CHAPTER 3 PRE-TRIAL CRIMINAL PROCEDURE

I. INTRODUCTION

Japan is a unitary state, and the same criminal procedure applies throughout the nation. The Code of Criminal Procedure (hereinafter CCP), the Act on Criminal Trials Examined under the Lay Judge System, and the Rules of Criminal Procedure are the principal sources of law.

II. CONSTITUTIONAL SAFEGUARDS

The Constitution of Japan has an extensive list of constitutional guarantees that relate to the criminal process. Article 31 provides that "no person shall be deprived of life, or liberty, nor shall any other criminal penalty be imposed, except according to procedure established by law," while Article 33 states that "no person shall be apprehended except upon warrant issued by a competent judicial officer which specifies the offence with which the person is charged, unless he is apprehended, the offence being committed." Further, as prescribed in Article 34, "no person shall be arrested or detained without being at once informed of the charges against him or without the immediate privilege of counsel; nor shall he be detained without adequate cause; and upon demand of any person such cause must be immediately shown in open court in his presence and the presence of his counsel." Article 35 provides for the protection of one's residence and property, stating "the right of all persons to be secure in their homes, papers and effects against entries, searches and seizures shall not be impaired except upon warrant issued for adequate cause and particularly describing the place to be searched and things to be seized, or except as provided by Article 33."

As for the trial proceedings, Article 38 provides that "no person shall be compelled to testify against himself" and that a "confession made under compulsion, torture or threat, or after prolonged arrest or detention shall not be admitted in evidence." It further provides that "no person shall be convicted or punished in cases where the only proof against him is his own confession." As for the protection of some of the basic rights of the individual who is facing a criminal trial as an accused, Article 37 provides that "in all criminal cases, the accused shall enjoy the right to a speedy and public trial by an impartial tribunal; he shall be permitted full opportunity to examine all witnesses, and he shall have the right of compulsory process for obtaining witnesses on his behalf at public expense; at all times the accused shall have the assistance of competent counsel who shall, if the accused is unable to secure the same by his own efforts, be assigned to his use by the State." According to Article 39, "no person shall be held criminally liable for an act which was lawful at the time it was committed, or of which he has been acquitted, nor shall he be placed in double jeopardy." Finally, Article 40 provides that "any person, in case he is acquitted after he has been arrested or detained, may sue the State for redress as provided by law."

III. INVESTIGATIVE AGENCIES

The police are the primary investigative agency in Japan. Officers of certain other administrative bodies, such as narcotics agents and coast guard officers, have limited jurisdiction to investigate certain types of offences, whereas police officers have general jurisdiction which covers all types of offences.

The vast majority of criminal cases are investigated by the police and referred to public prosecutors. As the police do not have the power to decide whether to prosecute, all cases investigated by the police, except for very minor offences prescribed by prosecutorial guidelines as categories of cases, such as petty theft, that may be terminated at the police level subject to non-prosecution upon subsequent approval by a prosecutor, must be sent to public prosecutors for disposition.

A public prosecutor has the exclusive power to decide whether or not to prosecute, and Japanese law does not permit private prosecutions. Moreover, public prosecutors are fully authorized to conduct criminal investigations, and they actively supplement police investigation by directly interviewing witnesses and interrogating suspects. Prosecutors may also instruct police officers as they consider necessary during an

investigation. Prosecutors can also initiate their own investigations. In particular, with regard to politically sensitive or complicated cases, such as bribery or large-scale financial crime involving politicians, high-level government officials or corporate executives, prosecutors often investigate the case without any police involvement. This is called "independent investigation". Special Investigation Departments established in the Tokyo, Osaka and Nagoya offices are designed to carry out such independent investigations. Also, several other large offices have "special criminal departments" mainly dedicated to independent investigations.

IV. INVESTIGATION PROCESS

A. Overview

Japanese police and public prosecutors, to the extent possible, conduct criminal investigations without resorting to compulsory measures such as arrest, searches, and seizures. Even for serious offences, they gather as much information as possible on a non-compulsory basis and carefully evaluate whether an arrest is necessary or if the investigation should continue without arresting the suspect. In 2024, 65.4 per cent of suspects of non-traffic offences were investigated and processed without arrest.

