

# AN ACT

*Of the Parliament of the Bayer Free State*  
*Reference code ACT\_2021\_00005*

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## PART I. APPLICABILITY

### Article 1. Scope; Definitions

#### Section 1

This Act shall govern the procedure in all criminal proceedings in the Court of Justice of the Bayer Free State, and all subsequent courts that may be established by law within the jurisdiction of the Bayer Free State.

#### Section 2

For the purpose of this Act:

- “Attorney for the Government” means the Head of State, the Prime Minister, or any person authorized by law to enforce criminal laws.
- “Court” means a judge performing functions authorized by law.
- “Judge” means the Chief Justice, or any justices authorized by law to uphold criminal laws.
- “Oath” includes an affirmation.
- “Misdemeanor” means any criminal offense carrying a maximum punishment of either a warning, or a temporary mute, or a temporary ban of not more than 15 days.
- “Victim” means any person directly or approximately harmed as a result of the commission of a criminal offense within the State.
- “State” means the Bayer Free State and any of its territories or possessions.

## Article 2. Interpretation

This Act is to be interpreted to provide for the just determination of every criminal proceeding, to secure simplicity in procedure and fairness in administration, and to eliminate unjustifiable expense and delay.

# PART II. PRELIMINARY PROCEEDINGS

## Article 3. The Complaint

The complaint is a written statement of the essential facts constituting the offense charged.

## Article 4. Warrant on a complaint, warrant for an emergency

### Section 1

If the complaint establishes probable cause to believe that an offense has been committed, that the defendant committed it, and that the defendant may continue the commission of that offense, or may commit another offense, the judge must issue a warrant to a person authorized to execute it to take appropriate measures against the defendant. At the request of an attorney for the government, the judge must issue a warrant to a person authorized to serve it. A judge may issue more than one warrant or summons on the same complaint.

### Section 2

A warrant must:

- contain the defendant's name, or, if it is unknown, a name or description by which the defendant can be identified with reasonable certainty;
- describe the offenses charged with the warrant;
- state the appropriate measures to be taken against the defendant; and
- be signed by a judge.

### Section 3

- a) Only authorized persons may execute a warrant.
- b) A warrant may be executed in any place within the jurisdiction of the State.

## Section 4

A warrant is executed by taking the measures described in it. Upon doing so, the defendant must be presented with the warrant, or, be informed of the existence of the warrant and be presented with the warrant as soon as possible.

## Section 5

After executing the warrant, the authorized person who executed it must inform the court as soon as possible.

## Section 6

If there are reasons to establish probable cause for an authorized person to believe that an offense has been committed, that the a person committed it, and that that person may continue the commission of that offense, or may commit another offense before a complaint has been filed or a warrant has been issued, that authorized person may take appropriate measures against the person mentioned, after which a complaint must be filed and a warrant must be applied for without unnecessary delay.

## Article 5. Announcement of Proceedings

As soon as an arrangement for proceedings is achieved, an announcement by the judge must be made to the public as soon as possible.

# PART III. THE GRAND JURY, THE INDICTMENT, AND THE INFORMATION

## Article 6. The Grand Jury

### Section 1

- a) The court must order that a grand jury be summoned for every trial. A grand jury must have 3 to 20 members, and the court must order that enough legally qualified persons be summoned to meet this requirement, unless provided otherwise by statutes.
- b) When a grand jury is selected, the court may also select alternate jurors. Alternate jurors must have the same qualifications and be selected in the same manner as any other juror. Alternate jurors replace jurors in the same sequence in which the alternates were selected. An alternate

juror who replaces a juror is subject to the same challenges, takes the same oath, and has the same authority as the other jurors.

## Section 2

- a) Either the government or a defendant may challenge the grand jury anonymously on the ground that it was not lawfully drawn, summoned, or selected, and may challenge an individual juror on the ground that the juror is not legally qualified.
- b) A party may move to dismiss the indictment based on an objection to the grand jury or on an individual juror's lack of legal qualification, unless the court has previously ruled on the same objection under [Article 6, Section 2, Clause a](#)). The court must not dismiss the indictment on the ground that a grand juror was not legally qualified if the record shows that at least 2 qualified jurors concurred in the indictment.

## Section 3

The court will appoint one juror as the foreperson. The foreperson may administer oaths and affirmations and will sign all indictments. The foreperson—or another juror designated by the foreperson—will record the number of jurors concurring in every indictment and will file the record with the court, but the record may not be made public unless the court so orders.

## Section 4

- a) The following persons may be present while the grand jury is in session: attorneys for the government, the witness being questioned, interpreters when needed, and a court reporter or an operator of a recording device.
- b) No person other than the jurors and the judge may be present while the grand jury is deliberating or voting.

