

CHECKLIST OF ISSUES ON ENFORCEMENT¹

Responses from Japan

Civil and Administrative Procedures and Remedies

(a) *Civil judicial procedures and remedies*

1. Specify the courts which have jurisdiction over IPR infringement cases.

A court of first instance regarding IPR infringement cases is a district court. A court of appeals is a high court and the higher court of appeals is the Supreme Court. (When the value of the object of a suit is not more than 900,000 yen, a summary court, a district court and a high court correspond to the above-mentioned courts, respectively.)

2. Which persons have standing to assert IPRs? How may they be represented? Are there requirements for mandatory personal appearances before the court by the rightholder?

A person who asserts IPRs is eligible to be a party to the case. The party concerned may appoint a representative of the case among attorneys at will (in summary court proceedings, a party may appoint a representative of the case among persons not being an attorney by permission of the court), and the party himself may also proceed with the suit (Article 79 of the Code of Civil Procedure). It is not necessary that the party himself appears before the court when he makes his representative appear. When the court decides to examine the party in the process of examining evidence, he may be summoned to the court. When the person summoned does not appear before the court without legitimate reason, assertion made by the opposing party may be considered to be true (Article 338 of the Code of Civil Procedure).

3. What authority do the judicial authorities have to order, at the request of an opposing party, a party to a proceeding to produce evidence which lies within its control?

A court has authority to order a person who holds documents, including a party, to produce them upon request of an opposing party in the following cases (Articles 312 and 314 of the Code of Civil Procedure):

- (1) when a party himself holds the documents which he referred to in the suit;
- (2) when a party who is going to prove his case is entitled to require the holder of the documents to deliver them to the party or allow the party to inspect them;

¹ Document IP/C/5

- (3) when the documents were produced in the interest of a party who is going to prove his case, or they were produced as to the legal relations between such a party and the holder of the documents.

In addition, a court has authority to order a person who holds objects, including a party, to present them which are to be inspected, upon the request of an opposing party, as far as the holder of the objects does not have any legitimate reason for refusing to do so (Article 335 of the Code of Civil Procedure).

Article 105 of the Patent Law

In litigation relating to the infringement of a patent right or exclusive licence, the court may, upon the request of a party, order the other party to produce documents necessary for the assessment of the damages caused by the infringement. However, this provision shall not apply when the person possessing the documents has a legitimate reason for refusing to produce them.

cf. Article 105 of the Patent Law shall be applied *mutatis mutandis* in the Trademark Law and the Design Law.

cf. Article 26 of the Act Concerning the Layout of a Semiconductor Integrated Circuit.

4. What means exist to identify and protect confidential information brought forward as evidence?

The circumstances under which a person may be required, against his will, to produce evidence which he holds are limited only to case (3) above, and in such a case, it is not supposed that such evidence contains confidential information. Therefore, there are no circumstances under which confidential information may be required to be produced as evidence against the holder's will, and protection of confidential information is ensured.

5. Describe the remedies that may be ordered by the judicial authorities and criteria, legislative or jurisprudential, for their use:

- **injunctions;**
- **damages, including recovery of profits, and expenses, including attorney's fees;**
- **destruction or other disposal of infringing goods and materials/implements for their production;**
- **any other remedies.**

Remedies provided for in each substantive legislation are realized by court decision on a case-by-case basis when requirements under each substantive legislation are met.

Injunctions:

Article 100 of the Patent Law

A patentee or exclusive licensee may require a person who is infringing or is likely to infringe the patent right or exclusive licence to discontinue or refrain from such infringement.

cf. Paragraph 1 of Article 36 of the Trademark Law, paragraph 1 of Article 37 of the Design Law, paragraph 1 of Article 112 of the Copyright Law, paragraph 1 of Article 22 of the Act Concerning the Layout of a Semiconductor Integrated Circuit.

Damages:

Article 709 of the Civil Code

A person who violates intentionally or negligently the right of another person shall make compensation for damages arising therefrom.

