

***THE ANTI-CORRUPTION AND CIVIL RIGHTS COMMISSION  
KOREA SELATAN  
PERSPEKTIF SIYĀSAH TANFIẒIYYAH DAN SIYĀSAH QADHĀ'IYYAH***



**SKRIPSI**

**DIAJUKAN KEPADA FAKULTAS SYARI'AH DAN HUKUM  
UNIVERSITAS ISLAM NEGERI SUNAN KALIJAGA YOGYAKARTA  
UNTUK MEMENUHI SEBAGIAN DARI SYARAT-SYARAT  
MEMPEROLEH GELAR SARJANA STRATA SATU  
DALAM ILMU HUKUM ISLAM**

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2020**

## ABSTRAK

Perkembangan peradaban dunia, melahirkan kompleksitas problem kenegaraan. Salah satunya terkait lembaga anti-korupsi. Lembaga anti-korupsi memiliki peran penting dalam melakukan pencegahan dan pemberantasan korupsi. Sebab korupsi menjadi persoalan utama disetiap negara. Begitu juga dengan Korea Selatan, perkembangan komisi anti-korupsi Korea Selatan menarik untuk diteliti sebab komisi anti-korupsi Korea selatan atau yang disebut sebagai *the Anti-Corruption and Civil Rights Commission* merupakan leburan dari tiga lembaga negara. Konsolidasi ketiga lembaga tersebut berasal dari peran besar yang dimiliki oleh pemerintah selaku pemegang kekuasaan tertinggi dalam suatu negara. Sehingga muncul pertanyaan tentang keindependenan lembaga tersebut. Selain itu, menarik dikaji bahwa kewenangan ACRC dalam melakukan penyelidikan tidak dapat dilaksanakan secara luas, artinya proses penyadapan yang memiliki kaitan erat dalam melakukan pencegahan korupsi, bukan kewenangan ACRC secara langsung namun harus dengan kordinasi lembaga publik lainnya. Hal demikian akan memperlambat ACRC dalam melakukan pemberantasan korupsi. Namun demikian, *the Anti-Corruption and Civil Rights Commission* atau ACRC sejak berdiri hingga saat ini memiliki terobosan dalam menurunkan tingkat korupsi di Korea Selatan dengan kewenangan yang hanya sebatas pencegahan dan penyelidikan. Hal demikian berbanding terbalik dengan komisi Anti Korupsi Indonesia yang memiliki kewenangan lebih luas dalam melakukan pemberantasan korupsi (penyelidikan, penyidikan, dan penuntutan), namun belum dapat melaksanakan kewenangannya secara maksimal dalam penindakan korupsi di Indonesia. Sehingga memunculkan pertanyaan mendasar, kenapa demikian. Apakah disebabkan oleh kurangnya komitmen dan integrasi dari pemimpin dan pejabat publik sehingga korupsi di Indonesia semakin ruwet. Sementara Korea Selatan yang memiliki sistem pelayanan publik dan pencegahan korupsi yang memberikan dampak besar pada pemberantasan korupsi yang menjadikan praktek korupsi semakin diperketat.

Penelitian ini menganalisis tentang *the Anti-Corruption and Civil Rights Commission* yang lebih dispesifik pada kedudukan ACRC, kewenangan, dan bagaimana peran pemerintah Korea Selatan dalam melakukan pemberantasan Korupsi. Kemudian dari fokus bahasan tersebut dibedah dalam pandangan *Siyāṣah Tanfiziyyah* dan *Siyāṣah Qadhā'iyah* dalam melihat kewenangan ACRC tersebut. Jenis penelitian ini adalah penelitian kepustakaan, dengan pendekatan normatif. Sementara sumber penelitian yang diperoleh dari sumber data primer yaitu *Constution of Korea 1948* dan *Act On the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights*

*Commission* dan sumber data sekunder yaitu berbagai buku-buku, karya-karya ilmiah nasional maupun internasional yang berkaitan dengan lembaga negara, korupsi, dan ACRC. Sifat penelitian ini adalah deskriptif analitis yakni dengan menggambarkan terkait ACRC dari struktur organisasi hingga kewenangan yang dilihat dari peraturan yang berlaku.

Hasil penelitian ini bahwa *the Anti-Corruption and Civil Rights Commission* (ACRC) meskipun lembaga hasil konsolidasi beberapa lembaga negara. Kedudukan ACRC tetap merupakan komisi independen. Selain itu, peran serta dari masyarakat dan pemerintah memberikan dampak yang besar dalam melakukan pemberantasan korupsi. Begitu juga korelasi yang dibangun antara ACRC dengan instansi lainnya dalam melakukan pelayanan publik dan pencegahan korupsi diberbagai ranah khususnya di instansi pemerintah.

**Kata Kunci:** Lembaga Negara Independen, Korupsi, Kewenangan, *the Anti-Corruption and Civil Rights Commission* (ACRC), *Siyāṣah Tanfīziyyah*, *Siyāṣah Qaḍhā'iyyah*.



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*Assalamua'alaikum Wr.Wb.*

Setelah membaca meneliti, memberikan petunjuk dan mengkoreksi serta mengadakan perbaikan seperlunya, maka kami selaku pembimbing berpendapat bahwa skripsi Saudari:

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Dengan ini kami mengharap agar skripsi atau tugas akhir Saudari tersebut di atas dapat segera dimunaqasyahkan. Atas perhatiannya kami ucapkan terima kasih.

*Wassalamu'alaikum Wr.Wb.*

Yogyakarta, 24 April 2020  
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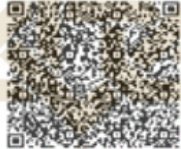

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Yogyakarta, 23 April 2020

Saya yang menyatakan,

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**MOTTO**

WORK HARD. BE KIND. AND FIND BALANCE.

DEDICATED LIFE TO THE COUNTRY AND GENERATIONS OF NATION.

IF YOU DON'T STAND UP TO IDEALISM, WHO WILL?



NEVER GIVE UP



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**HALAMAN PERSEMBAHAN**

Untuk Tuhan, Kekuasaan-Nya, dan Generasi Setelahku

Serta kedua Orang tua terbaikku

Sadia Do Arifin & Risno Botji



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## KATA PENGANTAR

بِسْمِ اللَّهِ الرَّحْمَنِ الرَّحِيمِ

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عَلَى مُحَمَّدٍ وَعَلَى آلِهِ وَصَحْبِهِ أَجْمَعِينَ. أَمَّا بَعْدُ

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Yogyakarta, 28 April 2020  
Penyusun

**Sri Jumiarti Risno**  
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# BAB I

## PENDAHULUAN

### A. Latar Belakang

Konsep dan praktik ketatanegaraan sejauh ini terus mengalami perubahan dari waktu ke waktu, begitu juga dengan kompleksitas problematika ketatanegaraan yang dihadapi negara-negara di dunia. Secara umum struktur ketatanegaraan dibagi ke dalam tiga cabang kekuasaan negara yakni kekuasaan eksekutif, legislatif, dan yudikatif. Seiring perkembangan kompleksitas persoalan-persoalan terkait ketatanegaraan tersebut, maka lahirlah lembaga negara atau *state auxiliary organs*, atau kadang sebagai *self regulatory agencies, independen supervisory bodies, independent regulatory commissions*. Atau lembaga-lembaga yang menjalankan fungsi *regulative, administrative*, dan fungsi penghukuman, serta fungsi campuran.<sup>1</sup>

Struktur ketatanegaraan Korea Selatan tidak jauh berbeda dengan Indonesia, *Independent Agencies* terus berkembang di Korea Selatan. Salah satunya, Komisi Anti Korupsi dan Hak Sipil (*the Anti-Corruption and Civil Rights Commission*) disingkat dengan ACRC atau dalam Bahasa Korea disebut *Gukmingwonikwiwonhoe*.

ACRC berdiri pada 29 februari 2008 atas implementasi Undang-undang Anti-Korupsi dan Pembentukan dan Pengoperasian ACRC, Act no. 9402. Dalam

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<sup>1</sup> Jimly Asshiddiqie, *Perkembangan dan Konsolidasi Lembaga Negara*, Ed.2. cet.3 (Jakarta: Sinar Grafika. 2016), hlm. 7.

struktur kelembagaan ACRC terdiri dari *the Korean Independent Commission Against Corruption (KICAC)*, *the Ombudsman of Korea*, and *the Administrative Appeals Commission*. Yang merupakan hasil konsolidasi lembaga negara tersebut.<sup>2</sup> Konsolidasi ketiga lembaga ini memiliki kewenangan dalam mengkoordinasi kebijakan anti korupsi, evaluasi praktik integritas dan memantau lembaga dalam sektor publik maupun swasta.<sup>3</sup>

ACRC lembaga independen dan atau *quasi* independen dengan sistem terpadu yakni pelayanan publik dan pencegahan korupsi. Oleh karena ACRC berkordinasi dengan lembaga negara lainnya misalnya Sekretariat Presiden, Kementerian, dan Kejaksaan Agung dalam proses pemberantasan korupsi. Sementara itu, fenomena pencegahan korupsi dan pencarian bukti-bukti melalui pengambilan informasi secara rahasia atau penyadapan menjadi menarik untuk dibahas sebagai salah satu metode untuk menangani kejahatan luar biasa. Tidak hanya di Indonesia beberapa negara dunia lainnya seperti Korea Selatan yang melegalkan penyadapan. Meski memang ketika menindaklanjuti laporan korupsi dan pengumpulan bukti-bukti ACRC tidak memiliki kewenangan langsung untuk menyadap tetapi berkordinasi dengan lembaga Kepolisian, Kejaksaan, atau Badan Audit Nasional untuk pemberantasan korupsi.

Padahal memperoleh informasi untuk menangani kejahatan luar biasa seperti korupsi tentu menjadi penting untuk dilakukan. Karena berfungsi mencegah

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<sup>2</sup>“Anti-Corruption and Civil Rights Commission,” [http://en.m.wikipedia.org/wiki/Anti-corruption\\_and\\_civil\\_rights\\_commission](http://en.m.wikipedia.org/wiki/Anti-corruption_and_civil_rights_commission), akses 19 oktober 2019.

<sup>3</sup> Jimly, *Perkembangan dan...*, hlm. 278.



kejahatan yang akan dilakukan dan mengungkapkan kejahatan yang sudah terjadi. Dalam Act No. 1942 tentang Pencegahan dan Managemen ACRC (Amandemen No. 15024). Memang tidak mengatur tentang penyadapan yang dilakukan oleh ACRC itu sendiri tetapi terdapat bentuk proses pengawasan publik tertentu dalam pencegahan dan pemberantasan korupsi.

Menarik perhatian penulis untuk meneliti terkait bentuk pengawasan tersebut yang kemungkinan besar terdapat tindakan penyadapan oleh lembaga berwenang atau badan hukum lainnya yang berkoordinasi dengan ACRC. Melihat fenomena yang berkembang di Indonesia tentang kewenangan penyadapan yang dilakukan Komisi Anti Korupsi Indonesia yang sejak pembentukan pertama telah memiliki kewenangan dalam proses penyidikan, penyelidikan, dan penuntutan.

Dan ketika terdapat bukti permulaan yang cukup maka dibolehkan melakukan penyadapan. Namun demikian, hal tersebut menghadirkan dinamika diantara masyarakat termasuk politisi dan akademis terhadap tindak penyadapan antara kebolehan penyadapan, izin penyadapan dan atau badan pengawasan. Hal inilah yang menjadi persoalan peneliti, ACRC sendiri meski tidak memiliki kewenangan secara luas dalam artian tidak dapat melakukan proses penyidikan, penyeledikan dan penuntutan sekaligus termasuk di dalamnya tindakan penyadapan namun dapat memberantas korupsi dan menurunkan tingkat korupsi dikalangan pemerintah dan swasta dewasa ini.

Dilihat dari *Corruption Perception Index (CPI) South Korea*, sejak tahun 2010 *score* CPI 54 mengalami peningkatan hingga 2015 dengan *score* 56. Namun

sejak 2016 mengalami penurunan drastis menjadi 53 sehingga pada 2017 Korea berada pada rangking 51/180 negara<sup>4</sup>. Namun upaya-upaya perbaikan terus dilakukan hingga pada 2019 CPI Korea berada rangking 36 dari 180 negara dengan *score* 59/100.<sup>5</sup> Dapat dikatakan Korea Selatan berhasil dalam melakukan langkah pencegahan dan pemberantasan korupsi, sementara Indonesia masih berada pada rangking 88/180 negara dengan *score* 40<sup>6</sup>. Hal ini menjadikan Indonesia berkontribusi dalam kategori negara terkorup di dunia.

Oleh karenanya, pencegahan dan pemberantasan korupsi yang dilakukan oleh Komisi Pemberantasan Korupsi (KPK) masih belum maksimal dengan otoritas yang luas seperti melakukan penyidikan, penyelidikan, dan penuntutan, termasuk dapat melakukan penyadapan terhadap kasus korupsi. Padahal sesungguhnya, kewenangan yang dimiliki KPK tersebut dapat menjadikan KPK lebih berhasil dalam menurunkan tingkat korupsi di Indonesia. Salahkah KPK ataukah memang sistem pemerintahan buruk dan tidak adanya komitmen pejabat negara dalam meningkatkan integritas dan independensi.

Oleh karena itu, dalam penelitian ini mengkaji tentang ACRC Korea Selatan dalam melakukan pencegahan dan pemberantasan korupsi. Dengan secara khusus mengkaji kaitannya dengan proses penyadapan dan atau pengawasan. Dan peranan yang dilakukan oleh instansi pemerintahan serta lembaga penegakkan hukum dalam

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<sup>4</sup> Lee Sang-Hak, *South Korea's CPI Result is a Shame For the Nation*, <https://www.transparency-korea.org/south-koreas-cpi-result-shame-nation/> akses 1 desember 2019.

<sup>5</sup> *South Korea*, <https://www.transparency.org/country/KOR/P30> akses 1 desember 2019.

<sup>6</sup> Indonesia, <https://www.transparency.org/country/IDN> akses 1 desember 2019.

berpartisipasi pencegahan dan pemberantasan korupsi di Korea Selatan. Dan tentu saja penelitian ini akan didialogkan dengan perspektif ketatanegaraan islam dan lebih dispesifik pada ruang lingkup *siyāsah tanfiẓiyyah* dan *siyāsah qadhā'iyah*.

## **B. Rumusan Masalah**

Adapun beberapa permasalahan yang dapat dikaji dalam penelitian ini dirumuskan sebagai berikut :

1. Bagaimana kedudukan ACRC Korea Selatan dalam pandangan lembaga negara independen?.
2. Bagaimana intervensi pemerintah Korea Selatan terhadap ACRC perspektif *siyāsah tanfiẓiyyah*?
3. Bagaimana penyadapan terhadap penindakan kasus korupsi dalam ACRC Korea Selatan perspektif *siyāsah qadhā'iyah*?

## **C. Tujuan dan Kegunaan**

Adapun tujuan dari penelitian ini yaitu :

1. Untuk menjelaskan bagaimana korelasi yang dimiliki ACRC dengan lembaga negara lainnya dalam melakukan pemberantasan korupsi.
2. Untuk menjelaskan bagaimana pelaksanaan kewenangan penyadapan di Korea Selatan, kemudian kewenangan tersebut dilihat dari konsep *siyāsah qadhā'iyah*.
3. Mencari tahu apakah peran pemerintah dalam praktik yang dijalankan ACRC sejalan dengan prinsip-prinsip *siyāsah tanfiẓiyyah*.

Dan penelitian ini memiliki kegunaan dalam bidang hukum Tata Negara. Beberapa kegunaan yang dapat diperoleh dari penelitian ini yang dilihat dari beberapa aspek, yaitu :

- a. Secara teoritis, penelitian ini diharapkan dapat memberikan kontribusi pemikiran dan informasi dibidang hukum tata negara yang berkaitan dengan lembaga negara, sistem hukum pemberantasan korupsi. Selain itu penelitian ini menggunakan sudut pandang *siyāṣah tanfiziyyah siyāṣah qaḍhā'iyah* sehingga secara khusus memberikan kontribusi dalam kajian ketatanegaraan Islam.
- b. Secara praktis, kegunaan penelitian ini secara praktis diharapkan dapat bermanfaat sebagai bahan evaluasi sistem hukum dan penanganan kasus korupsi di Indonesia. Serta pembuatan peraturan terkait kewenangan lembaga anti korupsi di Indonesia.

#### **D. Telaah Pustaka**

Pembahasan tentang penyadapan dan atau lembaga anti korupsi adalah pembahasan yang semakin digali seiring waktu. Terutama dalam dunia internasional dan nasional sendiri yang masih mencari formula yang tepat dalam pemberantasan korupsi. Serta kaitannya dengan penyadapan yang dijadikan sebagai barang bukti. Telah banyak penulis yang membahas tentang masalah ini.

Sarmadan Pohan dalam karya berjudul "*Perbandingan Lembaga Anti Korupsi dan Beberapa Negara Dunia*". Penelitian ini membahas tentang penindakan korupsi di beberapa negara dengan perspektif hukum positif setiap negara, mekanisme pelaksanaan, dan faktor pendukung dan penghambat

penindakan korupsi. Dengan kesimpulan bahwa setiap elemen masyarakat, pemerintah, aturan hukum, visi dan misi pemberantasan korupsi tersebut merupakan faktor berhasilnya suatu pemberantasan korupsi. Sementara yang menjadi kegagalan pemberantasan korupsi adalah minimnya keseriusan pemerintah dan politisi dalam pemberantasan korupsi, tidak ada komitmen dalam penegakkan hukum, serta tidak maksimal perubahan kelembagaan.<sup>7</sup>

Hwian Cristiano, karya berjudul "*Tindakan Penyadapan Ditinjau Dari Perspektif Hukum Pidana*". Bahwa penyadapan merupakan tindakan penegakan hukum, meski dalam ketentuan pidana penyadapan yang tidak berdasarkan pada aturan hukum adalah sebuah pelanggaran, tetapi penyadapan juga hal penting dalam pencegahan terhadap suatu tindak pidana asalkan dilakukan sesuai prosedur dan ketentuan yang berlaku serta tidak melanggar hak asasi manusia.<sup>8</sup>

Ria Casmi Arrsa, "*Rekonstruksi Politik Hukum Pemberantasan Korupsi Melalui Strategi Penguatan Penyidik Dan Penuntut Umum Independen KPK*". Penelitian ini membahas tentang upaya yang dilakukan untuk melakukan pemberantasan korupsi dan capaian pemberantasan korupsi dapat bernilai positif apabila pemerintah dan politisi memiliki komitmen untuk memberantas korupsi didorong dengan pembuatan regulasi kearah penguatan pada tindakan penyidikan. Dengan solusi yang ditawarkan pertama berkaitan dengan revisi UU KPK, kedua,

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<sup>7</sup> Sarmadan Pohan, "Perbandingan Lembaga Anti Korupsi dan Beberapa Negara Dunia", *Jurnal Justitia*, Volume 1. Nomor 03 (Agustus 2014).