## Section 5

- a) Except while the grand jury is deliberating or voting, all proceedings must be recorded by a court reporter or by a suitable recording device. But the validity of a prosecution is not affected by the unintentional failure to make a recording. Unless the court orders otherwise, an attorney for the government will retain control of the recording, the reporter's notes, and any transcript prepared from those notes.

- b) Subject to any right to an open hearing in a contempt proceeding, the court must close any hearing to the extent necessary to prevent disclosure of a matter occurring before a grand jury.
- c) Records, orders, and subpoenas relating to grand-jury proceedings must be kept under seal to the extent and as long as necessary to prevent the unauthorized disclosure of a matter occurring before a grand jury.
- d) A knowing violation of Article 6 may be punished as a contempt of court.

## Section 6

A grand jury may indict only if at least 2 jurors concur. The grand jury—or its foreperson—must return the indictment to a judge in open court. If a complaint or information is pending against the defendant and 3 jurors do not concur in the indictment, the foreperson must promptly and in writing report the lack of concurrence to the judge.

## Section 7

A grand jury must serve until the court discharges it, but it may serve more if the court, having determined that an extension is in the public interest, extends the grand jury's service. An extension may be granted for no more than 6 days, except as otherwise provided by statute.

## Section 8

At any time, for good cause, the court may excuse a juror either temporarily or permanently, and if permanently, the court may impanel an alternate juror in place of the excused juror.

# Article 7. The Indictment and the Information

## Section 1

- a) An offense (other than criminal contempt) must be prosecuted by an indictment if it is punishable by a temporary ban for more than fifteen days.
- b) An offense punishable by a temporary ban for fifteen days or less may be prosecuted in accordance with [Article 48](#).

## Section 2

An offense punishable by a temporary ban for more than fifteen days may be prosecuted by information if the defendant—in open court and after being advised of the nature of the charge and of the defendant's rights—waives prosecution by indictment.

## Section 3

- a) The indictment or information must be a plain, concise, and definite written statement of the essential facts constituting the offense charged and must be signed by an attorney for the government. It need not contain a formal introduction or conclusion. A count may incorporate by reference an allegation made in another count. A count may allege that the means by which the defendant committed the offense are unknown or that the defendant committed it by one or more specified means. For each count, the indictment or information must give the official or customary citation of the statute, rule, regulation, or other provision of law that the defendant is alleged to have violated.
- b) Unless the defendant was misled and thereby prejudiced, neither an error in a citation nor a citation's omission is a ground to dismiss the indictment or information or to reverse a conviction.

## Section 4

Upon the defendant's motion, the court may strike surplusage from the indictment or information.

## Section 5

Unless an additional or different offense is charged or a substantial right of the defendant is prejudiced, the court may permit an information to be amended at any time before the verdict or finding.

# Article 8. Joinder of Offenses or Defendants

## Section 1

The indictment or information may charge a defendant in separate counts with 2 or more offenses if the offenses charged are of the same or similar character, or are based on the same act or transaction, or are connected with or constitute parts of a common scheme or plan.

## Section 2

The indictment or information may charge 2 or more defendants if they are alleged to have participated in the same act or transaction, or in the same series of acts or transactions, constituting an offense or offenses. The defendants may be charged in one or more counts together or separately. All defendants need not be charged in each count.

## Article 9. Warrant on an Indictment or Information

Warrant on an indictment or information shall be issued and executed as governed in [Article 4](#).

# PART IV. PREPARATION FOR TRIAL

## Article 10. Pretrial Motions

### Section 1

- a) A party may raise by pretrial motion any defense, objection, or request that the court can determine without a trial on the merits. [Article 41](#) applies to a pretrial motion.
- b) A motion that the court lacks jurisdiction may be made at any time while the case is pending.
- c) The following defenses, objections, and requests must be raised by pretrial motion if the basis for the motion is then reasonably available and the motion can be determined without a trial on the merits:
  - a motion alleging a defect in instituting the prosecution, including:
    - + improper venue;
    - + pre-indictment delay;
    - + selective or vindictive prosecution; and
    - + an error in the grand-jury proceeding or preliminary hearing;
  - a defect in the indictment or information; including:
    - + joining two or more offenses in the same count (duplicity);
    - + charging the same offense in more than one count (multiplicity);
    - + lack of specificity;
    - + improper joinder; and
    - + failure to state an offense;

- suppression of evidence; and
  - severance of charges or defendants under [Article 12](#).
- d) As soon as practicable, the government may notify the defendant of its intent to use specified evidence at trial in order to afford the defendant an opportunity to object before trial under [Article 10, Section 1, Clause c\), Item 3](#).