Presumption, etc. of amount of damages:

Article 102 of the Patent Law

- (1) Where a patentee or exclusive licensee claims, from a person who has intentionally or negligently infringed the patent right or exclusive licence, compensation for damages caused to him by the infringement, the profits damages by the infringer through the infringement shall be presumed to be the amount of damages suffered by the patentee or exclusive licensee.
 - (2) A patentee or exclusive licensee may claim, from a person who has intentionally or negligently infringed the patent right or exclusive licence, an amount of money which he would normally be entitled to receive for the working of the patented invention, as the amount of damages suffered by him.
 - (3) The preceding paragraph shall not preclude a claim to damages exceeding the amount referred to therein. In such a case, where there has been neither wilfulness nor gross negligence on the part of the person who has infringed the patent right or the exclusive licence, the court may take this into consideration when awarding damages.
- cf. Article 38 of the Trademark Law, Article 39 of the Design Law, Article 114 of the Copyright Law, Article 25 of the Act Concerning the Layout of a Semiconductor Integrated Circuit.

Presumption of negligence:

Article 103 of the Patent Law

A person who has infringed a patent right or exclusive licence of another person shall be presumed to have been negligent as far as the act of infringement is concerned.

- cf. Article 103 of the Patent Law shall be applied *mutatis mutandis* in the Trademark Law.
- cf. Article 40 of the Design Law.

Expenses:

Article 89 of the Code of Civil Procedure

The court costs shall be borne by the losing party.

Destruction or other disposal:

Article 100 of the Patent Law

A patentee or an exclusive licensee who is acting under the preceding paragraph may demand the destruction of the articles by which the act of infringement was committed (including the articles manufactured by the act of infringement in the case of a patented invention of a process of manufacture), the removal of the facilities used for the act of infringement, or other measures necessary to prevent the infringement.

- cf. Paragraph 2 of Article 36 of the Trademark Law, paragraph 2 of Article 37 of the Design Law, paragraph 2 of Article 112 of the Copyright Law, paragraph 2 of Article 22 of the Act Concerning the Layout of a Semiconductor Integrated Circuit.

Measures for recovery of reputation:

Article 106 of the Patent Law

Upon the request of a patentee or exclusive licensee, the court may, in lieu of damages or in addition thereto, order a person who has injured the business reputation of the patentee or exclusive licensee by infringing the patent right or exclusive licence, whether intentionally or negligently, to take the measures necessary for the recovery of the business reputation.

- cf. Article 106 of the Patent Law shall be applied *mutatis mutandis* in the Trademark Law and the Design Law.

- cf. Article 115 of the Copyright Law.

6. In what circumstances, if any, do judicial authorities have the authority to order the infringer to inform the right holder of the identity of third persons involved in the production and distribution of the goods or services found to be infringing and of their channels of distribution?

Judicial authorities do not have such authority.

7. Describe provisions relating to the indemnification of defendants wrongfully enjoined. To what extent are public authorities and/or officials liable in such a situation and what "remedial measures" are applicable to them?

It is stipulated that court costs shall be borne by the losing party (Article 89 of the Code of Civil Procedure).

As for damages caused by being involved in a suit entailing expenses of attorney's fees etc., a party may claim the compensation for the damages on the basis of general principles of the Civil Code (Article 709 of the Civil Code).

When a public official who exercises public power of the national government or a local government damages a person deliberately or accidentally, the national or local government shall be responsible for compensation for the damages (Article 1 of the State Redress Law).

8. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

There is no provision which directly governs the length of proceedings, but it is understood that people have the constitutional rights to speedy proceedings in a court.

According to the Annual Report of Judicial Statistics of 1993, the actual duration of proceedings of civil cases (from a filing date to completion of a trial) is as follows:

- The total number of cases which district courts have dealt with was 138,040, 8,374 of which were completed within one month, 21,472 within two months, 24,276 within three months, 28,909 within six months, 21,605 within one year, 19,439 within two years, 7,208 within three years, 3,094 within four years, 1,532 within five years and 2,131 over five years.
- As for filing fees of civil cases, paragraph 1 of Article 3 and paragraph 1 of the attached list 1 of the Law Concerning the Cost of Civil Procedure provide for these fees so as to increase them corresponding to the value of the object of a suit.

According to the Law, examples of concrete filing are as follows:

- 3,000 yen for a case of the value of 300,000 yen, 8,600 yen for a case of the value of 1,000,000 yen, and 22,600 yen for a case of the value of 3,000,000 yen.

(b) *Administrative procedures and remedies*

9. Reply to the above questions in relation to any administrative procedures on the merits and remedies that may result from these procedures.

No administrative procedures on the merits exist.

Provisional Measures

(a) *Judicial measures*

10. Describe the types of provisional measures that judicial authorities may order, and the legal basis for such authority.

