so is punishable with one month's imprisonment and a fine which does not exceed 50,000 francs or one of the punishments. Investigation, prosecution and punishment of such offences are regulated by ordinary rules relating to Jurisdiction and procedure.

Article: 84

Expert witnesses can receive evidency from people other than the accused so that it can assist them in discharging their duties.

Article: 85

When several experts who have been appointed give conflicting opinions or some of them have reservations in arriving at a common conclusion, each of them indicates his or her opinion or gives reason for the reservations.

Article: 86

With exception of when a person is caught red handed, a public prosecutor charged with the preparation of a case file cannot search on the body of an accused person by stripping him or her naked without prior authorisation of a public prosecutor in charge of the prosecution service he or she is appointed to. Searching on a naked body is only conducted by a physician.
In any case, any body who is the subject of search on a naked body can choose a physician, a relative, a spouse or choose any other adult person of the same sex to be present at the time of the search.

Section 3. Release on bail and remand in custody pending investigation

Sub-section 1. General provisions

Article: 87

A suspect is entitled to be free during the time of investigation.
However, on the interest of the preparation of the case file, or on security of accused or national security, an accused can be subjected to certain conditions, or in certain circumstances, to be remanded in custody in accordance with the procedure and conditions provided for in the following articles.

Article: 88

Any unlawful imprisonment contrary to what is provided for from article 90 to 100 contravenes the law and can entail punishment to responsible officers.
Unlawful imprisonment mentioned in this article can include:
- detaining persons in unauthorised premises;
- detaining a person for a period that exceeds what is provided for in the record of arrest or that of custodial investigation;
- retaining a person under custody after an order against or rejecting an application for extending the period of preventive detention or in favour of release on bail;
- retaining a person under custody after a decision of his or her innocence.

Article: 89

When a person is detained unlawfully, any judge who is appointed to a court which is located near the place where the person is detained and whose competence covers the offences the detained person is alleged to have committed can, upon request by any interested party, order the officer who detained that person to appear and produce the detainee in order to indicate reason and manner under which he or she is detained.
A judge or magistrate then makes an order arresting or releasing the person on bail. He or she may also order the suspect to respect conditions provided for by article 102 of the Law n°13/2004 of 17/5/2005 relating to the Code of criminal procedure. The judge or magistrate may immediately cause to be punished any officer who unlawfully detained the person with the punishments provided for under the Penal Code.

Sub-section 2. Release on bail

Article: 90

Bail conditions can be ordered when the offence a person is charged of is a misdemeanour or a felony.

Article: 91

A suspect can be subjected to bail conditions by the public prosecutor charged with the investigation of a case at any time during investigation. During that time, an accused can be subjected to one or several conditions provided for under article 102 of this law.
A public prosecutor can, at any time, impose on the accused new bail conditions, reduce or modify part of them or exempt him or her from some of the conditions.

Article: 92

When an accused voluntarily breaches some of the conditions imposed upon him or her, a public prosecutor can issue a warrant of arrest and apply for remand of an accused person in custody during the time of investigation.

Sub-section 3. Preventive detention

Article: 93

A suspect shall not be subjected to pre trial detention unless there are concrete grounds to prosecute him or her and the offence he or she is accused to have committed is punishable with at least two (2) years' imprisonment.

Article: 94

An accused person against whom there are strong reasons to suspect that he or she has committed an offence can be remanded in custody pending trial even if the offence he or she is suspected to have committed is punishable with an imprisonment which is less than two(2) years but exceeding one month, if there is fear that he or she can escape or, if his particulars are unknown or undoubtful or if there are strong, unusual and exceptional circumstances that urgently require the detention pending trial in the interest of public security :
1° If the pretrial detention is the only means to preserve evidence or to stop the accused from interfering with the investigation or putting pressure on witnesses and complainants or stop fraudulent communication between the accused persons and their accomplices;
2° If such detention is the only means to protect the accused, to ensure that the accused will be available whenever he or she is needed by judicial organs or to put a halt to the commission of an offence or to prevent it's recurrence;
3° If, considering the gravity of the offence, circumstances under which it was committed and the extent of harm caused has led to exceptional unrest and disruption of the law and order in which case detention becomes the only means to put them to an end.

Article: 95

In this law, strong reasons to suspect that a person has committed an offence are the totality of evidence which can lead to the suspicion that a person might have committed an offence.

Article: 96

When all conditions that warrant pre-trial detention are established, a public prosecutor can, after interrogating the accused pleading on his or her own or in the presence of his or her advocate, place him or her under provisional arrest and take him or her to the nearest jurisdiction with the exception of the High Court of the Republic and the Supreme Court.
The accused should appear before the magistrate or Judge in a period of not more than seventy-two (72) hours from the time the warrant of the provisional arrest was issued.

Article: 97

In any case, an accused is detained pending trial pursuant to a court's order which clarifies, grounds based on facts and law, and should particularly specify concrete grounds for suspecting that he or she committed the offence.

Article: 98

An order for preventive detention is one which is signed by a Magistrate or Judge and a court registrar, if after the hearing he or she is of the view that the accused who is detained should remain in custody because of the evidence against him or her.
A preventive detention is authorised by the nearest court to the place where the suspect is arrested, with the exception of the High Court of the Republic and the Supreme Court.
The trial and judgement shall be open. A judge or magistrate can rule out that a trial be conducted in camera upon request by the prosecutor or the accused".

Article: 99

A decision ordering for preventive detention should be delivered within 24 hours after the time the court is seized upon request by the public prosecution and after hearing the defence of the accused upon his will, his or her advocate and the Prosecutor.
The defence and grounds advanced by the accused person are recorded in writing. The Magistrate or Judge immediately informs the accused of the decision in writing or orally and then reduced into writing.

Article: 100

An order authorising for preventive detention remains in force for 30 days including the day on which it was delivered. After the expiry of that time, it can be renewed for one month and shall continue in that manner.
However, after expiration of 30 days, the time cannot be extended for contraventions. For misdemeanours, the time cannot be extended after the accused has been detained for 6 months and after one year for felonies.
Orders extending the period of detention are made in accordance with the form and periods provided for under article 99 of this law.
An order for pretrial detention or for extending the time of detention shall specify the grounds that justify it.
Preventive detention can also be ordered if an accused person has voluntarily breached some of the conditions of bail imposed on him or her.

Section 4. Release on bail and execution of bond

Article: 101

In all offences, an accused person or his or her counsel can at any time apply for bail to the public prosecutor charged with the preparation of the case or to a Judge or Magistrate depending on the stage of investigation.
A Judge or Magistrate delivers a ruling on the application and its legal basis within five (5) days.
When the release is guaranteed, the accused may be ordered to respect some conditions.

Article: 102

When a Magistrate or Judge does not find sufficient evidence for prosecution, an accused person shall be immediately released.
When a Judge or Magistrate finds that there is enough evidence to warrant detention of the accused, an order for preventive detention can be made; or he may not be detained but ordered to respect certain conditions.
Some of the conditions, which can be imposed on the accused, include the following:

1° to live in the area where the prosecutor charged with the preparation of the case file works;
2° not to travel beyond a prescribed area without obtaining prior permission of the prosecutor charged with the preparation of the case file or his or her representative;
3° not to travel to specific areas or not to be found in certain areas at given times;
4° to report at given periods before a public prosecutor who is charged with the preparation of the case file or a public servant or before any such other officer as may be determined by the magistrate or judge;
5° to appear before a public prosecutor in charge of preparation of his or her case file or before a Judge or Magistrate when he or she will be required to do so;
6° to present persons of integrity who can stand for his or her surety.