<sup>8</sup> Hwian Cristiano, "Tindakan Penyadapan Ditinjau Dari Perspektif Hukum Pidana", *Jurnal Prioris*, Volume 5. Nomor 2 (2016).

tentang proses penyidikan yang dilakukan oleh KPK sebaiknya terpisah dari Kepolisian dan Kejaksaan. Ketiga, dengan partisipasi aktif dari masyarakat. Ketiga elemen itu diperlukan dalam pemberantasan korupsi.<sup>9</sup>

Kemudian, dalam Skripsi Ahmad Noor berjudul “*Penyadapan oleh KPK dalam Perspektif Hukum Pidana Islam*”. Penelitian tersebut mengangkat persoalan terkait wewenang yang dimiliki oleh KPK dalam melakukan proses hukum yakni penyelidikan dan penyidikan yang didalamnya terdapat proses penyadapan dengan perspektif hukum pidana Islam yang merujuk pada fleksibelan dan keluwesan hukum pidana islam. Dan bahwa penyadapan yang dilakukan oleh KPK tidak melanggar hukum positif dan hukum islam itu sendiri.<sup>10</sup>

Rois Arfan M Noor, dalam skripsi “*Ketentuan Penyadapan dalam Pembuktian Tindak Pidana Khusus*”. Penelitian ini membahas tentang mekanisme yang seharusnya diatur dalam peraturan perundang-undangan terkait tindak pidana khusus, serta ketentuan penyadapannya. Penelitian ini berkesimpulan bahwa ketentuan penyadapan yang dilakukan aparat penegak hukum telah diatur dalam UU ITE, UU Terorisme, UU Narkotika, dan Tindak Pidana Korupsi, namun mekanisme yang terinci tentang proses penyadapan tindak pidana korupsi serta aturan tentang ketentuan apabila penegak hukum melakukan pelanggaran terhadap

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<sup>9</sup> Ria Casmi Arrsa, “Rekonstruksi Politik Hukum Pemberantasan Korupsi Melalui Strategi Penguatan Penyidik Dan Penuntut Umum Independen KPK”, *Jurnal Rechts Vinding Media Pembinaan Hukum Nasional*, Volume 3 Nomor 3, (Tahun 2014).

<sup>10</sup> Ahmad Noor, “*Penyadapan oleh KPK dalam Perspektif Hukum Pidana Islam*” skripsi Mahasiswa UIN Sunan Kalijaga 2010.

penyadapan yang dilakukan apabila tidak terbukti bersalah. Hal ini dilakukan agar menjamin hak privasi seseorang.<sup>11</sup>

Tithuk Rindi Astuti dalam skripsi “*Tinjauan Hukum Pidana Islam Terhadap Alat Bukti Penyadapan Pasal 5 UU No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*”. Skripsi yang membahas tentang kedudukan penyadapan menurut hukum islam yang dijadikan sebagai alat bukti. Bahwa penyadapan yang dilakukan menjadi penting dan sah baik menurut hukum positif maupun dalam hukum islam, mengingat bahwa penyadapan dapat dijadikan sebagai preventif suatu tindak kejahatan.<sup>12</sup>

Lee Jun Min dan Lee Ahjung, dalam buku berjudul “*Introduction To Korea’s Anti-Corruption Initiative Assessment*”, penelitian ini berkaitan dengan metode evaluasi kelembagaan di Korea Selatan untuk mencegah korupsi disetiap lembaga masing-masing, sehingga memotivasi setiap lembaga untuk melakukan langkah-langkah dalam mencegah korupsi dengan pedoman pada AIA ACRC. Unsur utama yang digunakan AIA adalah pertama upaya bimbingan prioritas kebijakan, kedua perbaikan ACRC berdasarkan laporan tahunan, ketiga evaluasi prestasi dengan sistem skor, keempat publikasi peringkat kelembagaan dan konsolidasi dan kelima memberikan penghargaan terhadap lembaga atau orang yang telah berhasil memiliki

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<sup>11</sup> Rois Arfan M Noor, “*Ketentuan Penyadapan dalam Pembuktian Tindak Pidana Khusus*.” Skripsi Mahasiswa UIN Sunan Kalijaga, 2019.

<sup>12</sup> Tithuk Rindi Astuti “*Tinjauan Hukum Pidana Islam Terhadap Alat Bukti Penyadapan Pasal 5 UU No. 11 Tahun 2008 Tentang Informasi Dan Transaksi Elektronik*” skripsi Mahasiswa UIN Sunan Kalijaga 2009.

peringkat baik dalam mencegah korupsi dilembaganya. Metode AIA ACRC berupaya untuk menciptakan perilaku anti korupsi disetiap institusi publik.<sup>13</sup>

Arsema Tamyalew, studi kasus tentang ACRC's berjudul "*A Review of the Effectiveness of the Anti-Corruption and Civil Right Commission of the Republic of Korea*", dalam penelitian ini, Arsema berusaha menjabarkan tentang ACRC secara detail, keterkaitan ACRC dengan lembaga pemerintah dan dukungan politik yang menjadi point utama keberhasilan ACRC. Penelitian ini juga memuat tentang kerjasama antar lembaga negara dan tertibnya sistem administrasi sektor publik dan swasta, sehingga terkendali antara pemerintah dan perusahaan. Hal ini di dukung dengan regulasi, evaluasi, serta sistem pendidikan yang diterapkan oleh ACRC kepada masyarakatnya. Dalam usaha ACRC mencegah korupsi, ACRC memberikan pengajaran dengan diskusi kelas, *e-learning*, diskusi publik, dan kursus, serta ditetapkan dalam kurikulum pendidikan ditingkat dasar hingga bangku kuliah. Kemudian, adanya jaminan perlindungan dan insentif yang diberikan kepada pelapor menjadikan salah satu indikator pemberantasan korupsi di Korea Selatan. Namun penelitiannya tidak menjabarkan tentang proses investigasi yang dilakukan oleh ACRC.<sup>14</sup>

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<sup>13</sup> Jun-min Lee dan Ahjung Lee, "*Introduction To Korea's Anti-Corruption Initiative Assessment : A Tool to Evaluate Anti-Corruption Efforts in the Public Sector in the Republic of Korea*," Hanbook, UNDP Seoul Policy Centre (UNDP).

<sup>14</sup> Arsema Tamyalew, "*A Review of the Effectiveness pf the Anti-Corruption and Civil Right Commission of the Republic of Korea*", *the World Bank in collaborate with the Covernance Parthership Facility, the European Commission, the United Nation Office of Drugs and Crime (UNODC) and the US State Departemen, (the Word Bank).*



Kemudian yang menjadi keunikan dari penelitian ini adalah membedah ACRC sebagai objek penelitian dalam melakukan pemberantasan korupsi, yang lebih dispesifik pada tindakan penyadapan yang memungkinkan untuk dilakukan. Penelitian ini juga akan membahas kaitan ACRC dengan lembaga eksekutif serta lembaga yudikatif dalam melakukan kordinasi terhadap pencegahan dan penindakan lembaga-lembaga tersebut, kemudian melihat fenomena polemik wewenang lembaga anti korupsi Indonesia tentang penyadapan yang berimbas pada urgensi adanya proses penyadapan dan dijadikan sebagai alat bukti dalam penuntutan dalam suatu lembaga peradilan atau penegakkan hukum dengan pandangan ketatanegaraan Islam dalam hal ini konsep *siyāсах tanfīziyyah* dan *siyāсах qaḍhā'iyah*.

## **E. Kerangka Teori**

### **1. Teori Lembaga Negara Independen**

Di Negara-negara yang telah memiliki kemapanan demokrasi seperti di Amerika Serikat, Prancis, dan Korea Selatan. Pertumbuhan lembaga-lembaga negara yang bersifat penunjang. Ada pula yang memiliki sifat *self regulatory, independent supervisory bodies*. Yakni lembaga-lembaga yang menjalankan fungsi campuran (*mix-fungtion*). Artinya satu lembaga memiliki beberapa fungsi, diantaranya fungsi *regulative, administrative*, dan fungsi penghukuman yang secara umum dipisahkan tetapi lembaga baru di negara-negara tersebut dilakukan secara bersamaan. Contohnya di Amerika Serikat yang memiliki lembaga independen yang sifatnya regulatif dan pengawasan atau pemantauan (*monitoring*) diantaranya *Federal Trade Commission (FTC), Federal Communication Commission (FCC)*,

dan lainnya. Sementara di Korea Selatan terdapat *Anti-Corruption and Civil Right Commission* (ACRC). Lembaga-lembaga ini tidak berada di cabang kekuasaan eksekutif, legislatif, dan yudikatif, dengan kata lain ada lembaga yang sifatnya independen dan ada pula lembaga semi independen atau quasi independen. Atau dalam penyebutan Bahasa asing *Independent and quasi independen agencies, corporations, committees, and commissions*.<sup>15</sup>

Berdirinya lembaga-lembaga tersebut sebagai bentuk demokrasi dengan harapan setiap lembaga dapat menjalankan fungsinya dengan baik. Akan tetapi banyaknya lembaga-lembaga negara yang menjamur tidak menjadi efektif suatu pelaksanaan tugas tetapi malah saling berbenturan sehingga perlu adanya perampingan seperti yang dilakukan Korea Selatan yang menggabungkan antara *Korean Independent Commission Against Corruption (KICAC), the Ombudsman of Korea, the Administrative Appeals Commission*. Perampingan tersebut dimaksudkan agar terciptanya sistem kerja bersinergi antar lembaga negara untuk mewujudkan pemerintahan yang lebih baik. Tidak dimaksudkan lembaga di Indonesia melakukan praktik yang sama, akan tetapi sistem quasi independen dengan konsolidasi lembaga negara yang dijalankan Korea Selatan patut dijadikan pembelajaran.

Dengan demikian, dari teori ini dapat didalami bagaimana seharusnya suatu lembaga yang dikenal independen dapat bekerja dengan prinsip independen baik di ranah teori dan praktik, sementara lembaga negara tersebut di konsolidasi. Kemudian, apabila dalam pelaksanaan keindependen ACRC merupakan salah satu

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<sup>15</sup> Jimly, *Perkembangan dan ....*, hlm. 293-295.

jalan dalam pemberantasan korupsi yang patut dicontohkan maka pemberlakuan di Indonesia pun dapat diperhitungkan.

## 2. Teori Kewenangan

Kewenangan merupakan hal yang penting dalam menjalankan tugas profesional. Dapat dikatakan tanpa kewenangan suatu lembaga atau bahkan individu yang memegang suatu jabatan tidak dapat bertindak tanpa kewenangan yang dimilikinya.

Hal ini juga dikemukakan oleh Hassan shadhily, beliau menjelaskan bahwa wewenang (*authority*) adalah kekuasaan atau hak yang dimiliki seseorang untuk memberikan perintah atau tindakan yang dilakukan untuk mempengaruhi tindakan orang lain, agar apa yang dilakukan sesuai dengan tujuan yang diinginkan. *Authority* dapat diartikan sebagai pemberian wewenang (*delegation of authority*) yang merupakan proses penyerahan wewenang dari seorang pimpinan (*manager*) kepada bawahannya (*subordinates*) yang disertai timbulnya tanggung jawab untuk melakukan tugas tertentu. Proses *delegation of authority* dilakukan dengan menetapkan tugas-bawahan tersebut lalu diserahkan sehingga menimbulkan kewajiban yang harus dilaksanakannya. Konteks pemerintahan atau lembaga negara, keabsahan tindakan aparatur pemerintahannya dilihat berdasarkan wewenang yang diatur dalam peraturan perundang-undangan. Dalam hal ini kewenangan tersebut dapat dilihat dari legitimasi yang diberikan konstitusi kepada badan publik dan lembaga negara dalam menjalankan fungsinya.<sup>16</sup>

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<sup>16</sup>Pusat Penelitian dan Pengkajian Perkara, dan Pengelolaan Perpustakaan dan Kepaniteraan dan Sekretariat Jenderal Mahkamah Konstitusi., *Rekonstruksi Kedudukan dan Kewenangan Dewan Etik Hakim Konstitusi Sebagai Upaya Memperkuat Integritas Hakim*

Ketika terdapat kewenangan atau *authority*, *gezeg* atau yuridiksi maka timbul wewenang atau *competence* atau *bevoegdheid*. Wewenang inilah yang menjadi tugas, hak, atau kompetensi yang dimiliki seseorang untuk bertindak, misalnya wewenang dalam memberikan izin penyadapan atau wewenang dalam menandatangani surat perintah penangkapan. Wewenang menjadi yuridiksi orang atau lembaga tertentu dalam bertindak. Wewenang ditetapkan agar setiap fungsi baik lembaga negara atau personal dapat bertindak sesuai dengan tupoksi yang diberikan. Yang semua tindakan yang dimiliki tersebut harus diatur dalam undang-undang sebagai bentuk legitimasi.<sup>17</sup>

Teori kewenangan ini digunakan dalam menelisik wewenang yang dimiliki setiap lembaga terkait dalam pemberantasan korupsi, sebab setiap lembaga negara memiliki keterkaitan erat dalam pelaksanaan tugasnya, seperti yang terjadi dalam ACRC yang terdapat tiga lembaga hasil konsolidasi. Kemudian lebih lanjut untuk ketentuan kewenangan penyadapan sendiri sebaiknya dilakukan oleh lembaga penegak hukum tanpa perlu membentuk lembaga khusus yang independen melainkan cukup mengoptimalkan lembaga yang sudah ada dengan optimalisasi substansi pengaturan serta pengawasan yang lebih baik sehingga tindakan penyadapan yang dilakukan dapat mencapai tujuannya.<sup>18</sup>

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*Konstitusi*, Laporan Penelitian, Kerjasama antara Mahkamah Konstitusi dengan Fakultas Hukum Universitas Islam Indonesia, 2018, hlm. 10.

<sup>17</sup> SF. Marbun, *Peradilan Administrasi Negara dan Upaya Administratif di Indonesia*, (Yogyakarta : UII Press, 2003), hlm. 122.

<sup>18</sup> Kristian dan Yopi Gunawan, *Sekelumit tentang Penyadapan dalam Hukum Positif di Indonesia, cet.1* (Bandung : Penerbit Nuansa Aulia), hlm. 268.

Kewenangan untuk melakukan penyadapan harus diberikan kepada lembaga yang memang secara langsung berfungsi untuk melakukan penegakkan hukum (*Law Enforcement*) atau *Law Enforment Agency*, misalnya lembaga yang berfungsi untuk mengungkap dan membuktikan terjadinya suatu tindak pidana termasuk pula lembaga-lembaga yang memiliki atribusi atau kewenangan yang diberikan langsung oleh undang-undang, seperti kewenangan untuk melakukan penyelidikan, penyidikan, kewenangan penuntutan dan lain sebagainya, sehingga dapat terwujud pencegahan dan pemberantasan terjadi tindak pidana jenis baru.<sup>19</sup>

### 3. Teori *Siyāṣah Tanfiziyyah*

Menurut al-Maududi, *Tanfiziyyah* adalah lembaga eksekutif dalam Islam dengan menggunakan istilah *ul al-amr* yang dikepalai oleh Khalifah atau Amir. Lembaga legislatif dan yudikatif juga termasuk dalam peristilahan ini namun dalam tataran yang lebih luas. Meski pun begitu, dalam praktek pemerintahan Islam tidak ada penyebutan istilah khusus untuk badan-badan lain yang di bawah kepala negara yang memiliki tugas dalam mengeksekusi peraturan perundang-undangan. Contohnya ada lembaga *Diwan al-Kharāj* (Dewan Pajak), *Diwan al-Ah,das* (Kepolisian), wali untuk setiap wilayah, sekretaris, pekerjaan umum, *Diwan al-Jund* (militer), *sahibal-bait al-māl* (pejabat keuangan), dan lain sebagainya yang digunakan struktur kekhalifahan Umar bin Khattab.<sup>20</sup> Kemudian dalam tugas *al-sulṭah al-tanfiziyyah* adalah melaksanakan undang-undang. Negara memiliki

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<sup>19</sup> *Ibid.*, hlm. 270.

<sup>20</sup> Abu A'la Al-Maududi, *Sistem Politik Islam*, cet IV 1995 (Bandung : Penerbit Mizan, 1975), hlm. 247.

kewenangan dalam aktualisasi perundang-undangan tersebut. Dengan prinsip-prinsip pemerintahan yang baik. Negara pula yang membuat kebijakan ditingkat nasional dan internasional dengan pertimbangan-pertimbangan kepentingan masyarakatnya.<sup>21</sup>

Kaitannya ACRC dengan teori ini adalah dilihat dari bagaimana korelasi yang dijalankan oleh eksekutif baik sebagai pemberi wewenang atau sebagai pelaksana langsung dalam pemberantasan korupsi serta peran penting yang dimiliki oleh lembaga eksekutif Korea Selatan dalam melakukan pemberantasan korupsi.

#### 4. Teori *Siyāṣah Qaḍhā'īyyah*

Yudikatif, dalam sejarah pemerintahan Islam. Kekuasaan yudikatif dikenal dengan sebagai *al-sulṭah qaḍhā'īyyah* yang konsep fikih siyasah, kekuasaan yang dimiliki adalah kekuasaan yang mempunyai hubungan dengan tugas dan wewenang peradilan. Tugas kekuasaan kehakiman menangani perkara-perkara perdata maupun pidana atau perkara lainnya yang menjadi kewenangan pengadilan berdasarkan aturan yang berlaku. Tentu dengan tujuan yakni menegakkan hukum dengan menjamin keadilan dan kebenaran supaya menguatkan kepala negara dan kestabilan negara. Dengan prinsip pelaksanaan syariat Islam membutuhkan lembaga penegaknya sehingga *al-Qaḍhā'* menjadi penting untuk penetapan hukuman demi kemashlahatan umat. Terdapat tiga pembagian kewenangan peradilan yang terdiri

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<sup>21</sup> Muhammad Iqbal, *Fiqh Siyasah: Kontekstualisasi Doktrin Politik Islam* (Jakarta: Gaya Media Persada 2001), hlm. 62.

dari tiga wilayah, yaitu Wilayah *Qadhā'*, Wilayah *Mazhalim*, dan Wilayah *Hisbah*.<sup>22</sup>

Wilayah *al-hisbah* merupakan kekuasaan peradilan untuk menyelesaikan perkara pelanggaran ringan seperti penipuan, kecurangan dalam bisnis, dan lainnya. Wilayah *al-Qadhā'* merupakan kekuasaan peradilan dalam memutus perkara sesama warga negara, perdata maupun pidana. Dan terakhir adalah wilayah *Mazhalim* merupakan kekuasaan pejabat dalam penyelesaian perkara dalam kaitannya dengan jabatan. Contohnya keputusan politik yang melanggar dan merugikan kepentingan dan hak-hak rakyat serta perbuatan pejabat yang melanggar hak warga negara.<sup>23</sup> Teori ini berperan dalam melihat kewenangan yang dimiliki ACRC serta korelasinya dengan kekuasaan Kehakiman dalam melakukan proses izin penyadapan yang diberikan oleh Pengadilan kepada lembaga yang berwenang.

## F. Metode Penelitian

Penelitian ini akan menggunakan metode sebagai berikut :

### 1. Jenis Penelitian

Jenis Penelitian adalah penelitian pustaka (*Library Research*). Yaitu Penelitian yang dilakukan dengan mengkaji berbagai macam literatur-literatur dan sumber-sumber lainnya. Yakni mengumpulkan data yang didapat dari penelaah kepustakaan yang relevan dengan penelitian ini.<sup>24</sup> Yakni bahan-bahan yang

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<sup>22</sup> Hakim Javid Iqbal, *Masalah-masalah Teori Politik Islam, cet III* (Bandung : Mizan, 1996), hlm. 65.

<sup>23</sup> Ridwan HR, *fiqh Politik gagasan, harapan dan kenyataan* (Yogyakarta: FH UII Press, 2007), hlm. 273.

<sup>24</sup> Suharsini Arikunto, *Prosedur Penelitian: Suatu Pendekatan Praktek, cet.14*, (Jakarta: Rineka Cipta, 2011)., hlm. 11.

membahas tentang lembaga negara, penyadapan, sistem politik Islam, dan komisi *Anti-Corruption and Civil Rights Commission (ACRC)*.

