

LAO PEOPLE'S DEMOCRATIC REPUBLIC  
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

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National Assembly

No. 34/PO

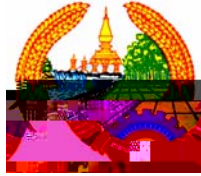
**DECREE**  
*of the*  
**PRESIDENT**  
*of the*

**LAO PEOPLE'S DEMOCRATIC REPUBLIC**

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**On the Promulgation of the Amended Law on Criminal Procedure**

Pursuant to Chapter 6, Article 67, point 1 of the Constitution of the Lao  
People's Democratic RepmtJ/TTof the Lao Pursuant to Chapter19nal PPeptom PrfomuMOmulgation of



LAO PEOPLE'S DEMOCRATIC REPUBLIC  
PEACE INDEPENDENCE DEMOCRACY UNITY PROSPERITY

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National Assembly

No. 01/NA  
15 May 2004

## LAW ON CRIMINAL PROCEDURE

### Part I General Provisions

#### Article 1. Purpose

The Law on Criminal Procedure defines principles, regulations, and measures on criminal procedure aiming to deal with criminal cases correctly and with justice, to eliminate and prevent offences<sup>1</sup>, to protect the legitimate rights and interests of citizens, to ensure social security and public order, and to create conditions for the multi-ethnic people to participate in the protection and development of the nation.

#### Article 2. Criminal Proceedings<sup>2</sup>

Criminal proceedings [refers to] the process whereby investigators<sup>3</sup>, public prosecutors<sup>4</sup>, the people's courts and other parties participating in the

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<sup>1</sup> The term "offence" is used here, as in the Penal Law, to refer generally to criminal acts. There are three levels of such criminal acts as set out in Article 7 of the Penal Law.

<sup>2</sup> In Lao, the same word is used to represent the related concepts of "procedure", "process", "proceedings", and "case". The translators have chosen what they believe to be the most appropriate alternative based on the context of usage but readers should bear in mind the possible alternative meanings that might have been intended.

<sup>3</sup> The Lao word for "investigation" is a compound word: "investigation-interrogation", where investigation has the sense of inquiries through means other than the questioning of witnesses. Since the English word "investigation" does not connote a similar exclusion or carve-out, the translators have translated the compound word (and its variants) simply as "investigation".

<sup>4</sup> The term "Public Prosecutor" has been chosen because it is the English term commonly used in Laos for this title/institution. Readers from common law jurisdictions should note that thpolf sh

criminal process search out wrongful acts urgently, completely, and thoroughly in order to subject offenders to proceedings, to ensure the correct application of the laws, [to ensure] justice, to not allow offenders to escape punishment, and to avoid punishing those who are innocent.

**Article 3. Necessity for Criminal Proceedings<sup>5</sup>**

If any investigator or public prosecutor finds traces of any offence, [he] shall open an investigation<sup>6</sup> within the scope of his<sup>7</sup> jurisdiction<sup>8</sup>, [and] use investigative and coercive<sup>9</sup> measures as provided in the laws in order to search out offences and offenders and then prosecute







for National Construction, mass organisations, social organisations, enterprises, and citizens; concerned<sup>23</sup> individuals or organisations shall implement them strictly as provided in Article 85 of the Constitution.

Decisions at first instance, decisions on appeal and decisions on cassation of the people's courts that have become final shall not be revised, unless the case has been re-opened.

**Article 15. Recusal and Challenge**

If a judge, public prosecutor, court clerk, interrogator, investigator, expert, or translator is a relative of, or has any interest in or conflict with, any party to the case, he shall recuse himself from the proceedings.

If such person does not voluntarily recuse himself, either party has the right to challenge such person [and require that he be] recused from the proceedings.

**Article 16. Prohibition from Considering the Same Case Twice**

A judge who is involved in the consideration of a criminal case once shall not be allowed to participate in the consideration of the [same case] a second time at any level of the people's courts, except as otherwise provided by the laws.

**Article 17. Comprehensive, Thorough, and Objective Case Proceedings**

The people's courts, public prosecutors, interrogators, and investigators must apply measures provided by the laws to ensure that the proceedings are comprehensive, thor







**Part III**  
**Organisations [with Responsibility for] Criminal Proceedings**  
**and Participants in Criminal Proceedings**

**Chapter 1**  
**Organisations [with Responsibility for] Criminal Proceedings**

**Article 22. Organisations [with responsibility for] Criminal Proceedings**

Organisations [with responsibility for] criminal proceedings consist of:

Investigation organisations;  
The Office of the Public Prosecutor;  
The People’s Courts.<sup>35</sup>

**Article 23. Investigation Organisations**

The investigation organisations are:

1. The investigation organisation of police officers<sup>36</sup>;
2. The investigation organisation of military officers;
3. The investigation organisation of customs officers;
4. The investigation organisation of forestry officers;
5. The investigation organisations of other sectors<sup>37</sup> as provided by the laws.

