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中华人民共和国刑法

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第一编 总 则

第一章 刑法的任务、基本原则和适用范围

第一条 为了惩罚犯罪，保护人民，根据宪法，结合我国同犯罪作斗争的具体经验及实际情况，制定本法。

第二条 中华人民共和国刑法的任务，是用刑罚同一切犯罪行为作斗争，以保卫国家安全，保卫人民民主专政的政权和社会主义制度，保护国有财产和劳动群众集体所有的财产，保护公民私人所有的财产，保护公民的人身权利、民主权利和其他权利，维护社会秩序、经济秩序，保障社会主义建设事业的顺利进行。

第三条 法律明文规定为犯罪行为的，依照法律定罪处刑；法律没有明文规定为犯罪行为的，不得定罪处刑。

第四条 对任何人犯罪，在适用法律上一律平等。不允许任何人有超越法律的特权。

第五条 刑罚的轻重，应当与犯罪分子所犯罪行和承担的刑事责任相适应。

第六条 凡在中华人民共和国领域内犯罪的，除法律有特别规定的以外，都适用本法。

凡在中华人民共和国船舶或者航空器内犯罪的，也适用本法。

犯罪的行为或者结果有一项发生在中华人民共和国领域内的，就认为是在中华人民共和国领域内犯罪。

Supplementary Provisions

Part One General Provisions

Chapter I The Aim, Basic Principles and Scope of Application of the Criminal Law

Article 1 In order to punish crimes and protect the people, this Law is enacted on the basis of the Constitution and in the light of the concrete experiences and actual circumstances in China's fight against crimes.

Article 2 The aim of the Criminal Law of the People's Republic of China is to use criminal punishments to fight against all criminal acts in order to safeguard security of the State, to defend the State power of the people's democratic dictatorship and the socialist system, to protect property owned by the State, and property collectively owned by the working people and property privately owned by citizens, to protect citizens' rights of the person and their democratic and other rights, to maintain public and economic order, and to ensure the smooth progress of socialist construction.

Article 3 For acts that are explicitly defined as criminal acts in law, the offenders shall be convicted and punished in accordance with law; otherwise, they shall not be convicted or punished.

Article 4 The law shall be equally applied to anyone who commits a crime. No one shall have the privilege of transcending the law.

Article 5 The degree of punishment shall be commensurate with the crime committed and the criminal responsibility to be borne by the offender.

Article 6 This Law shall be applicable to anyone who commits a crime within the territory and territorial waters and space of the People's republic of China, except as otherwise specifically provided by law.

This Law shall also be applicable to anyone who commits a crime on board a ship or aircraft of the People's Republic of China.

If a criminal act or its consequence takes place within the territory or territorial waters or space of the People's Republic of China, the crime shall be deemed to have been committed within the territory and territorial waters and space of the People's Republic of China.

第七条 中华人民共和国公民在中华人民共和国领域外犯本法规定之罪的，适用本法，但是按本法规定的最高刑为 3 年以下有期徒刑的，可以不予追究。

中华人民共和国国家工作人员和军人在中华人民共和国领域外犯本法规定之罪的，适用本法。

第八条 外国人在中华人民共和国领域外对中华人民共和国国家或者公民犯罪，而按本法规定的最低刑为 3 年以上有期徒刑的，可以适用本法，但是按照犯罪地的法律不受处罚的除外。

第九条 对于中华人民共和国缔结或者参加的国际条约所规定的罪行，中华人民共和国在所承担条约义务的范围内行使刑事管辖权的，适用本法。

第十条 凡在中华人民共和国领域外犯罪，依照本法应当负刑事责任的，虽然经过外国审判，仍然可以依照本法追究，但是在外国已经受过刑罚处罚的，可以免除或者减轻处罚。

第十一条 享有外交特权和豁免权的外国人的刑事责任，通过外交途径解决。

第十二条 中华人民共和国成立以后本法施行以前的行为，如果当时的法律不认为是犯罪的，适用当时的法律；如果当时的法律认为是犯罪的，依照本法总则第四章第八节的规定应当追诉的，按照当时的法律追究刑事责任，但是如果本法不认为是犯罪或者处刑较轻的，适用本法。

Article 7 This Law shall be applicable to any citizen of the People's Republic of China who commits a crime prescribed in this Law outside the territory and territorial waters and space of the People's Republic of China; however, if the maximum punishment to be imposed is fixed term imprisonment of not more than three years as stipulated in this Law, he may be exempted from the investigation for his criminal responsibility.

This Law shall be applicable to any State functionary or serviceman who commits a crime prescribed in this Law outside the territory and territorial waters and space of the People's Republic of China.

Article 8 This Law may be applicable to any foreigner who commits a crime outside the territory and territorial waters and space of the People's Republic of China against the State of the People's Republic of China or against any of its citizens, if for that crime this Law prescribes a minimum punishment of fixed-term imprisonment of not less than three years; however, this does not apply to a crime that is not punishable according to the laws of the place where it is committed.

Article 9 This Law shall be applicable to crimes which are stipulated in international treaties concluded or acceded to by the People's Republic of China and over which the People's Republic of China exercises criminal jurisdiction within the scope of obligations, prescribed in these treaties, it agrees to perform.

Article 10 Any person who commits a crime outside the territory and territorial waters and space of the People's Republic of China, for which according to this Law he should bear criminal responsibility, may still be investigated for his criminal responsibility according to this Law, even if he has already been tried in a foreign country. However, if he has already received criminal punishment in the foreign country, he may be exempted from punishment or given a mitigated punishment.

Article 11 The criminal responsibility of foreigners who enjoy diplomatic privileges and immunities shall be solved through diplomatic channels.

Article 12 If an act committed after the founding of the People's Republic of China and before the entry into force of this Law was not deemed a crime under the laws at the time, those laws shall apply. If the act was deemed a crime under the laws in force at the time and is subject to prosecution under the provisions of Section 8, Chapter IV of the General Provisions of this Law, criminal responsibility shall be investigated in accordance with those laws. However, if according to this Law the act is not deemed a crime or is subject to a lighter punishment, this Law shall apply.

本法施行以前，依照当时的法律已经作出的生效判决，继续有效。

第二章 犯 罪

第一节 犯罪和刑事责任

第十三条 一切危害国家主权、领土完整和安全，分裂国家、颠覆人民民主专政的政权和推翻社会主义制度，破坏社会秩序和经济秩序，侵犯国有财产或者劳动群众集体所有的财产，侵犯公民私人所有的财产，侵犯公民的人身权利、民主权利和其他权利，以及其他危害社会的行为，依照法律应当受刑罚处罚的，都是犯罪，但是情节显著轻微危害不大的，不认为是犯罪。

第十四条 明知自己的行为会发生危害社会的结果，并且希望或者放任这种结果发生，因而构成犯罪的，是故意犯罪。

故意犯罪，应当负刑事责任。

第十五条 应当预见自己的行为可能发生危害社会的结果，因为疏忽大意而没有预见，或者已经预见而轻信能够避免，以致发生这种结果的，是过失犯罪。

过失犯罪，法律有规定的才负刑事责任。

第十六条 行为在客观上虽然造成了损害结果，但是不是出于故意或者过失，而是由于不能抗拒或者不能预见的原因所引起的，不是犯罪。

第十七条 已满 16 周岁的人犯罪，应当负刑事责任。

已满 14 周岁不满 16 周岁的人，犯故意杀人、故意伤害致人重伤或者死亡、强奸、抢劫、贩卖毒品、放火、爆炸、投毒罪的，应当负刑事责任。

已满 14 周岁不满 18 周岁的人犯罪，应当从轻或者减轻处罚。