## 2. Sifat Penelitian

Sifat penelitian ini adalah penelitian deskriptif analitis. Deskriptif analitis merupakan metode penelitian yang menguraikan sekaligus menganalisis persoalan-persoalan yang diangkat.<sup>25</sup> Penelitian ini mendeskripsikan dan menelaah *the Anti-Corruption and Civil Rights Commission* dari berbagai peraturannya dan menganalisis menggunakan kerangka teori lembaga negara independen, *siyāṣah tanfīziyyah*, dan *siyāṣah qaḍhā'īyyah* dengan tujuan memperoleh suatu informasi.

## 3. Pendekatan Penelitian

Pendekatan penelitian ini berfungsi untuk mempermudah analisis, memperjelas pemahaman terhadap objek kajian dan memberikan batas wilayah penelitian. Oleh karena itu, dalam pendekatan penelitian ini menggunakan pendekatan normatif terkait peraturan yang berlaku tentang objek kajian. Dalam hal ini kewenangan *the Anti-Corruption and Civil Rights Commission* Korea Selatan dan korelasi yang dibangun dengan lembaga hukum lainnya dalam proses penyadapan. Kemudian akan dilihat juga dari segi *siyāṣah tanfīziyyah*, dan *siyāṣah qaḍhā'īyyah*.

## 4. Sumber Data

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<sup>25</sup> Nyoman Kutha Ratna, *Metode Penelitian : Kajian Budaya dan ilmu-ilmu social Humaniora pada Umumnya*, (Yogyakarta : Pustaka Pelajar, 2016)., hlm. 335.



Sumber data dalam penelitian ini terdiri dari dua jenis sumber data yaitu sumber data primer dan sekunder.

- a. Sumber data primer yaitu *Constitution of Korea 1948* dan *Act On the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission* Nomor 15024 Oktober 2017.
- b. Sumber data sekunder yaitu berbagai macam literatur yang berkaitan dengan objek permasalahan. Berupa buku, karya ilmiah nasional maupun internasional, berita, atau bahan informasi lainnya yang menunjang penelitian ini.

#### 5. Analisis Data

Literatur-literatur dan bahan hukum yang telah diperoleh dalam penelitian ini dianalisis secara mendalam dengan pendekatan normatif yaitu menelaah undang-undang Anti Korupsi dan Pengeoperasian dan Managemen ACRC Nomor 15024 tahun 2017 (*Act On the Prevention of Corruption and the Establishment and Management of the Anti-Corruption and Civil Rights Commission*). Kemudian mendeskripsikan, menganalisis secara sistematis tentang *the Anti-Corruptioan and Civil Rights Commission*. Dari hasil penelahan tersebut dapat memperoleh jawaban dari permasalahan yang sedang dikaji.

#### **G. Sistematika Pembahasan**

Sistematika Pembahasan dalam penelitian ini terbagi dari lima bab. Dalam setiap bab dibagi menjadi beberapa sub-bab yang berkaitan satu sama lain. Dari

pembagian tersebut menghasil tiga bahasan pokok yaitu pendahuluan, isi, dan penutup. Adapun penjabaran sebagai berikut.

Bab pertama, adalah pendahuluan yang berisi tentang latar belakang masalah, rumusan masalah, tujuan dan kegunaan, telaah pustaka, kerangka teori, metode penelitian, dan sistematika pembahasan. Pada bab ini dapat dijadikan sebagai pertimbangan penyusunan penelitian. Bab kedua, yang akan dijabarkan mengenai kerangka teori yang relevan dengan independensi dan kewenangan *the Anti-Corruption and Civil Rights Commission (ACRC)* Korea Selatan. Yaitu konsep umum tentang lembaga negara independen, konsep *siyāṣah tanfīziyyah* dan *siyāṣah qaḍhā'iyah*.

Bab ketiga, akan disampaikan tentang berbagai macam peraturan, kewenangan ACRC, dan pengaturan mengenai penyadapan yang ada di Korea Selatan serta korelasi ACRC dengan lembaga penegak hukum lainnya.

Bab keempat, membahas dan menganalisa tentang kedudukan ACRC kemudian melihat dalam pandangan *siyāṣah tanfīziyyah* *siyāṣah* dan *qaḍhā'iyah* terhadap praktek komisi ACRC dan lembaga negara lainnya dalam pemberantasan korupsi. Bab kelima, adalah penutup yang berisi kesimpulan penelitian dan saran-saran. Dalam bab ini akan disampaikan jawaban dari rumusan masalah dan kemudian dari sana akan disampaikan saran untuk perkembangan pembahasan selanjutnya.

## BAB V

### PENUTUP

#### A. Kesimpulan

Kedudukan *The Anti-Corruption and Civil Rights Commission* (ACRC) Korea Selatan dalam pandangan lembaga negara independen, pada dasarnya merupakan lembaga independen atau *independent regulatory boards and commissions* (IRCs) yakni komisi yang tidak berada dibawah eksekutif dan memiliki karakteristik khusus yakni sifat kepemimpinan yang kolektif, sistem pemilihan dan pemberhentian tidak berdasarkan kepentingan eksekutif maupun legislatif sehingga pertanggung jawaban pun langsung kepada masyarakat serta tidak didominasi oleh kalangan partai tertentu. Oleh karena itu, meskipun ACRC konsolidasi dari beberapa lembaga negara, kedudukan ACRC independen secara regulator maupun keorganisasian setiap biro yang memiliki otonomi sendiri yang dijalankan secara terpadu untuk melaksanakan tugas dan fungsi dalam pencegahan dan pemberantasan korupsi serta pelayanan publik yang lebih baik.

Kemudian, dalam perspektif *siyāṣah tanfiẓiyyah*. Pemerintahan (Presiden) memang harus berperan aktif dalam mengelola negara. Begitu juga dalam pembentukan ACRC presiden memiliki peran besar dalam mengkonsolidasi beberapa lembaga menjadi ACRC. Meskipun begitu, tidak serta presiden memiliki intervensi terhadap ACRC dalam pelaksanaan tugas

dan fungsi ACRC sebab terdapat aturan yang mengatur presiden sejauh mana presiden dapat berwenang. Kewenangan presiden terhadap ACRC memberikan pengesahan perundang-undangan dalam bentuk keputusan presiden terhadap perubahan, undang-undang pelaksana, atau perlindungan pelapor ataupun rekomendasi dan pelantikan ketua dan anggota dewan. Hal tersebut pun berdasarkan mekanisme tertentu dan dari hasil rumusan dewan anggota ACRC sehingga presiden tidak dapat dengan mudah mengintervensi kepentingannya kedalam kepentingan ACRC itu sendiri.

Selanjutnya ketika ACRC melakukan investigasi terhadap kasus korupsi khususnya tindakan penyadapan dalam perspektif *siyāṣah qadhā'iyah* bahwa pada dasarnya setiap kewenangan lembaga penegak hukum harus berdasarkan hukum atau *lawfull interception by enforcement interception* oleh karena itu kedua hal tersebut harus berjalan beriringan. Adanya aturan hukum tersebut menjadikan tindakan yang dilakukan oleh penegak hukum dapat secara sah melakukan pengakkan hukum. Dalam hal ini, ACRC tidak dapat secara leluasa melakukan penyadapan secara langsung. Akan tetapi apabila penyadapan dibutuhkan maka mekanisme yang dilakukan berdasarkan jalur pengadilan. Yakni lembaga Kejaksaan dan lembaga investigasi ACRC yang berkoordinasi akan meminta izin kepengadilan. Namun demikian berdasarkan asas peradilan sederhana, cepat, dan biaya hal demikian terbelit-belit sebab pengadilan berupaya melakukan sistem administrasi yang tidak terbelit-belit. Sehingga terdapat mekanisme lain apabila dalam kondisi mendesak maka penyadapan

dapat dilakukan terlebih dahulu sebelum surat penetapan izin penyadapan dikeluarkan.

## **B. Saran**

1. Pemberantasan korupsi memang selalu menjadi bahasan yang menarik untuk dibahas. Formula-formula yang selalu dicari oleh negarawan untuk memberantas korupsi selalu dilakukan. Akan tetapi sebegus apapun formula yang dibuat tanpa dukungan dari pemimpin itu sendiri menjadikan formula tersebut lambat untuk eksekusi dan tidak memperoleh hasil yang terbaik. Oleh karena itu, penting untuk memiliki pemimpin dengan komitmen melakukan pemberantasan korupsi. Tidak hanya tanggung jawab pemimpin akan tetapi partai politik, pejabat, dan masyarakat untuk berkomitmen melakukan pemberantasan korupsi. Salah satu cara dengan dibangun lebih dini kompensasi dan integritas yang dimiliki oleh setiap generasi muda.
2. Melihat bahwa ACRC melakukan perbaikan tidak hanya dari sistem dan pelayanan itu sendiri akan tetapi ACRC masuk dalam segala ranah elemen di masyarakat, pemerintahan, dan swasta. Mulai dari pendidikan hingga evaluasi integritas pejabat publik yang dilakukan secara masif. Patut bagi negara-negara mencontohkan metode evaluasi ACRC terhadap pejabat publik melalui evaluasi berbasis kompetisi setiap instansi.
3. Peneliti menyadari bahwa penelitian ini masih memiliki banyak kekurangan. Sehingga peneliti berhadap pada penelitian selanjutnya

dapat mengembangkan penelitian lebih sempurna dengan konsep dan sudut pandangan yang lebih terbaru.



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**LAMPIRAN**

**TERJEMAHAN TEKS ASING**

No.	Hal.	FN	Keterangan	Terjemahan
1	14	16	<i>Autority</i>	kekuasaan atau hak yang dimiliki seseorang untuk memberikan perintah atau tindakan yang dilakukan untuk mempengaruhi tindakan orang lain, agar apa yang dilakukan sesuai dengan tujuan yang diinginkan
2	30	37	<i>institutionalized power</i>	kekuasaan yang dilembagakan
3	32	42	<i>Wiretapping</i>	penyadapan adalah elektronik atau cara menguping secara elektronik. Dilakukan oleh penegak hukum di bawah perintah pengadilan untuk mendengarkan percakapan pribadi
4	32	43	<i>Interception</i>	intersepsi atau penyadapan adalah tindakan mendengarkan, merekam, mengubah, menghambat, dan atau mencatat transmisi informasi elektronik yang tidak bersifat publik, baik menggunakan jaringan kabel komunikasi maupun jaringan nirkabel
5	34	45	<i>Law Enforcement</i>	Penegakkan Hukum
6	35	53	an-Nisa' : 59	Hai orang-orang beriman, taatilah Allah dan taatilah Rasul-Nya dan <i>ulil amri</i> di antara kamu.
7	39	55	An-Nisa': 58	Pendapat yang lebih jelas menurut pendapatku, ialah pendapat ulama yang mengatakan, bahwa ayat ini adalah suatu kitab Allah yang dihadapkan kepada para penguasa yang mengharuskan mereka menunaikan amanah kepada orang-orang yang mereka perintahkan dan apa yang

				dijabatkan kepadanya dengan adil, dan membagi sama rata
8	45	65	Al-Nur : 27	Hai orang-orang yang beriman, janganlah kamu memasuki rumah yang bukan rumah mu sebelum meminta izin dan memberi salam kepada penghuninya. Yang demikian itu lebih baik bagi mu, agar kamu (selalu) ingat.



STATE ISLAMIC UNIVERSITY  
**SUNAN KALIJAGA**  
 YOGYAKARTA

## **Constitution of the Republic of Korea**

[Enforcement July 17, 1948] [Constitution No. 1, July 17, 1948, enactment]

[Ministry of Justice \( Office of Justice \)](#) , 02-2110-3730, 3166, 3799

### **specialty**

Our Korean people, who are shining in eternal history and tradition, established the Republic of Korea with the Kim Tri-Trail Movement, inherited the great spirit of independence that was proclaimed to the world, and now solidified the unity of nations with justice and compatriots in rebuilding democratic independence. Equalize opportunities for each person in all areas of politics, economy, society, and culture, achieve their abilities to the highest level, and fulfill their responsibilities and obligations in order to equally improve national life. In the parliament, composed of our political parties and freely elected representatives, we decided to secure forever the safety, freedom, and happiness of us and our descendants forever by striving to maintain lasting international peace. The 12th Constitution is enacted.

#### **Chapter 1 General Lecture**

**Article 1** The Republic of Korea is a democratic republic.

**Article 2** The sovereignty of the Republic of Korea belongs to the people and all power comes from them.

**Article 3** The requirements for citizenship of the Republic of Korea shall be determined by law

**Article 4** The territory of the Republic of Korea shall be the Korean Peninsula and its accompanying books.

**Article 5** The Republic of Korea is obliged to respect and guarantee the freedom, equality and creativity of each person in all areas of politics, economy, society and culture, and to protect and coordinate them for the improvement of public welfare.

**Article 6** The Republic of Korea denies all invasive wars. The Armed Forces are tasked with fulfilling the sacred duties of homeland defines.

**Article 7** International treaties not ratified and generally accepted international law shall have the same effect as domestic law.

The legal status of foreigners is guaranteed within the scope of international law and international treaties.

#### **Chapter 2 rights obligations of the people**

**Article 8** All citizens shall be equal before the law and shall not be discriminated in any area of political, economic or social life by gender, faith or social status. The social special class system is not recognized at all and cannot be created in any form. The bestowal of medals and other shrines is limited only to the honor of the recipient and no privilege is created.

**Article 9** All citizens shall be free. Except as required by law, they shall not be arrested, detained, searched, questioned, punished or subjected to forced labor. Arrest, detention, and search must have a warrant of the judge. However, when there is a concern that the current offender of the offense may be fled or the evidence may be destroyed, the investigating agency may request for the warrant to be issued after the death of the law. When anyone is arrested and detained, the right to immediate assistance of the attorney and to the court for a case review is assured.

**Article 10** All citizens shall not be restricted from freedom of residence and transfer and shall not be invaded or searched for by residence, except under law.

**Article 11** All citizens shall not be infringed upon the confidentiality of communications except by law.

**Article 12** All citizens shall have freedom of faith and conscience. There is no state religion and religion is separated from politics.

**Article 13** All citizens shall not be restricted from freedom of speech, the press, assembly, and association except by law.

**Article 14** All citizens shall enjoy freedom of learning and the arts. The rights of authors, inventors and artists are protected by law.

**Article 15** Property rights are guaranteed. Its content and limitations shall be determined by law. The exercise of property rights shall be appropriate to public welfare. Acceptance, use or limitation of the property rights of citizens by public need is done by paying substantial compensation as prescribed by law.

**Article 16** Everyone has the right to an equal education. At least primary education is compulsory and free. All institutions are supervised by the state and the education system is regulated by law.

**Article 17** Everyone has the right and duty of work. The criteria for working conditions shall be determined by law.

Work of women and boys is given special protection.

**Article 18** Workers' freedom of association, collective bargaining and collective action shall be guaranteed within the scope of the law. In commercial enterprises for profit, workers have a right to equal distribution of profits as required by law.

**Article 19** Those who are unable to maintain their living due to old age, sickness or loss of labor shall be protected by the State as provided for by law.

**Article 20** Marriage is based on gender equality, and the purity of marriage and the health of the family are specially protected by the State.

**Article 21** All citizens shall have the right to petition each country in writing. The State shall be obliged to examine the petition.

**Article 22** Everyone has the right to a trial by law by a judge appointed by law.

**Article 23** All citizens shall not be prosecuted for acts which do not constitute a crime under the laws of the act and shall not be punished twice for the same offense.

**Article 24** A criminal defendant shall have the right to a public trial without delay, unless there is a good reason. When a person detained as a criminal defendant is found not guilty, he may claim compensation against the State as prescribed by law.

**Article 25** All citizens shall have the right to elect public officials as provided for by law.

**Article 26** Everyone has the right to affairs in accordance with the provisions of law.

**Article 27** Government officials are the officers of the sovereign people and are responsible to them at any time. Citizens have the right to petition for the dismissal of an official who has committed tort. A person who has been injured for the official tort of a public official may claim damages against the state or a public body. However, civil and criminal liability of public officials is not exempt.

**Article 28** All freedoms and rights of citizens shall not be disregarded for reasons not listed in the Constitution. The enactment of laws restricting the freedom and rights of the people shall only be necessary for the maintenance of order and the public welfare.

**Article 29** All citizens shall be obliged to pay taxes as provided for by law.

**Article 30** All citizens shall be obliged to defend their homeland as prescribed by law.

### **Chapter 3 National Assembly**

**Article 31** Legislative powers shall be exercised by the National Assembly.

**Article 32.** The National Assembly shall normally be organized as a member elected by direct, equal and secret election. Matters concerning the election of members of the National Assembly shall be determined by law.

**Article 33** The term of office of members of the National Assembly shall be four years

**Article 34** The regular session of the National Assembly shall meet once a year on December 20. If the day is a public holiday, the meeting shall be held on the following day

**Article 35** If necessary, the Chairman shall, at the request of at least one-quarter of the members of the National Assembly or the National Assembly, announce the assembly of the extraordinary meeting of the National Assembly. The National Assembly shall, without delay, of the Assembly, without delay, when there is a reason for the election of the President or Vice-President during the closing of the National Assembly.

**Article 36** The National Assembly shall elect one Chairman and two Vice-Chairmen.

**Article 37.** The National Assembly shall vote by a majority of the members present and majority of the members present unless the Constitution or the National Assembly Act provide otherwise. The chairman has the right to vote in voting, and in case of a tie vote, he shall have the right to vote.

**Article 38.** Meetings of the National Assembly shall be open to the public. However, it may be secreted by resolution of the National Assembly.

**Article 39.** Members of the Diet and the Government may submit legislation.

**Article 40** The legislation decided by the National Assembly **shall** be transferred to the Government and promulgated by the President within 15 days. If there is any objection, however, the President shall issue a written objection and return it to the National Assembly. If, as a result of the re-decision, the same resolution as before was given in favor of more than two-thirds of the members of the National Assembly and two-thirds of the members present, the bill shall be decided by law. Even if a bill is not promulgated or returned within fifteen days after it is transferred to the Government, the bill shall be finalized by law. The President shall promulgate without delay the law established by this Article. The law shall enter into force 20 days after the date of promulgation unless otherwise provided.

**Article 41** The National Assembly considers and decides a budget proposal

**Article 42** The National Assembly shall have the right to consent to the ratification and declaration of propaganda of treaties concerning international organizations, treaties on mutual assistance, treaties of reinforcement, trade treaties, treaties which burden the State or its people, and treaties on legislative matters.

**Article 43** The National Assembly shall submit the necessary documents for auditing the affairs and may require the witness's attendance and testimony or statement of opinion.

**Article 44** The Prime Minister, members of the State Council and members of the Government may attend the National Assembly, state their views and respond to questions, and shall be present and answered at the request of the National Assembly.

**Article 45.** The National Assembly may examine the qualifications of members, establish rules concerning intentions and determine the punishment of members. The expulsion of a member shall require a minimum of two-thirds of the members present.

**Article 46** The National Assembly may decide to prosecute impeachment when it violates the Constitution or laws regarding the performance of its duties by the President, Vice-President, Prime Minister, State Council Member, Chief of Justice, Judge, and other public officials as prescribed by law. The motion of impeachment of the National Assembly must have a record of 50 or more members.

**Article 47** The Impeachment Court shall be established by law to judge impeachment cases. In the impeachment court, the vice president serves as the presiding judge, and five judges and five lawmakers are judges. The Chief Justice, however, shall serve as presiding judge in the judgment of the President and Vice-President. Impeachment must be approved by at least two-thirds of the judges. Impeachment is only a release from office. However, this does not excuse civil or criminal liability.

**Article 48** Members of the National Assembly may not serve as members of the local council.

**Article 49** Members of the National Assembly shall not be arrested or detained without the consent of the National Assembly during the session except for the current offense,



and shall be released during the session if they are arrested or detained before the session.