Investigation organisations have the following rights and duties:

1. To accept and record complaints regarding offences;
2. To immediately report to the public prosecutor<sup>38</sup> regarding offences;
3. To issue an order to open investigations, and send a copy of the order to the public prosecutor immediately;
4. To proceed to investigate;
5. To use coercive measures as provided in the laws, as well as to release any suspect who was detained, and to report in writing to the public prosecutor;
6. To appeal against the orders of lower-level public prosecutors to higher-level public prosecutors;

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<sup>35</sup> Here, the reference is to the “overall institution or organisation of the People’s Courts”, not to individual people’s courts. The translators have therefore translated this term as “the People’s Courts” (with initial capitals).

<sup>36</sup> Here, the intention is to refer to those persons within the police department who actually carry out investigation and interrogation work as a group (i.e., as an “organisation”).

<sup>37</sup> The word “sector” is often used, as it is used here, to refer to the cluster of government ministries or agencies responsible for a certain area.

<sup>38</sup> There is a connotation that this should be the “relevant” public prosecutor, depending on the gravity and location of the offence but this is not made explicit.

7. To summarize the investigation and prepare a case file to be submitted to the public prosecutor.

In the exercise of such rights and the performance of such duties, the investigation organisations shall carry out their activities within the scope of their authority as provided in the laws.

#### **Article 24. Rights and Duties of Investigation Officers**

The staff of [each] investigation organisation consists of the head, deputy heads, and investigators.

The head of [each] investigation organisation has the following rights and duties:

1. To direct and lead the overall activities of the investigation organisation;
2. To issue orders to open or not to open investigations, to issue orders to suspend or dismiss criminal cases, and to issue orders to detain or release [any person] from detention;
3. To propose to the public prosecutor to issue orders to arrest, remand, or release before sentencing [any person], to extend the period for investigations, and to extend the period of remand;
4. To summarize and prepare the case file to submit to the public prosecutor to consider after the completion of the investigation;
5. To exercise such other rights and perform such other duties as provided by the laws.

[Each] deputy head of an investigation organisation has the responsibility to assist the head [of the investigation organisation] in the implementation of activities and will be assigned to perform specific tasks as assigned by the head. When the head of the organisation is engaged on other matters, the assigned deputy will act on his behalf.

[Each] investigation officer has the following rights and duties:

1. To receive and record complaints, reports or claims relating to offences;
2. To take testimony from the injured party, civil plaintiff, accused person, witnesses, and other concerned persons;
3. To inspect the site of the incident, to conduct “inspections of dead body”<sup>39</sup>, to conduct searches of buildings, vehicles, and persons, [and] to collect evidence relating to the offence;
4. To look for, arrest, and escort<sup>40</sup> accused persons, according to the order of the people’s courts or public prosecutors;

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<sup>39</sup> The quotation marks have been included and are not in the original.

<sup>40</sup> This has the formal connotation of being escorted by the police or an investigation officer with a warrant or summons.

5. To implement orders and to report on the status of proceedings in criminal cases to the head of the investigation organisation;
6. To exercise other rights and perform other duties according to the order of the head of the investigation organisation and as provided by the laws.

The exercise of rights and performance of duties of the staff of an investigation organisation shall be carried out according to the scope of its authority as provided by the laws.

To ensure the exercise of the rights and the performance of the duties mentioned above, [each] investigation officer shall have strong political commitment, have good character, be truly faithful to the interests of the nation and the rights and interests of the people, have ethics, and have received education or training in law and in technical subjects relating to investigation.

#### **Article 25. Office of the Public Prosecutor**

The Office of the Public Prosecutor consists of:

1. The Office of the Supreme Public Prosecutor;
2. offices of the appellate public prosecutors;
3. offices of the provincial [or] city public prosecutors;
4. offices of the district [or] municipal public prosecutors;
5. offices of the military prosecutors<sup>41</sup>.

The rights[,] duties and qualifications of public prosecutors and interrogators are defined in the Law on the Office of the Public Prosecutor. Rights[,] duties, and qualifications of military prosecutors are defined in the Presidential Edict on the Office of the Military Prosecutor.

#### **Article 26. The People's Court**

The People's Court consists of:

1. The People's Supreme Court;
2. The appellate courts;
3. The people's provincial and city courts;
4. The people's district and municipal courts; [and]
5. The military courts.<sup>42</sup>

The rights and duties of the people's courts and military courts, and the qualifications of judges, are defined in the Law on the People's Court.<sup>43</sup>

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<sup>41</sup> As of the time of this translation, there is only one office of military prosecutors.

<sup>42</sup> As of the time this law was promulgated, only the high military court has been established (see Part II, Chapter 5 of the Law on the People's Court). However, the translators have used the plural form in anticipation of other military courts being established (and the Law on the People's Court is drafted consistently with such anticipation).