The procedure after arrest is as follows:

(1) When the police arrest a suspect, they must refer the suspect, along with supporting documents and evidence, to a public prosecutor within 48 hours; otherwise the suspect must be released.

(2) Within 24 hours after receiving the suspect, the prosecutor must do either one of the following: apply to a judge for a pre-indictment detention; prosecute the case; or release the suspect.

(3) If an application for pre-indictment detention is granted, a judge will issue a warrant, and the suspect will be taken into detention. The duration of the detention is ten days, which may be extended for up to another ten days.

(4) When the case is prosecuted within the authorized pre-indictment detention period, the pre-indictment period is automatically converted to pre-trial detention. If the case is not prosecuted, the suspect must be released. Afterward, the public prosecutor decides whether to continue the investigation without arrest, or not to prosecute the case.

B. Initiating a Criminal Investigation

A criminal investigation is initiated when an investigative agency believes that a crime has been committed. Although there is no limit on what could trigger the launch of investigation, typical causes determined by law include (1) discovery of an offender caught in the act, (2) autopsy of a body following unnatural death, (3) accusation by the victim or another person, (4) agency request, (5) self-denunciation, and (6) police questioning.

(1) *Discovery of an offender caught in the act*
Cases where the perpetrator is caught in the act of committing a crime, or where a person may be clearly deemed to have just committed a crime.

(2) *Autopsy of a body following unnatural death*
When a body is discovered and the cause of death is deemed highly likely to have been a criminal act, or when such a cause cannot be ruled out, the investigative agency must conduct an external autopsy. This is a non-invasive examination to assess the condition of a body. If, as a result of the external autopsy, a need is seen to delve further into the cause of death, a medico-legal or forensic autopsy is generally carried out by a doctor, pending the issuance of a court warrant.

(3) *Accusation by the victim or another person*
Cases where the victim of a crime reports the crime to an investigative agency and seeks criminal

punishment against the perpetrator. Also, in cases where a person other than the victim reports the crime to an investigative agency and seeks criminal punishment against the perpetrator.

(4) *Agency request*
Cases where an organization prescribed by law reports a crime to an investigative agency and seeks prosecution against the perpetrator.

(5) *Self-Denunciation*
Cases where the perpetrator self-denounces themselves before being discovered as a suspect by an investigative authority.

(6) *Police questioning*
A police official may stop and question any person for whom there is sufficient probable cause to suspect that the person has committed or is about to commit a crime or who is deemed to possess information on a crime which has already been committed or is about to be committed, judging reasonably on the basis of unusual behaviour and/or other surrounding circumstances. In the event that a police official considers that conducting questioning on the spot will disadvantage the subject person or impede traffic, the police official may request the subject person to accompany the police official to a nearby police station, police box or residential police box for the purpose of questioning.

C. Arrest

As a general rule, a judicially issued warrant is required to arrest a suspect. Police officers designated by law and all public prosecutors are authorized to apply to a judge for an arrest warrant, and a warrant shall be issued if a judge deems that there exists sufficient probable cause to suspect that the person has committed an offence.

Japanese law does not recognize a class of offence, for which warrantless arrests are generally permitted. There are two exceptions to the judicial warrant requirement under the CCP, which are the following:

(1) *Flagrant Offenders:*
A flagrant offender (an offender who is in the act of committing or has just committed an offence) may be arrested by any person without a warrant. When it appears evident that a person has committed an offence shortly before, and one of the prescribed legal criteria is met, such a person is also treated as a flagrant offender. [1]

(2) *Emergency Arrests:*
When there are sufficient grounds to suspect the commission of an offence punishable by the death penalty, or imprisonment for life or for a maximum period of three years or more, and in addition, because of great urgency an arrest warrant from a judge cannot be obtained, a public prosecutor, a public prosecutor's assistant officer, or a judicial police official may arrest the suspect after notifying the suspect of the reasons therefor.[2] When an offender is arrested on an emergency basis, an application for an arrest warrant must be filed immediately after the arrest. If the warrant is not issued, the suspect must be released.