**Article 50** Members of the National Assembly shall not be liable to the outside for opinions and votes published by the National Assembly.

#### **Chapter 4. Government**

##### **Section 1 President**

**Article 51** The President is the head of the executive power and represents the State to foreign countries.

**Article 52** If the President is unable to carry out his duties due to an accident, the Vice-President will act for him. If neither the President nor the Vice President can perform his duties due to an accident, the Prime Minister shall act for him.

**Article 53** The President and the Vice-President shall each vote in the Parliament by anonymous vote. The election of the preceding paragraph shall be decided by the attendance of at least two-thirds of the members of the council and by a two-thirds vote of the members present. However, if there are no more than two thirds votes, a second vote shall be made. If there are no more than two-thirds of the votes in the second ballot, the final two votes shall be taken to the winner.

The president and vice president cannot serve as prime ministers or members of parliament.

**Article 54** The President, taking office, takes the oath of the left in parliament.

“ I solemnly swear to the people that they will abide by the Constitution, promote the welfare of the people, and faithfully perform the duties of the President in order to protect the country. ”

**Article 55** The term of office of the President and Vice-President shall be four years. However, it may be the primary due to re-election. The Vice-President will serve during the presidency.

**Article 56** When the term of office of the President and the Vice-President expires, the successor shall be elected no later than 30 days before the term of office expires.

If a President or Vice-President is vacant, he shall immediately elect a successor.

**Article 57** When there is a need to take urgent steps to maintain public well-being in the face of internal storms, foreign exchange, genius, financial disturbances or significant financial or economic crises, the President shall not be allowed to wait for the assembly of the National Assembly. It may issue an order with the effect of or make a financially necessary disposition. The order or disposition of the preceding paragraph shall be promptly reported to the National Assembly for approval. If it is not approved, it shall cease to be effective and the President shall proclaim the car without delay.

**Article 58** The President may issue orders in respect of matters authorized for the purpose of enforcing the law by setting a certain scope in the law.

**Article 59** The President concludes and ratifies treaties, declares and strengthens war, and accepts diplomatic envoys.

**Article 60** The President shall appear at the National Assembly and speak or express his opinions in letters concerning important affairs.

**Article 61** The President shall pass over the Armed Forces. The organization and organization of the Armed Forces shall be determined by law.

**Article 62** The President appoints public officials as prescribed by the Constitution and law.

**Article 63** The President orders amnesty, commutation, and lottery as prescribed by law. The pardon must be approved by the National Assembly.

**Article 64** The President shall declare martial law as provided for by law.

**Article 65** The President confers medals and other honors.

**Article 66** The conduct of the President of the State shall be in writing and all documents shall include the departments of the Prime Minister and the relevant State Council members. The same is true of the military.

**Article 67** The President shall not be subject to criminal prosecution during his service, except when he is guilty of civil war or foreign currency.

#### **Section 2 State Council**

**Article 68** The State Council is an agreement organized by the President, the Prime Minister, and other members of the State, and shall vote for important national policies under the power of the President.

**Article 69** The Prime Minister shall be appointed by the President and approved by the National Assembly. After the parliamentary election, the new parliament shall be re-approved for the appointment of the prime minister.

The Council of Ministers is appointed by the President.

The total number of members of the State Council shall be from 8 to 15, in total.

A soldier may not be appointed prime minister or commissioner unless he or she has been discharged from active duty.

**Article 70** The President shall be the Chairman of the Council of State.

The Prime Minister assists the President and becomes the Vice-Chairman of the Council.

**Article 71** The decisions of the State Council shall be taken by a majority.

The chairman has the right to vote in voting, and in case of a tie vote, he shall have the right to vote.

**Article 72** The matters of the seat shall be subject to resolution of the State Council.

1. Basic Plan and Policy of Government
2. Matters concerning treaties, propaganda, reinforcement and other important foreign policies;
3. Amendments to the Constitution, Legislation, and Presidential Decree

4. Matters concerning budget proposals, settlement statements, financial emergency disposal proposals, and preliminary expenses
5. Matters concerning the demand for assembly of the extraordinary parliament;
6. martial law
7. Important matters concerning the military
8. Matters concerning awarding, pardon, commutation, lottery
9. Determination of communications and powers between administrations
10. Examination of petitions submitted or referred to the government
11. Matters concerning the appointment of officials of the Supreme Court, Attorney General, Chief of Academic Affairs, Director of National Academic Affairs, President of the National University, Ambassadors, Corporations, Commander-in-Chief of the Armed Forces, Chief of Staff of the Armed Forces, and other officials designated by law and managers of important state-owned enterprises.
12. Matters concerning the establishment and operation of important policies of each administration;
13. Other matters submitted by the Prime Minister or Council Member

### **Section 3 Administration**

**Article 73.** The Minister of Government is appointed by the President from among the members of the State Council.

The Prime Minister takes over the name of the president and supervises the ministers of administrative affairs.

**Article 74** The Prime Minister or Minister of Administrative Affairs may issue prime ministerial orders or decrees by virtue of special authority or special mandate in respect of his or her duties.

**Article 75** The organization and scope of work of each department shall be determined by law.

### **Chapter V Court**

**Article 76** Jurisdiction is exercised by a court organized as a judge.

The organization of the Supreme Court and the Lower Court, the highest court, shall be determined by law.

The qualifications of judges are determined by law.

**Article 77** Judges shall judge independently by the Constitution and by law.

**Article 78.** The judge, who is the Chief Justice of the Supreme Court, shall be appointed by the President and approved by the National Assembly.

**Article 79** The term of office of judges shall be ten years, and they may be reappointed as prescribed by law.

**Article 80** Judges shall not be discharged, suspended, or imprisoned except by impeachment, punishment or disciplinary action.

**Article 81** The Supreme Court has the power to finally examine whether orders, rules and dispositions violate the Constitution and laws, as prescribed by law.

When a law violates the Constitution becomes a premise of a trial, the court shall make a request to the Constitutional Committee and try by its decision.

The Constitutional Committee shall be the chairman of the Vice-President and shall consist of five members of the Supreme Court Justice and five members of the National Assembly.

The unconstitutional decision of the Constitutional Council shall require a two-thirds majority of the members.

The organization and procedures of the Constitutional Committee shall be determined by law.

**Article 82** The Supreme Court may establish rules relating to the internal rules and affairs of the courts.

**Article 83** The trial and judgment of the trial shall be made public. However, when there is a fear of disturbing the well-being or the customs of the public, it may be closed by the court's decision.

#### **Chapter 6 economy**

**Article 84** The economic order of the Republic of Korea is based on the realization of social justice and the development of a balanced national economy that enable all citizens to meet the basic needs of life. Each person's economic freedom is guaranteed within this limit.

**Article 85** Minerals Other important underground resources, fisheries resources, natural forces available for hydropower and economics shall be state-owned. Patenting or revoking the development or use of the patent for a certain period of time, subject to public necessity, shall be determined by law.

**Article 86** Farmland is distributed to farmers, and the method of distribution, the limits of ownership, the content and limits of ownership are prescribed by law.

**Article 87** Enterprises with significant transport, telecommunications, finance, insurance, electricity, repair, water, gas and public properties shall be state or public. Patenting or revoking a project by public necessity shall be as prescribed by law. Foreign trade is left under state control.

**Article 88** The transfer of private enterprises to state-owned or shared shares, or the control and management of their management under the urgent need of national defense or national life, shall be done by law.

**Article 89** (3) and Article 15 (3) shall apply mutatis mutandis to revoke a patent or to accept, use, or restrict a right pursuant to **Articles 85 to 88**.

#### **Chapter 7 finance**

**Article 90** The items and tax rates of taxes shall be determined by law.

**Article 91** The Government shall organize the gross revenues and expenditures of the State into the budget for each fiscal year and submit them to the National Assembly at the beginning of each regular session of the National Assembly for resolution.

In particular, when there is a need for continuing expenditure, a period of time shall be determined to obtain the resolution of the National Assembly for the continuing expenses.

The National Assembly shall not increase the amount of each budget submitted by the government or establish a mystery tree without the consent of the government.

**Article 92** The recruitment of government bonds or contracts that will be borne by the State other than the budget shall be subject to resolution of the National Assembly.

**Article 93** Reserves to cover unforeseen expenditures or out-of-budget expenditures must be approved in advance by the National Assembly.

The expenditure of the reserve shall be approved by the next Congress.

**Article 94** The National Assembly shall decide the budget until the beginning of the fiscal year. If the budget is not resolved due to unavoidable reasons, the National Assembly shall decide the provisional budget within one month and shall budget the budget within that period.

**Article 95.** The settlement of income expenditure by the State shall be examined annually by the Shim Garden.

The government shall submit the settlement of accounts to the next year's National Assembly, together with the inspection report of the guard.

The organization and powers of the members are determined by law.

#### **Chapter 8 local autonomy**

**Article 96** Local governments shall, within the scope of the laws and regulations, manage the administrative affairs concerning their autonomy and the administrative affairs delegated by the State and manage their property.

Local governments may enact regulations on self-government within the scope of legislation.

**Article 97** Matters concerning the organization and operation of local governments shall be prescribed by law.

Local governments each have a council.

The organization, powers and election of members of the local council shall be determined by law.

#### **Chapter 9 Amendment to the Constitution**

**Article 98** The proposal for amendment to the Constitution shall be made by appointing one-third of the members of the President or National Assembly.

The proposal of the Constitutional Amendment shall be announced by the President.

The notice period in the preceding paragraph shall be at least 30 days.

The constitutional amendment shall be taken by a two-thirds majority of the members of the parliament.

The President shall promulgate immediately when a constitutional amendment is decided.

#### **Chapter 10 Supplementary Provisions**

**Article 99** This Constitution shall enter into force on the date promulgated by the Chairman of the National Assembly that enacted it. However, provisions that cannot be realized without the enactment of the law shall enter into force when the law becomes effective.

**Article 100** The present legislation shall remain in force unless inconsistent with this Constitution.

**Article 101.** The National Assembly, which enacted this Constitution, may enact special laws that punish vicious anti-ethnic conduct before August 15, 4278.

**Article 102.** The National Assembly that has enacted this Constitution shall exercise its power as a National Assembly under this Constitution and its term of office shall be two years from the date of its opening.

**Article 103** The officials who hold office during the implementation of this Constitution shall continue to perform their duties until the election or appointment of those appointed under this Constitution takes over.

ADDENDUM (Constitution 1, July 17, 1948) 부칙 (접기)

The Speaker of the Republic of Korea shall hereby publish the Constitution of the Republic of Korea established by the National Assembly of the Republic of Korea.

Short term July 17, 4281  
President Syngman Rhee

STATE ISLAMIC UNIVERSITY  
SUNAN KALIJAGA  
YOGYAKARTA

## ACT ON THE PREVENTION OF CORRUPTION AND THE ESTABLISHMENT AND MANAGEMENT OF THE ANTI-CORRUPTION AND CIVIL RIGHTS COMMISSION

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Act No. 8878, Feb. 29, 2008 Amended by Act  
No. 9342, Jan. 7, 2009 Act No. 9402, Feb. 3,  
2009 Act No. 9968, Jan. 25, 2010 Act No.  
11327, Feb. 17, 2012 Act No. 11690, Mar. 23,  
2013 Act No. 12717, May 28, 2014 Act No.  
12844, Nov. 19, 2014 Act No. 14145, Mar. 29,  
2016 Act No. 14609, Mar. 21, 2017 Act No.  
15024, Oct. 31, 2017

### CHAPTER I GENERAL PROVISIONS

#### Article 1 (Purpose)

The purpose of this Act is to improve unreasonable administrative systems pertaining to the processing of civil petitions for grievances, prevent corruption and effectively regulate acts of corruption by establishing the Anti-Corruption and Civil Rights Commission so as to protect the basic rights and interests of the people, ensure appropriate public service and serve to create a clean climate in the civil service sector and in society.

#### Article 2 (Definitions)

The terms used in this Act are defined as follows: <Amended by Act No. 9402, Feb. 3, 2009; Act No. 14145, Mar. 29, 2016; Act No. 15024, Apr. 18, 2017>

1. The term "public institution" means any of the following institutions and organizations: *Provided*, That an institution and organization falling under item (e) shall be deemed a public institution only when Chapter V is applicable:
  - (a) The administrative agencies at various levels under the Government Organization Act and the executive organs and local councils of local governments under the Local Autonomy Act;
  - (b) The Superintendents of the Offices of Education, the district offices of education, and the boards of education under the Local Education Autonomy Act;
  - (c) The National Assembly under the National Assembly Act, the courts at various levels under the Court Organization Act, the Constitutional Court under the Constitutional Court Act, the election commissions at various levels under the Election

Commission Act, and the Board of Audit and Inspection under the Board of Audit and Inspection Act;

(d) Public service-related organizations under Article 3-2 of the Public Service Ethics Act;

(e) Private schools of each level established under the Elementary and Secondary Education Act, the Higher Education Act, the Early Childhood Education Act, or any other Act or subordinate statute; and educational foundations established under the Private School Act which receive contributions or subsidies from the state or local governments.

2. The term "administrative agency, etc." means a central administrative agency, local government, institution under Article 4 of the Act on the Management of Public Institutions, and a corporation and organization having, or having been commissioned or entrusted with, the authority of the administrative agencies under statutes, or such institution or individual;

3. The term "public official" means any of the following persons: *Provided*, That a person falling under item (c) shall be deemed a public official only when Chapter V is applicable:

(a) A public official under the State Public Officials Act and the Local Public Officials Act, and any other person who is recognized by other Acts as a public official in terms of qualifications, appointments, education and training, services, remuneration, guarantees of status, etc.;

(b) The head of an organization related to the civil service provided for in subparagraph 1 (d) and an employee of such organization;

(c) The head and faculty members of private schools of each level, and executive officers and employees of school foundations, provided for in subparagraph 1 (e).

4. The term "act of corruption" means any of the following acts:

(a) The act of any public official's abusing his/her position or authority or violating statutes in connection with his/her duties to seek gains for himself/herself or any third party;

(b) The act of inflicting damages on the property of any public institution in violation of statutes, in the process of executing the budget of the relevant public institution, acquiring, managing, or disposing of the property of the relevant public institution, or entering into and executing a contract to which the relevant public institution is a party;

(c) The act of coercing, urging, proposing and inducing any act referred to in items (a) and (b) or act of covering it up.

5. The term "civil petition for grievance" means a civil petition for the redress of a grievance pertaining to matters that infringe the rights of the people, or give any inconvenience or burden to people, due to unlawful, unreasonable, or passive disposition (including factual act and omission) of an administrative agency, etc. or



the irrational administrative system (including grievance petitions of active-duty soldiers and persons serving mandatory military service);

6. The term "petitioner" means a person, corporation, or organization that files a civil petition for grievance with the Anti-Corruption and Civil Rights Commission or the Local Ombudsman under this Act;

7. The term "civil society organization" means a non-profit, non-governmental organization registered with the competent Minister or a Mayor/Do Governor under Article 4 of the Assistance for Non-Profit, Non-Governmental Organizations Act;

8. The term "Local Ombudsman" means an institution established under Article 32 for the redress of civil petition for grievances with respect to a local government and an agency thereof (including any corporation or organization that is commissioned or entrusted with the authority of a local government or an agency thereof pursuant to statutes, or such institution or individual; hereinafter the same shall apply) as well as improvement of related systems.

#### **Article 3 (Responsibilities of Public Institutions)**

A public institution shall assume the responsibility to strive to prevent corruption to create sound social ethics.

(1) Where a public institution deems it necessary to eliminate legal, institutional, or administrative inconsistencies or to improve other matters for the prevention of

#### **Article 4 (Responsibilities of Political Parties)**

(1) A political party that is registered in accordance with the Political Parties Act and a member affiliated therewith shall endeavor to create a clean and transparent culture of politics.

(2) A political party and a member affiliated therewith shall ensure that the right election culture is proliferated and shall operate the party and raise and spend political funds in a transparent manner.

#### **Article 5 (Duties of Enterprises)**

An enterprise shall establish a sound trade order as well as business ethics and take necessary measures to prevent any corruption.

#### **Article 6 (Duties of Citizens)**

Every citizen shall fully cooperate with policy measures taken by public institutions to prevent corruption.

#### **Article 7 (Public Official's Obligation of Integrity)**

A public official shall abide by statutes, perform his/her duties fairly and hospitably, and refrain from committing any act of corrupting himself/herself or losing his/her dignity.

#### **Article 7-2 (Prohibition against Using Confidential Information)**

No public official shall use any confidential information learned while conducting his/her duties to obtain, or to have a third party obtain, goods or property gains.

*[This Article Newly Inserted by Act No. 9342, Jan. 7, 2009]*

#### **Article 8 (Code of Conduct for Public Officials)**

(1) The code of conduct that public officials must observe in accordance with Article 7 shall be prescribed by Presidential Decree, the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the internal regulations of the public service-related organizations.

(2) The code of conduct for public officials referred to in paragraph (1) shall prescribe the following matters:

1. Matters concerning the prohibition and limitation of any public official's receiving entertainment, money, goods, etc. from any person related to his/her duties;
2. Matters concerning the prohibition and limitation of any public official's intervening in personnel affairs, influence paddling, doing good offices, or soliciting another person for his/her good offices, taking advantage of his position;
3. Matters that public officials need to observe in order to create a sound climate of the civil service, such as a fair personnel affairs;

4. Other matters necessary to prevent corruption and maintain the integrity and dignity of public officials when they perform their duties. If any public official violates the code of conduct for public officials (3) referred to in paragraph (1), a disciplinary action may be taken against him/her. Kinds, procedures, effect, etc. of disciplinary actions referred to in paragraph (3) shall be governed by statutes or the internal regulations that prescribe matters concerning the disciplinary actions of administrative agencies or organizations to which the relevant public officials belong.

**Article 9 (Guarantee of Livelihood for Public Officials)**

The State and local governments shall endeavor to guarantee the livelihood of public officials in order for them to devote themselves to the civil service and shall take necessary measures to improve their remuneration and treatments.

**Article 10 (Request for Cooperation to Civil Rights Remedy Agencies)**

The Anti-Corruption and Civil Rights Commission or the Local Ombudsman may, when it is deemed necessary for performing its duties, request cooperation from administrative agencies, such as the National Human Rights Commission, or corporations or organizations that aim to remedy any violation of civil rights in accordance with the law, or improve statutes and systems for enhancement of social justice and public interests.

**CHAPTER II ANTI-CORRUPTION AND CIVIL RIGHTS COMMISSION**

**Article 11 (Establishment of Anti-Corruption and Civil Rights Commission)**

The Anti-Corruption and Civil Rights Commission (hereinafter referred to as the "Commission") shall be established under the Prime Minister to improve unreasonable administrative systems pertaining to the processing of civil petitions for grievances, prevent corruption and effectively regulate acts of corruption.