**Chapter 2**  
**Participants in Criminal Proceedings**

**Article 27. Participants in Criminal Proceedings**

Participants in criminal proceedings are as follows:

1. Accused or defendant;
2. Injured party;
3. Civil plaintiff;
- 4.

6. Participate in court hearings;
7. Require the recusal of a judge, public prosecutor, interrogator, investigator, expert, or translator;
8. Complain against acts and orders of investigators, interrogators, public prosecutors, or the people's courts that he believes<sup>48</sup> to be unlawful;
9. Make a final statement in court hearings as the last party;
10. Appeal against, or request the cancellation of, an order of an investigator, an interrogator, or a public prosecutor, or an instruction, order, or decision of the people's courts.

An accused or a defendant has the obligation to:

1. Appear according to an order or summons of an investigator, an interrogator, a public prosecutor, or the people's court;
2. Provide testimony or explanati

If an injured party has died, his close relatives may exercise his rights as provided in this article.

The injured party has the obligation to:

1. Appear according to an order or summons of an investigator, an interrogator, a public prosecutor, or the people's courts;
2. Be liable for his refusal to give testimony or for any false testimony.

**Article 30. Civil Plaintiff**

A civil plaintiff is an individual who has filed a civil claim against the accused or against those who have civil liability for compensation for damages.

9. Appeal against, or request the cancellation of, an order of an investigator, an interrogator or a public prosecutor, or an instruction, order, or decision of the people's courts;
10. Retain a lawyer or other protector to contest the case.

A civilly liable person has the same obligations as an injured party, as provided in Article 29 of this law.

### **Article 32. Witness**

A witness is an individual who knows about [or] saw<sup>51</sup> the incident constituting the offence or the circumstances of the case.

Persons who are deaf, mute, or incompetent<sup>52</sup>, children under eighteen years of age, and relatives of the litigants can be brought to give testimony but they shall not be deemed to be witnesses.

A witness has the right to:

1. Give testimony;
2. See the record of his testimony, during the investigation stage;
3. Request to modify or add to his testimony;
4. Complain against the acts and orders of an investigator, an interrogator, a public prosecutor, or the people's courts that he believes to be unlawful;
5. Receive protection under the laws and regulations from any threat to life, health, or property because of giving testimony.

Witnesses have the same obligations as injured parties, as provided in Article 29 of this law.

### **Article 33. Expert**

An expert is an individual who has knowledge and experience in a specific field and is recognized by a relevant competent institution, which makes him able to clarify issues relating to his field of expertise.

In verifying evidence, investigators, interrogators, public prosecutors, or the people's courts shall issue an order to appoint an expert.

The expert shall conduct the verification of evidence within the scope and the period provided in such order.

Experts provide their opinions on their own behalf and are liable for such opinions, and must also keep confidential information in the case confidential.

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<sup>51</sup> The term "knows about [or] saw" is the translation of a single Lao word that has both the meaning of "see" and "to know by other means".

<sup>52</sup> The term "incompetent" is used in the sense of mentally disabled or incapable.





1. Use all methods of defence provided for in the laws in order to protect the rights and interests of the person whom the protector is defending;
2. Provide legal assistance to the person whom the protector is defending;
3. Comply with the code of ethics and conduct and contribute in searching for evidence, to ensure that the proceedings are correct and just.

In addition, a lawyer also implements other rights and obligations as provided in specific regulation of the bar association.

### **Part III Investigation of Criminal Cases**

#### **Chapter 1 Opening an Investigation in a Criminal Case**

##### **Article 36. Causes for Opening an Investigation**

Causes for opening an investigation in a criminal case are as follows:

- 1 There is a claim or complaint regarding an offence from an individual or organisation. Such claim or complaint shall be submitted to an investigator or a public prosecutor;
- 2 The offender turns himself in;
- 3 Discovery of traces of an offence by an investigator or a public prosecutor.

During the examination and consideration, if the court finds evidence of a new offence, [it] has the right to request that an investigation be opened.

An investigation in a criminal case shall only be opened if there is sufficient information<sup>53</sup> demonstrating the components of an offence.

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<sup>53</sup> The term “information” is used in this article and the next in the sense of a “report of information” or “statement of information”. However, the Lao original does not permit further specificity.

**Article 37. Order to Open Investigation**

In the case where there is sufficient information relating to the offence, the head of an investigation organisation, [or] a public prosecutor shall issue an order to open an investigation within the scope of their respective authorities. The contents of that order shall set out the date, time, and location of the issuance of the order, the name, surname, position, and title of the issuer and the investigator, the information [that is the basis] for opening the investigation, the location of the offence, and the relevant article of the Penal Law.

In the case where the investigator issues an order to open an investigation[, he shall] immediately report to the public prosecutor<sup>54</sup>.

In the case where there is insufficient information to open an investigation or there is cause for the dismissal of the criminal case, the head of the investigation organisation or the public prosecutor shall issue an order not to open an investigation and shall also inform the individuals or organisations that have brought the claim or complaint of such order.