[1] CCP Articles 212 and 213.
[2] CCP Article 210.

D. Post-Arrest Procedure

Following an arrest, a police officer or a public prosecutor must immediately notify the suspect of the essential facts of the suspected crime, inform him or her of the right to counsel, and then offer an opportunity to present his or her explanation.

If the arrest was made by the police, the suspect, along with supporting evidence, must be referred to a public prosecutor within 48 hours, or the suspect must be released. After receiving the suspect, the public prosecutor must immediately inform the suspect of the essential facts of the suspected crime and offer further opportunity to present his or her explanation. This is an important step in the early stage of investigation as it is the public prosecutor's initial opportunity to question the suspect.

Within 24 hours of receiving the suspect, the public prosecutor must either apply to a judge for a pre-indictment detention; prosecute the case; or release the suspect. The police are not authorized to apply for pre-indictment detention: the application must be made by a public prosecutor. If the suspect was arrested by a public prosecutor and not by the police, the application for pre-indictment detention must be made within 48 hours after the arrest.

A judge will then review the file, take a statement from the suspect, and decide on the prosecutor's application. A pre-indictment detention warrant shall be issued if a judge deems that there is probable cause to suspect that the suspect has committed the offence, one of the following conditions is met, and the judge does not consider it unnecessary.

(1) The suspect has no fixed residence;

(2) There is probable cause to believe that the suspect may conceal or destroy evidence; or

(3) The suspect has fled or there is probable cause to believe that the suspect may flee.

If these conditions are not met, the judge will deny the prosecutor's application and order the immediate release of the suspect.

The duration of pre-indictment detention is 10 days and, upon application by a public prosecutor, a judge may grant an extension for up to another 10 days. Thus, the maximum length of pre-indictment custody is 23 days, including the initial 72 hours following the arrest. If the case is not prosecuted within the authorized period, the suspect must be released.

During pre-indictment detention, many suspects are detained in police jails instead of detention houses. The Act on Penal Detention Facilities and Treatment of Inmates and Detainees allows such substitutions when approved by a judge.

E. Collection of Evidence

Evidence can be either one of two categories: statements and non-statements.

1. Taking Statements

When investigators take statements from witnesses and suspects, they will prepare a detailed summary of what has been said during the interview or interrogation. The summary will be read to and by the interviewee for confirmation, and if agreed, it will be signed. Such written statements are admissible as evidence if the defendant consents to their use, or they fit in one of the hearsay exceptions provided for in the CCP.

2. Interrogation of Suspects

Police officers and public prosecutors may ask suspects to appear in their offices for interrogation, and suspects under arrest or detention are obligated to comply. However, Article 38-1 of the Constitution guarantees the right against self-incrimination, and Article 198-2 of the CCP requires investigators to notify the suspect, in advance of the questioning, that he or she is not required to make any statement against his or her will. In order to be admissible at trial, confessions must be voluntarily made. In this regard, CCP Article 319-1 provides that "confession under coercion, torture, threats, after unduly prolonged detention or when there is doubt about said confession being voluntary may not be admitted as evidence."

Details of statements made by suspects during interrogation are compiled into written statements by investigating officers and used as evidence in trials. There, however, the admissibility of a confession made during questioning is often disputed, in that the confession may have been forced or induced by the investigating officer and not made voluntarily, among other reasons. Therefore, video-recording of interrogations of arrested or detained suspects is obligatory in cases of homicide and other serious offences subject to trial by lay judges (Saiban-In) and in cases in which public prosecutors conduct independent investigations (mainly by Special Investigation Departments and Special Criminal Departments).[3] Although it is not a legal obligation, in practice, all prosecutors' interrogations where the suspect is arrested or detained are video-recorded. In addition, prosecutors' interrogations of non-arrested suspects or non-detained suspects are also video recorded in some cases. These recordings are used as means of verification, in case the voluntary nature of a confession made during questioning or its credibility is disputed at trial. In principle, everything is recorded from the time the suspect enters the room to the time the suspect leaves.

