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Swiss Criminal Procedure Code

(Criminal Procedure Code, CrimPC)

of 5 October 2007 (Status as of 1 July 2021)

*The Federal Assembly of the Swiss Confederation,
on the basis of Article 123 paragraph 1 of the Federal Constitution¹,
and having considered the Federal Council Dispatch dated 21 December 2005²,
decrees:*

Title 1 Scope of Application and Principles

Chapter 1

Scope of Application and the Administration of Criminal Justice

Art. 1 Scope of application

¹ This Code regulates the prosecution and adjudication by the federal and cantonal criminal justice authorities of offences under federal law.

² The procedural regulations contained in other federal acts are reserved.

Art. 2 Administration of criminal justice

¹ The administration of criminal justice is the responsibility solely of the authorities specified by law.

² Criminal proceedings may be conducted and concluded only in the forms provided for by law.

Chapter 2 Principles of Criminal Procedure Law

Art. 3 Respect for human dignity and requirement of fairness

¹ The criminal justice authorities shall respect the dignity of the persons affected by the proceedings at all stages of the proceedings.

AS **2010** 1881

¹ SR **101**

² BB1 **2006** 1085

² They shall in particular comply with:

- a. the principle of good faith;
- b. the requirement not to abuse the rights of others;
- c. the requirement to treat all persons involved in the proceedings equally and fairly and to grant them the right to be heard;
- d. the prohibition, when taking evidence, of using methods that violate human dignity.

Art. 4 Independence

¹ The criminal justice authorities are independent in applying the law and bound solely by the law.

² Statutory powers to issue directives to the prosecution authorities under Article 14 are reserved.

Art. 5 Principle of expeditiousness

¹ The criminal justice authorities shall commence criminal proceedings immediately and conclude them without unjustified delay.

² Where an accused is in detention, the proceedings shall be conducted as a matter of urgency.

Art. 6 Principle of substantive truth

¹ The criminal justice authorities shall investigate *ex officio* all the circumstances relevant to the assessment of the criminal act and the accused.

² They shall investigate incriminating and exculpatory circumstances with equal care.

Art. 7 Obligation to prosecute

¹ The criminal justice authorities are obliged to commence and conduct proceedings that fall within their jurisdiction where they are aware of or have grounds for suspecting that an offence has been committed.

² The cantons may provide:

- a. for the exclusion or limitation of criminal liability for statements made in the cantonal parliament by the members of their legislative and judicial authorities and of their governments;
- b. that the prosecution of members of their authorities responsible for the execution of sentences and measures and judicial authorities for felonies or misdemeanours committed while in office be made subject to the authorisation of a non-judicial authority.

Art. 8 Waiving prosecution

¹ The public prosecutor and courts shall waive prosecution if the federal law so permits, in particular subject to the requirements of Articles 52, 53 and 54 of the Swiss Criminal Code³ (SCC).

² Unless it is contrary to the private claimant's overriding interests, they shall also waive prosecution if:

- a. the offence is of negligible importance in comparison with the other offences with which the accused is charged as regards the expected sentence or measure;
- b. any additional penalty imposed in combination with the sentence in the final judgment would be negligible;
- c. an equivalent sentence imposed abroad would have to be taken into account when imposing a sentence for the offence prosecuted.

³ Unless it is contrary to the private claimant's overriding interests, the public prosecutor and courts may waive the prosecution if the offence is already being prosecuted by a foreign authority or the prosecution has been assigned to such an authority.

⁴ In such cases, they shall issue an order stating that no proceedings are being taking or that the ongoing proceedings have been abandoned.

Art. 9 Principle of no judgment without a charge

¹ An offence may only be judicially assessed if the public prosecutor has brought a related charge against a specific person in the competent court based on precisely described circumstances.

² The foregoing paragraph does not apply to proceedings relating to summary penalty orders and contraventions.

Art. 10 Presumption of innocence and assessment of evidence

¹ Every person is presumed to be innocent until they have been convicted in a judgment that is final and legally binding.

² The court shall be free to interpret the evidence in accordance with the views that it forms over the entire proceedings.

³ Where there is insurmountable doubt as to whether the factual requirements of alleged offence have been fulfilled, the court shall proceed on the assumption that the circumstances more favourable to the accused occurred.

Art. 11 Prohibition of double jeopardy

¹ No person who has been convicted or acquitted in Switzerland by a final legally binding judgment may be prosecuted again for the same offence.

² The foregoing paragraph does not apply to proceedings that have been waived or abandoned and to the review of a case.

Title 2 Criminal Justice Authorities

Chapter 1 Powers

Section 1 General Provisions

Art. 12 Prosecution authorities

The prosecution authorities are:

- a. the police;
- b. the public prosecutor;
- c. the authorities responsible for prosecuting contraventions.

Art. 13 Courts

The following bodies have judicial powers in criminal proceedings:

- a. the compulsory measures court;
- b. the court of first instance;
- c. the objections authority;
- d. the court of appeal.

Art. 14 Titles and organisation of the criminal justice authorities

¹ The Confederation and the cantons shall determine their own criminal justice authorities and the titles that they use.

² They shall regulate the composition, organisation and powers of the criminal justice authorities and the appointment of their members, unless this Code or other federal acts regulate the same in full.

³ They may establish the offices of a chief public prosecutor or attorney general.

⁴ They may establish two or more similar criminal justice authorities and specify the local or material jurisdiction of each; exempted therefrom are the objections authority and the court of appeal.

⁵ They shall regulate the supervision of their criminal justice authorities.

Section 2 Prosecution Authorities

Art. 15 Police

¹ The activities of the federal, cantonal and communal police in prosecution matters are governed by this Code.

² The police investigate offences on their own initiative, in response to reports from members of the public and from authorities, and on the instructions of the public prosecutor; in doing so, they are subject to the supervision and the directives of the public prosecutor.

³ Where criminal proceedings are pending before a court, the court may issue the police with instructions and assignments.

Art. 16 Public prosecutor

¹ The public prosecutor is responsible for the uniform exercise of the state's right to punish criminal conduct.

² It conducts preliminary proceedings, pursues offences within the scope of the investigation, and where applicable brings charges and acts as prosecutor.

Art. 17 Authorities responsible for prosecuting contraventions

¹ The Confederation and the cantons may delegate the prosecution and adjudication of contraventions to administrative authorities.

² Where contraventions are committed in connection with a felony or misdemeanour, they shall be prosecuted by the public prosecutor and judged by the courts at the same time as the more serious offence.

Section 3 **Courts**

Art. 18 Compulsory measures court

¹ The compulsory measures court is responsible for ordering the accused's remand or preventive detention and, where this Code so provides, for ordering or approving additional compulsory measures.

² Members of the compulsory measures court may not sit as judge in the main hearing in the same case.

Art. 19 Court of first instance

¹ The court of first instance assesses, as the first instance, all offences that do not fall within the jurisdiction of other authorities.

² The Confederation and the cantons may provide that the court of first instance comprise one judge sitting alone to assess:

- a. contraventions;
- b. felonies and misdemeanours, with exception of those for which the public prosecutor demands a custodial sentence of more than two years, indefinite incarceration in terms of Article 64 SCC⁴, treatment in terms of Article 59

⁴ SR 311.0