Parties on either the plaintiff's or the defendant's side can appeal to the public prosecutor against an order not to open an investigation by the head of an investigation organisation. Parties on either the plaintiff's or the defendant's side can appeal to a higher-level public prosecutor if such order not to open an investigation is issued by the public prosecutor, within seven days from the day they have been informed of such order.

**Article 38. Monitoring and Inspection by the Public Prosecutor Relating to the Opening of an Investigation**

The public prosecutor<sup>55</sup> has the duty to monitor and inspect<sup>56</sup> the adherence to laws in respect of the opening of an investigation.

In the case where the head of an investigation organisation has issued an order to open an investigation without sound legal information as provided in Article 37 of this law, the public prosecutor shall issue an order to cancel such order and dismiss the case.

In the case where the head of an investigation organisation has issued an order not to open an investigation without sufficient reason, the public prosecutor shall issue an order to cancel such order and shall issue an order to open an investigation by himself.

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<sup>54</sup> There is a connotation that this is a "relevant" public prosecutor, but this is not stated.

<sup>55</sup> There is a connotation that this is a "relevant" public prosecutor with supervisory authority over the investigator, but this is not stated.

<sup>56</sup> In the Lao language, the same word is used to represent all of the following related (but slightly different) concepts: "control", "inspection", "supervision", "audit" and "monitoring". Here, the context suggests that two of the connotations of this Lao word are intended and have the translators have therefore included both: "monitor" and "inspect". Readers should note the other possible meanings intended.

**Chapter 2**  
**Investigation**

**Article 39. Activities of Investigators**

Upon receipt of a credible<sup>57</sup>

prosecutor may extend the period for investigation for [periods of] two months [at a time] according to the request of the investigation organisation.

In the case where there is a return of the case file to the investigation organisation for additional investigation, the additional period for investigation shall not exceed sixty days from the date when the investigation organisation receives the case file.

In the case where there is a resumption of investigation into a suspended or dismissed case, the investigation shall be performed in accordance with the provisions of paragraph 1 and paragraph 2 of this article from the date of the order to resume investigation.

In authorizing or not authorizing an extension of the period for investigation, the public prosecutor shall issue an order in writing containing his reasons within forty-eight hours from the date [it has] received the request for extension.

### **Chapter 3 Investigative Measures**

#### **Article 42. Types of Investigative Measures**

Types of investigative measures are:

- Taking testimony;
- Questioning in confrontation;
- Inspection of incident site;
- Inspection of dead body;
- Search of buildings, vehicles, or persons;
- Seizure and sequestration of assets;
- Re-enactment;
- Identification and confirmation.

#### **Article 43. Taking Testimony**

Taking of testimony from an accused person:<sup>60</sup>

Investigators and interrogators shall take testimony from the accused persons immediately after opening an investigation. If such testimony is impossible to obtain immediately, this shall be documented with reasons.

At the beginning of taking testimony from an accused person, the investigator or interrogator shall notify [the accused person] of the charges and explain to the concerned accused person his rights

Taking testimony;



have to sign and affix their thumbprints at the start of the line where the word has been crossed out or added.

In the event that the person giving the testimony does not agree to sign or affix his thumbprint, the investigator or interrogator shall make a note of this at the end of the record.

The record of testimony must be made in three copies<sup>65</sup>: the original copy must be kept in the case file, the second copy shall be kept by the investigator or interrogator and the other copy shall be given to the person giving the testimony.

**Article 46. Questioning in Confrontation<sup>66</sup>**

When the testimony [of several persons] do not conform [to each other], the investigator or interrogator has the right to question those persons in confrontation[;] each confrontation shall not involve more than two individuals. The record of

In the inspection of incident site, the investigator or the interrogator shall make a sketch of the incident site, collect material items relating to the offence and traces of the offence, and take photographs.

**Article 48. Inspection of Dead Body**

The investigator or interrogator shall conduct an inspection of dead body at the location where the corpse is situated and it is required that at least two witnesses and a forensic specialist or other relevant expert participate in [such inspection of dead body]. When deemed necessary, public prosecutors and representatives of village administrations shall be invited to participate.

**Article 49. Record of Inspection**

During the conduct of an inspection of incident site or inspection of dead body, the investigator or interrogator shall make a record on the spot<sup>68</sup>. The record [of inspection] shall indicate: the location, date, time of initiation, and time of termination of the inspection[;] the given name, surname, address, occupation, position, and title of the investigator, the interrogator, and other individuals participating in the inspection[;] the circumstances that are observed or that occur during [the inspection]<sup>69</sup>[;] and the material items and other things seized by indicating the type, number, appearance, size, weight, and quality.

After making a record of inspection, making sketches, and reading out<sup>70</sup>, all individuals participating in such inspection shall sign or affix their thumbprints<sup>71</sup>.





Building searches and searches of places of worship or temples shall be made during the day [at any time] from 6.00 a.m. to 6 p.m. When the search cannot be completed [by 6 p.m.], it shall continue until it is completed.

Material items and other documents can be seized as exhibits in a criminal case only if they are related to the offence or are things that contravene the laws.