3. Searches and Seizures

In order to lawfully search for and seize evidence, a judicially issued warrant is required. The only exception to this requirement is for searches and seizures incident to arrest. According to Supreme Court precedents, a serious violation of search and seizure rules may result in the inadmissibility of evidence so acquired.

Public Prosecutor's Interrogation (moot)

F. The Right to Counsel

The right to counsel is guaranteed by the Constitution and the CCP. Suspects may retain counsel at any time at their own expense. Confidential communication is guaranteed, and suspects under arrest or detention are entitled to meet with their counsel and to exchange documents or articles without any officials being present.

All suspects held in pre-indictment detention are entitled to ask for court-appointed counsel if they are unable to hire one because of indigence or other reasons. Furthermore, the Bar Associations operate the

[3] CCP Article 301-2

Toban-Bengoshi system, which was introduced in 1990. Toban-Bengoshi means "an attorney on duty," and when requested by an arrested person or his or her family, a Toban-Bengoshi will immediately visit the arrested person at the police station etc. to provide legal advice. This first visit is provided free of charge.

G. Bail

Suspects under pre-indictment detention are not bailable. When they are indicted, their legal status changes from a suspect to a defendant, and from that point on, they become eligible for bail. Bail must be granted except when:

(1) the defendant is charged with an offence punishable by death, life, or a minimum term of one year's imprisonment;

(2) the defendant was previously convicted of an offence punishable by death, life, or a maximum term of more than ten years' imprisonment;

(3) the defendant has habitually committed an offence for which a maximum term of imprisonment of three years or more is prescribed;

(4) there is probable cause to suspect that the defendant may conceal or destroy evidence;

(5) there is probable cause to suspect that the defendant may harm or threaten the body or property of the victim or any other person who is deemed to have essential knowledge for the trial of the case or the relatives of such persons; or

(6) the defendant's name or residence is unknown.

Likelihood of reoffending is not a valid ground for denying bail. When granting bail, the court is required to set the amount of the bail bond. The court may also add other appropriate conditions, and in practice, bail is often subject to the condition that the defendant does not contact accomplices, co-defendants, witnesses, or victims.

V. DISPOSITION OF CASES

A. Responsibility for Prosecution

1. Principle

Public prosecutors have the exclusive power to decide whether to prosecute,[4] and this system is called "monopolization of prosecution." Japan does not have a system of private prosecution or police prosecution, and there are no grand juries. A court cannot try a case unless it is prosecuted by a public prosecutor.

2. Exception

There are two exceptions to the monopolization of prosecution: quasi-prosecution[5] and compulsory prosecution following a recommendation by the Committee for Inquest of Prosecution (see Section E for details).

B. Forms of Prosecution

There are two forms of prosecution: formal and summary.[6]

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[4] CCP Article 247.

[5] In other words, "Analogical Institution of Prosecution through Judicial Action." (CCP Articles 262 to 269).

[6] The traffic infraction fine system (Pecuniary Penalty against Traffic Infractions) is a procedure under which a person who commits certain minor offences in violation of the Road Traffic Law is exempted from criminal punishment by paying a sum of money fixed by law as an administrative disposition. However, if violators fail to pay that fine, they are to be dealt with under a regular criminal procedure and are subject to criminal punishment by the court.

1. Formal Prosecution (Indictment)[7]

Formal prosecution is a request to hold a formal trial, and it is made by filing of a charging sheet called a *Kiso-Jo*. The charging sheet must contain a clear description of the facts constituting the offence charged. In order not to prejudice the court before trial, no evidentiary materials are attached to a charging sheet.

(Expedited Trial Proceedings)

At the time of the filing of a charging sheet, with the consent of the defendant, the prosecutor may ask the court to try the case by the Expedited Trial Proceedings. Expedited Trial Proceedings are applicable when the following conditions are met:

(1) The offence is not punishable by death, life, or a minimum of one year's imprisonment;

(2) The case is clear and minor; and

(3) The examination of evidence is expected to be completed promptly.