- (1) As for civil provisional relief, the Code of Civil Preservative Procedures provides for "provisional orders regarding objects concerned" and "provisional orders deciding a provisional status" as provisional measures which courts may order.

For example, a court has an authority to prohibit provisionally goods infringing IPRs from entering into channels of commerce. (This measure corresponds to a "provisional order deciding a provisional status".) When a court orders to prohibit provisionally disposition of goods infringing IPRs, the provisional measure has, simultaneously, an effect of preservation of evidence related to the alleged infringement.

- (2) The provisional order regarding objects concerned may be issued where a court concludes there is a possibility that the applicant would not be able to exercise, or would come to face extreme difficulties in exercising, its right because of a change in the situation of such objects (paragraph 1 of Article 23 of the Code of Civil Preservative

Procedures). It is not always necessary for the court to give an opportunity to the other party to present its opinion prior to the issuance of the provisional order.

The provisional order deciding a provisional status may be issued where a court concludes that such an order is necessary for avoiding extreme damage or imminent danger which the applicant would suffer regarding the legal relations at issue (paragraph 2 of Article 23 of the Code of Civil Preservative Procedures). In principle, the court shall go through oral pleading or interrogation which the adverse party concerned may attend prior to the issuance of the order. However, where the court considers it would be impossible to accomplish the purpose of the request for the provisional order if it went through such procedures, the court may issue the provisional measure without going through such procedures (paragraph 4 of Article 23 of the Code of Civil Preservative Procedures).

11. In what circumstances may such measures be ordered *inaudita altera parte*?

See answer to question 10.

12. Describe the main procedures for the initiation, ordering and maintenance in force of provisional measures, in particular relevant time-limits and safeguards to protect the legitimate interests of the defendant.

The procedure for the provisional measures is initiated upon the request of a party concerned. Following the hearing from the party (or both parties), the court determines whether the legal requirements for issuing the order of the provisional measure are met. If the court determines to issue the order, the order is served on the defendant (Article 17 of the Code of Civil Preservative Procedures). The defendant may request the court to annul the order by raising an objection (Article 26 of the Code of Civil Preservative Procedures).

In addition, based on the request from the defendant, the court which issued the order shall fix a certain reasonable period and require the applicant:

- (1) to file the case on the merits and to provide written evidence of filing the case within such period; or
- (2) to provide written evidence of pendency of case within such period, if the case is already filed.

In case the applicant fails to provide such evidence within the required period, the defendant may request the court to annul the order (paragraphs 1 and 3 of Article 37 of the Code of Civil Preservative Procedures).

13. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost.

There is no provision which directly governs the length of proceedings, but it is understood that people have the constitutional rights to speedy proceedings in a court.

According to the Annual Report of Judicial Statistics of 1993, the actual duration of proceedings of the cases related to provisional measures based on the Code of Civil Preservative Procedures is as follows:

- The total number of cases which district courts have dealt with was 12,113, 7,010 of which were completed within 10 days, 1,302 within 20 days, 687 within one month, 1,106 within two months, 635 within three months, 822 within six months, 407 within one year, 128 within two years and 16 within three years.
- As for fees of requests for civil preservative orders, paragraph 1 of Article 3 and paragraph 11-2 of the attached list 1 of the Law Concerning the Cost of Civil Procedure stipulate that these fees are 1,500 yen.

(b) *Administrative measures*

14. Reply to the above questions in relation to any administrative provisional measures.

No administrative procedures other than border measures exist.

Special Requirements Related to Border Measures

15. Indicate for which goods it is possible to apply for the suspension by the customs authorities of the release into free circulation, in particular whether these procedures are available also in respect of goods which involve infringements of intellectual property rights other than counterfeit trademark or pirated copyright goods as defined in the TRIPS Agreement (footnote to Article 51). Specify, together with relevant criteria, any imports excluded from the application of such procedures (such as goods from another member of a customs union, goods in transit or *de minimis* imports). Do the procedures apply to imports of goods put on the market in another country by or with the consent of the right holder and to goods destined for exportation?

The suspension of the release into free circulation in the domestic market by customs authorities may be applied to goods which involve infringement of patent rights, utility model rights, industrial design rights, trademark rights, copyrights, neighbouring rights or circuit layout rights (Article 21 of the Customs Tariff Law).