### **Article 53. Search of Vehicles and Individuals**

Search of vehicles such as: cars, boats or other vehicles which are suspected to conceal illegal objects or offenders, can be conducted at any time but must be in the presence of the owner of such vehicles.

The search of any person who is arrested, detained, or suspected of concealing objects can be conducted without an order [for such search].

Officials conducting searches shall be individuals who are of the same gender as the individual being searched.

The search of a female shall be conducted at enclosed premises.

### **Article 54. Record of Search**

When the search of a building, vehicle, or person has been completed, the officials who conducted such search shall make a record of the search on the spot and draw up a list of exhibits with details of their appearance, quantity, and quality.

The record of search must be made in three copies and read out to participants in the search [who shall] sign or affix their thumbprints as evidence [to certify their participation]. One record<sup>78</sup> must be kept in the case file, one record shall be given to the owner of the house or representative of the relevant office, organisation or enterprise, and the other record is to be given to the village administration.

The record of search of vehicles or individuals shall also be made in three copies, one record to be kept in the case file, one record to be given to the owner of the vehicle or to the person searched and the other record to be kept by the officer.

### **Article 55. Seizure and Sequestration of Assets**

In the event that the type, amount, and location of the place where materials relating to the offence are being kept are clearly known and [such

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<sup>77</sup> Literally “head of church”.

<sup>78</sup> See explanation to Article 45. Here, there is no reference to an “original” or authentic copy, presumably because this article has been drafted to reflect current practice where carbon copies are no longer used.



The list of exhibits shall accompany<sup>83</sup> the case file. The level<sup>84</sup> that the case file has reached is the level that has the authority to deal with the exhibits.

**Article 57. Re-Enactment**

Re-enactment is an act to verify the correctness of information [which] an investigator, interrogator, or public prosecutor may undertake by requiring the accused person or defendant to demonstrate his actions again. In re-enactment, injured parties or witnesses may be requested to demonstrate their actions again. The re-enactment [scene] shall be photographed, measured, and sketched.

Re-enactment shall be conducted in the presence of at least two witnesses and injured parties may also participate. If deemed necessary, the public prosecutor and relevant expert may also participate.

A re-enactment shall only be conducted if it does not endanger life, health, or the environment and does not cause damage to human dignity.

A record of re-enactment shall be made in accordance with Article 54 of this law.

**Article 58. Identification and Confirmation**

Identification is an investigative measure whereby a witness or injured party identifies the accused person or defendant [to be the person] whom he knows or saw commit the offence.

Confirmation is an investigative measure whereby a witness or injured party certifies an object relating to the offence or dead body that he knows about or has seen.

When necessary, the investigator, interrogator, or public prosecutor shall require witnesses, injured parties, suspects, or accused persons to identify individuals or confirm objects or dead bodies.

Before identification or confirmation, the person identifying individuals or confirming objects or dead bodies shall give testimony regarding the circumstances that he knows about or

identification [in a way that] ensures the anonymity<sup>85</sup> and safety of such person.

In confirmation of objects, the objects to be confirmed shall be brought with at least three objects that have similar characteristics and are of the same type.

A record of identification or confirmation shall be made in accordance with Article 54 of this law.

## **Chapter 4 Coercive Measures**

### **Article 59. Types of Coercive Measures**

Types of coercive measures consist of:

- Issuance of warrants;
- Detention;
- Arrest;
- Remand;
- Pre-sentencing release;
- Pre-sentencing house arrest;
- Suspension of position or duties.

### **Article 60. Issuance of Warrants<sup>86</sup>**

In the event that a suspect, accused person, witness, civil plaintiff, or civilly liable person has received a summons three times, but failed to appear without any reason, the head of the investigation organisation or the public prosecutor will issue a warrant to bring such person [to appear].

### **Article 61. Detention**

If, after taking testimony from a suspect, some reliable evidence is found to prove that he committed an offence for which the laws prescribe the penalty of deprivation of liberty, the head of the investigation organisation or the public prosecutor may issue an order to detain such suspect for forty-eight hours to conduct further investigations, but shall report in writing to the public

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#### **Article 64. Record of Arrest**

In every case, an arrest shall be recorded to be used as evidence.<sup>87</sup>

The record of arrest shall indicate: the given name, surname, rank, position, function, and office<sup>88</sup> of the investigator together with the given name, surname, age, occupation, rank, position, function, and address of the arrested person[;] the date, time, and location of the arrest[;] the charge, causes, information, and evidence leading to the arrest.

The record of arrest shall indicate: the name,<sup>89</sup> amount, type, quality, and distinguishing features and characteristics of objects that have been seized as exhibits and other objects which were on the body of the arrested person.

Materials items found on the body of the arrested person that are lawful shall be returned to his family in full and in the same condition, and, at the same time, a record of acknowledgment of receipt shall be made<sup>90</sup> in the presence of the arrested person. In the event that [such] material items found on the body of the arrested person are not in full or in the same condition, the officers in charge of the protection of such material items shall be criminally liable as provided in Articles 112 and 113 of the Penal Law.