When the application is granted, the case will be tried by a simplified and expedited procedure. The court is required to set an early trial date and, to the extent possible, render its judgement within one day. When sentencing the defendant to a term of imprisonment, the court has to suspend the execution of the sentence. The defendant may not appeal against a judgment entered following an Expedited Trial Proceeding on the ground that fact-finding was erroneous.

Expedited Trial Proceedings were introduced in October 2006 to enable prompt disposition of minor cases and early release of defendants. In 2024, Expedited Trial Proceedings were invoked for a total of 16 defendants, and the majority of the cases were for violations of the Immigration Control and Refugee Recognition Act, Road Traffic Act and the Cannabis Control Act.

[7] The word "indict" or "indictment" used here means "a public action in criminal matters bringing a case to be tried in an open court", unlike the one determined by the Grand Jury in the United States or cases to be tried in the Crown Court in the United Kingdom.

An example of a charging sheet (translated into English) is included below:

Charging Sheet

The following case is hereby prosecuted.

14 May 2017

Tokyo District Public Prosecutors Office
Public Prosecutor, KOUNO, Ichirou (his seal)

To Tokyo District Court:

Defendant
Permanent Domicile: Yoshida 823, Kawami-cho, Tama-gun, Fukuoka Prefecture
Present Address: Room Number 303, 1-2-3, Akihabara, Chiyoda-ku, Tokyo
Occupation: None

Under Detention

HIGASHIYAMA, Haruo (The defendant's name)
17 April 1957 (The defendant's birth date)

Alleged Facts

At around 11 p.m. on 23 April 2017, on a street located in 2-4-7, Minami, Shibuya-ku, Tokyo, the defendant, with intent to kill, stabbed MORITA Toshikazu (24 years of age) in the chest with a knife, of which blade was about ten centimetres long, thereby causing the death of Morita, who died from blood loss attributable to the stab wound in the chest, at around 11:58 p.m. on the same day, at YAMADA Hospital located in 3-1-23, Takao, Meguro-ku, Tokyo

Charged Offence and Applicable Penal Statutes

Murder Penal Code Article 199

2. Summary Prosecution (Request for a Summary Order)

A public prosecutor may prosecute a case in the Summary Court and ask for a summary order, which is an order by a Summary Court sentencing the defendant to a fine not exceeding one million yen, or a petty fine. In order to file a summary prosecution, a written consent by the defendant is required. There will be no oral hearing or trial; a Summary Court judge will examine the case file sent from the prosecutor, and issue an order on that basis. A party dissatisfied with the order may, within 14 days, apply for a formal trial. In practice, summary prosecution is used in cases where the case is not of a serious nature and where the suspect admits the allegation.

Summary proceeding is an important part of the Japanese criminal process. A vast majority of minor cases are disposed of by summary orders. In 2024, out of 782,735 suspects (including juveniles) disposed of by prosecutors, 158,783 (20.2 %) were summarily prosecuted, whereas 80,287 (10.2 %) were prosecuted for formal trials. [8]

C. Non-prosecution of Cases

There are several grounds by which a public prosecutor decides not to prosecute. The most common grounds for non-prosecution decisions are the insufficiency of evidence and suspension of prosecution. Other grounds for non-prosecution include, among others, “no offence committed” [9] and “expiration of statute of limitations”.

1. Insufficiency of Evidence

Even if there is some evidence of guilt, public prosecutors will not prosecute an offence unless a conviction is highly likely. The threshold for prosecution is very high due to the very careful and strict screening process conducted by Japanese prosecutors. It is long established practice not to prosecute unless the prosecutor is certain to secure a conviction. In Japan, it is considered an irresponsible exercise of prosecutorial power, entrusted by the people to the public prosecutors, to compel a citizen to defend him or herself against criminal charges without the prosecutor being convinced that the evidence is sufficient to establish guilt. As a result, the actual conviction rate is 99.9 per cent.