**Article 12 (Functions)**

The Commission shall perform the following duties: <Amended by Act No. 9968, Jan. 25, 2010>

1. Establishing and implementing policies for protection of the rights of people, remedy of violated rights, and prevention of corruption;
2. Examining and processing civil petitions for grievances and recommending rectification or expressing opinions related thereto;
3. Making recommendations or expressing opinions when it is deemed necessary to improve an administrative system that may result in a civil petition for grievances and the operation of such system;
4. Investigating and evaluating the results of processing civil petitions for grievances by the Commission and improvement of administrative systems;
5. Establishing and recommending policy measures to prevent corruption in public institutions and matters concerning institutional improvements, and investigating the actual status of the public institutions for such establishment and recommendation;
6. Investigating the actual status and evaluating the progress of the policy measures taken by public institutions to prevent corruption;
7. Establishing and implementing a plan for education and publicity for the prevention of corruption and remedy of violated rights;
8. Cooperating with and supporting individuals, corporations, or organizations related to the activities of the Commission, including supporting anti-corruption activities conducted by nonprofit, non-governmental organizations;
9. Promoting international cooperation in connection with the activities of the Commission;
10. Providing information and consultation about, as well as receiving, reports with respect to acts of corruption;
11. Protecting and recompensing a persons who files reports;
12. Examining statutes, etc. that could be abused as factors causing corruption;
13. Collecting, managing, and analyzing materials pertaining to prevention of corruption and remedy of violated rights;
14. Implementing and operating the code of conduct for public officials, receiving and processing reports on violations of it, and protecting persons who file such reports;
15. Providing information and consultation about civil petitions, ascertaining the actual status of the processing of civil petitions, and providing guidance on such processing;
16. Operating online civil participant portals in an integrated manner and installing and operating government call centers for civil petitions;
17. Providing cooperation, support, and education with respect to the activities of the Local Ombudsman;

18. Mediating and coordinating conflicts involving multiple parties, and surveying and processing corporate petitions for grievances in order to redress hardships of enterprises;
19. Matters concerning the management of the Central Administrative Appeals Commission referred to in the Administrative Appeals Act;
20. Matters under the jurisdiction of the Commission as provided for by other statutes;
21. Other matters that the Prime Minister submits to the Commission to enhance the rights and interests of the people.

**Article 13 (Composition of Commission)**

(1) The Commission shall be comprised of 15 members (including three vice-chairpersons and three standing members), including one chairperson. In such cases, each of the vice-chairpersons shall assist the chairperson by taking charge of civil petitions for grievances, anti-corruption, and the management of the Central Administrative Appeals Commission, respectively: Provided, That matters concerning the composition of the Central Administrative Appeals Commission shall be governed by the provisions of the Administrative Appeals Act. *<Amended by Act No. 9968, Jan. 25, 2010>*

The chairperson, vice-chairpersons, and members shall be persons acknowledged as capable of conducting duties related to civil petitions for grievances and anti-corruption fairly and independently and shall be appointed or commissioned from among any of the following persons

1. A person who holds or has held a professorship or higher associate position, or other position equivalent there to, for at least eight years at a university or authorized research institution;
2. A person who serves, or has served as a judge, prosecutor, attorney for at least ten years;
3. A person who serves, or has served, as a public official of Grade III or higher, or a public official who belongs, or has belonged, to the Senior Civil Service;
4. A person who has the qualification of certified architect, tax accountant, certified public accountant, technician, or patent attorney and has or had been engaged, in such job field for at least ten years;
5. A person commissioned as a member of the Local Ombudsman pursuant to Article 33 (1) and has served for at least four years;
6. A person who is well respected in society with profound knowledge and experience in public administration and who is recommended by a civic organization.

(3) The chairperson and vice-chairpersons shall be appointed by the President upon recommendation of the Prime Minister, and the standing members shall be appointed by the President upon recommendation of the chairperson, and non-standing members shall be appointed or commissioned by the President. In such cases, three non-standing members shall be appointed or commissioned upon recommendation of the National

Assembly and another three non-standing members, upon recommendation of the Chief Justice of the Supreme Court.

*<Amended by Act No. 11327, Feb. 17, 2012>*

- (4) The chairperson and vice-chairpersons shall be appointed from among officials in political service, and the standing members shall be appointed from among public officials in general service belonging to the Senior Civil Service Corps who are also public officials in a fixed-term position under Article 26-5 of the State Public Officials Act. *<Amended by Act No. 12717, May 28, 2014>*
- (5) If the post of any member becomes vacant, a new member shall be appointed or commissioned without delay. In such cases, the term of office of the newly appointed or commissioned member shall begin anew.

**Article 14 (Chairperson)**

- (1) The chairperson shall represent the Commission.
- (2) When the chairperson is unable to perform his/her duties due to unavoidable reasons, a vice-chairperson designated by the chairperson shall act on his/her behalf.

**Article 15 (Grounds for Disqualification of Members)**

- (1) Any of the following persons shall not be qualified as a member:
1. A person who is not a citizen of the Republic of Korea;
  2. A person who falls under any subparagraph of Article 33 of the State Public Officials Act;
  3. A person who is affiliated with a political party as a member;
  4. A person who is registered as a candidate to run in an election held in accordance with the Public Official Election Act.
- (2) Each member shall, when falling under any subparagraph of paragraph (1), rightly resign from office.

**Article 16 (Independence of Work and Guarantee of Position)**

- (1) The Commission shall independently perform the duties within its authority.
- (2) The terms of office for the chairperson and the members shall each be three years and they may be reappointed or recommissioned only once.
- (3) No member shall be dismissed or de-commissioned against his/her will except in any of the following cases:
1. Where he/she falls under any subparagraph of Article 15 (1);
  2. Where he/she has significant difficulty in performing his/her duties on the grounds of mental or physical trouble;
  3. Where he/she violates the prohibition against holding concurrent offices as provided for in Article 17.
- (4) Where a member falls under paragraph (3) 2, the President or the Prime Minister shall dismiss or decommission such member upon recommendation of the chairperson after a resolution thereof with the consent of at least 2/3 of the total members.

**Article 17 (Prohibition against Holding Concurrent Offices)**

Any member may not concurrently hold the following positions during his/her term of office:

1. A member of the National Assembly or a local council;  
An executive officer or employee of an administrative agency, etc. and any individual, corporation or organization having a special interest as provided for by Presidential Decree.

#### **Article 18 (Exclusion, Recusal and Refrainment of Members)**

- (1) Any member who falls under any of the following cases shall be excluded from the Commissions's deliberation and resolution:
  1. Where a member or his/her current or former spouse is a party, joint right holder, or joint obligor with respect to the relevant matter;
  2. Where a member is or was a relative of the petitioner for the relevant matter;
  3. Where a member conducted testimony, appraisal, legal counsel or damage assessment with respect to the relevant matter;
  4. Where a member has participated in an audit, investigation or research with respect to the relevant matter before he/she becomes a member;
  5. Where a member is or was involved in the relevant matter as an agent of the petitioner.
- (2) Where a party having an interest in the deliberation and resolution of the Commission has a ground to believe that he/she can hardly expect impartiality from a member, the party may make an application for recusal of the member.
- (3) If a member finds that he/she is subject exclusion or recusal on the ground referred to in paragraph (1) or (2), he/she may voluntarily refrain from the deliberation on and resolution of the relevant matter.

#### **Article 19 (Resolution of Commission)**

- (1) A meeting of the Commission shall be convened with the attendance of a majority of registered members and shall pass resolutions with the approval of a majority of the members present: Provided, That the matters prescribed in Article 20 (1) 4 shall be decided with the approval of a majority of registered
- (2) Member who fails to participate in the deliberation and resolution pursuant article 18 shall be counted in the number of registered members to other matters necessary for the duties and management of the commission shall provided by Presidential decree.

#### **Article 20 (Subcommittees)**

The Commission may establish a subcommittee consisting of three members in order to have it deliberate and make decisions on matters that do not fall under any of the following subparagraphs with respect to processing civil petitions for grievances (hereinafter referred to as "subcommittee"):

1. Matters provided for by Presidential Decree, including cases related to the interests of multiple persons among the matters of which rectification is recommended pursuant to Article 46;
2. Matters of recommending institutional improvements pursuant to Article 47;
3. Matters concerning making decisions on requests for audit and inspection pursuant to Article 51;

4. Matters requiring change in precedent resolutions of the Commission;
5. Matters decided by a subcommittee to be handled directly by the Commission;
6. Other matters that the chairperson deems necessary to be dealt with by the Commission.

(2) A meeting of a subcommittee shall pass resolutions with the attendance of all members of the subcommittee and the approval of all members present.

(3) Other matters necessary for the duties and operation of subcommittees shall be provided for by Presidential Decree.

**Article 21 (Working Groups)**

The Commission may establish working groups for each field within it in order to perform its duties efficiently.

**Article 22 (Expert Members)**

(1) The chairperson may appoint experts from academia and social organizations and other experts in related fields as expert members of the Commission, if deemed necessary to efficiently support the Commission's duties and conduct specialized research and studies.

(2) The expert members prescribed in paragraph (1) shall be appointed or commissioned by the chairperson.

**Article 23 (Establishment of Secretariat)**

(1) The Commission shall establish a secretariat to deal with administrative affairs of the Commission.

(2) The secretariat shall have one secretary general, who is designated by the chairperson from among the vice-chairpersons to serve as the head of the secretariat concurrently, and the head of the secretariat shall take charge of dealing with administrative affairs of the Commission under the direction of the chairperson and supervise and direct the employees of the secretariat.

Except as otherwise provided for in this Act, matters necessary for the organization and operation of the secretariat shall be provided for by Presidential Decree.

**Article 24 (Advisory Organization)**

(1) The Commission may have an advisory organization to seek advice on matters necessary to perform its duties.

(2) The organization and operation of the advisory organization under paragraph (1) shall be provided for by Presidential Decree.

**Article 25 (Dispatch of Public Officials, etc.)**

Commission pursuant to paragraph (1), shall devise preferential measures for dispatched persons in personnel management, treatment, etc.

**Article 26 (Report, Publication, etc. of Operational Status)**

(1) The Commission shall report to the President and the National Assembly and publicly announce the operational status of the Commission with respect to civil petitions for grievances every year.

(2) When it is deemed necessary, the Commission may submit a special report to the President and the National Assembly in addition to the report under paragraph (1).

**Article 27 (Recommendation for Institutional Improvements)**

(1) The Commission may, if deemed necessary, recommend the heads of public institutions to make institutional improvements to prevent corruption.

(2) The head of a public institution shall, upon receipt of the recommendation on institutional improvements under paragraph (1), reflect such recommendation in its efforts to make the institutional improvements and inform the Commission of the result of the measures taken according to the recommendation. The Commission may confirm and inspect the actual status of improvement.

Where the head of a public institution who has been recommended to make institutional improvements under paragraph (1) finds it impracticable to take measures as recommended by the Commission, he/she shall ask the Commission to re-deliberate on the recommendation, and in such cases, the Commission shall do so.

**Article 27-2 (Investigation and Evaluation of Corruption of Public Institutions)**

(1) The Commission shall develop fair and objective evaluation indexes to quantitatively measure the corruption of public institutions.

(2) The Commission may conduct an investigation and evaluation of the corruption of public institutions by utilizing the evaluation indexes referred to paragraph

(1), and publish the results of such investigation and evaluation.

(3) The Commission may give necessary support such as consultation for the prevention of corruption on the basis of the results of an investigation and

evaluation referred to in paragraph (2). *[This Article Newly Inserted by Act No. 14145, Mar. 29, 2016]*

**Article 27-3 (Publication of Results of Investigation and Evaluation)**

(1) The head of a public institution undergoing an investigation and evaluation by the Commission pursuant to Article 27 (2) shall publish the results of such investigation and evaluation on its internet homepage.

(2) Matters necessary for publication of the results of an investigation and evaluation referred to in paragraph (1) shall be prescribed by Presidential

Decree. *[This Article Newly Inserted by Act No. 14145, Mar. 29, 2016]*

**Article 28 (Examination of Statutes, etc. that Could Be Abused as Factors Causing Corruption)**

(1) The Commission may analyze and examine the Acts, Presidential Decrees, Ordinances of the Prime Minister, Ordinances of the Ministries, and directives, rules, public notices, or publications made under delegation by the former, municipal ordinances and Rules, which could be all abused as factors causing corruption, and then may recommend the heads of competent institutions having jurisdiction over statutes, etc. to improve necessary matters.

(2) Matters necessary for the procedures and methods for examining the factors for inducing corruption referred to in paragraph (1) shall be prescribed by Presidential Decree.

**Article 29 (Hearing Opinions, etc.)**



(1) In performing the duties provided for in subparagraphs 5 through 14 of Article 12, the Commission may take any of the following measures, if necessary:

2. Requesting any public institution to provide explanations, materials, documents, etc., and conducting a survey of the actual status thereof; Requesting any interested person, reference witness, or public official involved to appear before the Commission and state his/her opinion.

(2) The Commission shall be prohibited from taking measures provided for in paragraph (1) with respect to any of the following matters:

1. Matters concerning the confidential information of the State;
2. Matters concerning the appropriateness of an investigation, trial, and execution of sentence (including any security measure, security surveillance measure, protective detention measure, probation measure, protective internment measure, custodial treatment measure, and community service order), or matters on which an audit and inspection has been launched by the Board of Audit and Inspection;
3. Matters brought for an administrative adjudication or litigation, an adjudication of the Constitutional Court, a constitutional petition, an examination request filed with the Board of Audit and Inspection, and other procedures for protest and remedy in progress under other Acts;
4. Matters concerning procedures for mediating interests among parties concerned, including reconciliation, good offices, mediation, and arbitration, in progress under statutes;
5. Matters made definite by a judgment, decision, adjudication, reconciliation, mediation, arbitration, etc. or other matters on which the Audit and Inspection Commission has resolved in accordance with the Board of Audit and Inspection Act.

(3) The measures referred to in each subparagraph of paragraph (1) shall be taken within the scope necessary for the Commission to perform its duties provided for in each subparagraph of Article 12 and attention shall be paid not to hamper the performance of duties by any public institution.

(4) The head of any public institution shall sincerely comply with the request for submission of materials and cooperate in surveying the actual status under paragraph (1), and where he/she fails to comply with the request or to cooperate, he/she shall clarify the reasons therefor.

(5) The head of any public institution may require officials under his/her jurisdiction or relevant experts to be present at the Commission to state their opinions or to submit relevant materials in connection with institutional improvements, etc.

#### **Article 30 (Confidentiality)**

The incumbent or former members, expert members, or employees of the Commission and any other person who is or has been seconded to the Commission or commissioned by the Commission to perform its duties shall be prohibited from divulging any confidential information that they have acquired while performing the duties of the Commission.

#### **Article 31 (Legal Fiction as Public Officials in Application of Penalty Provisions)**

Members and expert members of the Commission who are not public officials, and employees seconded shall be deemed public officials in the application of the Criminal Act and the penalty provisions of other Acts in connection with the Commission's duties.

### **CHAPTER III LOCAL OMBUDSMAN**

#### **Article 32 (Establishment of Local Ombudsman)**

(1) In order to process civil petitions for grievances and improve administrative systems, etc. with respect to local governments and institutions belonging thereto, each local government may set up and operate a Local Ombudsman.

(2) Each Local Ombudsman shall perform the following duties:

1. Investigating and processing civil petitions for grievances with respect to a local government and any institution belonging thereto;
2. Recommending rectification or expressing opinions in connection with civil petitions for grievances;
3. Making recommendation or expressing opinions on the improvement of the pertinent administrative systems and the operation thereof, if deemed necessary for the process of handling civil petitions for grievances;
4. Surveying and evaluating the actual status with respect to the results of civil petitions for grievances processed by the Local Ombudsman and the improvement of administrative systems;
5. Providing information and consultation about civil petitions and supporting the processing of civil petitions;
6. Providing education and conducting public relations with respect to the activities of the Local Ombudsman;
8. Interacting and cooperating with international organizations or foreign institutions for remedy of violated rights that are related to the activities of the Local Ombudsman; Providing cooperation and support to individuals, corporations, or organizations that are related to the activities of the Local Ombudsman;
9. Other matters entrusted to the Local Ombudsman under other statutes.

#### **Article 33 (Qualifications, etc. of Members of Local Ombudsman)**

(1) Members of the Local Ombudsman shall be those who are deemed to be capable of conducting the duties of processing civil petitions for grievances fairly and independently and shall be commissioned by the head of a local government from among any of the following persons with the consent of the local council:

1. A person who holds or has held an associate professorship or higher position, or other position equivalent thereto at a university or authorized research institution;
2. A person who serves, or has served, as a judge, prosecutor or attorney;
3. A person who serves, or has served, as a public official of Grade IV or higher;
4. A person who has the qualification of certified architect, tax accountant, certified public accountant, technician, or patent attorney and is involved or was involved, in such job field for at least five years;

5. A person who is well respected in society with profound knowledge and experience in public administration and who is recommended by a civic organization.

(2) The term of office of a member of each Local Ombudsman shall be four years and may not be extended nor renewed.

(3) Where the term of office of a member of each Local Ombudsman expires, or a post becomes vacant during the term of office, the head of a local government shall commission a successor within 30 days from the expiry date or the day when the post becomes vacant.

(4) The term of office of a new member of each Local Ombudsman who is commissioned to fill its vacant post shall begin anew.

**Article 34 (Financial Support)**

The head of the local government in which the Local Ombudsman has been established shall provide financial support necessary for the Local Ombudsman to perform its duties referred to in Article 32 (2).

**Article 35 (Application *Mutatis Mutandis* of Provisions on Commission)**

The provisions of Articles 15, 16 (3), 17, 18, 25 and 31 shall apply *mutatis mutandis* to the Local Ombudsman.

**Article 36 (Administrative Organization)**

(1) The head of a local government shall establish an administrative organization to support the affairs of the Local Ombudsman.

(2) The administrative organization shall have one head and other employees as needed.

**Article 37 (Report, Publication, etc. of Operational Status)**

(1) The Local Ombudsman shall report to the head of the local government and the local council and publicly announce the operational status of the Local Ombudsman every year. If deemed necessary, the Local Ombudsman may submit a special report to the head of the local government and the local council in addition to the report under paragraph (1).

**Article 38 (Structure and Operation of Local Ombudsman)**

Except the matters prescribed in this Act, matters necessary for the organization and operation of the Local Ombudsman shall be provided for by Municipal Ordinance issued by the local government concerned.

**CHAPTER IV PROCESSING CIVIL PETITIONS FOR GRIEVANCES**

**Article 39 (Filing and Receipt of Civil Petitions for Grievances)**

(1) Any person (including foreigners residing in the Republic of Korea) may file a civil petition for grievance with the Commission or the Local Ombudsman (hereafter referred to as "civil rights committee" in this Chapter). In such cases, any person who has filed a civil petition for grievance with a civil rights committee may also file a civil petition for grievance with another civil rights committee.

(2) Any person who intends to file a civil petition for grievance with a civil rights committee shall file such petition in writing (including electronic documents; hereinafter the same shall apply) stating each of the following matters: Provided, That

in extenuating circumstances wherein a document cannot be submitted, an oral statement may be presented in its stead:

2. 1. The name and address of the petitioner (the title, the location of the main office, and the name of the representative if the petitioner is a corporation or organization); The purport and reason of filing and the factual description of the cause inducing the civil petition for grievance;
3. Other matters provided for by Presidential Decree, including the title of the relevant administrative agencies.
- (3) Any petitioner may appoint any of the following persons as an agent in addition to his/her legal representative. In such cases, the qualification of the agent shall be clarified in writing:
  1. The spouse, lineal descendent or ascendant, or brother or sister of the petitioner;
  2. An executive officer or employee of the corporation which is the petitioner;
  3. An attorney-at-law;
  4. A person who can file a civil petition for grievance on behalf of the petitioner pursuant to the provisions of other Acts;
  5. A person who does not fall under above subparagraphs 1 through 4, but who has obtained permission from a civil rights committee.
- (4) No civil rights committee may withhold or refuse to accept a civil petition for grievance except when there are specific provisions in other statutes, nor it may return a civil petition for grievance that has been received without justifiable grounds: Provided, That when a civil rights committee withholds, refuses, or returns a civil petition for grievance, the reason therefor shall be notified to the petitioner without delay.