## Section 2

- a) The court may, as soon as practicable, set a deadline for the parties to make pretrial motions and may also schedule a motion hearing. If the court does not set one, the deadline is the start of the trial.
- b) At any time before trial, the court may extend or reset the deadline for pretrial motions.
- c) If a party does not meet the deadline for making an [Article 10, Section 1, Clause c\)](#) motion, the motion is untimely. But a court may consider the defense, objection, or request if the party shows good cause.

## Section 3

The court must decide every pretrial motion before trial unless it finds good cause to defer a ruling. The court must not defer ruling on a pretrial motion if the deferral will adversely affect a party's right to appeal. When factual issues are involved in deciding a motion, the court must state its essential findings on the record.

## Section 4

All proceedings at a motion hearing, including any findings of fact and conclusions of law made by the court, must be recorded by a court reporter or a suitable recording device.

## Article 11. Joint Trial of Separate Cases

The court may order that separate cases be tried together as though brought in a single indictment or information if all offenses and all defendants could have been joined in a single indictment or information.



## Article 12. Relief from Prejudicial Joinder

If the joinder of offenses or defendants in an indictment, or an information appears to prejudice a defendant or the government, the court may order separate trials of counts, sever the defendants' trials, or provide any other relief that justice requires.

## Article 14. Depositions

### Section 1

A party may move that a prospective witness be deposed in order to preserve testimony for trial. The court may grant the motion because of exceptional circumstances and in the interest of justice. If the court orders the deposition to be taken, it may also require the deponent to produce at the deposition any designated material that is not privileged, including any book, paper, document, record, recording, or data.

### Section 2

A party seeking to take a deposition must give every other party reasonable written notice of the deposition.

### Section 3

Unless this article or a court order provides otherwise, a deposition must be taken and filed in the same manner as a deposition in a civil action, except that:

- A defendant may not be deposed without that defendant's consent.
- The scope and manner of the deposition examination and cross-examination must be the same as would be allowed during trial.
- The government must provide to the defendant or the defendant's attorney, for use at the deposition, any statement of the deponent in the government's possession to which the defendant would be entitled at trial.

### Section 4

An order authorizing a deposition to be taken under this article does not determine its admissibility. A party may use all or part of a deposition as provided by the Evidence Act.

## Section 5

A party objecting to deposition testimony or evidence must state the grounds for the objection during the deposition.

## Section 6

The parties may by agreement take and use a deposition with the court's consent.

# Article 15. Disclosure of Evidence

## Section 1

### a) Information subject to disclosure:

- Defendant's Oral Statement. Upon a defendant's request, the government must disclose to the defendant the substance of any relevant oral statement made by the defendant, before or after arrest, in response to interrogation by a person the defendant knew was a government agent if the government intends to use the statement at trial.
- Defendant's Written or Recorded Statement. Upon a defendant's request, the government must disclose to the defendant, and make available for inspection, copying, or photographing, all of the following:
  - + any relevant written or recorded statement by the defendant if:
    - statement is within the government's possession, custody, or control; and
    - the attorney for the government knows—or through due diligence could know—that the statement exists;
  - + the portion of any written record containing the substance of any relevant oral statement made before or after arrest if the defendant made the statement in response to interrogation by a person the defendant knew was a government agent; and
  - + the defendant's recorded testimony before a grand jury relating to the charged offense.
- Defendant's Prior Record. Upon a defendant's request, the government must furnish the defendant with a copy of the defendant's prior criminal record that is within the government's possession, custody, or control if the attorney for the government knows—or through due diligence could know—that the record exists.

- Documents and Objects. Upon a defendant's request, the government must permit the defendant to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items, if the item is within the government's possession, custody, or control and:
    - + the item is material to preparing the defense;
    - + the government intends to use the item in its case-in-chief at trial; or
    - + the item was obtained from or belongs to the defendant.
  - Examination and Tests. Upon a defendant's request, the government must permit a defendant to inspect and to copy or photograph the results or reports of any physical or mental examination and of any scientific test or experiment if:
    - + the item is within the government's possession, custody, or control;
    - + the attorney for the government knows—or through due diligence could know—that the item exists; and
    - + the item is material to prepare the defense or the government intends to use the item in its case-in-chief at trial.
- b) Except as permitted by [Article 15 Section 1 Clause a except Item 4](#), this article does not authorize the discovery or inspection of reports, memoranda, or other internal government documents made by an attorney for the government or other government agent in connection with investigating or prosecuting the case. Nor does this article authorize the discovery or inspection of statements made by prospective government witnesses.
- c) This article does not apply to the discovery or inspection of a grand jury's recorded proceedings, except as provided in [Articles 6](#), [10](#), [16](#), and [22](#).