In order to provide precisely how the conditions provided for in the proceeding paragraph are respected, an order releasing an accused on bail may also indicate any of the conditions to be satisfied among those enumerated.
Upon request by the public prosecutor charged with the preparation of a case file, a Judge or Magistrate can at any time, modify the conditions imposed in order to match with changing circumstances. He or she can as well order redetention of the accused, if deemed necessary, because of the new and serious circumstances.

Article: 103

A Judge or Magistrate who, orders for detention pending trial, may release the accused on bail by requiring him or her to execute a bond with or without any one or several of the conditions provided for in the preceding article.
The bond guarantees the appearance of the accused whenever required in court as well as payment of damages arising from the offence, property to be restituted and fines.

Article: 104

Bail may be in form of bond or of a person standing as surety.
Any one who admits to stand as surety shall be a person of integrity and have the means to pay.
Where an accused person escapes justice, the surety shall pay compensation for the damages caused by the offence.

Article: 105

A Judge or Magistrate determines the amount of bond to be paid by considering the value of the destroyed property, fine to be paid as well as the means of the accused person.
No bond shall be admitted in respect of felonies.

Article: 106

When an accused person is not found guilty, the amount of bond paid is refunded.

Section 5. Appeals against orders of preventive detention and release on bail

Article: 107

The prosecution and the accused person can appeal against rulings ordering preventive detention or release on bail.

Article: 108

Orders issued by a Lower Instance Court are appealed against in the Higher Instance Court whereas those of the Higher Instance Court are appealed against in the High Court of the Republic. Orders issued by the High Court of the Republic are appealed against in the Supreme Court.
Orders issued by the Military Tribunal are appealed against in the Military High Court whereas those of the Military High Court are appealed against in the Supreme Court.
An order of the jurisdiction of appeal is not appealable.
An appeal does not preclude trial of the case on merits.

Article: 109

The time to file an appeal is five (5) days. The time starts to run from the day of the order was taken in respect of the public prosecution or from the date of service of the order in respect of an accused person.

Article: 110

A notice of appeal is filed in a registry of the court that gave the order, or in a registry of a court that is supposed to hear the appeal.
A court clerk who receives a notice of appeal takes notes of statements or grounds of appeal advanced by the accused in support of his or her appeal, and on which he attaches all other documents handed over by the accused for submission to a court that will hear the appeal. He or she gives to the accused a document acknowledging receipt.
The person who receives the notice of appeal and the accompanying documents immediately forwards them to a clerk of the court that is supposed to hear the appeal.

Article: 111

During the period of appeals and in times the appellate court has not yet tried the case, the accused shall continue to be in the same state as the court ordered, at all times the court order is in execution.

Article: 112

Appeals shall be examined within five (5) days. The decision shall be taken in five (5) days which are counted from the date the prosecution handed in its submissions.
When the appellant does not reside within the area where the court is situated or is not represented by an agent duly authorised in writing, the court can pass judgment basing on written evidence only.

Article: 113

If an order of the lower court dismisses detention of the accused or rejects an extension of the time of detention and is dismissed by the appellate court, the time to authorise detention or its extension is determined by appellate court but shall not exceed one month.
That period starts to run from the day on which the order of the appellate court comes into force.

Article: 114

When an accused person has successfully appealed against a ruling ordering his or her detention or extending the time of detention, he or she can not be subjected to another warrant of arrest based on the same charges, unless new and serious grounds that warrant his or her preventive detention are discovered.

Section 6. Special Provisions

Article: 115

Where the public prosecution decides that there are no grounds for prosecuting the accused person, it should request for the release of the accused.

Article: 116

When an accused person is in detention before trial or has been released on bail on the day on which the court was seized, he or she will remain in that condition until the time of judgment. However, for those matters provided for in paragraph 2 of article 100 of this law, the period of detention shall not exceed that provided for by that paragraph.
A person who is in detention can apply to the trial court to release him or her during the period of trial or to release him or her on bail.
A court is under an obligation to give a ruling on the preliminary claim or on any matters it can discover within a period of at least fifteen (15) days, after the ruling on the preliminary claim.
A judgment is given in the manner and time provided for in article 99 of this law.
When a court releases an accused person on bail, the provisions of article 101 of this law apply.

Article: 117
[Public prosecution can only appeal against a decision pursuant to] article 116, when it seeks to release a person who was detained before trial.

An accused can only appeal, if an order has confirmed his or her detention and denied him or her bail. During the period of appeal and during period for trial, the accused remains in the same state as the former judge ordered.
An appeal is lodged in the manner provided for in articles 109 and 110 of this law.
An appeal is lodged in a court that has Jurisdiction to try the substantive case. The court decides the case in accordance with the rules laid down under article 112 of this law.

Article: 118

Public prosecution can apply for redetention of an accused who has breached some of the conditions imposed by the court that released him or her on bail.
An accused who pleads not guilty can appeal to the court within five (5) days of his or her redetention. The court is also competent to examine an appeal brought by an accused against an order of a public prosecutor and request for his or her redetention for breaching the conditions of bail imposed during the time of investigation.
A ruling on such an appeal shall not be appeallable.

Chapter 3. TRIAL OF THE ACCUSED BEFORE COURTS

Section 1. Institution of proceedings

Article: 119

When the public prosecution decides to prosecute a person, it transmits a complete criminal case file to a court of competent Jurisdiction.
In that regard, it is said that the court is seized.

Article: 120

The court may also examine a claim regardless of filing it during the commission of an offence at the time of trial or if the complainant seizes a court without prosecution.

Article: 121

In the course of proceeding, the court may order the prosecutor to prosecute and bring before the court those persons it considers as co-authors and accomplices of the accused as long as it has sufficient evidence to prove that they committed the offence.
Where the court finds out that the prosecution is not willing to prosecute such persons it may summon them to appear before the court and be tried.

Section 2. Summoning the parties

Article: 122

A summon to appear in court is issued by a court clerk, upon request by public prosecution or a civil party.
A summon should at least mention the accused, his or her names, domicile or residence, charges against him or her, a court before which to appear, place, day and hour of appearance.
A summon is served by a bailiff or court clerk and its copy thereof given to an accused, a person liable to pay damages, or any other person summoned.
A summon is served on the person or on the residence of the summoned person.

Article: 123

If the accused has no known domicile in Rwanda but has a known residence, summon shall be served on the residence.

Article: 124

In case of absence of the summoned party, summon is served to his or her spouse, relative or a relative to the spouse, his or her employer or employee at his or her residence or domicile. In case of failure to get one of them, summon is served to the coordinator of the sector of his or her residence or domicile.

Article: 125

A summon can as well be notified by sending its copy through postal registered mall or through a special messenger who is required to return a document from the addressee acknowledging receipt, indicating date and signature of the person summoned or a person mentioned in the preceding article, indicating his or her relations with the person summoned.

Article: 126

When the accused has neither a known domicile nor a residential address in Rwanda but has a known residential address abroad, a copy of the summon is posted at a specified location at the court which is supposed to try the case, and to another place determined by the court, another copy is immediately dispatched to the person summoned through the post office or through the Minister responsible for Foreign Affairs who issues a document acknowledging receipt.
When the person summoned does not have a known domicile or residential address in Rwanda or abroad, a copy of the summon is posted to a determined place at the court to try the case and extracts thereof brought to public attention through means which the court deems appropriate.

Article: 127

The time lapse between summon and appearance for an accused or the one who is liable for the damages caused by the offence is eight (8) days regardless of the day on which he or she received the summon and the day of appearance.
Persons who do not possess known domicile or residential address in Rwanda are summoned in a period of two (2) months.
When a summon is delivered to person who neither resides nor has domicile in Rwanda but he or

she served the summon in the Country of residence, it takes the usual time, but the court may extend it if deemed necessary.