**Article 40 (Referral, etc. of Civil Petitions for Grievances)**

- (1) A civil rights committee may refer any of the civil petitions for grievances received to a relevant administrative agency, etc. if it is deemed reasonable for the administrative agency, etc. to process it. In such cases, the head of the relevant administrative agency, etc. that receives the referred civil petition for grievance shall notify the processing result thereof to the civil rights committee if requested by the civil rights committee. Under paragraph (1), notify the petitioner of such referral as well as the reasons thereof without delay. In such cases, the civil rights committee may, if deemed necessary, provide information about the procedures and measures necessary for a remedy of violated rights of the petitioner.
- (4) Where a person files the same civil petition for grievance with the Commission and the Local Ombudsman under Article 39 (1), they shall notify each other of such fact without delay. In such cases, each civil rights committee shall process the civil petition for grievance through mutual cooperation.

**Article 41 (Investigation of Civil Petitions for Grievances)**

(1) Upon receipt of a civil petition for grievance, a civil rights committee shall conduct necessary investigations into the details thereof without delay: Provided, That it may not conduct any investigation if the petition falls under any of the following subparagraphs:

1. A case falling under any subparagraph of Article 43 (1);
  2. A case where the details of the civil petition for grievance are deemed to be false or without justifiable grounds;
  3. A case deemed to be inappropriate for a civil rights committee to investigate, including cases that cannot be categorized as civil petitions for grievances.
- (2) Even after commencing an investigation, a civil rights committee may halt or suspend the investigation where it is deemed unnecessary to continue the investigation, including cases falling under any of the subparagraphs of paragraph (1).
- (3) Where a civil rights committee does not conduct an investigation into a civil petition received, or it halts or suspends such investigation, it shall notify the petitioner of the reasons therefor without delay.

#### **Article 42 (Method of Investigation)**

(1) A civil rights committee may take the following measures if they are deemed necessary to conduct investigations under Article 41:

1. Requesting any relevant administrative agency, etc. to provide explanations, pertinent materials, documents, etc.;
2. Requesting any employee of any relevant administrative agency, etc., petitioner, interested person, or reference witness to appear before the committee state his/her opinion;
3. Conducting an on-site investigation of the place, facilities, etc. that are deemed to be related to the investigation;

(2) A civil rights committee may process a civil petition for grievance that has been referred to the civil rights committee by the head of a relevant administrative agency, etc. on the ground that it is deemed reasonable for the civil rights committee to process it. In such cases, the civil petition for grievance referred shall be regarded as having been received by the civil rights committee as of the time of referral.

A civil rights committee shall, upon referring a civil petition for grievance institutions, prevents damage to such property, or enhances the public interest, the Commission may recommend that the relevant reporting person be granted a reward under the provisions of the Awards and Decorations Act and may grant a monetary reward, as prescribed by Presidential Decree.

- (2) If a reporting of an act of corruption under this Act has resulted directly in recovering or increasing revenues or cutting down costs of a public institution or the legal relationship thereon is confirmed, the relevant reporting person may apply to the Commission for payment of compensation therefor. In such cases, the compensation shall include expenses incurred in reinstating any disadvantage disposition to its original state, etc.

(3) If an application for payment of compensation is filed as provided for in paragraph (2), the Commission shall pay the petitioner such compensation after undergoing a deliberation and resolution by the Compensation Deliberative Board established in accordance with Article 69, as prescribed by Presidential Decree: Provided, That with respect to any reporting made by any public official in connection with his/her duties, such compensation can be reduced or not paid.

(4) The application for payment of compensation under paragraph (2) shall be filed within two years from the date the confirmation of legal relationship of the recovery or increase of revenues or the retrenchment of costs of the public institution is known.

**Article 69 (Compensation Deliberative Board)**

(1) The Commission shall establish a Compensation Deliberative Board to deliberate and resolve matters concerning applications for payment of monetary rewards and compensation as provided for by Article 68 (1) and (2).

(2) The Compensation Deliberative Board shall deliberate and resolve the following matters:

1. Matters concerning requirements for payment of monetary rewards and compensation;
2. Matters concerning the amount of financial rewards and compensation to be paid;
3. Other matters concerning payment of monetary rewards and compensation.

(3) Matters necessary for the composition and operation of the Compensation Deliberative Board shall be prescribed by Presidential Decree.

(1) **Article 70 (Decision on Payment of Compensation, etc.)** The Commission shall, upon receipt of an application for compensation filed under Article 68, determine whether to pay such compensation and the amount of the compensation to be paid, within 90 days from the date of the application therefor, unless any special reason exists to the contrary.

(2) If the Commission determines to pay compensation under paragraph (1), it shall immediately serve a notice on the applicant thereof.

**Article 71 (Relationship to other Statutes)**

(1) Any person entitled to compensation under Article 68 shall not be prohibited from applying for compensation in accordance with other statutes.

(2) Where any person entitled to compensation has been paid monetary rewards under this Act for the same cause or pursuant to other statutes, when the amount of the monetary rewards or the amount of compensation is identical with the amount of the compensation that has to be paid under this Act or is in excess of the amount thereof, the compensation shall not be paid; and when the amount of the monetary rewards or the amount of the compensation is smaller than the amount of the compensation that has to be paid under this Act, the amount of the compensation shall be determined by deducting the difference.

(3) If any person entitled to compensation pursuant to other statutes has received compensation for the same cause under this Act, the amount of compensation to be

provided under other statutes shall be determined by deducting the amount of compensation paid under this Act.

## **CHAPTER VI NATIONAL REQUESTS FOR AUDITS AND INSPECTIONS**

### **Article 72 (Right to Request Audits and Inspections)**

Where dealing with administrative affairs by a public institution seriously harms public interest because it violates statutes or is involved in an act of corruption, any citizen aged 19 or over may request an audit and inspection from the Board of Audit and Inspection by presenting a petition signed by at least a specified number of citizens prescribed by Presidential Decree: Provided, That with respect to the administrative affairs dealt with by the National Assembly, courts, the Constitutional Court, Election Commissions, or the Board of Audit and Inspection, such request shall be made to the Speaker of the National Assembly, the Chief Justice of the Supreme Court, the President of the Constitutional Court, the Chairperson of the National Election Commission, or the Chairperson of the Board of Audit and Inspection (hereinafter referred to as the "head of a relevant public institution"). <Amended by Act No. 9342, Jan. 7, 2009>

(2) Notwithstanding the provisions of paragraph (1), the any of the following matters shall be excluded from the subject of a request for an audit and inspection:

1. Matters pertaining to the confidential information and security of the State;
2. Matters pertaining to investigations of, trials on, and execution of penalties (including any security measure, any security surveillance measure, any protective detention measure, any probation measure, any protective internment measure, any custodial treatment measure, and any community service order);
3. Matters pertaining to private relationships of rights and duties or individual privacy;
4. Matters that have been or are under audit and inspection by other public institutions; Provided, That this shall not apply where a new matter is discovered or an important matter is omitted in such audit and inspection already conducted;
5. Other matters over which it is reasonably deemed inappropriate to conduct an audit and inspection, as prescribed by Presidential Decree.

(3) Notwithstanding the provisions of paragraph (1), any audit and inspection request pertaining to dealing with the administrative affairs under the jurisdiction of local governments and their heads shall be governed by the provisions of Article 16 of the Local Autonomy Act.

### **Article 73 (Method of Requesting Audits and Inspections)**

Any person who intends to request an audit and inspection shall make such request in the form of a signed document stating his/her personal details and the purport of and reasons for requesting such audit and inspection, as prescribed by Presidential Decree.

### **Article 74 (Decision on Conducting Audit and Inspection)**

- (1) With respect to an audit and inspection request made in accordance with the main sentence of Article 72 (1), the National Audit and Inspection Request Deliberation Commission prescribed by the Regulations of the Board of Audit and Inspection shall determine whether to conduct such audit and inspection.
- (2) If the head of a relevant public institution receives an audit and inspection request under the proviso to Article 72 (1), he/she shall determine, within 30 days, whether to conduct such audit and inspection in accordance with the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.
- (3) If the Board of Audit and Inspection or the head of a relevant public institution deems that an audit and inspection request is groundless, such board or head shall dismiss the request and notify the applicant of such dismissal within ten days from the date of the decision of dismissal.

**Article 75 (Audit and Inspection on Request)**

- (1) The Board of Audit and Inspection or the head of a relevant public institution shall complete an audit and inspection within 60 days from the date of the determination to conduct such audit and inspection: Provided, That the period may be extended if any justifiable ground therefor exists.
- (2) The Board of Audit and Inspection or the head of a relevant public institution shall notify an applicant for an audit and inspection of the findings of such audit and inspection within ten days from the date such audit and inspection is completed.

**Article 76 (Operation)**

Matters necessary for national requests for audits and inspections, except as otherwise provided for in this Act, shall be governed by the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

**Article 77 (Suggestion, etc. of Institutional Improvements)**

- (1) Where the Commission identifies an irrational system in the process of dealing with civil petitions for grievances, or a matter is deemed to be in need of improvement, it may offer its opinion with respect thereto to the President or the National Assembly.
- (2) Where a relevant Act or Municipal Ordinance is deemed substantially irrational in the process of handling civil petitions for grievances, the Commission or the Local Ombudsman may offer its opinion with respect to the amendment to or abolition of such Act or Municipal Ordinance to the National Assembly or the local council.

**Article 78 (Protection of Information concerning Civil Petitions for Grievances)**

The Commission or the Local Ombudsman as well as the relevant administrative agencies, etc. shall endeavor to prevent infringement of interests of the petitioners and the interested persons which may be incurred from a leak of information pertaining to civil petitions for grievances.



**Article 79 (Public Notice, etc. of Civil Petitions for Grievances)**

(1) The Commission or the Local Ombudsman as well as the heads of the relevant administrative agencies, etc. shall provide every possible convenience to help file civil petitions for grievances, including posting notices on the matters necessary for filing civil petitions for grievances or keeping a pertinent manual for the public.

(2) The Commission or the Local Ombudsman shall, in handling civil petitions for grievances, make efforts for the convenience of petitioners by such means as requiring the officials in charge of civil petitions for grievance to take the procedures necessary for the confirmation of materials that can be done autonomously or cooperation with relevant administrative agencies, etc.

**Article 80 (Cooperation with Relevant Administrative Agencies, etc.)**

(1) The Commission or the Local Ombudsman may request relevant administrative agencies, etc. to provide cooperation, when it is deemed necessary for performing its duties.

(2) The relevant administrative agencies, etc. requested by the Commission or the Local Ombudsman to provide cooperation shall comply with such request faithfully unless a justifiable reason exists to the contrary.

**Article 81 (Education, Publicity, etc.)**

(1) The Commission or the Local Ombudsman may conduct necessary education and public relations to ensure that the public becomes aware of their rights and seeks remedies if their rights are violated.

(2) The Commission or the Local Ombudsman may consult with the Minister of Education to support education on the processing of civil petitions for grievances, remedies of violated rights, and anti-corruption at schools. *<Amended by Act No. 11690, Mar. 23, 2013>*

The Commission or the Local Ombudsman may consult with the heads of relevant administrative agencies, etc. to ensure that the details of the system of civil petitions for grievances and anti-corruption are included in educational and training courses for public officials.

**Article 81-2 (Education for Prevention of Corruption of Public Officials)**

(1) The head of a public institution shall conduct education for prevention of corruption and submit the results of such education to the Commission.

(2) The Commission shall make check-ups on whether education for prevention of corruption referred to in paragraph (1) was conducted.

(3) The Commission may request the heads of the relevant institutions or organizations to reflect the results of check-ups referred to in paragraph (2) in the following evaluations:

1. Self-evaluations by central administrative agencies and local governments referred to in Articles 14 (1) and 18 (1) of the Framework Act on Public Service Evaluation, and joint evaluations by local governments referred to in Article 21 (1) of that Act;

2. Evaluation on management performance of public corporations and quasi-governmental institutions referred to in Article 48 (1) of the Act on the Management of Public Institutions;
  3. Evaluation on management of local public corporations referred to in Article 78 (1) of the Local Public Enterprises Act;
  4. Evaluation on the offices of education of a City or Do referred to in Article 9 (2) of the Elementary and Secondary Education Act.
- (4) Content, methods, and submission of results, of education referred to in paragraph (1) and check-ups, etc. referred to in paragraph (2) shall be prescribed by Presidential Decree. *[This Article Newly Inserted by Act No. 14145, Mar. 29, 2016]*

**Article 82 (Restrictions on Employment of Public Officials Dismissed for Corruption)**

- (1) A person dismissed for corruption, etc. means any of the following persons: *<Amended by Act No. 14145, Mar. 29, 2016>*
1. Any public official who mandatorily retires or is dismissed or discharged from office for committing an act of corruption in connection with his/her duties while in office;
  2. A former public official who is sentenced by a court to a fine of three million won or severer punishment for committing an act of corruption in connection with his/her duties while in office. No person dismissed for corruption, etc. may be employed in any of the following institutions subject to restriction on employment of a person dismissed for corruption for five years, from the date he/she retires if he/she mandatorily retires or is dismissed or discharged from office, or from the date his/her punishment is completely executed (including where his/her punishment is deemed to be completely executed) or the non-execution of his/her punishment becomes finally confirmed if he/she is sentenced by a court to a fine of three million won or severer punishment: *<Newly Inserted by Act No. 14145, Mar. 29, 2016>*
    1. A public institution;
    2. An institution involved in an act of corruption prescribed by Presidential Decree;
    3. For-profit private enterprise, etc. (including the following juristic persons) which has close relations with the business affairs of the department or institution to which he/she belonged for not less than five years before he/she retires:
      - (a) A law firm under Article 40 of the Attorney-at-Law Act, a law firm (limited liability) under Article 58-2 of that Act, a law firm partnership under Article 58-18 of that Act, and a law office under Article 89-6 (3) of that Act;
      - (b) An accounting corporation under Article 23 (1) of the Certified Public Accountant Act;
      - (c) A tax accounting corporation under 16-3 (1) of the Certified Tax Accountant Act;
      - (d) A foreign legal consultant office under subparagraph 4 of Article 2 of the Foreign Legal Consultant Act;

- (e) A market-type public corporation under Article 5 (3) 1 (a) of the Act on the Management of Public Institutions;
- (f) A public-service related organization performing the affairs prescribed by Presidential Decree such as affairs for supervising safety, affairs for regulating authorization and permission, or affairs for procurement;
- (g) An educational foundation establishing and managing a school referred to in each subparagraph of Article 2 of the Higher Education Act, and a private school established and managed by an educational foundation: excluding, however, the educational foundation or private school in which a person subject to review of employment will be employed as a teacher; A general hospital under Article 3-3 of the Medical Service Act, and a medical corporation under Article 33 (2) 3 of that Act and a non-profit corporation establishing a general hospital under Article 33 (2) 4 of that Act; A social welfare foundation under subparagraph 3 of Article 2 of the Social Welfare Services Act and a non-profit corporation operating a social welfare facility under subparagraph 4 of that Article;

4. A corporation or organization (hereinafter referred to as the "association") established for the purpose of pursuing common interests and mutual cooperation with a for-profit private enterprise, etc.

(3) In determining whether or not employment referred to in paragraph (2) occurs, if any person deals with any business affairs of an institution subject to restriction on employment or provides assistance thereto, such as advice and counsel, and receives wages, salaries, etc. in return for such service on a regular basis or during a specified period, such person shall be deemed to be employed, regardless of his/her position or duties, such as an outside director, consultant, or advisor prescribed in the Commercial Act, and regardless of the type of contract. <Newly Inserted by Act No. 14145, Mar. 29, 2016>

(4) The provisions of Article 17 (2), (3), (5) and (8) of the Public Service Ethics Act shall apply *mutatis mutandis* to the scope of close relations between the business affairs of the department or institution to which a public official belonged prior to his/her retirement and a for-profit private enterprise, etc. under paragraph (2) 3. <Amended by Act No. 14145, Mar. 29, 2016>

**Article 82-2 (Request for Submission of Materials)**

The Commission may request the submission of materials prescribed by Presidential Decree such as materials on criminal records under subparagraph 5 (a) of Article 2 of the Act on the Lapse of Criminal Sentences to confirm whether or not there occurs any violation of restriction on employment under Article 82. In this case, the head of the relevant public institution in receipt of a request shall comply therewith unless there is a compelling reason not to do so. [This Article Newly Inserted by Act No. 14145, Mar. 29, 2016]

**Article 83 (Demand for Dismissal of Employed Persons)**

Where a person is employed in a public institution in violation of the provisions of Article 82 (2), the Commission shall demand that the head of the public institution concerned dismiss him/her, and the head of the public institution concerned in receipt of such demand shall comply therewith unless there is a compelling reason not to do so. *<Amended by Act No. 14145, Mar. 29, 2016>*

- (2) Where a person is employed in an institution involved in an act of corruption prescribed by Presidential Decree, a for-profit enterprise, etc. or the association in violation of the provisions of Article 82 (2), the Commission shall demand the head of the public institution concerned to take measures to cancel his/her employment, and the head of the public institution concerned in receipt of such demand, demand the head of such institution involved in an act of corruption, for-profit enterprise, etc., or association as has employed the above-mentioned person to dismiss him/her. In this cases, the head of such institution involved in corruption practices, for-profit enterprise, etc., or association shall without delay comply with the demand of dismissal unless there is a compelling reason not to do so. *<Amended by Act No. 14145, Mar. 29, 2016>*

**Article 84 (Special Case for National Assembly, etc.)**

The National Assembly, courts, the Constitutional Court, the National Election Commission, or the Board of Audit and Inspection shall independently perform the duties provided for in subparagraphs 5 through 8 of Article 12 conscientiously to prevent internal corruption.

**CHAPTER VIII PENALTY PROVISIONS**

**Article 85 (Relationship to other Acts, etc.)**

(1) Matters concerning administrative appeals, with the exception of matters prescribed by this Act, shall be governed by the Administrative Appeals Act.

(2) Matters necessary for the enforcement of this Act, with the exception of matters prescribed by this Act, shall be prescribed by Presidential Decree, the National Assembly Regulations, the Supreme Court Regulations, the Constitutional Court Regulations, the National Election Commission Regulations, or the Regulations of the Board of Audit and Inspection.

**Article 86 (Offense of Exploiting Confidential Information)**

(1) If any public official violates the provisions of Article 7-2, he/she shall be punished by imprisonment with labor for not more than seven years or by a fine not exceeding 70 million won. *<Amended by Act No. 9342, Jan. 7, 2009; Act No. 12717, May 28, 2014>*

(2) In cases of paragraph (1), the imprisonment with labor and fine may be imposed concurrently.

(3) The goods or property gains acquired by a person committing an offense referred to in paragraph (1) or knowingly acquired by a third party by means of such offense shall be confiscated or additionally collected.

**Article 87 (Offense of Divulging Professional Confidential Information)**

Any person who has divulged confidential information learned while performing his/her duties in violation of Article 30 shall be punished by imprisonment with labor for not more than five years or by a fine not exceeding 50 million won.

**Article 88 (Violation of Prohibition on Publishing Personal Information, etc.)**

Any person who violates the provisions of Article 64 (1) (including cases applicable *mutatis mutandis* under Article 67) shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding 30 million won. <Amended by Act No. 15024, Oct. 31, 2017>

**Article 89 (Violation of Restrictions on Employment of Public Officials Dismissed for Corruption)**

Where a person dismissed for corruption, etc. referred to in Article 82 (1) is employed in an institution subject to restriction on employment referred to in paragraph (2) of that Article, he/she shall be punished by imprisonment with labor for not more than two years or by a fine not exceeding 20 million won. <Amended by Act No. 14145, Mar. 29, 2016>

**Article 90 (Offense of Failing to Implement Requested Measures)**

- (1) Where any person who has imposed any disadvantage to any other person's position or discriminated against any other person in terms of working conditions provided for in Article 62 (1) fails to implement the requested measures provided for in Article 62 (7) (including cases applicable *mutatis mutandis* under Article 67), he/she shall be punished by imprisonment with labor for not more than one year or by a fine not exceeding 10 million won.