## Section 2

- a) Information Subject to Disclosure:
- Documents and Objects. If a defendant requests disclosure under [Article 15 Section 1 Clause a Item 4](#) and the government complies, then the defendant must permit the government, upon request, to inspect and to copy or photograph books, papers, documents, data, photographs, tangible objects, buildings or places, or copies or portions of any of these items if:
    - + the item is within the defendant's possession, custody, or control; and
    - + the defendant intends to use the item in the defendant's case-in-chief at trial.
  - Reports of Examinations and Tests. If a defendant requests disclosure under [Article 15 Section 1 Clause a Item 5](#) and the government complies, the defendant must permit the

government, upon request, to inspect and to copy or photograph the results or reports of any physical or mental examination and of any scientific test or experiment if:

- + the item is within the defendant's possession, custody, or control; and
- + the defendant intends to use the item in the defendant's case-in-chief at trial, or intends to call the witness who prepared the report and the report relates to the witness's testimony.

b) Except for scientific or medical reports, [Article 15 Section 2 Clause a](#) does not authorize discovery or inspection of:

- reports, memoranda, or other documents made by the defendant, or the defendant's attorney or agent, during the case's investigation or defense; or
- a statement made to the defendant, or the defendant's attorney or agent, by:
  - + the defendant;
  - + a government or defense witness; or
  - + a prospective government or defense witness.

### Section 3

A party who discovers additional evidence or material before or during trial must promptly disclose its existence to the other party or the court if:

- the evidence or material is subject to discovery or inspection under this article; and
- the other party previously requested, or the court ordered, its production.

### Section 4

a) At any time the court may, for good cause, deny, restrict, or defer discovery or inspection, or grant other appropriate relief. The court may permit a party to show good cause by a written statement that the court will inspect ex parte.

b) If a party fails to comply with this article, the court may:

- order that party to permit the discovery or inspection; specify its time, place, and manner; and prescribe other just terms and conditions;
- grant a continuance;
- prohibit that party from introducing the undisclosed evidence; or

- enter any other order that is just under the circumstances.

## Article 16. Subpoena

### Section 1

A subpoena must state the court's name, the title of the proceeding, and command the witness to attend and testify at the time and place the subpoena specifies.

### Section 2

- A subpoena may order the witness to produce any books, papers, documents, data, videos, or other objects the subpoena designates. The court may direct the witness to produce the designated items in court before trial or before they are to be offered in evidence. When the items arrive, the court may permit the parties and their attorneys to inspect all or part of them.
- On motion made promptly, the court may quash or modify the subpoena if compliance would be unreasonable or oppressive.
- After a complaint, indictment, or information is filed, a subpoena requiring the production of personal or confidential information about a victim may be served on a third party only by court order. Before entering the order and unless there are exceptional circumstances, the court must require giving notice to the victim so that the victim can move to quash or modify the subpoena or otherwise object.

### Section 3

The court may hold in contempt a witness who, without adequate excuse, disobeys a subpoena issued by the court.

### Section 4

No party may subpoena a statement of a witness or of a prospective witness under this article.

[Article 24](#) governs the production of the statement.

## Article 17. Pretrial Conference

On its own, or on a party's motion, the court may hold one or more pretrial conferences to promote a fair and expeditious trial. When a conference ends, the court must prepare and file a memorandum of any matters agreed to during the conference. The government may not use any statement made

during the conference by the defendant or the defendant's attorney unless it is in writing and is signed by the defendant and the defendant's attorney.

## PART V. VENUE

### Article 18. Place of Prosecution and Trial

#### Section 1

For challenging the jury, the process shall be conducted anonymously—digitally or physically—with the public able to observe the process as a whole without exposing the jurors' identity.

#### Section 2

The place of Prosecution and Trial shall be a text channel on Discord with all citizens able to view but not allowed to text in it. During the Trial, all people who participate in the trial shall be given the right to text in the stated channel.

#### Section 3

A separate group direct message shall be created with the judge and the jurors before the trial to give instructions to the jury.

#### Section 4

If one or many parties are unable to participate in the trial on Discord, the court shall be arranged in an appropriate place, digitally or physically, and have proper equipment to present in any medium that the evidence may require. The jury deliberation place shall be private and isolated from the court or any interference.

## PART VI. TRIAL

### Article 19. Jury or Non-Jury Trial

#### Section 1

If the defendant is entitled to a jury trial, the trial must be by the jury unless:

- the defendant waives a jury trial in writing;
- the government consents; and

- the court approves.

## Section 2

- a) A jury consists of 3 persons unless this article provides otherwise.
- b) At any time before the verdict, the parties may, with the court's approval, stipulate in writing that:
  - the jury may consist of fewer than 3 persons; or
  - a jury of fewer than 3 persons may return a verdict if the court finds it necessary to excuse a juror for good cause after the trial begins.
- c) After the jury has retired to deliberate, the court may permit a jury of fewer than 3 persons to return a verdict, even without a stipulation by the parties, if the court finds good cause to excuse a juror.

