



中华人民共和国刑事诉讼法

Criminal Procedure Law of the
People's Republic of China

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(1979年7月1日第五届全国人民代表大会第二次会议
通过 根据1996年3月17日第八届全国人民代表
大会第四次会议《关于修改〈中华人民共和国
刑事诉讼法〉的决定》修正)

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Criminal Procedure Law of the People's Republic of China

(Adopted at the Second Session of the Fifth National People's
Congress on July 1, 1979, and revised in accordance with
the Decision on Revising the Criminal Procedure Law of
the People's Republic of China adopted at the Fourth
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第一编 总 则

第一章 任务和基本原则

第一条 为了保证刑法的正确实施,惩罚犯罪,保护人民,保障国家安全和社会公共安全,维护社会主义社会秩序,根据宪法,制定本法。

第二条 中华人民共和国刑事诉讼法的任务,是保证准确、及时地查明犯罪事实,正确应用法律,惩罚犯罪分子,保障无罪的人不受刑事追究,教育公民自觉遵守法律,积极同犯罪行为作斗争,以维护社会主义法制,保护公民的人身权利、财产权利、民主权利和其他权利,保障社会主义建设事业的顺利进行。

第三条 对刑事案件的侦查、拘留、执行逮捕、预审,由公安机关负责。检察、批准逮捕、检察机关直接受理的案件的侦查、提起公诉,由人民检察院负责。审判由人民法院负责。除法律特别规定的以外,其他任何机关、团体和个人都无权行使这些权力。

Part One General Provisions

Chapter I Aim and Basic Principles

Article 1 This Law is enacted in accordance with the Constitution and for the purpose of ensuring correct enforcement of the Criminal Law, punishing crimes, protecting the people, safeguarding State and public security and maintaining socialist public order.

Article 2 The aim of the Criminal Procedure Law of the People's Republic of China is: to ensure accurate and timely ascertainment of facts about crimes, correct application of law, punishment of criminals and protection of the innocent against being investigated for criminal responsibility; to enhance the citizens' awareness of the need to abide by law and to fight vigorously against criminal acts in order to safeguard the socialist legal system, to protect the citizens' personal rights; their property rights, democratic rights and other rights; and to guarantee smooth progress of the cause of socialist development.

Article 3 The public security organs shall be responsible for investigation, detention, execution of arrests and preliminary inquiry in criminal cases. The People's Procuratorates shall be responsible for procuratorial work, authorizing approval of arrests, conducting investigation and initiating public prosecution of cases directly accepted by the procuratorial organs. The People's Courts shall be responsible for adjudication. Except as otherwise provided by law, no other organs, organizations or individuals shall have the authority to exercise such powers.

人民法院、人民检察院和公安机关进行刑事诉讼,必须严格遵守本法和和其他法律的有关规定。

第四条 国家安全机关依照法律规定,办理危害国家安全的刑事案件,行使与公安机关相同的职权。

第五条 人民法院依照法律规定独立行使审判权,人民检察院依照法律规定独立行使检察权,不受行政机关、社会团体和个人的干涉。

第六条 人民法院、人民检察院和公安机关进行刑事诉讼,必须依靠群众,必须以事实为根据,以法律为准绳。对于一切公民,在适用法律上一律平等,在法律面前,不允许有任何特权。

第七条 人民法院、人民检察院和公安机关进行刑事诉讼,应当分工负责,互相配合,互相制约,以保证准确有效地执行法律。

第八条 人民检察院依法对刑事诉讼实行法律监督。

第九条 各民族公民都有用本民族语言文字进行诉讼的权利。人民法院、人民检察院和公安机关对于不通

In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs must strictly observe this Law and any relevant stipulations of other laws.

Article 4 State security organs shall, in accordance with law, handle cases of crimes that endanger State security, performing the same functions and powers as the public security organs.

Article 5 The People's Courts shall exercise judicial power independently in accordance with law and the People's Procuratorates shall exercise procuratorial power independently in accordance with law, and they shall be free from interference by any administrative organ, public organization or individual.

Article 6 In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs must rely on the masses, base themselves on facts and take law as the criterion. The law applies equally to all citizens and no privilege whatsoever is permissible before law.

Article 7 In conducting criminal proceedings, the People's Courts, the People's Procuratorates and the public security organs shall divide responsibilities, coordinate their efforts and check each other to ensure the correct and effective enforcement of law.

Article 8 The People's Procuratorates shall, in accordance with law, exercise legal supervision over criminal proceedings.

Article 9 Citizens of all nationalities shall have the right to use their native spoken and written languages in court proceedings. The People's Courts, the People's Procuratorates and the public security organs shall provide translations for any party to the court proceedings who is not familiar with the spoken or written language

晓当地通用的语言文字的诉讼参与人,应当为他们翻译。

在少数民族聚居或者多民族杂居的地区,应当用当地通用的语言进行审讯,用当地通用的文字发布判决书、布告和其他文件。

第十条 人民法院审判案件,实行两审终审制。

第十一条 人民法院审判案件,除本法另有规定的以外,一律公开进行。被告人有权获得辩护,人民法院有义务保证被告人获得辩护。

第十二条 未经人民法院依法判决,对任何人都不得确定有罪。

第十三条 人民法院审判案件,依照本法实行人民陪审员陪审的制度。

第十四条 人民法院、人民检察院和公安机关应当保障诉讼参与人依法享有的诉讼权利。

对于不满 18 岁的未成年人犯罪的案件,在讯问和审判时,可以通知犯罪嫌疑人、被告人的法定代理人到场。

诉讼参与人对于审判人员、检察人员和侦查人员侵犯公民诉讼权利和人身侮辱的行为,有权提出控告。

commonly used in the locality.