2. Suspension of Prosecution

Japanese prosecutors have broad discretion whether to prosecute, and they are authorized to drop cases even when there is enough evidence to secure a conviction. This disposition is called “suspension of prosecution” and is provided for in Article 248 of the CCP, which reads, “Where prosecution is deemed unnecessary owing to the character, age, environment, gravity of the offence, circumstances or situation after the offence, prosecution need not be instituted.”

The concept of discretionary prosecution contrasts with that of compulsory prosecution, which requires prosecution to be instituted whenever a certain quantum of evidence exists. Discretionary prosecution enables flexible dispositions in line with the specifics of each case such as the nature and seriousness of the offence committed, characteristics of the offender, and the victim’s feelings about the case. It is also a form of diversion that offers offenders an early opportunity to return to society and rehabilitate themselves.

The following is an illustrative list of factors considered by prosecutors in deciding whether to prosecute the case.

(1) The gravity of the offence and the harm caused thereby;

(2) The offender’s character, age, criminal history, and risk of reoffending;

[8] White Paper on Crime 2025, Ministry of Justice, Japan.

[9] This applies where, after investigation, there are sufficient reasons to believe that no crime has been committed by the suspect.

(3) The circumstances relating to the commission of the offence: for example, motive, provocation by the victim, existence of accomplices and the role played by the suspect; and

(4) Conditions after the commission of the offence: for example, whether the suspect assumes criminal responsibility, whether and to what extent restitution has been made, whether apologies have been made and the victim's feelings have been restored, whether civil settlements have been made between parties.

Suspension of prosecution is broadly utilized in practice: of the 782,735 suspects processed by public prosecutors in 2024, prosecution was suspended for 429,432 (54.8 %) suspects. [10]

D. Prosecutorial Agreement System

In June 2018, the Prosecutorial Agreement System was introduced in order to create a new measure to collect evidence while observing due process. The public prosecutor and the suspect/defendant, upon the consent of the defence counsel, may enter into a written agreement. In this agreement, the suspect/defendant promises to cooperate with the investigation or prosecution (for example, by making a truthful statement during interview or interrogation and by testifying before the court) about the criminal conduct of another suspect/defendant. In return, the public prosecutor may agree to make a lenient disposition (e.g. not instituting prosecution; withdrawing prosecution; instituting or maintaining prosecution using a specific charge and applicable penal statute; stating an opinion to the effect that the specific sentence should be rendered to the accused, in the statement of opinions). The Prosecutorial Agreement System is applicable only to certain financial and economic offences, drug offences, firearms offences, etc. as prescribed by law. In deciding whether to enter into an agreement, prosecutors shall take factors into consideration such as the gravity of the offence or the importance of the evidence that could be obtained through the suspect/defendant's cooperation. When the prosecutor, the suspect/defendant and the defence counsel reach an agreement, the prosecutor and the suspect/defendant have the obligation to carry out what had been agreed upon.

E. Safeguards against Arbitrary Disposition

1. Committee for Inquest of Prosecution

The Committee for Inquest of Prosecution is a lay advisory body that reviews non-prosecution decisions by prosecutors. Every district has one or more Committees, and they consist of eleven lay people randomly selected from among the district voters. Their purpose is to reflect the general public's will in the process of making prosecution decisions.

Victims and certain qualified parties dissatisfied with a prosecutor's decision not to prosecute may request a review by the Committee. Upon such a request, the Committee reviews the case and gives one of the following three recommendations: (i) non-prosecution is proper; (ii) non-prosecution is improper; or (iii) prosecution is proper. The last recommendation requires a super majority vote of eight out of eleven Committee members. Prosecutors generally have good reasons when they decline to prosecute, and during the five-year period of 2020-2024 out of 15,010 suspects, 11,307 (75.3 %) have resulted in a recommendation of "non-prosecution is proper." [11]

The recommendation is notified to the prosecution for their consideration. When the latter two recommendations are made, the prosecutor reopens the case. Upon reinvestigation, they may reconsider their previous decision and prosecute the case, or maintain their initial decision not to prosecute.

The Committee's recommendations were formerly purely advisory, but from May 2009, if the prosecutor's decision not to prosecute a particular case twice receives a recommendation of "prosecution is proper," a court will appoint an attorney, who will undertake the role of the prosecutor and prosecute the case in accordance with the Committee's recommendation. This is called "compulsory prosecution". However, in practice, the recommendation of "prosecution is proper" has not been given so frequently. Since May 2009,

[10] White Paper on Crime 2025, Ministry of Justice, Japan.
[11] Ibid.

the number of individuals whose cases resulted in compulsory prosecution and whose sentence became final was 12 (as of December 2024).

2. Quasi-Prosecution

Quasi-prosecution is a procedure applicable to offences of abuse of authority by public employee. If a person who has filed a complaint or accusation of such offences is dissatisfied with the public prosecutor's decision not to prosecute, the person may apply to a District Court to commit the case to trial. This system is intended as a safeguard against unreasonable non-prosecution decisions by prosecutors. However, in practice, prosecutors usually prosecute if the offence is serious enough and there is sufficient evidence. Accordingly, the number of cases committed to trial has been few.

F. Assistance and Protection for Crime Victims and Their Participation in the Criminal Justice Process

1. Victim Notification Programme

Victims of crime have legitimate interest in knowing the outcomes of the criminal cases arising from their victimization. In 1999, the prosecutor's office introduced the Victim Notification Programme to keep victims informed of the progress and outcomes of their cases. Notification is not automatic. As some victims prefer not to be contacted, notice is given to only those who have asked for it. (In addition, in cases where a complaint was filed, the public prosecutor has the obligation under law to notify the complainant, of the decision to prosecute or not to prosecute, and upon the victim's request, the reason for non-prosecution when the case was not prosecuted.)

Information notified under the programme includes the following:

(1) Disposition of the case (e.g. prosecution for formal trial, summary prosecution, non-prosecution or referral to the Family Court);

(2) Venue and time of the trial;

(3) The results of the trial (conclusion section of the judgment, status on appeal);

(4) The perpetrator's custody details, the indicted facts, summary of the reasons for non-prosecution, and other matters similar to those listed in (1) to (3); and

(5) The matters concerning the perpetrator after conviction is finalized:

- Name and location of the prison where the perpetrator is imprisoned.
- The possible schedule for release from prison (the scheduled date of release on completion of the sentence, parole) after completing their term of imprisonment.
- Treatment of the perpetrator in prison (updates are given around once every six months).
- The date when the perpetrator was released (release on completion of the sentence, parole).
- The date when suspension of execution of the sentence was revoked.
- The date when a decision was made for granting parole.
- The date when probation and parole supervision was commenced and the scheduled end thereof.

· Treatment during probation and parole supervision (updates are given around once every six months).

· The date when probation and parole supervision ended.

2. Victim Participation and Victim Protection at the Trial Stage

Victim participation

Victims of crimes (the victim's spouse, lineal relatives and siblings in cases where the victim has died) may, among others, take part in criminal trials as "victim participants". As victim participants, they may question witnesses and defendants and state their opinions on the facts of the case and the application of law, subject to the decision of the court. Participation is only permitted in cases of serious crimes such as homicide, grievous bodily harm or rape.

Statement of opinion

Victims may, among others, state their feelings about the harm they suffered and other opinions on the alleged case.

Protection measures during trial

To ease the burden on the victims when they testify in court as witnesses, or make a statement of opinion, they may be (a) accompanied by family members or counsellors, (b) shielded from the defendant and observers, (c) seated in a separate room and questioned via video link. The first two measures are available if the victim attends the trial as a victim participant.

Measures to protect the victim's identity

In certain sensitive cases, there are procedures to prevent the victim's identity from being made public, and in certain special cases, the victim's identity is withheld from the defendant. Protection measures include non-disclosure of the victim's name, address and other personal information. For certain offences such as sex crimes, the prosecutor may request the court to send a substitute for the charging sheet to the defendant that does not contain the victim's personal information, when deemed necessary.