## Section 3

In a case tried without a jury, the court must find the defendant guilty or not guilty. If a party requests before the finding of guilty or not guilty, the court must state its specific findings of fact in open court or in a written decision or opinion.

# Article 20. Trial Jurors

## Section 1

- a) The court may examine prospective jurors or may permit the attorneys for the parties to do so.
- b) If the court examines the jurors, it must permit the attorneys for the parties to:
  - ask further questions that the court considers proper; or
  - submit further questions that the court may ask if it considers them proper.

## Section 2

Each side is entitled to 3 peremptory challenges to prospective jurors. The court may allow additional peremptory challenges to multiple defendants, and may allow the defendants to exercise those challenges separately or jointly.

## Section 3

- a) The court may impanel up to 3 alternate jurors to replace any jurors who are unable to perform or who are disqualified from performing their duties.
- b) The procedure to select the jury shall be proceed as follow:
  - Alternate jurors must have the same qualifications and be selected and sworn in the same manner as any other juror.
  - Alternate jurors replace jurors in the same sequence in which the alternates were selected. An alternate juror who replaces a juror has the same authority as the other jurors.
- c) The court may retain alternate jurors after the jury retires to deliberate. The court must ensure that a retained alternate does not discuss the case with anyone until that alternate replaces a juror or is discharged. If an alternate replaces a juror after deliberations have begun, the court must instruct the jury to begin its deliberations anew.
- d) Each side is entitled to an additional peremptory challenge to prospective alternate jurors. These additional challenges may be used only to remove alternate jurors.

## Article 21. Judge's Disability

### Section 1

Any qualified person designated in writing may preside over a case in place of a judge if that judge cannot preside over that case due to some disabilities.

### Section 2

In the event of a judge's disability and no alternate judge is available, the trial may be postponed to a later date with the agreement of all parties.

## Article 22. Taking Testimony

In every trial the testimony of witnesses must be taken in open court, unless otherwise provided by a statute.



## Article 23. Foreign Law Determination

A party intending to raise an issue of foreign law must provide the court and all parties with reasonable written notice. Issues of foreign law are questions of law, but in deciding such issues a court may consider any relevant material or source—including testimony—without regard to the Evidence Act.

## Article 24. Producing a Witness's Statement

### Section 1

After a witness other than the defendant has testified on direct examination, the court, on motion of a party who did not call the witness, must order an attorney for the government or the defendant and the defendant's attorney to produce, for the examination and use of the moving party, any statement of the witness that is in their possession and that relates to the subject matter of the witness's testimony.

### Section 2

If the entire statement relates to the subject matter of the witness's testimony, the court must order that the statement be delivered to the moving party.

### Section 3

If the party who called the witness claims that the statement contains information that is privileged or does not relate to the subject matter of the witness's testimony, the court must inspect the statement. After excising any privileged or unrelated portions, the court must order delivery of the redacted statement to the moving party. If the defendant objects to an excision, the court must preserve the entire statement with the excised portion indicated, under seal, as part of the record.

### Section 4

The court may recess the proceedings to allow time for a party to examine the statement and prepare for its use.

### Section 5

If the party who called the witness disobeys an order to produce or deliver a statement, the court must strike the witness's testimony from the record. If an attorney for the government disobeys the order, the court must declare a mistrial if justice so requires.

## Section 6

As used in this article, a witness's "statement" means:

- a written statement that the witness makes and signs, or otherwise adopts or approves;
- a substantially verbatim, contemporaneously recorded recital of the witness's oral statement that is contained in any recording or any transcription of a recording; or
- the witness's statement to a grand jury, however taken or recorded, or a transcription of such a statement.

## Article 25. Mistrial

Before ordering a mistrial, the court must give each defendant and the government an opportunity to comment on the propriety of the order, to state whether that party consents or objects, and to suggest alternatives.

## Article 26. Motion for a Judgment of Acquittal

### Section 1

After the government closes its evidence or after the close of all the evidence, the court on the defendant's motion must enter a judgment of acquittal of any offense for which the evidence is insufficient to sustain a conviction. The court may on its own consider whether the evidence is insufficient to sustain a conviction. If the court denies a motion for a judgment of acquittal at the close of the government's evidence, the defendant may offer evidence without having reserved the right to do so.

### Section 2

The court may reserve decision on the motion, proceed with the trial (where the motion is made before the close of all the evidence), submit the case to the jury, and decide the motion either before the jury returns a verdict or after it returns a verdict of guilty or is discharged without having returned a verdict. If the court reserves decision, it must decide the motion on the basis of the evidence at the time the ruling was reserved.

### Section 3

- a) A defendant may move for a judgment of acquittal, or renew such a motion, within 7 days after a guilty verdict or after the court discharges the jury, whichever is later.