As for goods which involve infringement of trademark rights, copyrights or neighbouring rights, the procedures are adopted to enable a holder of these rights to lodge an application with customs authorities, the competent authorities, for the suspension of release into free circulation of such goods by the customs authorities (Article 21*bis* of the Customs Tariff Law).

The same procedures are not adopted in respect of goods which involve infringement of intellectual property rights other than trademark rights, copyrights or neighbouring rights. A rightholder of these other rights may, however, provide information on the goods which involve infringement of such rights for the customs authorities, thereby urging the suspension of their release into free circulation (*Guidelines Concerning the Control of Goods which Infringe Intellectual Property Rights, Ministry of Finance, Customs and Tariff Bureau, Document No. 1192, 28 December 1994*).

The above-mentioned suspension of release by customs authorities applies to goods imported with an import declaration and to international parcels which have been presented to customs authorities by post office. Goods in transit, of which destinations are countries other than Japan, are not subject to such suspension.

As far as trademarks are concerned, the procedures do not apply to goods imported which were put on the market legally in the third country with the consent of the rightholder.

16. Provide a description of the main elements of the procedures relating to the suspension of the release of goods by customs authorities, in particular the competent authorities (Article 51), the requirements for an application (Article 52) and various requirements related to the duration of suspension (Article 55). How have Articles 53 (security or equivalent assurance), 56 (indemnification of the importer and of the owner of the goods) and 57 (right of inspection and information) been implemented?

In accordance with Article 51 of the TRIPS Agreement, the procedures are adopted to enable a rightholder of trademark rights, copyrights or neighbouring rights, to lodge an application with the competent authorities for the suspension by the customs authorities of the release into free circulation of goods which involve infringement of his trademark rights, copyrights or neighbouring rights. The said competent authorities are the customs authorities, and the rightholder may lodge the application with the customs authorities.

The person who intends to lodge the application with the customs authorities shall submit to the customs authorities an application form indicating the following items, together with evidence necessary to support the allegation of infringement: (1) the contents of the rights of the applicant; (2) the name of goods that are considered to infringe these rights; (3) the reasons to consider that the goods infringe these rights; (4) the period of the validity of the application that the applicant wishes, etc.

The customs authorities examine the said application. Where the customs authorities recognize that there is not sufficient evidence in the application to support the alleged infringement, the customs authorities may reject the application.

In cases where the customs authorities believe that there are any goods that correspond to goods which involve infringement of these rights among goods which are to be imported, the customs authorities shall take the identification procedure to identify whether they correspond to goods which involve infringement of these rights or not, during which the release into free circulation of such goods is suspended. In this situation, the customs authorities shall notify the importer of the goods as well as the holder of the rights that the identification procedure will be taken on the goods. In the identification procedure, the customs authorities shall give an opportunity to present evidence and to declare opinions to the holder of rights as well as the importer. As for the evidence on which identification concerning the infringement will be made, the customs authorities shall give the rightholder and the importer an opportunity to declare opinions about such evidence.

If, during the process of the suspension of the release into free circulation of such goods and the identification procedure taken upon an application by the rightholder, the opinions of the rightholder and the importer conflict with each other, the procedure would take a long time and possibly cause damages to the importer due to the inability to import the goods until the conclusion of the identification procedure, the customs authorities may order the applicant to deposit the amount of money or valuable securities deemed proper to the designated depository by a fixed date, on the condition that the customs authorities identify the need for security against such damages. Where the person ordered to make the deposit does not deposit the money or other equivalent assurance by the fixed date, the customs authorities may terminate the identification procedure and release the goods into free circulation.

The importer of the goods may receive the repayment from deposited money or other equivalent assurances, as the compensation for damages to the importer. In this case, the importer shall lodge an application in writing with the customs authorities for their approval as well as a document which

proves the amount of actual damages caused to the importer. The amount shall be proved by such means as a judicial decision, which the importer acquires by filing a suit with a court, or a compromise reached between the importer and the applicant.

Where the customs authorities suspend the release into free circulation of goods to be imported upon an application by the holder of trademark rights, copyright or neighbouring rights, the applicant and the importer shall each be given an opportunity to inspect the goods upon their respective request. The quantity of the goods will be disclosed to the rightholder, but the name, address and other information of the importer will not be disclosed.

17. Describe provisions governing the length and cost of proceedings. Provide any available data on the actual duration of proceedings and their cost. How long is the validity of decisions by the competent authorities for the suspension of the release of goods into free circulation?