Article: 128

For trials that require urgency, the President of a court can, by a ruling using an order to explain reasons and which should be served together with the summons to the accused or to the person liable for civil damages, if need be, shorten the time of eight (8) days provided for in the first paragraph of article 127, if the offence charged is a contravention or if an accused is caught red-handed, has confessed or appears to court immediately for summary trial.

Article: 129

When a summon has been sent through the post office or a messenger, the time of someone starts to run from the time when the post or messenger delivers it to the person summoned.
When summon has been posted to a determined place at the court, the time for summon starts to run on the day of the posting.

Section 3. Civil claim arising from an offence

Article: 130

A victim of an offence who wishes to sue for damages can either file an action in a criminal or civil court. However, when he or she has decided to refer the claim for civil damages in one court, he or she cannot change and lodge the same claim in a different court.

Sub-section 1. An action for civil damages lodged in a Criminal Court

a) Basing civil damages on the prosecution's case

Article: 131

A person whose interests have been injured by a criminal offence can lodge a claim for compensation in a competent court claiming damages by way of notice brought at the same time as the criminal charges or at any moment, from the time when the case is filed to the termination of hearing by stating the claim in the court registry or in court at the time of hearing and given a certificate to the effect. When the claim is made to the court registry, it is notified to concerned parties.

Article: 132

A victim who has filed a civil action direct to a criminal court can withdraw the claim at any moment from the time of filing to the closure of hearing by giving notice to the effect in court or in the court's registry. In that case, a court clerk informs the withdrawal to all concerned parties.

b) Claiming damages by way of private prosecution

Article: 133

Filing a claim for damages by way of private prosecution is a claim a victim of an offence takes to a criminal court so that the accused is punished and be ordered to pay damages equivalent to what was destroyed. The court seized shall inform the Prosecution.

Article: 134

A person who brings an action by way of private prosecution should indicate in the claim, in a precise manner the actions against the accused so that he or she can prepare defence on time and with full knowledge of the facts of his or her case.
If there are aggravating circumstances, they should also appear in the claim so that the accused can be able to defend him or her.

Article: 135

Seizing a court by way of private prosecution takes place when a criminal file was put in safe keep or when a period of six (6) months has elapsed without any action being taken by prosecution. Such a period of six (6) months starts to be counted from the time when a complaint was received by the public prosecution service or from the time when a criminal case file was received by the public prosecution service from national judicial police department.

Article: 136

A victim of an offence who seized a court without basing his or her claim on the prosecution, may, at any time withdraw his or her claim from the time he or she files it to the time of termination of the case by giving notice in the trial or in the registry of the court seized. In that later time, the court clerk shall inform the concerned parties.
However, withdrawing a civil claim, in case a victim of an offence seized a court by way of private prosecution does not hinder the trial of a criminal case.

Article: 137

A victim of the offence can file a civil action against the party liable to pay damages or any other person he or she suspects to have committed an offence without having to base the claim on the prosecution's case.

Sub-section 2. Claim for damages in a civil court

Article: 138

An injured party, without joining his or her action for recovery of damages to criminal proceedings, can sue directly in a civil court seeking to recover damages for injury arising from the offence. When a civil action which is based on a criminal offence is brought separately from criminal proceedings, the civil action is suspended as long as judgment in the criminal proceedings has not been delivered, if the criminal case was brought before or after the civil proceedings have commenced.
However, when there is no complaint of a criminal offence lodged in the public prosecution service or in court, the trial of a civil claim proceeds in a civil court by following rules of civil procedure.

Section 4. Attendance of parties in Court

Article: 139

In felonies and misdemeanours, an accused should appear in person. However, when there are strong reasons prohibiting a person from appearing, he or she can be represented by a duly authorised agent.
In contraventions, an accused can be represented by a counsel except when a Judge or Magistrate requires his or her personal appearance.

Article: 140

A party liable to pay damages and the civil party can appear in person or through advocates. However, at any stage of the proceedings, a court can order personal appearance of a party to a case.
An order for the personal presence of a party as well as the day of appearance is notified to the party by a court clerk.

Section 5. Trial procedures

Article: 141

In case the court is seized, before the date of hearing, its President, upon request by one of the parties or *suo motto*, if the complainant has no capacity to sue, has no counsel or any other legal counsel to represent him or her, can examine or order for the examination of the cost of destroyed property, record or order the recording of statements, do or order for the any other matter which need to be completed to be done.

Section 6. The Trial

Article: 142

When a case is complete for hearing, parties are summoned to court for trial.
A summon sets out the offence charged, the law punishing the offence, court seized, place, day and hour of the trial. The summon also should specify whether the accused will appear in person and/or represented by a counsel.

Article: 143

Any person who has filed a complaint is notified by the court of the date of hearing.

Article: 144

The trial of a case shall be conducted by the presiding Judge or Magistrate in the following order:

1° a court clerk calls upon parties to the case;
2° a court clerk reads out particulars of the accused and the offence charged;
3° the court asks the accused person whether he or she admits or denies the charges;
4° the prosecution provides evidence against the accused;
5° the accused gives his or her defence and narrates how the offence was committed if he or she admits it;
6° witnesses for the prosecution and defence are examined, anything against them is pointed out and the court admits or rejects them;
7° if necessary, expert witnesses are heard;
8° if necessary, exhibits which can serve to show the truth are examined;
9° the civil party explains his or her claim, the one liable for payment of damages also is heard;
10° the prosecution makes submission in relation to the sentence it seeks for the accused person;
11° the accused person is given the last chance to be heard;
12° a court clerk shall read in public a summary of the hearing before it is signed;
13° the hearing is declared closed and the presiding Judge or Magistrate informs the parties present the day on which judgment will be delivered.

Article: 145

Hearings are conducted in public.
However, a court can order for hearing to be conducted in camera when it finds that public hearing can be detrimental to public order and good morals.
When hearing in camera is decided, rulings relating to interlocutory and preliminary issues are delivered in camera as well.
Judgements on the merits of cases are always delivered in public.

Article: 146

A court clerk takes note of the proceedings, particulars of parties and witnesses as well as their principal depositions.

Article: 147

The presiding Judge or Magistrate is responsible for conducting hearing and keeping order in court.
When during trial, any of the persons present disrupts order by whatever means, the presiding Judge or Magistrate can order for his or her expulsion from the court room.
When, in the course of carrying out the above measure, the person resists the expulsion order or causes commotion, he or she is immediately arrested and detained, tried and sentenced to imprisonment ranging from one month to one year, without prejudice to other punishments, which the penal code prescribes for those persons who insult or commit acts of outrage against judges or magistrates in the course of executing their duties.

Article: 148

When the court's order is disrupted by the accused himself or herself, the provisions of the preceding article shall apply.

Section 7. Judgments

Article: 149

At the time of delivery, judgments should be written and read within a period of thirty (30) days following termination of hearing.

Article: 150

Any Judgment should indicate the following:
1° the court which delivered it;
2° particulars of the accused, those of the civil party and of the person liable to pay damages;
3° offences the accused is charged of;
4° account of steps taken during in investigation and hearing;
5° submissions of parties;
6° reasons for the judgment;
7° legal provisions which have been applied;
8° offence for which the accused is convicted, if he or she is not proved innocent;
9° sentence(s) passed;
10° damages to be paid if any;
11° a decision as to the seized property;
12° the presence or absence of parties to the trial;
13° whether the hearing was conducted in public or in camera and the judgement delivered in public;
14° date and place of delivery of judgment;
15° that there is a Judge who did not agree with the judgement and his or her reasons;
16° names of trial judge(s) or magistrate(s);
17° names of a court clerk.
The detailed statement indicating the opinions of the judge who did not agree with the judgement is attached to the judgement. It is not read in public.