- b) If the jury has returned a guilty verdict, the court may set aside the verdict and enter an acquittal. If the jury has failed to return a verdict, the court may enter a judgment of acquittal.
- c) A defendant is not required to move for a judgment of acquittal before the court submits the case to the jury as a prerequisite for making such a motion after jury discharge.

## Article 27. Closing Argument

Closing arguments proceed in the following order:

- the government argues;
- the defense argues; and
- the government rebuts.

## Article 28. Jury Instructions

### Section 1

Any party may request in writing that the court instruct the jury on the law as specified in the request. The request must be made at the close of the evidence or at any earlier time that the court reasonably sets. When the request is made, the requesting party must furnish a copy to every other party.

### Section 2

The court must inform the parties before closing arguments how it intends to rule on the requested instructions.

### Section 3

The court may instruct the jury before or after the arguments are completed, or at both times.

### Section 4

A party who objects to any portion of the instructions or to a failure to give a requested instruction must inform the court of the specific objection and the grounds for the objection before the jury retires to deliberate. An opportunity must be given to object out of the jury's hearing and, on request, out of the jury's presence. Failure to object in accordance with this article precludes appellate review, except as permitted under [Article 42](#).

## Article 29. Jury Verdict

### Section 1

The jury must return its verdict to a judge in open court. The verdict must be unanimous.

### Section 2

- a) If there are multiple defendants, the jury may return a verdict at any time during its deliberations as to any defendant about whom it has agreed.
- b) If the jury cannot agree on all counts as to any defendant, the jury may return a verdict on those counts on which it has agreed.
- c) If the jury cannot agree on a verdict on one or more counts, the court may declare a mistrial on those counts. The government may retry any defendant on any count on which the jury could not agree.

### Section 3

A defendant may be found guilty of any of the following:

- an offense necessarily included in the offense charged;
- an attempt to commit the offense charged; or
- an attempt to commit an offense necessarily included in the offense charged, if the attempt is an offense in its own right.

### Section 4

After a verdict is returned but before the jury is discharged, the court must on a party's request, or may on its own, poll the jurors individually. If the poll reveals a lack of unanimity, the court may direct the jury to deliberate further or may declare a mistrial and discharge the jury.

## PART VII. POST-CONVICTION PROCEDURES

## Article 30. Sentencing and Judgment

### Section 1

- a) The court must impose sentence without unnecessary delay.
- b) The court may, for good cause, change any time limits prescribed in this article.

## Section 2

- a) Before imposing sentence, the court must:
  - provide the defendant's attorney an opportunity to speak on the defendant's behalf;
  - address the defendant personally in order to permit the defendant to speak or present any information to mitigate the sentence;
  - provide an attorney for the government an opportunity to speak equivalent to that of the defendant's attorney, and to recommend a sentence based on facts; and
  - provide the defendant's attorney an opportunity to comment on or object to the recommendation of the attorney for the government.
- b) Before imposing sentence, the court must address any victim of the crime who is present at sentencing and must permit the victim to be reasonably heard.
- c) Before imposing sentence:
  - the court must consider any alternative sanction or punishment if it deems appropriate
  - if the court deems so, the court must allow the defendant to choose between punishments listed in Article 9 Section 1 of the "2022 Criminal Act" or the offered alternative punishment.

## Section 3

- a) If the defendant was convicted, after sentencing the court must advise the defendant of the right to appeal the conviction.
- b) After sentencing, the court must advise the defendant of any right to appeal the sentence.

## Section 4

In the judgment of conviction, the court must set forth the jury verdict or the court's findings, the adjudication, and the sentence. If the defendant is found not guilty or is otherwise entitled to be discharged, the court must so order. The judge must sign the judgment.

## Article 31. New Trial

### Section 1

Upon the defendant's motion, the court may vacate any judgment and grant a new trial if the interest of justice so requires. If the case was tried without a jury, the court may take additional testimony and enter a new judgment.

### Section 2

- a) Any motion for a new trial grounded on newly discovered evidence must be filed within 1 year after the verdict or finding of guilty. If an appeal is pending, the court may not grant a motion for a new trial until the appellate court remands the case.
- b) Any motion for a new trial grounded on any reason other than newly discovered evidence must be filed within 14 days after the verdict or finding of guilty.

## Article 32. Correcting or Reducing a Sentence

### Section 1

Within 14 days after sentencing, the court may correct a sentence that resulted from arithmetical, technical, or other clear error.