#### **Article 65. Remand**

Remand is temporary detention for [the purpose of] investigations<sup>91</sup> before a final decision of the court.

To remand, there must be a written order from the public prosecutor and [such remand] shall be based on the conditions provided in Article 62 of this law.

Persons remanded shall be detained separately from prisoners and shall be in appropriate conditions because such persons are regarded as innocent.

The period of remand shall not exceed three months from the date of the issuance of the order to remand. If it is deemed necessary to undertake further investigations, the public prosecutor may extend the period of remand for additional periods of three months at a time according to the request of the head of the investigation organisation, but the total period of remand shall not

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<sup>87</sup> Simply, the record of arrest is put in the case file and forms part of the evidence in the case.

<sup>88</sup> Here, “offices” is used in the sense of “work premises”.

<sup>89</sup> E.g, the brand of the object.

<sup>90</sup> The family acknowledges receipt.

<sup>91</sup> Common law readers may wish to note that “investigation” can continue even into a court hearing and may include investigation by judges.





**Article 67. Pre-Sentencing House Arrest**

A suspect or an accused person may be detained at his home or other premises, and forbidden from going out without authorisation from the investigator or the public prosecutor.

For pre-sentencing house arrest, there must be an order from the head of the investigation organisation or the public prosecutor [which order] shall define the conditions with which the person must comply at such place<sup>95</sup>.

In the event that a suspect or an accused person breaches any regulation on pre-sentencing house arrest, [concerned officials] may use other more serious coercive measures.

**Article 68. Suspension of Position or Duties**

Suspension of position or duties is the suspension from [his] position or duties of a suspect or accused person because of an offence that is related to his position or duties in order not to hinder investigations.

For suspension of position or duties, there must be an order of the public prosecutor. The order to suspend position or duties shall be sent to the organisation to which the suspect or accused person is attached to implement the suspension of such position or duties.

**Chapter 5  
Case Suspension and Case Dismissal**

**Article 69. Case Suspension**

Case suspension is the temporary suspension of proceedings because of the following causes:

1. The accused is in hiding, has fled from the proceedings or the concerned individual's residence is unknown and evidence in the case is not yet sufficient;
2. It is unknown who committed the offence;
3. There is confirmation from a doctor that the accused has a serious health condition or has lost control of his mental faculties.

The suspension of cases mentioned in point 1 and point 2 shall occur only after the period of investigation has ended.

For the suspension of cases, there must be an order of the head of the investigation organisation or the public prosecutor. The order for suspension of the case [made by] the head of the investigation organisation shall

For the suspension of cases mentioned in point 3, the head of the investigation organisation or the public prosecutor shall issue an order to send the accused person for treatment.

Criminal cases that have been suspended may be dismissed when the limitation period for prosecution expires.

An order to suspend or to dismiss a case shall be notified to the parties, and the injured party or civil plaintiff has the right to appeal within seven days from the date they were notified of such order.

**Article 70. Resumption of Suspended Case**

When the cause for the suspension of a case ceases to exist and the limitation period for prosecution has not yet expired, the head of the investigation organisation or the public prosecutor shall issue an order to resume the suspended proceedings.

**Article 71. Case Dismissal**

Case dismissal is the termination of proceedings because of the following causes:

1. When there exists any cause set out in Article 4 of this law;
2. When there is insufficient evidence to prove that the accused person committed the offence.

In the event that there is a case dismissal, the public prosecutor shall













The people's provincial or city court has jurisdiction to decide criminal cases that do not fall under the jurisdiction of the people's district or municipal court.

**Article 84. Types of Decision of the Court at First Instance**

The types of decision that the court at first instance may issue are as follows:

1. Decision to punish;
2. Deprivation of liberty, fine, and others;
3. Total or partial stay of the execution of the penalty;
4. Decision of acquittal.

After the court of first instance decides a case, it has to print out such decision within ten days from the date of the decision.

In the case where there is no appeal or objection to the decision of the court of first instance, the decision shall be final and [no one] shall have right to request for cassation of such decision.

**Part VI  
Proceedings on Appeal**

**Article 85. Right to Request Appeal or Object to Court Decision**

The defendant, or his lawyer or protector, has the right to request an appeal against an instruction, order, or decision of the court [at first instance].

The public prosecutor has the right to object to the court of appeal in respect of an instruction, order, or decision of the court [at first instance] which is not in conformity with the laws or which does not have sufficient reasons.

The civil plaintiff and civilly liable party, or their lawyers or protectors, have the right to request an appeal against an instruction, order, or decision [at first instance] of the court only in respect of civil matters.

The request for appeal against any instruction, order, or decision [at first instance] of the court shall be presented to a court only<sup>104</sup>.

**Article 86. Time Period for Appeal and Objection**

The court of appeal can only accept the case for consideration if there is a request for appeal from the litigants or an objection from the public prosecutor.