A judgement should also indicate a bill of costs, prepared by a court clerk and approved by the President of the court and mention the time within which to file an appeal.
A judgement is signed by the trial judge(s) or magistrate(s) as well as the court clerk present when it is delivered.

Article: 151

Where the accused is acquitted, court fees are borne by the public treasury.
However, when a civil party who filed a claim direct by way of private prosecution loses a case, he or she is condemned to pay all the costs incurred in the case. In case a party who based his or her civil claim on the prosecution loses, he or she is ordered to bear half of the cost incurred.
A civil party who withdraws a claim, whether it was brought basing on the public prosecution case or by direct private prosecution can not be ordered to pay costs incurred after the withdrawal; however, without prejudice to payment of damages to an accused or a party liable to pay compensation if need be.

Article: 152

If at the time of Judgement, an accused who was released on bail after having executed a bond is not found guilty, the court shall order for restitution of the bond except the extra-ordinary fees which can be deducted for default of requirements he or she may have made in the course of the proceedings.
When an accused is convicted and the court finds that there are procedures he or she defaulted without any justifiable cause, the court states it in the judgement and confirms that all or part of the bond paid shall be forfeited to the public treasury.

Article: 153

Any doubt should be resolved in favour of the accused. This means that when proceedings have been carried out and completed as much as possible and no evidence has been found to remove the doubt in the minds of the Judge(s) or Magistrate(s) on whether the accused really committed the offence, he or she should be acquitted.

Article: 154

When a court rules that it has no jurisdiction to try an accused, it should immediately send him or her to a competent court for trial.

Sub-section 1. Judgement *in absentia*

Article: 155
(Organic Law no 20/2006 of 22/04/2006)

When a person who has been duly summoned does not appear, he or she is tried *in absentia*.
When the prosecution falls to appear without any justified reason whereas the accused is

provisionally detained, the court orders his/her release and examines the case with the exception of the crime.
When the judgement is passed *in absentia*, it is notified to the accused by a court bailiff in an instrument containing essential elements of the case.

Sub-section 2. Trials of fugitive offenders

Article: 156

When an accused committed a felony or a misdemeanour, and escapes the country or justice, the public prosecution compiles a criminal case file and transmits it to a competent court even if the accused may have not been interrogated and he or she can be tried *in absentia*.
A judgement passed against a person mentioned in the first paragraph of this article is not appealable.

Chapter 4. APPEALS

Section 1. Application for opposition

Article: 157

Judgments passed *in absentia* can be duly notified by a court bailiff or clerk, using an instrument comprising of the date and place of judgement, court which passed the judgement, grounds and legal provisions on which it is based as well as its orders.

Article: 158

A person who has been convicted *in absentia* can apply for opposition within ten (10) days after it is notified to him or her.
If the case was not notified to him or her personally, he or she can apply for opposition within ten (10) days that run from the day when the concerned party received the notice personally.
When there is no proof that he or she received the notice he or she can be allowed to apply for opposition till the time limit set for enforcement of the sentence and until when the judgement is executed against the defendant in civil claims.

Article: 159

An application for opposition of judgment passed *in absentia* can be made by writing at the foot of the record of service or by making the declaration in the registry of the court which passed the judgment or by the applicant writing to the clerk of that court to the effect.
The date on which a court clerk receives the letter determines the date of the application for opposition.
On the same day on which a court clerk receives the letter, he or she endorses on it the reception date and informs the applicant accordingly.

A court clerk immediately informs the public prosecution of the pending application for opposition.

Article: 160

An application for opposition can only be accepted if the party who defaulted to appear shows serious reasons, which fully justify the failure to do so.
The seized court has the discretion to appreciate the alleged grounds for failure to appear.

Article: 161

When a person who has applied for opposition of a judgement passed in his or her absence falls once again to appear, the application is dismissed. He or she can neither renew the application nor seek to oppose the second judgment on second time.
A person who has applied for opposition is bound to appear in person, if he or she was ordered to do so in the first judgement *in absentia* or if the judgment passed *in absentia* had ordered his or her personal presence as a condition for admissibility of the application.

Article: 162

The execution of a judgement passed *in absentia* is stayed until the time provided for under article 158 has expired and if an application for opposition has been made; its execution is stayed until the case has been retried.
Likewise, proceedings in an appellate court against conviction and sentence of the accused are stayed when they have been filed by a public prosecution, a person civilly liable and the one claiming damages.

Article: 163

When the accused concedes to an application for opposition, the judgement passed *in absentia* becomes worthless and the court retries the case on merits.
In all cases, all the costs incurred in opposition, including the expenses for buying a judgement copy and notifying the judgment passed *in absentia* are borne by the person applying for opposition when he or she is to blame for the default of appearance.

Section 2. Appeals

Article: 164

Those who are allowed to lodge appeals are:
1° the accused;
2° the person liable to pay damages;
3° the civil party or persons who have been automatically awarded damages but as regards their civil interests only;
4° the prosecution.

Article: 165

An appeal should be lodged within a period not exceeding thirty (30) days following the day on which the judgment was delivered in respect of party who was present or represented when it was delivered.
The time limit also applies to a party who was duly notified of the date on which a judgment would be delivered but defaults to appear or to send a representative.
An appeal should be preferred within thirty (30) days following the day on which judgment was notified to a party who was not present when it was delivered as well as a party who attended hearing but was not informed of the day on which it would be delivered.

Article: 166

A person can appeal by writing so on the notification instrument or by stating so in the registry of the court which delivered the judgment or in the registry of the court which is supposed to hear the appeal or by writing a letter to the effect to a court clerk of any of the mentioned courts. The date on which the court clerk receives the letter in the latter case determines the date on which an appeal is made. On the same date on which he or she receives the letter of appeal, a court clerk writes on it the date of reception and informs the appellant.
A court registry officer or bailiff is responsible for serving process of appeals.
However, when an appellant is in detention, he or she can lodge his or her appeal from the prison by writing a letter to a court clerk through the in-charge of the prison. The latter signs on the letter and indicates the date of reception which is taken as the date of appeal. He or she immediately transmits appeal statement to the appellate court without delay.

Article: 167

A court clerk of the trial court immediately transmits to the court clerk of the appellate court, record of hearing and copy of judgment against which an appeal has been lodged.

Article: 168

The execution of judgment is suspended until when the time fixed for an appeal has expired or when an appeal has already been preferred, until the time when the appeal is determined.
An appeal against an order for the award of damages does not stay the execution of sentence(s) imposed on the accused.

Article: 169

A person, who was detained is acquitted or sentenced to pay a fine only, he or she is immediately released except when he or she is held in connection with any other offence of which he or she was informed and charged with in accordance with this law.

Article: 170

When an appeal has been lodged, the defendant shall immediately be released upon acquittal or upon such a sentence is suspended or sentenced to a fine. The same applies to the accused who has been in pre-trial detention sentenced to a term of which is less than or equal to the time he or she spent in pre-trial detention.
However, where defendant has been charged with the crime of genocide or crimes against humanity, violence against minors, crimes relating to national security or to the security of other states, treason or espionage and where there is concrete evidence that the release of the accused may constitute a threat to public order in general, the prosecution may, after lodging an appeal, apply to the appellate court to order for the accused to again be placed in provisional detention pending determination of the appeal.
The prosecution should make the application within a period not exceeding 48 hours from the time when the judgment is delivered. Such an application is decided upon by the appellate court within a time that should not exceed 48 hours from the day and hour it was received.