### Section 2

- a) Upon the government's motion made within 9 months of sentencing, the court may reduce a sentence if the defendant, after sentencing, provided substantial assistance in investigating or prosecuting another person.
- b) Upon the government's motion made more than 9 months after sentencing, the court may reduce a sentence if the defendant's substantial assistance involved:
  - information not known to the defendant until one year or more after sentencing;
  - information provided by the defendant to the government within 9 months of sentencing, but which did not become useful to the government until more than one year after sentencing; or

- information the usefulness of which could not reasonably have been anticipated by the defendant until more than 9 months after sentencing and which was promptly provided to the government after its usefulness was reasonably apparent to the defendant.
- c) In evaluating whether the defendant has provided substantial assistance, the court may consider the defendant's presentence assistance.
- d) When acting under [Article 32 Section 2](#), the court may reduce the sentence to a level below the minimum sentence established by statute.

### Section 3

As used in this article, “sentencing” means the announcement of the sentence.

## Article 33. Clerical Error

After giving any notice it considers appropriate, the court may at any time correct a clerical error in a judgment, order, or other part of the record, or correct an error in the record arising from oversight or omission.

## Article 34. Staying a Sentence

If the defendant is pending appeal and does not pose any imminent danger to the State and its population, the court must stay the imposed sentence.

# PART VIII. SUPPLEMENTARY AND SPECIAL PROCEEDINGS

## Article 35. Criminal Contempt

### Section 1

Any person who commits criminal contempt may be punished for that contempt after prosecution on notice.

## Section 2

The court must request that the contempt be prosecuted by an attorney for the government, unless the interest of justice requires the appointment of another attorney. If the government declines the request, the court must appoint another attorney to prosecute the contempt.

## Section 3

A person being prosecuted for criminal contempt is entitled to a jury trial in any case in which statutes so provide. Upon a finding or verdict of guilty, the court must impose the punishment.

## Section 4

Notwithstanding any other provision of this article, the court may summarily punish a person who commits criminal contempt in its presence if the judge saw or heard the contemptuous conduct and so certifies. The contempt order must recite the facts, and be signed by the judge.

# PART IX. GENERAL PROVISIONS

## Article 36. Defendant's Presence

The presence of the defendant shall be required in every trial, unless:

- there already is a counsel representing the defendant;
- the defendant declines to be present;
- the defendant is no longer a citizen of the State;
- measures which prevent the defendant to be present are imposed on the defendant according to [Article 4](#) and the court finds those measures are necessary for the duration of the trial;
- the court finds the defendant unfit for trial; or
- the court finds the defendant in criminal contempt of court.

## Article 37. Right to and Appointment of Counsel

A defendant who is unable to obtain counsel is, upon request, entitled to have counsel appointed by the court to represent the defendant at every stage of the proceeding.



## Article 38. Computing Time

### Section 1

This article applies in computing any time period specified in this act, or court order, or in any statute that does not specify a method of computing time.

### Section 2

When the period is stated in days or a longer unit of time:

- exclude the day of the event that triggers the period;
- count every day; and
- include the last day of the period.

### Section 3

When the period is stated in hours:

- begin counting immediately on the occurrence of the event that triggers the period; and
- count every hour.

## Article 39. Temporary suspension of a sentence of ban for trial

The court may temporarily suspend any sentence or order of ban previously imposed on an individual for the purpose of attending a trial as a defendant or witness and for the duration of that said trial if it deems fit. Any individual with ban suspended under this article may only be allowed to enter the State under heavy restrictions and supervision, and only for the purpose of attending trial.

## Article 40. Motions

### Section 1

A party applying to the court for an order must do so by motion.

### Section 2

A motion must state the grounds on which it is based and the relief or order sought.

## Article 41. Dismissal

### Section 1

The government may, with leave of court, dismiss an indictment, information, or complaint. The government may not dismiss the prosecution during trial without the defendant's consent.

### Section 2

The court may dismiss an indictment, information, or complaint if unnecessary delay occurs in:

- presenting a charge to a grand jury;
- filing an information against a defendant; or
- bringing a defendant to trial.

## Article 42. Privacy Protection For Filings Made with the Court

Unless the court orders otherwise, any information concerning an individual's real identity or security must be redacted.

## Article 43 Prompt Disposition

Scheduling preference must be given to criminal proceedings as far as practicable.

## Article 44. Harmless and Plain Error

### Section 1

Any error, defect, irregularity, or variance that does not affect substantial rights must be disregarded.

### Section 2

A plain error that affects substantial rights may be considered even though it was not brought to the court's attention.

## Article 45. Gallery

### Section 1

It is at the discretion of the court whether or not a public gallery is included at a trial.

## Section 2

If, at any point during the trial, the court finds that there is no way in which orderly conduct of business can be carried out due to the presence of a member of, or the whole gallery, the court may order any member of, or the whole gallery be removed for the remainder of the trial; or find any member of, or the whole gallery in criminal contempt in accordance with [Article 35](#).

## Article 46. Records

After each trial, the Judge must keep a record of the criminal proceeding to the appropriate place and accessible to the public. Exhibits should all be included in the records, stating any change that was made.