In accordance with "*Guidelines Concerning The Control of Goods Which Infringe Intellectual Property Rights*" (Ministry of Finance, Customs and Tariff Bureau, Document No. 1192, 28 December 1994), the length of the identification procedure should be within one month from the date of the commencement of the identification procedure. There is no fee relative to the identification procedure.

18. Are competent authorities required to act upon their own initiative and, if so, in what circumstances? Are there any special provisions applicable to *ex officio* action?

In cases where the customs authorities believe that there are any goods that correspond to goods which involve infringement of intellectual property rights protected by laws, such as patent rights, among goods with respect to which an import declaration is made, the customs authorities shall take the identification procedure irrespective of whether the application for the procedure is lodged or not.

19. Describe the remedies that the competent authorities have the authority to order and any criteria regulating their use.

The customs authorities may confiscate and destroy the goods which involve infringement of patent rights, utility model rights, design rights, trademark rights, copyrights, neighbouring rights, or circuit layout rights that are to be imported, or order an importer of such goods (excluding the goods which involve infringement of trademark rights) to reship them.

Criminal Procedures

20. Specify the courts which have jurisdiction over criminal acts of infringement of IPRs.

A court of first instance which has jurisdiction over criminal cases regarding IPR infringement is a district court. An appeal against a district court judgement in these cases may be filed with a high court, and a further appeal with the Supreme Court. However, a summary court is a court of first instance for certain minor offences as prescribed by law. Where a summary court is a court of first instance, an appeal may be filed with a high court, and a further appeal with the Supreme Court.

21. In respect of which infringements of which intellectual property rights are criminal procedures and penalties available?

Any person who committed the following offence shall be sentenced to imprisonment or fined:

Patents:

- (1) Offence of infringement: Article 196(1) of the Patent Law
- (2) Offence of false marking: Articles 188 and 198 of the Patent Law

Industrial Designs:

- (1) Offence of infringement: Article 69(1) of the Design Law
- (2) Offence of false marking: Articles 65 and 71 of the Design Law

Trademarks:

- (1) Offence of infringement: Article 78 of the Trademark Law
- (2) Offence of false marking: Articles 74 and 80 of the Trademark Law

Copyright and Related Rights:

- Offence of infringement: Article 119 of the Copyright Law

Layout of a Semiconductor Integrated Circuit:

- Offence of infringement: Article 51(1) of the Act Concerning the Layout of a Semiconductor Integrated Circuit

22. Which public authorities are responsible for initiating criminal proceedings? Are they required to do this on their own initiative and/or in response to complaints?

Judicial police officials and public prosecutors may initiate criminal investigation on their own initiative and/or in response to complaints. When a judicial police official has completed the investigation, he shall send the case to a public prosecutor, and the public prosecutor decides whether the suspect should be indicted or not. As for infringement of IPRs, a complaint is generally required for indictment.

23. Do private persons have standing to initiate criminal proceedings and, if so, who?

No. However, a private person may file a complaint with a judicial police official or a public prosecutor. In this case, where prosecution is instituted, or disposition not to institute prosecution is made, notice to that effect shall, by the public prosecutor, be promptly given to the complainant (Article 260 of the Code of Criminal Procedure).

24. Specify, by category of IPR and type of infringement where necessary, the penalties and other remedies that may be imposed:

- **imprisonment;**
- **monetary fines;**
- **seizure, forfeiture and destruction of infringing goods and materials and implements for their production;**
- **other.**

Imprisonment and Fines

Patents:

- (1) Offence of infringement: Article 196(1) of the Patent Law

Any person who infringed a patent right or an exclusive licence shall be sentenced to imprisonment for not more than five years or fined not more than 5,000,000 yen.

- (2) Offence of false marking: Article 198 of the Patent Law

Any person who infringed Article 188 shall be sentenced to imprisonment for not more than three years or fined not more than 3,000,000 yen.

- (3) Dual liability: Article 201 of the Patent Law

Where an officer representing a legal entity or a representative of, an employee of or any other person working for a legal entity or a natural person committed an act in violation of Articles 196(1), 197 or 198, in connection with the business of the legal entity or natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed by Articles 196(1), 197 or 198, respectively.

Industrial Designs:

- (1) Offence of infringement: Article 69(1) of the Design Law

Any person who infringed a design right or an exclusive licence shall be sentenced to imprisonment for not more than three years or fined not more than 3,000,000 yen.