Article: 171

When the accused who is out on bail during the time of trial is subsequently convicted and sentenced to a term of imprisonment, he or she remains free during the time of hearing if he or she has appealed against the judgment.
However, the accused can be arrested and detained irrespective of the term of imprisonment imposed, if serious and special reasons are presented to the appellate court.

Article: 172

The accused who is detained or who has been imprisoned following a court judgment remains in custody even if he or she has lodged an appeal.
However, he or she can petition to an appellate court to release him or her on bail.

Article: 173

A person who has been convicted while in custody or who has been arrested immediately after conviction is transferred to the place where a court which will hear his or her appeal is situated, when he or she has requested to appear personally before the court or the court has ordered his or her personal presence.
When the accused was released on bail, the prosecution requests the appellate court to determine new bail conditions to be satisfied by the accused person immediately after his or her arrival.

Article: 174

The accused can appeal against the whole judgment that orders his or her imprisonment or payment of damages.
He or she can also appeal against any of the offences charged or one of the sentences imposed.
However, when he or she is the only appellant, the appellate court cannot enhance the sentence imposed on first instance.

Article: 175

The civil party claiming damages can only appeal for damages on decided cases concerning the civil claim.

Article: 176

The civilly liable person can appeal against a judgment ordering him or her to pay damages. His or her appeal solely concerns civil claims.

Article: 177

An appellate court limits its decision on the matters fixed by the appeal only.

Article: 178

When an appellate court changes a decision appealed against, it tries the case on merits, unless it finds that the case has not been properly filed in accordance with the law or the trial court had no jurisdiction to hear it.

Article: 179

If on appeal by the prosecution only the judgement appealed against is not altered, court fees are borne by the public treasury.
When the punishment imposed on judgement appealed against is reduced, an accused person bears half of the costs or is entirely relieved from paying all the costs.
When there is a civil party in the case, he or she bears the costs in accordance with the provisions of paragraph 2 of article 151 unless the amount of damages awarded before has been increased on appeal.

Section 3. Application for Review

Article: 180

An application for review of a criminal case which has been finally determined can be made for the benefit of any person who has been convicted of a felony or misdemeanour if:
1° After a person convicted of homicide, there is latter discovered enough evidence indicating that the person alleged to have been killed is actually not;
2° After a person convicted of an offence there is discovered another similar judgment which punished a different person for the same offence and the contradiction in the two cases show that one of the convicted persons was innocent;
3° One of the witnesses to a case is subsequently found to have given false testimony against the accused person and the former has already been convicted for the offence. The person convicted of perjury can not be called as a witness in the new case;
4° After judgment, there is discovered new evidence, indicating that the convicted person was innocent.

Article: 181
(Organic Law no 20/2006 of 22/04/2006)

An application for review is made by the following:
1° the prosecution or the victim if the former does not make it;
2° a person sentenced to death or imprisonment.
Where the convicted person is dead or declared missing, an application for review can be made by his or her spouse, children, or other heirs by means of law, successors of his or her estate collectively or individual persons he or she expressly gave the mandate.

Article: 182

An application for review is made to the court that gave the judgment at the last instance.

Article: 183

A judgment that results in the innocence of an accused person may, upon application of the party to a case, award to him or her damages for injury the punishment may have caused to him or her. When the victim of the miscarriage of justice is dead, the right to claim damages will devolve, under the same conditions, to a spouse, heirs, parents or descendants up to the second degree of lineage.
Distant relatives will not have the right to claim damages without first having to prove the loss occasioned to them by conviction and punishment of the person.

Chapter 5. SPECIAL PROCEEDINGS

Section 1. Prosecution of juvenile offenders

Article: 184

A child who is below the age of twelve (12) years cannot be detained in the custody meant for criminal suspects.
However for exceptional reasons, a child who is aged between ten (10) and twelve (12) years against whom there are undoubtful reasons to suspect that he or she has committed an offence can, for the purposes of investigation, be detained by a judicial police for a period which can not exceed forty-eight (48) hours but only when the offence he or she is suspected to have committed is punishable with at least five (5) years imprisonment.

Article: 185

A minor who is being prosecuted must be defended by a counsel. If the minor or his or her guardians can not choose one, the prosecution can ask the President of the lawyers Association bar to appoint one.

Article: 186

A judicial police officer or a public prosecutor charged with the investigation of a case makes all diligence and carries out necessary investigation so that the truth and personality of the minor as well as appropriate means for his or her rehabilitation can be demonstrated.
For that purpose, he or she can issue necessary warrants or order judicial inquiry in accordance with ordinary law.
Through investigation, he or she will gather all the evidence concerning the status of the life of the child, his or her education and school life and the manner in which he or she was brought up.
A public prosecutor shall order for medical examination, and, if necessary, orders psychological examination into the behaviour of the child. He or she decides to put the child in a centre where his or her behaviour can be observed.

Article: 187

After the procedures provided for in article 186 of this law have been conducted, the prosecutor can:
1° release the child when he or she finds that the charge against him or her has not been well established and hands him or her to his or her parents or guardians;
2° hand him or her to a competent court;
3° put the child in a rehabilitation centre while awaits a court decision.

Article: 188

A court chamber that is competent to try children is the one situated in the area where the offence was committed, where the child resides or where parents or guardians reside, where the child was found or where he or she was sent by a court.

Article: 189

A juvenile chamber decides a case after hearing from the child, witnesses, parents, guardians, the prosecution and defence counsel. It can also hear from the child's majority-age co-accused or accomplices.

Article: 190

A juvenile chamber can, depending on to the case before it, order measures for protection of the child, assistance, supervision or education if it deems appropriate.

Article: 191

A civil action against the child or against the one who is responsible for paying damages is filed before a juvenile court.
When a child or children are jointly charged with one or several adult persons, an action for damages is filed before a court, which is competent to try adults. In that case, the child or children do not attend the hearing but instead, their legal representatives attend.
When a child or his or her legal representative falls to choose a counsel, one is automatically appointed.

Article: 192

Children who are above the age of twelve (12) but below the age of eighteen (18) are tried by a juvenile court in accordance with the procedure laid down by ordinary law.

Section 2. Investigation and prosecution of offences committed in foreign countries

Article: 193

Any Rwandan citizen who commits a felony punishable with the Rwandan law while in a territory outside the Republic of Rwanda can be tried and sentenced by Rwandan courts.

Article: 194

Any Rwandan citizen who commits a misdemeanour provided for under Rwandan law while outside the territory of the Republic of Rwanda can be tried and judged by Rwandan courts, when the offence is punishable with the law of the country in which it was committed.

Article: 195

Any person, including a foreigner, within the territory of the Republic of Rwanda after having, while abroad, committed international crimes including genocide, crimes against humanity, war crimes, terrorism, taking people as hostages, sale of drugs, money laundering, stealing motor vehicles for sale abroad, human being trafficking and slavery, can be prosecuted and tried by Rwandan courts.

Section 3. Investigation and prosecution of fugitive offenders

Article: 196

When the accused can not been apprehended because of fleeing the country or hiding from the course of justice, a court can make an order requiring to present himself or herself for trial within thirty (30) days, failure to which he or she can be declared to have disobeyed a lawful order.

Article: 197

Within a period of eight (8) days, the order is published in a gazette or newspaper indicated by a court and posted on the District, Town or Municipality office at the place specified by the respective administration.

Article: 198

After a period of ten (10) days, the person is judged *in absentia*.

Article: 199

No advocate is allowed to represent the accused who has absconded. The court delivers a judgement basing on the prosecutions submissions only.