## Article 47. When Court Is Open

The Court is considered always open to the public for any filing, trial, and making a motion.

## Article 48. Misdemeanors

### Section 1

- a) This article applies in misdemeanor cases and on appeal to a judge, unless this article provides otherwise.
- b) In a case involving a misdemeanor for which no sentence of ban will be imposed, the court may follow any provision of these articles that is not inconsistent with this article and that the court considers appropriate.
- c) As used in this article, the term “misdemeanor for which no sentence of ban will be imposed” means a misdemeanor for which the court determines that, in the event of conviction, no sentence of ban will be imposed.

### Section 2

- a) The trial of a misdemeanor may proceed on an indictment, information, a citation or violation notice.
- b) At the defendant's initial appearance on a misdemeanor charge, the judge must inform the defendant of the following:
  - the charge, and the minimum and maximum penalties, including mute, and ban.

- the right to retain counsel;
- the right to request the appointment of counsel if the defendant is unable to retain counsel;
- the defendant's right not to make a statement, and that any statement made may be used against the defendant; and
- the right to a jury trial before a judge.

c)

- In a misdemeanor case, a judge may take the plea only if the defendant consents either in writing or on the record to be tried before a judge and specifically waives trial before a jury. The defendant may plead not guilty, or guilty.
- In a misdemeanor case, the judge must order a defendant who does not consent to trial before a judge to appear before a jury for further proceedings.

### Section 3

The following procedures also apply in a case involving a misdemeanor for which no sentence of ban will be imposed:

- The court must not accept a guilty plea unless satisfied that the defendant understands the nature of the charge and the maximum possible penalty.
- The court must give the defendant an opportunity to be heard in mitigation and then proceed immediately to sentencing. The court may, however, postpone sentencing to allow investigation or to permit either party to submit additional information.
- After imposing sentence in a case tried on a not-guilty plea, the court must advise the defendant of a right to appeal the conviction and of any right to appeal the sentence. If the defendant was convicted on a plea of guilty, the court must advise the defendant of any right to appeal the sentence.

## Section 4

The court must record any proceedings under this article by using a court reporter or a suitable recording device.

## Section 5

[Article 31](#) applies to a motion for a new trial.

## Section 6

- a) Either party may appeal an order of a judge to a jury within 3 days. The party appealing must file a notice specifying the order being appealed and must serve a copy on the adverse party.
- b) A defendant may appeal a judge's judgment of conviction or sentence to a jury within 14 days of its entry. To appeal, the defendant must file a notice specifying the judgment being appealed and must serve a copy on an attorney for the government.
- c) The record consists of the original papers and exhibits in the case; any transcript, tape, or other recording of the proceedings; and a certified copy of the docket entries. For purposes of the appeal, a copy of the record of the proceedings must be made available to the defendant.
- d) The defendant is not entitled to a trial de novo by a jury. The scope of the appeal is the same as in an appeal to the court of appeals from a judgment entered by a judge.
- e) [Article 34](#) applies to a stay of a judgment of conviction or sentence. The court may release the defendant pending appeal under the law relating to release pending appeal to a court of appeals.

## Article 49. Victim's Rights

### Section 1

- a) The government must use its best efforts to give the victim reasonable, accurate, and timely notice of any public court proceeding involving the crime.
- b) The court must not exclude a victim from a public court proceeding involving the crime, unless the court determines by clear and convincing evidence that the victim's testimony would be materially altered if the victim heard other testimony at that proceeding. In determining whether to exclude a victim, the court must make every effort to permit the fullest

attendance possible by the victim and must consider reasonable alternatives to exclusion. The reasons for any exclusion must be clearly stated on the record.

- c) The court must permit a victim to be reasonably heard at any public proceeding in the court concerning release, plea, or sentencing involving the crime.

## Section 2

- a) The court must promptly decide any motion asserting a victim's rights described in this article.
- b) A victim's rights described in this article may be asserted by the victim, the victim's lawful representative, or the attorney for the government.
- c) If the court finds that the number of victims makes it impracticable to accord all of them their rights described in this article, the court must fashion a reasonable procedure that gives effect to these rights without unduly complicating or prolonging the proceedings.
- d) A failure to afford a victim any right described in this article is not grounds for a new trial.

## Article 50. Amendment

The Chief Justice may submit any proposed amendment to this act directly to Congress, and Congress must proceed on the amendment at the earliest possible opportunity.

## Article 51. Title

This act shall be cited as the “2022 Criminal Proceedings Act”.

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*Some final words you want to say like: In witness whereof, we have approved and set our hands on this document on this twelfth day of the month of March, in the year two thousand and twenty-two.*

**Parliament**  
**[sign here]**

**Head of State or Prime Minister**  
**[sign here]**