<Amended by Act No. 14145, Mar. 29, 2016>

Where any person who has imposed any disadvantage to any other person's position or has discriminated against any other person in terms of working conditions provided for in Article 62 (1) (including cases where Article 62 (1) applies *mutatis mutandis* in Article 67) fails to comply with a demand for measure referred to in Article 62-2 (1), he/she shall be punished by imprisonment with labor for not more than six months or by a fine not exceeding five million won. <Newly Inserted by Act No. 14145, Mar. 29, 2016>

**Article 91 (Administrative Fines)**

(1) Any of the following persons shall be subject to an administrative fine not exceeding 10 million won: <Amended by Act No. 9342, Jan. 7, 2009; Act No. 14145, Mar. 29, 2016>

1. A person who has imposed any disadvantage to any other person's position or discriminated against any other person in terms of working conditions provided for in Article 62 (1) (including cases applicable *mutatis mutandis* in Article 67);
2. A person who has failed to comply with a request, inquiry, or measures provided for in Article 62 (5), in violation of Article 62 (6) (including cases applicable *mutatis mutandis* in Article 67);

3. A person who has failed to implement the measures requested by the Commission pursuant to Article 62 (7) (including cases applicable *mutatis mutandis* under Article 67) without any justifiable reason (excluding any person who has imposed any disadvantage to any other person's position or discriminated against any other person in terms of working conditions as provided for in Article 62 (1));
  4. The head of an institution subject to restriction on employment which refuses a demand referred to in Article 83 (1) and (2) without any justifiable reason.
- (2) Any of the following persons shall be subject to an administrative fine not exceeding five million won: <Amended by Act No. 14145, Mar. 29, 2016>
1. A person who interrupts, refuses, or evades, or intentionally delays the performance of duties under Article 42 without any justifiable reason;
  2. The head of an public institution refuses a demand for submission of materials referred to in Article 82-1 without any justifiable reason.
- (3) Administrative fines prescribed in paragraphs (1) and (2) shall be imposed and collected by the Commission, as prescribed by Presidential Decree.
- (4) through (8) Deleted. <by Act No. 9342, Jan. 7, 2009>

#### ADDENDA

##### **Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

##### **Article 2 (Abolition of other Acts)**

The following Acts shall be abolished:

1. The Anti-Corruption Act;

The Act on the Establishment and Management of the Ombudsman of Korea. **Article 3 (Transitional Measures concerning Duties and Public Officials, etc. following Change in Organization)**

(1) The Anti-Corruption and Civil Rights Commission shall succeed the administrative affairs under the jurisdiction of the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time this Act enters into force.

(2) The heads and the members, except the standing members in political service, of the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time this Act enters into force shall be deemed to have been appointed or commissioned as members of the Anti-Corruption and Civil Rights Commission in accordance with this Act. In such cases, they shall carry out their duties for their remaining term of office.

(3) The public officials belonging to the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time this Act enters into force shall be deemed the public officials belonging to the Anti-Corruption and Civil Rights Commission.

##### **Article 4 (Transitional Measures concerning Transfer of Administrative Affairs)**

(1) The acts of, and the acts against the Ombudsman of Korea and the Korea Independent Commission Against Corruption that have been conducted under the former Act on the Establishment and Management of the Ombudsman of Korea and the former Anti-Corruption Act at the time this Act enters into force shall be deemed the acts of, and the acts against, the Anti-Corruption and Civil Rights Commission.

(2) The national request for audit and inspection that has been filed under the former Anti-Corruption Act and the administrative affairs about the national request for audit and inspection that have been performed by the Board of Audit and Inspection, the National Assembly, courts, the Constitutional Court or the National Election Commission at the time this Act enters into force shall be deemed that they have been performed in accordance with this Act.

**Article 5 (Transitional Measures concerning Public Officials Dispatched, etc.)**

The public officials or the employees of relevant institutions and organizations dispatched to the Ombudsman of Korea and the Korea Independent Commission Against Corruption at the time this Act enters into force shall be deemed the public officials or the employees dispatched to the Anti Corruption and Civil Rights Commission in accordance with this Act. **Article 6 (Relationship to other Statutes)**

(1) A reference to "Korea Independent Commission Against Corruption", "Ombudsman of Korea", "head of the Korea Independent Commission Against Corruption", or "head of the Ombudsman of Korea" in other statutes at the time this Act enters into force, in connection with the administrative affairs under the jurisdiction of the Korea Independent Commission Against Corruption and the Ombudsman of Korea that are succeeded by the Anti-Corruption and Civil Rights Commission, shall be deemed a reference to "Anti-Corruption and Civil Rights Commission" or "head of the Anti-Corruption and Civil Rights Commission".

(2) A reference to the Act on the Establishment and Management of the Ombudsman of Korea and the Anti-Corruption Act in other statutes at the time this Act enters into force shall be deemed a reference to the pertinent provisions of this Act.

ADDENDUM <Act No. 9342, Jan. 7, 2009>

This Act shall enter into force on the date of its promulgation; Provided, That the amended provisions of Article 91 shall enter into force six months after the date of its promulgation.

ADDENDA <Act No. 9402, Feb. 3, 2009>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

**Articles 2 and 3 Omitted.**

ADDENDA <Act No. 9968, Jan. 25, 2010>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation. (Proviso Omitted.)

**Articles 2 through 9 Omitted.**

ADDENDA <Act No. 11327, Feb. 17, 2012>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Cases of Application)**

The amended provisions of Article 13 (3) shall apply, starting from the first non-standing member appointed or commissioned after the enforcement of this Act; when a vacancy occurs in the position of a non-standing member, the President shall appoint or commission three persons recommended alternately by the National Assembly and the Chief Justice of the Supreme Court.

ADDENDA <Act No. 11690, Mar. 23, 2013>

**Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted.

**Articles 2 through 7 Omitted.**

ADDENDA <Act No. 12717, May 28, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation.

**Article 2 (Transitional Measures concerning Change in Classification of Public Officials)**

Public officials in extraordinary civil service who are in office as standing members of the Anti-Corruption and Civil Rights Commission under the provisions of previous Act at the time this Act enters into force, shall be deemed appointed as public officials in a fixed-term position under Article 26-5 of the State Public Officials Act on the date this Act enters into force. In such cases, their term of office shall be the remainder of the term of office as at the time of their appointment as standing members.

ADDENDA <Act No. 12844, Nov. 19, 2014>

**Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation: Provided, That among the Acts amended under Article 6 of the Addenda, amendments to an Act, which was promulgated before this Act enters into force but the date on which it enters into force has yet to arrive, shall enter into force on the enforcement date of the relevant Act.

**Articles 2 through 7 Omitted.**

ADDENDA <Act No. 14145, Mar. 29, 2016>

**Article 1 (Enforcement Date)**

This Act shall enter into force six months after the date of its promulgation.

**Article 2 (Applicability concerning Restriction on Employment of Persons Dismissed for Corruption, etc.)**

The amended provisions of Article 82 (1) 2 shall begin to apply from the first public official who retires after this Act enters into force.

**Article 3 (Transitional Measures concerning Restriction on Employment of Persons Dismissed for Corruption, etc.)**



Notwithstanding the amended provisions of Article 82 (2) through (4), the former provisions shall apply to restriction on employment of public officials who mandatorily retires or is dismissed or discharged from office for committing an act of corruption in connection with his/her duties before this Act enters into force.

ADDENDA <Act No. 14609, Mar. 21, 2017>

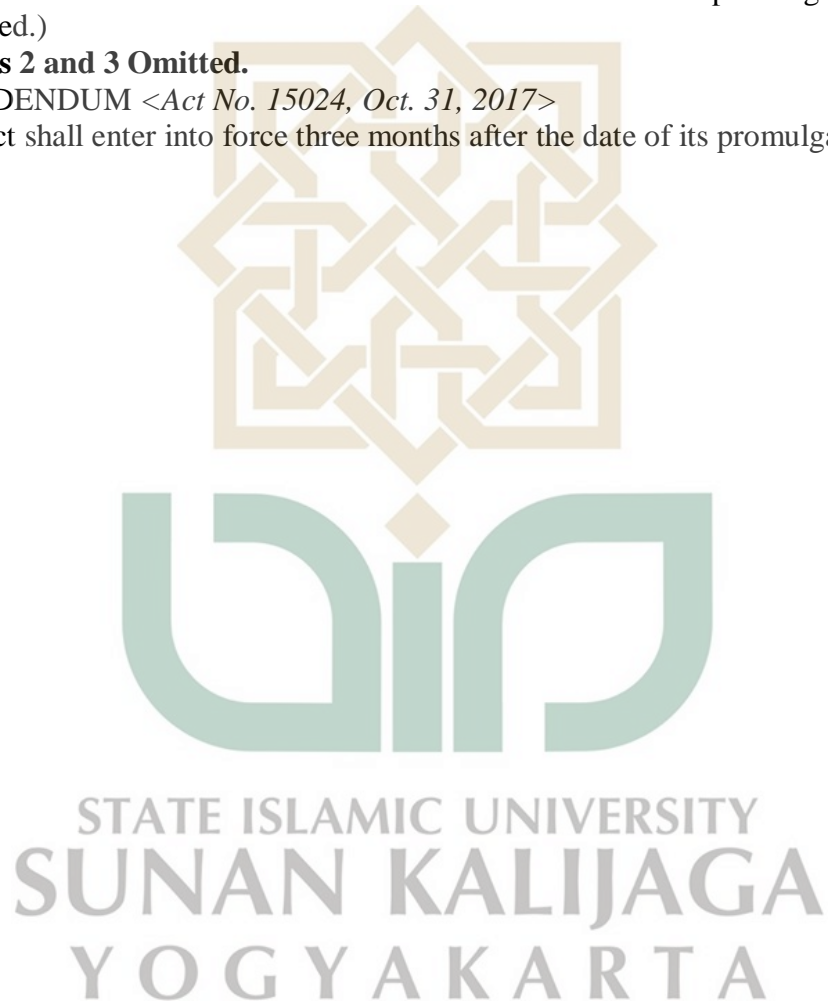
**Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation. (Proviso Omitted.)

**Articles 2 and 3 Omitted.**

ADDENDUM <Act No. 15024, Oct. 31, 2017>

This Act shall enter into force three months after the date of its promulgation.



법령, 판례 등 모든 법령정보를 한 번에 검색

## PROTECTION OF COMMUNICATIONS SECRETS ACT

[Enforcement Date 14. Jan, 2014.] [Act No.12229, 14. Jan, 2014., Partial  
Amendment]

법무부(공안기획과)02-2110-3280

법제처국가법령정보센터

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법무부(공안기획과)02-2110-3280

과학기술정보통신부(통신정책기획과)044-202-6633

### Article1(Purpose)

The purpose of this Act is to protect communications secrets and further enhance the freedom of communications by limiting the scope of restrictions with respect to the secrecy and freedom of communications and conversations and making a strict process of law mandatory.

### Article2(Definitions)

For the purposes of this Act, the definitions of terms shall be as follows:<Amended by Act No. 6546, Dec. 29, 2001; Act No. 7196, Jan. 29, 2004; Act No. 7371, Jan. 27, 2005>

1. The term "communication" means mail and electronic telecommunications;
2. The term "mail" means ordinary mail and parcel post under the Postal Service Act;
3. The term "telecommunications" means transmission or reception of all kinds of sounds, words, symbols or images by wire, wireless, fiber cable or other electromagnetic system, including telephone, e-mail, membership information service, facsimile and radio paging;
4. The term "parties concerned" means senders and addressees of mail, or transmitters and receivers of telecommunications;
5. The term "nationals" means the people of the Republic of Korea who have their addresses or residences in areas where the sovereignty of the Republic of Korea is exercised;
6. The term "censorship" means opening of mail without the consent of the party concerned or acquiring knowledge of, recording or withholding its contents through other means;
7. The term "wiretapping" means acquiring or recording the contents of telecommunications by listening to or communally reading the sounds, words, symbols or images of the communications through electronic and mechanical

devices without the consent of the party concerned or interfering with their transmission and reception;

**Article 3 (Protection of Secrets of Communications and Conversation)**(1) No person shall censor any mail, wiretap any telecommunications, provide communication confirmation data, record or listen to any conversation between others that are not made public, without recourse to this Act, the Criminal Procedure Act or the Military Court Act: Provided, That the following cases shall be governed by the relevant Acts: <Amended by Act No. 6305, Dec. 29, 2000; Act No. 6546, Dec. 29, 2001; Act No. 7138, Jan. 29, 2004; Act No. 7428, Mar. 31, 2005; Act No. 8728, Dec. 21, 2007; Act No. 9819, Nov. 2, 2009>

1. Handling of returned mail, etc.: Where parcel postal items (including any mail similar thereto) suspected of containing such contraband items as explosives is opened, where the mail cannot be delivered to the addressee or is returned to the sender because of the addressee's refusal to accept it, where the mail is opened in order to identify the address and name of the sender of the mail that the addressee refuses to receive because of missing address and name of the sender, or where any unreturnable mail containing valuables is handled, in accordance with provisions such as Articles 28, 32, 35 and 36 of the Postal Service Act;

2. Inspection of import and export mail: Customs clearance of mail, other than personal correspondence under Articles 256 and 257 of the Customs Act;

3. Communications with persons under detention or in prison: Control of communications with the persons under detention or in prison under Article 91 of the Criminal Procedure Act, Article 131 of the Military Court Act, Articles 41, 43 and 44 of the Administration and Treatment of Correctional Institution Inmates Act and Articles 42, 44 and 45 of the Act on the Execution of Sentences in the Army and Treatment of Military Prisoners;

4. Communications with persons declared bankrupt: Where a trustee in bankruptcy receives communications addressed to a person declared bankrupt under Article 484 of the Debtor Rehabilitation and Bankruptcy Act;

5. Monitoring radio waves for the elimination of interference, etc.: Where radio waves are monitored in order to maintain order in radio waves by, for example, eliminating interference under Articles 49 through 51 of the Radio Waves Act.

(2) Any censorship of mail or any wiretapping of telecommunications (hereinafter referred to as "communication-restricting measures") shall be used as a supplementary means of facilitating a criminal investigation or ensuring national security, and efforts shall be made to minimize the violation of people's communication secrets.<Newly Inserted by Act No. 6546, Dec. 29, 2001>

(3) No person shall provide or be provided with a serial number of any terminal apparatus: Provided, That this shall not apply where the enterprise for manufacturing the terminal apparatus of mobile telephone or the mobile communications business operator provides or is provided with a serial number for a performance of lawful business, such as the opening of a service for terminal apparatus, repairs, etc.<Newly

Inserted by Act No. 7138, Jan. 29, 2004>

**Article 4 (Prohibition of Use of Contents of Mail from Illegal Inspection and Contents of Telecommunications from Illegal Wiretapping as Evidence)**

Mail or its contents obtained through illegal inspection and the contents of communication acquired or recorded through illegal wiretapping in violation of Article 3 shall not be admitted as evidence in a trial or disciplinary procedure.

**Article 5 (Requirements for Permission of Communication-Restricting Measures for Criminal Investigation)**

(1) The communication-restricting measures shall be allowed only when there is a substantial reason to suspect that a crime under each of the following subparagraphs is being planned or committed or has been committed, and it is difficult to prevent the committing of the crime, arrest the criminal or collect the evidence: <Amended by Act No. 5454, Dec. 13, 1997; Act No. 6146, Jan. 12, 2000; Act No. 6546, Dec. 29, 2001; Act No. 8733, Dec. 21, 2007; Act No. 11731, Apr. 5, 2013>

1. Part II of the Criminal Act - Chapter I Crime concerning Insurrection, crimes provided for in Articles 92 through 101 from among Chapter II Crimes concerning Foreign Aggression, crimes provided for in Articles 107, 108, 111 through 113 from among Chapter IV Crimes concerning Diplomatic Relations, crimes provided for in Articles 114 and 115 from among Chapter V Crimes Harming Public Safety, Chapter VI Crimes concerning Explosives, crimes provided for in Articles 127, 129 through 133 from among Chapter VII Crimes concerning Duties of Public Officials, Chapter IX Crimes of Escape and Sheltering Criminals, crimes provided for in Articles 164 through 167, 172 through 173, 174 and 175 from among Chapter XIII Crimes of Arson and Fire Caused by Negligence, Chapter XVII Crimes concerning Opium, Chapter XVIII Crimes concerning Currency, crimes provided for in Articles 214 through 217, 223 (limited to criminal attempts provided for in Articles 214 through 217) and 224 (limited to preliminary conspiracy provided for in Articles 214 and 215) from among Chapter XIX Crimes concerning Securities, Postage Stamps and Revenue Stamps, Chapter XXIV Crimes of Homicide, Chapter XXIX Crimes of False Arrest and Illegal Confinement, crimes provided for in Articles 283 (1), 284, 285 (limited to habitual criminals provided for in Articles 283 (1) and 284), 286 [limited to attempted criminals provided for in Articles 283 (1), 284, 285 (limited to habitual criminals provided for in Articles 283 (1) and 284)] from among Chapter XXX Crimes of Intimidation, Chapter XXXI Crimes of Abduction, Inducement and Human Trafficking, crimes provided for in Articles 297 through 301-2 and 305 from among Chapter XXXII Crimes concerning Rape and Sexual Harassment, crimes provided for in Article 315 from among Chapter XXXIV Crimes Against Credit, Business and Auction, Articles 324-2 through 324-4, 324-5 (limited to attempted criminals provided for in Articles 324-2 through 324-4) from among Chapter XXXVII Crimes of Obstruction of Exercise of Rights, crimes provided for in Articles 329 through 331, 332 (limited to habitual criminals provided for in Articles 329 through 331), 333 through 341, 342 [limited to

habitual criminals provided for in Articles 329 through 331, 333 (limited to habitual criminals provided for in Articles 329 through 331), 333 through 341)] from Chapter XXXVIII Crimes of Larceny and Robbery and crimes provided for in Article 350 from among Chapter XXXIX Crimes of Fraud and Intimidation;

2. Part II of the Military Criminal Act -Chapter I Crimes of Rebellion, Chapter II Crimes of Benefitting the Enemy, Chapter III Crimes of Abuse of Command, Chapter IV Crimes of Surrender and Escape of Commanders, Chapter V Crimes of Desertion of Defensive Post, crimes under Article 42 from Chapter VII Crimes of Neglecting Military Duty, Chapter VIII Crimes of Mutiny, Chapter IX Crimes of Violence, Intimidation, Inflicting Bodily Injury and Homicide, Chapter XI Crimes concerning Military Supplies, crimes under Articles 78, 80 and 81 from Chapter XII Crimes of Disobedience to Order;
3. Crimes under the National Security Act;
4. Crimes under the Military Secret Protection Act;
5. Crimes under the Protection of Military Bases and Installations Act;
6. Crimes provided for in Articles 58 through 62 from among those under the Act on the Control of Narcotics, etc.;
7. Crimes provided for in Articles 4 and 5 from among those under the Punishment of Violences, etc. Act;
8. Crimes provided for in Article 70 and subparagraphs 1 through 3 of Article 71 from among those under the Control of Firearms, Swords, Explosives, etc. Act;
9. Crimes provided for in Articles 2 through 8 and 10 through 12 from among those under the Act on the Aggravated Punishment, etc. of Specific Crimes;
10. Crimes provided for in Articles 3 through 9 from among those under the Act on the Aggravated Punishment, etc. of Specific Economic Crimes;
11. Crimes committed in violation of Acts requiring the aggravated punishment of crimes provided for in subparagraphs 1 and 2. (2) The communication-restricting measures may be permitted when the target is any specific mail or telecommunications sent and received or transmitted and received by those falling under the conditions of paragraph (1) or any specific mail or telecommunications sent and received or transmitted and received by the applicable parties over a fixed period of time.