Article: 200

When the accused is found guilty, his or her property which has not been the subject of confiscation is impounded and eventually given to a person ordered by the court following a final court judgment at the expiration of time provided for by the court.

Article: 201

Under the direction of the Prosecutor General of the Republic, Prosecutor of the Province or that of the City of Kigali, the main excerpts of the judgment are published in a gazettte or newspaper, posted at the court that tried the case, at the office of the District, Town or Municipality where the offence was committed and any other place as may be determined by the court.

Article: 202

After the notification provided for by article 201 of this law, the convicted person loses all the rights provided for by the penal law.

Article: 203

In no way should the investigation and prosecution of a person who has absconded suspend or delay that of the present co-accused.

Article: 204

When the person who has been convicted *in absentia* gives himself or herself up for imprisonment or is arrested before the time limit for enforcement of sentence, the judgement and proceedings conducted from the order to appear become useless and the matter proceeds according to the ordinary procedure.
When the trial, which had ordered confiscation of his or her property in favour of the state changes, the property is restituted to him or her as it was. This case does not apply to parties who may have been awarded damages.

Article: 205

If, within the time limits provided for in article 204 of this law, for any reason whatsoever witnesses can not attend hearing, their written testimony and, if necessary, written responses of other persons accused of the same offence are read during the trial. The same applies to all other necessary documents in order to demonstrate the truth.

Section 4. Prosecution of persons with privileged jurisdiction

Article: 206

A judicial police officer or a public prosecutor who receives or notices a complaint against the President of the Republic, the President of the Senate, the Speaker of the Chamber of Deputies, the Prime Minister or the President of Supreme Court immediately transmits the case file to the Prosecutor General of the Republic. The latter conducts himself or herself investigation and prosecution before the Supreme Court. In case of his or her absence, he or she shall be replaced by the Deputy Prosecutor General of the Republic.
However, accomplices of such persons can be interrogated by a judicial police officer before transmitting the case file to the Prosecutor General of the Republic.

Article: 207

In order to determine whether a person enjoys privileged jurisdiction, reference is made to the duties he or she was discharging at the time he or she committed the offence.

Article: 208

When at the time of investigation and prosecution, the accused is still holding the office, for the offence(s) he or she committed while still on the duties, he or she enjoys privileged jurisdiction.
When the offence under investigation and prosecution was committed before the accused attained privileged jurisdiction but at the time of investigation and prosecution is holding an office, which qualifies him or her for privileged jurisdiction, he or she is prosecuted and tried under privileged jurisdiction.
However, if an accused committed the offence while still holding the post that qualifies for privileged jurisdiction and at the time of investigation and prosecution he or she has left office, the privileged jurisdiction is lost.

Chapter 6. EXECUTION OF JUDGMENTS

Article: 209

Execution of judgement is conducted by the following:
1° Career bailiffs;
2° Prison director;
3° Government officials, court registrars and local government authorities empowered to do so by the Minister in charge of Justice.

Article: 210

Supervisors of execution of judgements are the following:
1° A public prosecutor, in matters concerning death penalty, imprisonment, damages awarded by

a court on its' own motion and imprisonment for non-payment of fine and additional sentence;
2° Civil party in matters concerning damages claimed by and awarded to civil plaintiff;
3° A court clerk in matters concerning recovery of fines, court fees and proportional rights calculated on the basis of percentage awarded to an adverse party.

Article: 211

Without prejudice to the provisions of article 170 of this law, an accused who is acquitted is immediately released by in-charge of prison at the presentation of an extract of a copy of judgment.
If what has been mentioned in a proceeding paragraph, and in Article 169 have not been put in practice and the accused is retained in prison, the judge takes decision as mentioned in article 88 and 89 of this law.

Section 1. Death penalty

Article: 212

Any person sentenced to death shall suffer death by shooting.

Article: 213

The place and modalities for executing death sentence are determined by a decree of the Minister having Justice in his or her attributions.
A person who has been sentenced to death, in the company of a religious minister of his or her choice, shall be taken to the place of execution and immediately fired.

Article: 214

A person sentenced to death punishment shall not be fired on days that are legally recognised as public holidays.

Article: 215

When it is proved that a woman who has been sentenced to death is pregnant, she cannot be fired before delivering.

Article: 216

Dead bodies of persons executed are, upon request, given to their relatives for private burial.

Article: 217

A statement of the execution of judgment shall be immediately recorded by a Court Clerk. It will be signed by the President of the court that passed the sentence or his or her deputy and by a

representative of the public prosecution and a Court Clerk.
The statement shall be transcribed by a Court Clerk at the foot of the judgment.

Section 2. Imprisonment

Article: 218

Punishments of imprisonment shall be served in prisons. Any convicted person shall perform the job as may be assigned to him or her.

Article: 219

Women and children serve imprisonment punishments in special quarters provided for them in prisons.

Article: 220

Modalities of serving sentences of imprisonment are provided for by a decree of the Minister having Justice in his or her attributions.

Section 3. Fines

Article: 221

Fines and court fees are paid to a Court Clerk within a period of eight (8) days following a judgment of final conviction.
Upon approval by the President of the Court which rendered the judgement, that period may be extended.

Article: 222

However, payment of fine and court fees can be required immediately after judgment is delivered if both parties are present or from the time of service of process if it was delivered in the absence of a party; if there is fear that a convicted person is likely to disappear at the time of executing the punishments. To that end, a Court Clerk requests a convicted person either verbally or by registered mall sent through the post, to pay fines and court fees within a period of time determined by the Court Clerk.

Article: 223

The delivery of judgement shall be in the presence of both of the parties or its notification to a party who was not present, shall include an official demand to pay within a prescribed period.
In case such a period expires without the accused person paying, he or she can be put under imprisonment ordered in the judgment.

Article: 224

A party claiming damages who wishes to have his or her adversary put under imprisonment for not paying the awarded damages shall apply to the effect to the public prosecution.
A judgment-debtor who has been legally imprisoned for non-payment shall be released upon consent of the judgment-creditor who applied for the imprisonment or upon payment or deposit of an amount of money which is enough to satisfy the creditor who led to the imprisonment in addition to the interests due for payment and the determined court fees.

Section 4. Public Interest Works

Article: 225

A decree of the President of the Republic shall provide for the mode of serving punishment by way of public interest works.

Section 5. General Provision

Article: 226

Provisional execution of judgement is prohibited in criminal cases, with the exception of matters relating to restitution of property or payment of damages.

Chapter 7. GROUNDS FOR DEFERRING EXECUTION OF SENTENCE

Section 1. Pardon

Article: 227

Prerogative of mercy, whether collectively or on individually can be exercised by the discretion of the President of the Republic and in public interest.
The pardon discredits total or partial remission of the punishments imposed or its commutation into less severe punishments.

Article: 228

Pardon can apply to all principal or accessory sentences.
It does not apply to imprisonment for non-payment of fine, court fees and civil damages as well as other measures, which can be imposed for reasons other than punishments.

Article: 229

Pardon can only be applied on punishments which can be executed and which emanate from cases which have been finally determined. When a punishment has been partly executed, pardon can be exercised on the whole or part of the remaining punishment.
A punishment that provide for suspended sentence cannot be subjected to pardon until the suspension has been removed.

Article: 230

Pardon can be granted unconditionally or subject to certain conditions to be satisfied by the pardoned person, which is provided for in the decision granting the pardon. If such conditions are not respected, the pardon is automatically cancelled and the sentence becomes executed again. In such a case, time limit for the execution of sentence becomes suspended from the time of notifying the pardon until when it is cancelled.