- (2) Offence of false marking: Article 71 of the Design Law

Any person who infringed Article 65 shall be sentenced to imprisonment for not more than one year or fined not more than 1,000,000 yen.

- (3) Dual liability: Article 74 of the Design Law

Where an officer representing a legal entity or a representative of, an employee of or any other person working for a legal entity or a natural person committed an act in violation of Articles 69(1), 70 or 71, in connection with the business of the legal entity or natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed by Article 69(1), 70 or 71, respectively.

Trademarks:

- (1) Offence of infringement: Article 78 of the Trademark Law

Any person who infringed a trademark right or an exclusive licence shall be sentenced to imprisonment for not more than five years or fined not more than 5,000,000 yen.

- (2) Offence of false marking: Article 80 of the Trademark Law

Any person who infringed Article 74 shall be sentenced to imprisonment for not more than three years or fined not more than 3,000,000 yen.

- (3) Dual liability: Article 82 of the Trademark Law

Where an officer representing a legal entity or a representative of, an employee of or any other person working for a legal entity or a natural person committed an act in violation of Articles 78 to 80, in connection with the business of the legal entity or natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed by Articles 78 to 80, respectively.

Copyright and Related Rights:

- (1) Offence of infringement: Article 119(i) of the Copyright Law

Any person who infringed a moral right, copyright, right of publication or neighbouring right shall be sentenced to imprisonment for not more than three years or fined not more than 1,000,000 yen.

- (2) Dual liability: Article 124(1) of the Copyright Law

Where an officer representing a legal entity or a representative of, an employee of or any other person working for a legal entity or a natural person committed an act in violation of Articles 119 to 122, in connection with the business of the legal entity or the natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed by Articles 119 to 122, respectively.

Layout of a Semiconductor Integrated Circuit:

- (1) Offence of infringement: Article 51(1) of the Act Concerning the Layout of a Semiconductor Integrated Circuit

Any person who infringed a circuit layout right or a sole use right shall be sentenced to imprisonment for not more than three years or fined not more than 1,000,000 yen.

- (2) Dual Liability: Article 56 of the Act Concerning the Layout of a Semiconductor Integrated Circuit

Where an officer representing a legal entity or a representative of, an employee of or any other person working for a legal entity or a natural person committed an act in violation of Articles 51(1) or 52, in connection with the business of the legal entity or natural person, the legal entity or the natural person shall, in addition to the offender, be liable to the fine prescribed by Articles 51(1) or 52, respectively.

Seizure, Forfeiture and Destruction of Infringing Goods and Materials and Implements for their Production

Seizure to be made by a court is provided for in Chapter IX (Articles 99 to 127) of the Code of Criminal Procedure and, if made by a law enforcement agency, in Articles 218 to 220 and 222 of the same Code.

Forfeiture is provided for in Article 19 of the Penal Code. (Also, please refer to the *Law Concerning Temporary Measures for the Procedure of Confiscation of the Properties Belonging to the Third Party in the Criminal Cases.*)

Destruction (enforcement of forfeiture) is to be carried out by a public prosecutor in accordance with the provisions of Articles 490 to 492 and 496 of the Code of Criminal Procedure.

25. Describe provisions governing the length and any cost of proceedings. Provide any available data on the actual duration of proceedings and their cost, if any.

- (1) Provisions governing the length of proceedings:

Paragraph 1 of Article 37 of the Constitution - in all criminal cases the accused shall enjoy the right to a speedy and public trial by an impartial tribunal.

- (2) Provisions governing the cost of proceedings:

Article 181 of the Code of Criminal Procedure - where punishment is pronounced, the whole or a part of the costs of trial shall be charged to the accused. However, this shall not apply in case it is evident that the accused is unable to pay such costs because of poverty.

Even where no punishment is pronounced, any costs which have arisen from a cause imputable to the accused may be charged to him.

When only a public prosecutor lodges an appeal, and the appeal is dismissed or withdrawn, the costs connected with the appeal shall not be charged to the accused.

Article 182 of the said Code - the costs of trial against co-offenders may be borne by them jointly and severally.

Article 183 of the said Code - where a decision of innocence or acquittal is pronounced on the case with respect to which prosecution was instituted upon complaint, accusation or request made by the complainant, accuser or person who made the request in bad faith or with gross negligence, the costs of trial may be charged to him.

- (3) We could not find data on the actual duration of proceedings and their cost.