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<sup>104</sup> The objection must be raised to a court, not to any extra-judicial organ.



**Article 88. Right to Withdraw an Appeal or Objection**

Before the consideration and adjudication [on appeal] at the court of appeal take place, the litigants[,] other concerned parties<sup>106</sup> in the case[,] and the public prosecutor [each] has the right to withdraw his request for appeal or objection.

In the event that the request for appeal or the objection is withdrawn, the litigants, other concerned parties or the public prosecutor does not have the right to request an appeal or to object again.

**Article 89. Presentation of Evidence to the Court of Appeal**



**Article 94. Re-consideration of the Case by the Court of First Instance**

In the case where the appellate court sends the case back to the court of first instance to reconsider, the consideration of such case shall be in accordance with the general regulations.

In the re-consideration of the case, the court of first instance may only increase the penalty when the re-investigation reveals new facts.



After the Supreme Public Prosecutor makes his statement<sup>109</sup>, the presiding judge of the judicial tribunal shall declare a temporary recess of the hearing in order to make a decision in a closed session. Finally, he will bring the judgment to read out in the court.

**Article 99. Type of Decisions of the Court of Cassation**

The types of decision of the court of cassation are as follows:

1. To not accept the request for cassation or objection, if the litigants or the public prosecutor do not comply with regulations relating to requests for cassation or objections;
2. To cancel the request for cassation or objection, and confirm the entire instruction, order, or decision of the court of appeal;
3. To amend the instruction, order, or decision of the court of appeal<sup>110</sup> in part or in its entirety [to the extent] that it contradicts the laws;
4. To nullify<sup>111</sup> the instruction, order, or decision of the court of appeal entirely without sending the case back to the appellate court, and then to issue a decision of acquittal;
5. To nullify the instruction, order, or decision of the court of appeal partially or in its entirety, and then send the case-file to a new or the previous judicial tribunal of the court of appeal, when the [previous] judicial tribunal has not yet considered certain request.

**Article 100. Reasons for Nullifying or Amending an Instruction, Order, or Decision**

The court of cassation has authority to nullify or amend any instruction, order, or decision of the court of appeal partially or entirely when there is any cause set out in paragraphs 3 and 4 of Article 93 of this law.

**Article 101. Scope of Jurisdiction in Consideration of the Case at the Court of Cassation**

In its consideration of the request for cassation or objection, the court of cassation has a duty to consider only matters relating to legal aspects as presented in the request for cassation or objection and shall not question as to matters of fact in the case.

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<sup>109</sup> This appears to be a reference to a closing statement.

<sup>110</sup> The term “court of appeal” is used in the sense of a court exercising its appeal jurisdiction. This term should be distinguished from the term “people’s appellate court” which is used to refer to actual courts within the system of the people’s courts.

<sup>111</sup> The word “nullify” here has a meaning similar to the idea of “set aside” or “vacate” and is distinguished from the third bullet point where the court of appeal issues its own decision in the case.

Translation Endorsed by the Law Committee of the National Assembly of the Lao PDR

If there are many persons who were convicted in that case, but the



**Article 104. Judgment Enforcement Organisations**

Judgment enforcement organisations are:

1. Judgment enforcement offices of the provincial or city justice division, and judgment enforcement units of the district or municipal justice offices, that are in charge of enforcement of penalties relating to compensation for civil damages, fines, confiscation of assets, and re-education without deprivation of liberty;
2. Prisons [that are in charge of enforcement of penalties relating to] deprivation of liberty, [and] the details will be provided in specific regulations.

Enforcement of instructions, orders, or decisions of the military courts that have become final is the responsibility of the judgment enforcement officers of the military courts, [and] the details will be provided in specific regulations.

**Article 105. Release of a Prisoner**

When a convicted person has served the penalty of deprivation of liberty completely in accordance with the court decision, the prison officer shall release such person; if such person has not yet been released, the public prosecutor shall issue an order to release such person.

Conditional release of prisoners before the term shall be carried out in accordance with Article 47 of the Penal Law.

Release by pardon granted by the President of the State on the occasion of important days of the nation shall be carried out in accordance with regulations on pardon.

Release by amnesty shall be carried out in accordance with the resolution of the National Assembly.

The releases mentioned above shall be implemented immediately, even if the civil plaintiff requests an appeal, or requests for a cassation, or the convicted person has not yet paid the compensation for civil damages or fines. Compensation for civil damages or fines shall be assigned to judgment enforcement offices or units to enforce.