Article: 231

Any person who was convicted to life imprisonment and who commuted to a lesser punishment or totally remitted should always be given an order forbidding or ordering him or her to live in a particular area for a period of ten (10) years unless otherwise provided for in the decision granting the pardon.

Article: 232

Pardon shall not extinguish accessory punishments which have not been specified in the decision granting it or effects of conviction, particularly those relating to relapse into the act, placement at the disposal of the State, suspended sentence relating to fresh trials and judgments ordering to pay such and restitution of property and payment of damages.

Article: 233

Petition for pardon is made in writing.
For individual pardon, petition is made by a convicted person, or any other interested person in his or her name. The petitioner indicates grounds that justify the petition.
For collective pardon, petition is made by the Minister having Justice in his or her attributions after indicating grounds justifying the petition.
In any case, the Public Prosecution is entitled to give an opinion on the petition or proposal for granting pardon within a period of three (3) months.

Article: 234

After investigation, files of petitions for pardon are sent to the Minister responsible for justice who after giving an opinion thereof, makes a report to the President of the Republic within three (3) months for decision after considering the opinion of the Supreme Court.

Article: 235

A decision granting or denying pardon is brought to the attention of the petitioner by the Minister having Justice in his or her attributions.

Article: 236

Execution of punishments of fines or imprisonment for a period of three months or less, is, if it has not yet commenced, suspended during the time of investigation until the day on which decision on the petition for pardon is made. However, in all cases, the Minister having justice in his or her attributions can order suspension of enforcement of punishments during the time, whether on all punishments which have not yet commenced or on those which have already commenced.

Section 2. Conditional release of a sentenced person

Article: 237

Persons who have been sentenced to one or several imprisonment punishments or who have been placed at the disposal of the state can be conditionally released:
1° if they demonstrate enough proof of good behaviour and if they demonstrate serious guarantee of good social relations;
2° if they suffer from serious and incurable diseases.
However, persons who have been sentenced for genocide or crimes against humanity, terrorism, defiling children or sexual torture and all other crimes related to national security or of other countries, treason and espionage and all other international crimes provided for by the penal code cannot be conditionally released.

Article: 238

Conditional release applies to convicted persons who have completed two (2) months of imprisonment if their sentence is less than six (6) months and those who have served a quarter of their punishment for more and severe punishments.
For those who are sentenced to life imprisonment, the period for probation is ten (10) years.

Article: 239

Conditional release is requested from the Minister having justice in his or her attributions.
Conditional release is approved by the Minister having Justice in his or her attributions after advice by the public prosecution and director of prison.
The Minister having Justice in his or her attributions determines conditions to be fulfilled by the person conditionally released as well as the mode of supervising persons conditionally released.
An order of conditional release is not appealed against.

Article: 240

The Minister in charge of justice upon request by the Public Prosecution, can deny a person conditional release if he or she is convicted of a new offence, displays gross misconduct or for breaching conditions imposed by the order which gave the conditional release.
In case of urgency, a new arrest for the purposes of detaining a person who is under conditional release can be ordered by the Prosecutor General of the Republic, or the Public Prosecutor in charge of prosecution service office at a Higher Instance level or the public prosecutor in charge of the prosecution service office at a Lower Instance level, and shall immediately inform the Minister in charge of justice.

Article: 241

After denial of the conditional release, the convicted person shall serve the whole or part of the punishment that remained when he or she was conditionally released, in addition to any other punishment that may have been imposed thereafter.

Article: 242

If the denial of the release was not effective within a period equal to the term of imprisonment remaining on the day on which the convicted person obtains conditional release, his or her liberty is completely restored. In that case, the punishment is taken to have ended on the day of the conditional release.

Article: 243

Extinction of execution sentence prescription does not run when a convicted person has been conditionally released subject to a decree that has not been cancelled.

Section 3. Suspension of sentence

Article: 244

If a convicted person has not been previously sentenced to a period exceeding two (2) months, in the case, the court can, by a ruling that gives reasons, order suspension of execution of all or part of the principal or accessory punishment it has pronounced, provided the principal punishment of imprisonment does not exceed five (5) years.

Article: 245

A suspended sentence shall be deemed worthless if, within a given period which should not be less than one year and not more than five (5) years, the convicted person and not tried for and convicted for an offence or given a sentence exceeding two (2) months for a felony or misdemeanour he or she committed subsequent to the date on which the order suspending the execution of judgement became final.
On the contrary, punishment for which execution has been suspended and which are the subject of new conviction run consecutively.

Article: 246

Suspension of sentence does not bar payment of court fees and damages. It does not either bar disqualification arising from conviction. However, disqualification ceases to have effect on the day on which the offence becomes worthless.

Chapter 8. GROUNDS FOR REMOVAL OF A SENTENCE

Section 1. Amnesty

Article: 247

Amnesty extinguishes an offence. When there has been conviction, it removes the conviction and all the consequences arising from the offence.
When there is concurrency of intention, a convicted person gets amnesty on all of them when the offence pardoned is punishable with a punishment that is bigger than or equal to the other offences charged, even if judges or magistrates may have imposed a lesser penalty on the offence after putting into consideration mitigating circumstances.
In case of concurrency of offences, amnesty applies only to the offence it [concerns.]

Article: 248

An order granting amnesty can provide for conditions to be satisfied by the person pardoned.

Article: 249

Amnesty does not prejudice a civil action which is intended to compensate damage caused by an offence. It does not reduce anything to what third parties have been awarded by a judgement.
Amnesty does not have effect on disciplinary sanctions.

Section 2. Rehabilitation

Article: 250

Any person who has been convicted of a felony or misdemeanour can be rehabilitated.

Article: 251

Rehabilitation can be granted when five (5) years have elapsed and if during that time a convicted person has continuously shown real evidence of good behaviour.
For the person sentenced to pay a fine, such a period is counted from the day on which the opposition of the case elapsed, while a person convicted to a term of imprisonment, on the day of his or her final release or from the day he or she was released on bail if it has not been cancelled.
For those who relapsed into the act, and those persons whose sentences have been expired, the

relevant period is ten (10) years from their release or from the day on which their sentences lapsed.

Article: 252

A convicted person should, unless the time for execution of judgment has expired, prove payment of court fees, fines and damages or that he or she has been exempted for paying them. If he or she falls to prove it beyond reasonable doubt, he or she has to indicate that he or she was imprisoned for the non-payment or that the government or the victims of the crime have waved the execution.
However, when the convicted person proves that he or she is a destitute, he or she can be rehabilitated, even if he or she has not yet paid any or part of the amount of money ordered.

Article: 253

Where, each of the convicted persons is jointly and severally liable, but the one who has applied for rehabilitation is incapable of paying all the amount of money ordered by the court, the court can fix the part the applicant has to pay.
Article 254: When the victim of an offence cannot be found or has refused to take the amount due to him or her, the money is kept in public treasury.
When the concerned party does not show up to collect the amount within a period of five years, it is restituted to the depositor, upon his or her application.

Article: 254
(Organic Law no 20/2006 of 22/04/2006)

A convicted person can make a written application for rehabilitation to the High Court of the Republic or to the Military High Court for those cases tried before military courts. The application specifies the exact dates of conviction and all the places the convicted person has lived in since the time he or she was released.
The application is sent to the public prosecution service for its opinion on the conduct of the applicant. The public prosecution calls upon judgements against the convicted person, copies from the register of the detention facilities where he or she was detained indicating the punishment he or she served and request for police criminal record of the convicted person.
The High Court of the Republic or the Military High Court makes a ruling on the arguments of the public prosecution within a period of two (2) months after hearing or summoning the applicant or his or her counsel in accordance with the law.