Where people of a minority nationality live in a concentrated community or where a number of nationalities live together in one area, court hearings shall be conducted in the spoken language commonly used in the locality, and judgments, notices and other documents shall be issued in the written language commonly used in the locality.

Article 10 In trying cases, the People's Courts shall apply the system whereby the second instance is final.

Article 11 Cases in the People's Courts shall be heard in public, unless otherwise provided by this Law. A defendant shall have the right to defence, and the People's Courts shall have the duty to guarantee his defence.

Article 12 No person shall be found guilty without being judged as such by a People's Court according to law.

Article 13 In trying cases, the People's Courts shall apply the system of people's assessors taking part in trials in accordance with this law.

Article 14 The People's Courts, the People's Procuratorates and the public security organs shall safeguard the procedural rights to which participants in proceedings are entitled according to law.

In cases where a minor under the age of 18 commits a crime, the criminal suspect and the legal representative of the defendant may be notified to be present at the time of interrogation and trial.

Participants in proceedings shall have the right to file charges against judges, procurators and investigators whose acts infringe on their citizen's procedural rights or subject their persons to indignities.

第十五条 有下列情形之一的,不追究刑事责任,已经追究的,应当撤销案件,或者不起诉,或者终止审理,或者宣告无罪:

(一)情节显著轻微、危害不大,不认为是犯罪的;

(二)犯罪已过追诉时效期限的;

(三)经特赦令免除刑罚的;

(四)依照刑法告诉才处理的犯罪,没有告诉或者撤回告诉的;

(五)犯罪嫌疑人、被告人死亡的;

(六)其他法律规定免于追究刑事责任的。

第十六条 对于外国人犯罪应当追究刑事责任的,适用本法的规定。

对于享有外交特权和豁免权的外国人犯罪应当追究刑事责任的,通过外交途径解决。

第十七条 根据中华人民共和国缔结或者参加的国际条约,或者按照互惠原则,我国司法机关和外国司法机

Article 15 In any of the following circumstances, no criminal responsibility shall be investigated; if investigation has already been undertaken, the case shall be dismissed, or prosecution shall not be initiated, or the handling shall be terminated, or innocence shall be declared:

(1) if an act is obviously minor, causing no serious harm, and is therefore not deemed a crime;

(2) if the limitation period for criminal prosecution has expired;

(3) if an exemption of criminal punishment has been granted in a special amnesty decree;

(4) if the crime is to be handled only upon complaint according to the Criminal Law, but there has been no complaint or the complaint has been withdrawn;

(5) if the criminal suspect or defendant is deceased; or

(6) if other laws provide an exemption from investigation of criminal responsibility.

Article 16 Provisions of this Law shall apply to foreigners who commit crimes for which criminal responsibility should be investigated.

If foreigners with diplomatic privileges and immunities commit crimes for which criminal responsibility should be investigated, those cases shall be resolved through diplomatic channels.

Article 17 In accordance with the international treaties which the People's Republic of China has concluded or acceded to or on the principle of reciprocity, the judicial organs of China and that of other countries may request judicial assistance from each other in

关可以相互请求刑事司法协助。

第二章 管 辖

第十八条 刑事案件的侦查由公安机关进行,法律另有规定的除外。

贪污贿赂犯罪,国家工作人员的渎职犯罪,国家机关工作人员利用职权实施的非法拘禁、刑讯逼供、报复陷害、非法搜查的侵犯公民人身权利的犯罪以及侵犯公民民主权利的犯罪,由人民检察院立案侦查。对于国家机关工作人员利用职权实施的其他重大的犯罪案件,需要由人民检察院直接受理的时候,经省级以上人民检察院决定,可以由人民检察院立案侦查。

自诉案件,由人民法院直接受理。

第十九条 基层人民法院管辖第一审普通刑事案件,但是依照本法由上级人民法院管辖的除外。

第二十条 中级人民法院管辖下列第一审刑事案件:

criminal affairs.

Chapter II Jurisdiction

Article 18 Investigation in criminal cases shall be conducted by the public security organs, except as otherwise provided by law.

Crimes of embezzlement and bribery, crimes of dereliction of duty committed by State functionaries, and crimes involving violations of a citizen's personal rights such as illegal detention, extortion of confessions by torture, retaliation, frame-up and illegal search and crimes involving infringement of a citizen's democratic rights — committed by State functionaries by taking advantage of their functions and powers — shall be placed on file for investigation by the People's Procuratorates. If cases involving other grave crimes committed by State functionaries by taking advantage of their functions and powers need be handled directly by the People's Procuratorates, they may be placed on file for investigation by the People's Procuratorates upon decision by the People's Procuratorates at or above the provincial level.

Cases of private prosecution shall be handled directly by the People's Courts.

Article 19. The Primary People's Courts shall have jurisdiction as courts of first instance over ordinary criminal cases; however, those cases which fall under the jurisdiction of the People's Courts at higher levels as stipulated by this Law shall be exceptions.

Article 20 The Intermediate People's Courts shall have jurisdiction as courts of first instance over the following criminal cases: