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最高人民法院关于适用《中华人民共和国刑事诉讼法》的解释	Interpretation of the Supreme People's Court concerning the Implementation of the Criminal Procedure Law of People's Republic of China
最高人民法院公告	Announcement of the Supreme People's Court
《最高人民法院关于适用〈中华人民共和国刑事诉讼法〉的解释》已于 2012 年 11 月 5 日由最高人民法院审判委员会第 1559 次会议通过，现予公布，自 2013 年 1 月 1 日起施行。 最高人民法院 2012 年 12 月 20 日	The Interpretation of the Supreme People's Court concerning the Implementation of the Criminal Procedure Law of People's Republic of China, as adopted at the 1,559th session of the Judicial Committee of the Supreme People's Court on November 5th, 2012, is hereby issued and shall come into force on January 1, 2013. The Supreme People's Court December 20 th , 2012
最高人民法院关于适用《中华人民共和国刑事诉讼法》的解释 (法释〔2012〕21 号)	Interpretation of the Supreme People's Court concerning the Implementation of the Criminal Procedure Law of People's Republic of China (Interpretation No. 21 [2012] of the Supreme People's Court)
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<p>裁定。</p>	<p>sealed, seized, frozen assets and their accrued proceeds, after having sufficiently considered the opinions from both the procurator and the defense.</p>
<p>第二百四十一条 对第一审公诉案件，人民法院审理后，应当按照下列情形分别作出判决、裁定：</p> <p>（一）起诉指控的事实清楚，证据确实、充分，依据法律认定指控被告人的罪名成立的，应当作出有罪判决；</p> <p>（二）起诉指控的事实清楚，证据确实、充分，指控的罪名与审理认定的罪名不一致的，应当按照审理认定的罪名作出有罪判决；</p> <p>（三）案件事实清楚，证据确实、充分，依据法律认定被告人无罪的，应当判决宣告被告人无罪；</p> <p>（四）证据不足，不能认定被告人有罪的，应当以证据不足、指控的犯罪不能成立，判决宣告被告人无罪；</p> <p>（五）案件部分事实清楚，证据确实、充分的，应当作出有罪或者无罪的判决；对事实不清、证据不足部分，不予认定；</p> <p>（六）被告人因不满十六周岁，不予刑事处罚的，应当判决宣告被告人不负刑事责任；</p> <p>（七）被告人是精神病人，在不能辨认或者不能控制自己行为时造成危害结果，不予刑事处罚的，应当判决宣告被告人不负</p>	<p>Article 241 For publicly prosecuted case at the first instance trial, the court shall render its judgment or decision according to the following circumstances respectively:</p> <p>(1) if the alleged fact by the procurator is clear supported by ascertained and sufficient evidence, the court shall decide the alleged offense is established and render a guilty judgment;</p> <p>(2) if the alleged fact is clear supported by ascertained and sufficient evidence but the alleged offense is different from the offense established by the court, the court shall render a guilty judgment of the offense that is established by the court;</p> <p>(3) if the fact of the case is clear supported by ascertained and sufficient evidence and the court decides that the defendant is innocent according to its interpretation of the law, the court shall render a judgment and announce the defendant is not guilty;</p> <p>(4) if the court cannot decide the guilt of the defendant due to insufficient evidence, the court shall announce the defendant is not guilty on the grounds of insufficient evidence based on which the alleged offense cannot be established;</p>

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<p>刑事责任；</p> <p>（八）犯罪已过追诉时效期限且不是必须追诉，或者经特赦令免除刑罚的，应当裁定终止审理；</p> <p>（九）被告人死亡的，应当裁定终止审理；根据已查明的案件事实和认定的证据，能够确认无罪的，应当判决宣告被告人无罪。</p> <p>具有前款第二项规定情形的，人民法院应当在判决前听取控辩双方的意见，保障被告人、辩护人充分行使辩护权。必要时，可以重新开庭，组织控辩双方围绕被告人的行为构成何罪进行辩论。</p>	<p>(5) if a part of the case has clear facts and supported by ascertained and sufficient evidence, the court shall decide whether the defendant is guilty or not guilty based on this part of the facts. The court shall make no decision on the part of case without clear facts or sufficient evidence;</p> <p>(6) if the defendant is less than sixteen years old and not eligible for criminal punishment, the court shall decide and announce in its judgment that the defendant does not bear criminal responsibility;</p> <p>(7) if the defendant is mentally ill, cannot identify or control his/her acts that result in social harm and hence shall not be held for criminal punishment, the court shall decide and announce in its judgment that the defendant does not bear criminal responsibility;</p> <p>(8) if the prosecuted crime has passed the limits of statute and at the same time is not subject to mandatory prosecution or if the crime is exempted from prosecution through clemency, the court shall render a decision to terminate the adjudication;</p> <p>(9) if the defendant is deceased, the court shall render a decision to terminate the adjudication. If the court is confident that the defendant is not guilty based on the ascertained facts and admitted evidence, the court shall</p>
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	<p>render a judgment and announce the defendant is not guilty.</p> <p>In the circumstance described in Article 241(2), the court shall hear the opinions from both parties and ensure the right to defense of the defendant and the defender. When necessary, the court can organize a new court hearing in which the parties will be given an opportunity to debate about the alleged crime has constituted which offense.</p>
<p>第二百四十二条 宣告判决前，人民检察院要求撤回起诉的，人民法院应当审查撤回起诉的理由，作出是否准许的裁定。</p>	<p>Article 242 Before the final judgment is announced, if the procurator requests to withdraw the complaint, the court shall examine the reason provided to support the request and decide whether the withdrawal will be granted.</p>
<p>第二百四十三条 审判期间，人民法院发现新的事实，可能影响定罪量刑的，可以建议人民检察院补充或者变更起诉；人民检察院不同意或者在七日内未回复意见的，人民法院应当就起诉指控的犯罪事实，依照本解释第二百四十一条的规定作出判决、裁定。</p>	<p>Article 243 During the court trial, if the court discovers new fact that may affect conviction, the court can advise the procurator to add supplementary contents or adjustment to the complaint; if the procurator disagree or has not responded to the court's advice within seven days since the advice is made, the court shall decide the case based on the facts stated in the procurator's complaint according to Article 241 of this Judicial Interpretation.</p>
<p>第二百四十四条 对依照本解释第一百八十一条第一款第四项规定受理的案件，人民法院应当在判决中写明被告人曾被人民检察院提起公诉，因证据不足，指控的犯罪不能成立，被人民法院依法判决宣告无罪的情况；前案依照刑事诉讼法第一百九十五条第三项规定作出的判决不予撤销。</p>	<p>Article 244 If a case falls in the circumstance described in Article 181(4) of this Judicial Interpretation, the court shall state in its judgment the circumstances that the defendant had been prosecuted but acquitted by the court because of insufficient evidence. If the court decision of the case is reached according to Article 195(3) of the Criminal Procedural Code, the court decision is not to be revoked.</p>