Judicial compromise

There is a procedure for criminal settlement whereby the defendant and the victim may reach an agreement in a civil dispute related to a criminal case; the content of that agreement is noted in the trial record of the criminal case.

Restitution Order

*When a victim has filed a claim for pay*ment of compensation with a criminal court, the criminal court continues to review the civil dispute after reaching a judgement of conviction in the criminal case, as an ancillary procedure, and makes a decision on compensation.

3. Compensation for Crime Victims

Crime victim benefits

The "Act on Support for Crime Victims through Payment of Crime Victim Benefits" provides victims or families of deceased victims with crime victim benefits when compensation for damages is not received from the perpetrator or other public benefits. Eligible beneficiaries include victims who suffered serious injury or disability or surviving family members of a person who died due to homicide or an intentional criminal act.

Recovery of damages from confiscated assets

The "Act on the Payment of Compensation for Criminal Damage Using Stolen and Misappropriated Property " provides victims etc. with the right to recover damages from proceeds of crime, or the equivalent value thereof, confiscated in the criminal proceedings including assets recovered from foreign countries.

Damage-recovery benefit system

The "Act on Payment of Damage Recovery Benefits from Funds in Deposit Accounts Used for Crime" pays damage-recovery benefits to victims of crimes such as fraud involving bank account transfers. It provides a procedure to suspend the transfer of the perpetrator's deposits and distribute them as damage-recovery benefits to the victims.

International Cooperation in Criminal Matters

1. Extradition

The requirements and procedures for extraditing fugitives from Japan are provided in the "Act of Extradition", or in bilateral extradition treaties which supersede the requirements set forth in the Act on Extradition. Pursuant to the Act. The general requirements for extradition are stipulated as follows: i) the offence in question is not a political one, ii) the offence is punishable by imprisonment for a long term of three years or more, including life sentence and capital punishment (this requirement may be relaxed if a bilateral or multilateral treaty stipulates otherwise), iii) the principle of dual criminality is satisfied, iv) there is probable cause to suspect that the person in question has committed the offence, and v) the principle of reciprocity is assured, among others. When the person in question is a Japanese national, he or she cannot be extradited to another country unless otherwise provided for in an applicable treaty. In such cases, however, the person may be punished on behalf of the government of that country, in accordance with the principle of "*aut dedere aut judicare (either extradite or prosecute)*". Japan currently has extradition treaties with the USA and South Korea.

2. Assistance in criminal matters

The requirements and procedures for providing assistance in criminal matters upon receiving requests from foreign jurisdictions are set forth in the "Act on International Assistance in Investigations". The provisions of the Act apply unless there is an applicable bilateral or multilateral treaty on mutual legal assistance (MLA) that supersedes such provisions. Under the Act, assistance may be provided based on the assurance of reciprocity, however, Article 2 of the Act stipulates that assistance may not be provided in any of the following circumstances:

i) when the offense for which assistance is requested is a political offense, or when the request for assistance is found to have been made with a view to investigating a political offense
ii) when the act constituting the offense for which assistance is requested would not constitute a crime under laws and regulations of Japan were it to be committed in Japan, unless otherwise provided by treaty
iii) with regard to the request relating to the examination of a witness or provision of articles of evidence, when the requesting country does not clearly demonstrate in writing that the evidence is essential to the investigation, unless otherwise provided by treaty

In the absence of a bilateral or multilateral treaty stating otherwise, requests for assistance from other countries to Japan shall be made to the Ministry of Foreign Affairs, and forwarded to the Ministry of Justice. Where there is a relevant bilateral or multilateral treaty, a request may be transmitted between the central authorities (in Japan, the Ministry of Justice for incoming and outgoing requests, and also the National Police Agency for outgoing requests). Japan currently has concluded bilateral MLA treaties/agreements with the USA, South Korea, the People's Republic of China, Hong Kong, the EU, the Russian Federation, Federal Republic of Brazil and Viet Nam.