Article: 255

When the application for rehabilitation is rejected, it cannot be re-submitted before the expiration of two years, unless the first application was rejected on the grounds that probationary period was not complete; in that case, the application can be renewed after expiration of the probationary period.

Article: 256

Rehabilitation removes conviction and sentence and then stops all the resulting disqualifications. However, rehabilitation is automatically cancelled if, within a period of five (5) years, the rehabilitated convict commits an offence punishable by an imprisonment equal to or exceeding five (5) years and for which he or she has been convicted and sentenced.
In this respect, the public prosecution service will file the matter before the High Court of the Republic or the Military High Court which, in turn, cancels the rehabilitation order, after legally summoning the applicant or his or her counsel.
When rehabilitation is cancelled, it is considered as if it has never been granted.

Chapter 9. COURT FEES

Section 1. Payment of Court fees deposit

Article: 257
(Organic Law no 20/2006 of 22/04/2006)

The parties must deposit with the bailiff an amount of money specified by the Minister having justice in his or her attributions so that they can be allowed:
1° opposition;
2° appeal;
3° a claim by way of direct private prosecution;
4° a claim for damages;
5° an application for review.
The amount of court fees payable in the Military Court is equal to that payable in a Higher Instance Court whereas the amount of court fees payable in the Military High Court is equal to that payable to the High Court of the Republic.
If there arise disputes on the amount of court fees claimed by a Court Registrar, the President of the court shall settle them.
The amount of additional court fees to be paid in order to complete the amount previously deposited is assessed by a judge or magistrate and the receipt of its payment shall be submitted to a Court Registrar as provided for in the first paragraph of this article, falling to which no other procedural step can be taken in favour of the parties".

Article: 258

The following are exempted from depositing court fees:
1° Persons in prisons;
2° Destitutes with a certificate issued by competent authority;
3° The State of Rwanda with the exception of its public institutions that have a legal status.

Article: 259

Even if a civil party is awarded damages claimed, a Court Clerk shall deduct court fees payable from the amount he or she deposited and the winning party shall proceed against the loosing party in order to recover the amount deducted from the court fees deposited.
However, for incidental proceeding, court fees to be deducted by a Court Clerk are only those relating to steps taken in the case at his or her request.

Article: 260

Court fees are calculated by its Clerk. When there is a civil party, the bill of costs should indicate the amount of fees to be deducted from court fees deposited by the losing party as well as the amount to the paid by the losing party. The bill of costs is verified and signed by the President of court.
In case of appeal, a Court Clerk of the appellate court calculates court fees and the bill of costs are signed by the President of the court to which the fees are paid.

Article: 261

"A proportional duty of four percent (4%) is charged on all amounts of money or value of assets awarded as damages by a court final judgment.
Interests for delayed payments that have fallen due on the date of judgement are added to the principal amount upon calculating that proportional duty of four percent (4%).
Court fees and the proportional duty of four percent (4%) are paid to the District treasury if they are charged by the Higher Instance Court or Lower Instance Court. Such proportional duty shall be paid to the government treasury if they are charged by any other court.
The Minister in charge of justice fixes regulations for implementing the provisions of this article by a ministerial order".

Article: 262

When the amount of the value of the property to be paid by the winning party to the losing party has not been mentioned in a judgment, it shall be determined by a Court Clerk who is charged with assessing the four percent charges, except that the party who is supposed to pay will be allowed to refer the matter to the President of the court so that a review of the assessment of the value of the property made by the Court Clerk can be made.
Court fees are borne by the losing party. They are assessed in the way it is done in respect of civil cases.

Article: 263

The proportional duty established pursuant to article 262 of Law n° 13/2004 of 17/5/2004 on the Code of criminal procedure as modified by this law is due for the record of the judgement. It does not lead to deposit.
The proportional duty is due by the person condemned to pay damages; the person sentenced on the basis of his or her charges or the person liable for damages shall provide the clerk with a receipt certifying that he or she has paid within the month following the date on which the civil sentence has become *res judicata*.

Article: 264

Proportional rights shall be recovered in accordance with a document authorising execution of its recovery issued by the President of the court which gave judgment demanding the payment, after a formal notice to pay within three (3) days served on the judgment-debtor has become fruitless but, without prejudice to an order of attachment before judgment which comes into effect from the day on which the amount was supposed to be paid; the attachment being authorised by the President of the court.

Article: 265

empowered to carry out execution of a judgement shall first deduct proportional duty of four percent (4%) which shall go to District or Government treasury from all sums or any other property whose monetary value can be ascertained in a final court decision or by a foreign judgment which is capable of being executed in Rwanda.
If, following opposition, appeal or case review is altered after the proportional duty has been paid, such proportional duty is refunded in whole or part or supplemented depending on the judgement of the case.
The proportional duty is refunded when the judgment is not subject to opposition.
In such a case, when two years elapse before the proportional duty is claimed for by the owner, it can no longer be refunded.

Article: 266

If the President of a court that rendered the judgment finds that a person is a destitute, he or she can issue without payment, an executable copy of judgment, an extensive copy of the case, an extract thereof or an ordinary copy of judgment.

Section 3. Scale of court fees

Article: 267

In criminal cases, documents relating to judicial proceedings and court fees payable for obtaining them are determined by the Minister responsible for justice.

Article: 268

Any page of court documents or judgment should contain at least twenty five (25) lines.

Article: 269

Allowances payable to witnesses, physicians, interpreters and other experts as well as transport fees for court bailiffs are approved by the presiding judge or magistrate after obtaining documents which contain the following:
1° the date the activities were requested to be done and the name of the person who was allowed to carry them out;

2° the category of the offence and the name or names of the accused;
3° the type of duties, dates on which they were performed and their duration as well as matters concerning the costs incurred;
4° date or days on which different travels were conducted and their duration as well as the means of transport used;
5° if necessary, postal cheques, account number or bank account number of the beneficiary and his or her address.
The Minister in charge of justice determines the mode applicable to the calculation of allowances payable to witnesses, physicians, experts and interpreters.
Transport fees for physicians and court bailiffs, experts and interpreters are provided for on the budget of the Supreme Court and that of military courts. This amount is paid by the losing party and shall be deposited in public treasury.

Chapter 10. SPECIAL PROVISIONS

Section 1. General Provisions

Article: 270

Unless the law provides otherwise, periods provided for by the law relating to criminal procedure shall follow the regulations specified under this section.

Article: 271

Periods which are counted in days and hours, are counted from midnight to midnight of the following day regardless the day the document or an act is done. However, the last day of their occurrence is considered.
In no case, whatsoever, shall the period of appeal be extended, except under serious reasons until they cease to be.
Legally recognised public holidays are included in the periods provided for.
However, when the last day of the period coincides with a recognised public holiday, the period ends on the next working day.

Article: 272

Periods which are counted in months and years are counted from the first day and end on the day preceding the last one.

Section 2. Transitional and final Provisions

Article: 273

Periods which are counted in months and years are counted from the first day and end on the day preceding the last one.

Article: 274

This law relating to criminal procedure shall also apply to military courts unless the law provides otherwise.

Article: 275

Cases that were conducted from December 8, 2005 up to the date this law is published in the Official Gazette of the Republic of Rwanda shall remain valid. Prescription for filing a case or appealing shall keep being computed as of the date on which this law comes into force.

Article: 276

The law of February 23, 1963 relating to criminal procedure as modified and complemented to date and other previous legal provisions contrary to this law are hereby abrogated.

Article: 277

This law shall come into force on the date of its publication in the Official Gazette of the Republic of Rwanda.