**Article 106. Method for Release**

Release shall be carried out as follows:

1. After the prisoner has served the sentence completely as defined in the court decision, or has received a release before the term, or received a release in accordance with the order of the public prosecutor, the committee in charge of the prison shall prepare and

- bring the person who is to be released to educate as well as to ask him to write and swear to an oath.<sup>113</sup> The village administration and the family of such person shall be invited to be present at the time of the release, and the village administration shall be assigned to continue to educate such person;
2. The officer in charge of keeping material items lawfully possessed by the person to be released shall return such material items to the concerned person in full and in the same condition by making a record of acknowledgment of receipt of such items. If the material items are not returned in full and in the same condition, the officer in charge shall be liable as provided in Article 64 of this law;
  3. In the event that the released person does not have a family or relative to take such person or is in no condition to return home by himself, the committee in charge of administration of the prison shall pay an allowance and travel fee that is appropriate in the circumstances to such person together with documents<sup>114</sup> to be handed over to the village administration;<sup>115</sup>
  4. The committee in charge of the administration of the prison shall make a record of the release as provided in laws and regulations;
  5. In releasing a prisoner who is a foreign citizen who has not yet made compensation for civil damages, there shall be preventive measures not to allow such person to exit from the country until such person makes compensation in full.

#### **Article 107. Implementation of Death Penalty**

When the decision on death penalty has become final, to review the correctness of such decision, the President of the People's Supreme Court will issue an order regarding the implementation of the death pe



**Article 111. Investigation of a Criminal Case Upon Discovery of New Circumstances or New Evidence**

Any individual or organisation which discovers new circumstances or evidence regarding a case which has had a final order or decision rendered upon it shall submit a request or shall inform the provincial or city public prosecutor.

When there exists any cause which is set out in Article 109 of this law, the public prosecutor shall issue an order to open an investigation regarding such discovery of new circumstances or evidence.

In the event that the public prosecutor deems that it is unreasonable to re-open the case, the public prosecutor shall issue an order not to re-open the investigation. This order shall be notified [by the public prosecutor] to relevant individuals and organisations and such persons shall have the right to request a cancellation of such order by a higher-level public prosecutor.

**Article 112. Conduct of the Public Prosecutor in Re-Opening the Case**

After investigations arising from the discovery of new circumstances or evidence have been completed, if it is

has the right to apply treatment measures to the detainee<sup>117</sup> or the person serving the sentence who is insane, has lost his mental capacity, is seriously ill, has an infectious disease, [or] is addicted to alcohol or drugs[, where such condition] has been certified by a doctor<sup>118</sup>[,] by sending such person to a hospital or to a special treatment centre. After having received effective treatment, such person shall be brought to the proceedings if the limitation period for prosecution has not expired or the time-limit for serving the sentence has not expired.

The time for medical treatment shall be included in the time for serving the sentence.

**Article 115. Approval for Treatment in Emergency Case**

When the accused person, defendant, or prisoner is suddenly sick and the doctor at the place of detention cannot provide treatment to such person, the officers in charge of the place of detention shall send such person for treatment at a State hospital and shall inform the public prosecutor or the people's court.

**Article 116. Protection and Supervision of Persons under Treatment**

An accused person, defendant, or prisoner who is sent for treatment, shall be sent for treatment only to a State hospital or a special State treatment centre.

Protection and supervision of a person under treatment is the

**Article 118. International Cooperation in Criminal Proceedings**

International cooperation in criminal proceedings must be carried out in compliance with agreements that the Lao PDR has signed with foreign countries or international conventions that it has entered into and in accordance to the laws of the Lao PDR.

In the event that the Lao PDR has not yet signed or not yet entered into international conventions relating to criminal proceedings, [such co-operation] shall be carried out on the basis of principles of mutual cooperation, but shall not be in conflict with the laws of the Lao PDR.

**Article 119. Implementation of Judicial Assistance**

In the provision of judicial assistance, the competent organisation conducting criminal proceedings in the Lao PDR shall comply with the agreements that the Lao PDR has signed with foreign countries or international conventions that the Lao PDR is a party to and shall comply with this law.

Provision of judicial assistance may have the objective of extradition, or exchange of prisoners, or seizure or sequestration of assets of an accused person or defendant, or enforcement of judgment, or cooperation in combating of cross-border crime and others.

**Article 120. Refusal to Provide Judicial Assistance**

The competent organisation conducting criminal proceedings in the Lao PDR may refuse to provide judicial assistance in the following cases:

1. The request for judicial assistance is not in conformity with agreements that the Lao PDR has signed with foreign countries, or international conventions to which the Lao PDR is a party, or the laws of the Lao PDR.
2. The provision of the judicial assistance would affect the sovereignty, security or stability of the nation, or any important interest of the Lao PDR.

**Part XII  
Final Provisions**

**Article 121. Implementation**

The government of the Lao PDR issues regulations to implement this law.

The People's Court, the Office of Public Prosecutor, and other concerned sectors shall strictly implement this law.

**Article 122. Effectiveness**

This law shall enter into force on the date when the President of the Lao People Democratic Republic issues a decree for its promulgation.

This law replaces the Law on Criminal Procedure No. 30/SPA, dated 23 December 1989.

Regulations and provisions which contradict this law are null and void.

Vientiane, 15 May 2004  
The President of the National  
Assembly

*[Seal and Signature]*

Samane VIGNAKET