**Article 6 (Procedures for Authorization of Communication-Restricting Measures for Criminal Investigation)**

(1) Any prosecutor (including any public prosecutor; hereinafter the same shall apply) may ask a court (including a military court; hereinafter the same shall apply) to permit communication-restricting measures according to any suspect or any person under investigation when the requirements provided for in Article 5 (1) are met. <Amended by Act No. 6546, Dec. 29, 2001> (2) A judicial police officer (including a military judicial police officer, hereinafter the same shall apply) may apply to a prosecutor for authorization of communication-restricting measures according to any suspect or any

person under investigation when the requirements under Article 5 (1) are met, and then the public prosecutor may request the same from the court.<Amended by Act No. 6546, Dec. 29, 2001>

(3) The competent court in charge of the case of the communication-restricting measures for which a request is filed under paragraphs (1) and (2) shall be the district court or its branch court (including any ordinary military court) having jurisdiction over the address and seats of both of communication parties or one of the communication parties subject to the communication-restricting measures, the place where any crime is committed or the address and seats of persons who are accomplices of such communication parties.<Amended by Act No. 6546, Dec. 29, 2001>

(4) The request for communication-restricting measures under paragraphs (1) and (2) shall be made in writing (hereinafter referred to as "written application"), indicating the details of the request such as kinds, objectives, targets, scope, period of communication-restricting measures, the place where such communication-restricting measures are executed, how such communication-restricting measures are executed and grounds satisfying the conditions for the permission for communication-restricting measures under Article 5 (1), together with the materials establishing a prima facie case for the reasons of the application. In this case, when an application is filed for permission for the communication-restricting measures against any suspect or any person under investigation for the same crime or any permission for such purpose is granted, the applicant shall specify the objective of and the grounds for filing an application again for the communication-restricting measures.<Amended by Act No. 6546, Dec. 29, 2001>

(5) The court shall, when it deems the application justifiable, grant permission for the communication-restricting measures according to any suspect or any person under investigation and then deliver a document attesting his/her granting such permission (hereinafter referred to as "written permission") to the applicant. <Amended by Act No. 6546, Dec. 29, 2001>

(6) The written permission referred to in paragraph (5) shall specify the kind, objective, object, scope, period, the place where the communication-restricting measures are executed and how the communication-restricting measures are executed.<Amended by Act No. 6546, Dec. 29, 2001>

(7) The period of communication-restricting measures shall not exceed two months and in the event that the objective of the communication-restricting measures is attained during the period, such communication-restricting measures shall be immediately discontinued: Provided, That if the requirements for permission under Article 5 (1) are still valid, a request for extending the period of communication-restricting measures pursuant to paragraphs (1) and (2) may be filed, within the limit of two months and such request shall be appended by material establishing a prima facie case.<Amended by Act No. 6546, Dec. 29, 2001>

(8) Where the court considers that the request is groundless, it shall dismiss it and give notice thereof to the requester.

### **Article 7 (Communication-Restricting Measures for National Security)**

(1) The heads of the intelligence and investigative agencies prescribed by Presidential Decree (hereinafter referred to as "heads of intelligence and investigative agencies") may, only when the national security is expected to be put in danger and the collection of intelligence is required to prevent such danger, take communication-restricting measures according to the classifications falling under each of the following subparagraphs: <Amended by Act No. 6546, Dec. 29, 2001>

1. If either or both of the parties concerned with a communication are Korean nationals, permission therefor from a senior chief judge of the high court shall be obtained: Provided, That the same shall not apply to the military telecommunications (limited to a case where the telecommunications are used to carry out operations) provided for in Article 2 of the Military Telecommunications Act;

2. Written approval shall be obtained from the President with respect to communications of countries hostile to the Republic of Korea, foreign agencies or groups and foreign nationals under suspicion of antinational activities, or members of groups within the Korean Peninsula in effect beyond the sovereignty of the Republic of Korea and their umbrella groups based in foreign countries, and in the event of the proviso of paragraph (1) 1.

(2) The period of communication-restricting measures under paragraph (1) shall not exceed four months, and in the event the objective of such communication-restricting measures is attained, the communication-restricting measures shall be immediately discontinued. If the requirements of paragraph (1) continue to be in existence, the period of the communication-restricting measures may be extended within the limit of four months with permission therefor from a senior chief judge of the high court or approval therefor from the President after filing an application for such permission or approval, accompanied by the material establishing a prima facie case: Provided, That the communication-restricting measures provided for in the proviso of paragraph (1) 1 may be extended without approval therefor from the President until military operations are completed in the event that the nation is in time of war or incident, or at war with enemy in the national emergency situation corresponding thereto.<Amended by Act No. 6546, Dec. 29, 2001> (3) Article 6 (2), (4) through (6), and (8) shall apply to the permission referred to in paragraph 1 (1). In such cases, the term "judicial police officer (including military police officer; hereinafter the same shall apply)", "court", "Article 5 (1)", and "communication-restricting measures according to any suspect or any person under investigation" in Article 6 (2) and (5) shall be deemed the term "heads of intelligence and investigative agencies", "senior chief judge of the high court", "main sentence of Article 7 (1) 1", and "communication-restricting measures", respectively.<Amended by Act No. 6546, Dec. 29, 2001>

(4) Necessary matters such as procedures for a presidential approval referred to in paragraph (1) 2 shall be determined by Presidential Decree.

### **Article 8 (Emergency Communication-Restricting Measures)**

(1) In the event that an act of conspiracy exists that threatens the national security, the planning or execution of any serious crime or any organized crime, etc. is imminent that may cause directly the dangers of death or serious injuries, and the emergency grounds exist that make it impossible to go through the provisions of Article 6 or 7 (1) and (3), any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies may take the communication-restricting measures without permission therefor from the court against any person who meets the requirements provided for in Article 5 (1) or 7 (1) 1.

(2) Any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies shall, immediately after the execution of the communication-restricting measures under paragraph (1) (hereinafter referred to as "emergency communication-restricting measures") commences, file an application for permission therefor with the court in accordance with Articles 6 and 7 (3), and get the emergency communication-restricting measures immediately discontinued if he/she fails to obtain the permission from the court within 36 hours from the time that he/she takes the emergency communication-restricting measures.

(3) If any judicial police officer takes the emergency communication-restricting measures, he/she shall be placed under command of any prosecutor in advance: Provided, That in case that if such emergency communication-restricting measures need to be taken urgently, leaving such judicial police officer impossible to be placed under command of such prosecutor, approval therefor shall be obtained from such prosecutor immediately after the execution of such emergency communication-restricting measures commences.

(4) In the event that any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies shall, if he/she intends to take the emergency communication-restricting measures, take such measures according to the emergency censorship statement or the emergency wiretapping statement (hereinafter referred to as "emergency wiretapping statement. etc.") and keep the records of emergency communication-restricting measures at the institution to which he/she belongs.

(5) In the event that the execution of communication-restricting measures is completed in a short time, making it unnecessary to seek permission therefor from the court, the head of the competent District Public Prosecutor's Office (the head of the competent High Prosecutor's Office in case that any of the heads of intelligence and investigative agencies takes the emergency communication-restricting measures against any person who meets the requirements provided for in Article 7 (1) 1 in accordance with paragraph (1)) shall serve an emergency communication-restricting measures notice, prepared by any prosecutor, any judicial



police officer or any of the heads of intelligence and investigative agencies who takes the relevant communication-restricting measures, to the head of corresponding court: Provided, That in the event that any public prosecutor or any military judicial official takes the emergency communication-restricting measures against any person who meets the requirements provided for in Article 5 (1), a senior prosecutor of the competent Public Prosecutor's Office shall serve an emergency communication-restricting measures notice to the military judge corresponding to him/her of the ordinary military tribunal.

(6) The notice referred to in paragraph (5) shall contain the objective, subject, scope, period, the place of execution, method and the grounds for not filing a request for permission for the emergency communication-restricting measures, etc.

(7) The court or the military judge of the ordinary military tribunal shall, upon receipt of the emergency communication-restricting measures notice served under paragraph (5), keep the records of emergency communication-restricting measures.

(8) In the event that an act of conspiracy exists that threatens the national security, the planning or execution of any serious crime or any organized crime, etc. is imminent that may cause directly the dangers of deaths or serious injuries, it is short of time for obtaining approval from the President for taking the emergency communication-restricting measures against any person who falls under Article 7 (1) 2 and it is judged that the national security may be put in danger unless the emergency communication-restricting measures are taken, any of the heads of intelligence and investigative agencies may take the emergency communication-restricting measures after obtaining approval therefor from the minister (including the Director General of the National Intelligence Agency) to whom he/she belongs.

(9) In the event that the emergency communication-restricting measures are taken in accordance with paragraph (8), approval therefor shall be obtained without any delay from the President in accordance with Article 7. If such approval fails to be obtained from the President within 36 hours from the time that an application therefor is filed, such emergency communication-restricting measures shall be immediately discontinued. [This Article Wholly Amended by Act No. 6546, Dec. 29, 2001]

#### **Article 9 (Execution of Communication-Restricting Measures)**

(1) Communication-restricting measures under Articles 6 through 8 shall be executed by any public prosecutor, any judicial police officer or any of the heads of the intelligence and investigative agencies who has made such a request or application. In this case, the execution may be commissioned to or cooperation therewith may be sought from postal service organizations or other institutions concerned (hereinafter

referred to as "communications institutions, etc."). <Amended by Act No. 6546, Dec. 29, 2001>

(2) Any person who intends to commission the execution of communication-restricting measures or ask for cooperation therewith, shall furnish any of the communications institutions, etc. with a written permission for the communication-restricting measures (referring to a written approval granted by the President in the case of Article 7 (1) 2; hereafter the same shall apply in Articles 9, 16 (2) 1 and 17 (1) 1 and 3) or a copy of the cover of an emergency wiretapping statement, etc. Any person who is commissioned or asked for cooperation shall keep such written permission for the communication-restricting measures or such copy of the cover of an emergency wiretapping statement for a period fixed by Presidential Decree. <Amended by Act No. 6546, Dec. 29, 2001>

(3) Any person who executes the communication-restricting measures, is commissioned to execute such measures or asked for cooperation therewith shall keep records in which the objectives of the relevant communication-restricting measures, the execution of such measures, the date on which cooperation is made and the object of such cooperation are entered for a period fixed by Presidential Decree.<Newly Inserted by Act No. 6546, Dec. 29, 2001>

(4) In the event that the telephone number, etc. of any person subject to the communication-restricting measures, which is entered in the written permission for communication-restricting measures or the emergency wiretapping statement, etc., is inconsistent with the fact, any of the communications institutions, etc. may refuse to execute the relevant communication-restricting measures and shall be prohibited from divulging secret numbers used for telecommunications in any case.<Newly Inserted by Act No. 6546, Dec. 29, 2001>

#### **Article 9-2 (Notice on Execution of Communication-Restricting Measures)**

(1) Any prosecutor shall, when he/she institutes a prosecution or takes a disposition not to institute any prosecution or indict in connection with a case involving the execution of the communication-restricting measures in accordance with Articles 6 (1) and 8 (1) (excluding any decision made to suspend any indictment), notify in writing a person subject to the mail censorship in the case of mail censorship and a subscriber to telecommunications who is subject to wiretapping in the case of wiretapping of the fact that the communication-restricting measures are executed, the institution that executes such measures and the period thereof, etc. within 30 days therefrom.

(2) Any judicial police officer shall, when he/she is notified by any prosecutor that the latter institutes a prosecution or takes a disposition not to institute a prosecution or indict in connection with a case involving the execution of the communication-restricting measures under Articles 6 (1) and 8 (1) (excluding any decision made to suspend any indictment) or he/she takes a disposition not to indict in

connection with a case of a person under investigation, notify in writing a person subject to the mail censorship in the case of mail censorship and a subscriber to telecommunication so who is subject to wiretapping in the case of wiretapping of the fact that the communication-restricting measures are executed, the institution that executes such measures and the period thereof, etc. within 30 days therefrom.

(3) Any of the heads of intelligence and investigative agencies shall notify in writing a person subject to the mail censorship in the case of mail censorship and a subscriber to telecommunications who is subject to wiretapping in the case of wiretapping of the fact that the communication-restricting measures are executed, the institution that executes such measures and the period thereof, etc. within 30 days from the date on which the communication-restricting measures taken in accordance with the main sentence of Article 7 (1) 1 and Article 8 (1) are completed.

(4) Notwithstanding the provisions of paragraphs (1) through (3), in the event that the grounds falling under each of the following subparagraphs accrue, the notice may be deferred until such grounds cease to exist: 1. When the notice of the communication-restricting measures is seriously feared to endanger the national security and disrupt the public safety and order; 2. When the notice of the communication-restricting measures is feared to result in dangers to lives and bodies of people.

(5) Any prosecutor or any judicial police officer shall, when he/she intends to defer the notice in accordance with paragraph (4), obtain approval therefor from the head of the District Public Prosecutor's Office after filing an application therefor, accompanied by the material establishing a prima facie case, with the District Prosecutor's Office: Provided, That in the event any public prosecutor or any military judicial police officer intends to defer the notice in accordance with paragraph (4), he/she shall obtain approval therefor from a senior prosecutor of the competent Public Prosecutor's Office after filing an application therefor, accompanied by the material establishing a prima facie case, with such Public Prosecutor's Office.

(6) Any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies shall, when the grounds referred to in each subparagraph of paragraph (4) cease to exist, serve the notice referred to in paragraphs (1) through (3) within 30 days from the date on which such grounds cease to exist. [This Article Newly Inserted by Act No. 6546, Dec. 29, 2001]

### **Article 9-3 (Notice on Execution of Confiscation, Search and Investigations)**

(1) Where a public prosecutor has executed a confiscation, search or investigation on telecommunications the transmission and reception of which have been completed, when he/she has prosecuted such case or conducted disposition (excluding a decision of a stay of prosecution) not to prosecute a case or book for such case, he/she shall

notify, in writing, a subscriber who has become an object of the investigation of the fact that a confiscation, search or investigation has been executed within 30 days from the date such disposition is conducted. (2) Where a judicial police officer has executed a confiscation, search or investigation on telecommunications the transmission and reception of which have been completed, when he/she receives a notice of disposition that a public prosecutor has or has not prosecuted such case, or he/she conducts disposition not to book for the case on which he/she has conducted an internal investigation, he/she shall notify, in writing, a subscriber who has become an object of the investigation of the fact that a confiscation, search or inspection has been executed within 30 days from the date such disposition is conducted. [This Article Newly Inserted by Act No. 9752, May 28, 2009]

**Article 10 (Authorizing Agencies and Procedures for Wiretapping Equipment Authorization)**

(1) Any person who intends to make, import, sell, distribute, possess, use or advertize any wiretapping equipment shall obtain authorization from the Minister of Science, Information and Communications Technology (ICT) and Future Planning: Provided, That this shall not apply to government agencies. <Amended by Act No. 5454, Dec. 13, 1997; Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Deleted.<by Act No. 7138, Jan. 29, 2004>

(3) Where the Minister of Science, Information and Communications Technology (ICT) and Future Planning grants authorization under paragraph (1), he/she shall enter the name of the applicant for authorization, the date on which the authorization is granted, the types and quantities of authorized wiretapping equipment and other necessary matters into a register and keep it ready.<Amended by Act No. 5454, Dec. 13, 1997; Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(4) Any person who makes, imports, sells, distributes, possesses or uses any wiretapping equipment with the authorization under paragraph (1) shall enter the date on which such authorization is granted, the types and quantities of authorized wiretapping equipment, location where such equipment is installed and other necessary matters into a register and keep it ready: Provided, That the wiretapping equipment furnished to local governments for the performance of their duties, that are fixtures of local government, shall be recorded in the register for fixtures of the applicable administrative agencies.

(5) Necessary matters relating to the authorization under paragraph (1) shall be prescribed by Presidential Decree.

**Article 10-2 (Report on Wiretapping Equipment Managed by State Organs)**

(1) Any state organ (excluding intelligence and investigative agencies) shall, when introducing wiretapping equipment, report its dimensions and performances, including matters prescribed by Presidential Decree, every half year, to the Minister of Science, Information and Communications Technology (ICT) and Future Planning. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Any of intelligence and investigative agencies shall, when introducing wiretapping equipment, report its dimensions and performances, including matters prescribed by Presidential Decree, every half year, to the Intelligence Committee of the National Assembly. [This Article Newly Inserted by Act No. 6546, Dec. 29, 2001]

**Article 10-3 (Registration etc. of Illegal Wiretapping Equipment Detection Service)**

(1) Any person who intends to engage in illegal wiretapping for the purpose of making profits, shall file a registration therefor with the Minister of Science, Information and Communications Technology (ICT) and Future Planning as prescribed by Presidential Decree. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(2) Registration under the provisions of paragraph (1) may be made only by the juristic person.

(3) Any person who intends to make a registration under the provisions of paragraph (1) shall equip himself with the plans for protecting users, business plans, technology, financial capability, detection equipment and other necessary matters prescribed by Presidential Decree.<Amended by Act No. 8867, Feb. 29, 2008>

(4) Matters necessary for the requirements for alteration of registration under the provisions of paragraph (1) and procedures therefor, the transfer, takeover, succession, suspension, close-down of registered business and reports thereon, and the delegation, etc. of registered business shall be prescribed by Presidential Decree. [This Article Newly Inserted by Act No. 7138, Jan. 29, 2004]

**Article 10-4 (Grounds for Disqualifying Business Entity Responsible for Detecting Illegal Wiretapping Equipment)**

Where the representative of a corporation falls under any of the following subparagraphs, the registration under the provisions of Article 10-3 shall not be made:<Amended by Act No. 7428, Mar. 31, 2005>

1. An incompetent or quasi-incompetent person;
2. A person who has been declared bankrupt and has not been reinstated;
3. A person in whose case two years have not elapsed since his/her imprisonment without labor or greater punishment declared by a court was completely executed (including the case where it is deemed to have been completely executed) or exempted;

4. A person who is under suspension of the execution of his/her imprisonment without labor or greater punishment declared by a court;
5. A person whose qualification is forfeited or suspended by a judgment of a court or by other Acts;
6. A person in whose case two years have not elapsed since his/her registration was revoked, who was the representative of a corporation at the time when the registration thereof was revoked under the provisions of Article 10-5. [This Article Newly Inserted by Act No. 7138, Jan. 29, 2004]

#### **Article 10-5 (Revocation of Registration)**

Where a person who has made a registration of illegal wiretapping equipment detection service falls under any of the following subparagraphs, the Minister of Science, Information and Communications Technology (ICT) and Future Planning may either revoke his/her registration or order him/her to suspend the said business for a specified period not to exceed six months: Provided, That where it falls under subparagraph 1 or 2, he/she shall revoke his/her registration:<Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. Where a registration or modified registration has been made by fraud or other improper means;
2. Where he/she has come to fall under any of the following grounds for disqualification under the provisions of Article 10-4;
3. Where the secrets known to him/her in connection with business activities are divulged to other persons;
4. Where the certificate of registration of illegal wiretapping equipment detection service has been leased to other persons;
5. Where a serious damage has been done to other persons by intention or gross negligence in connection with business activities;
6. Demand for revocation of registration has been made by the State or local governments under the provisions of other laws. [This Article Newly Inserted by Act No. 7138, Jan. 29, 2004]

#### **Article 11 (Confidentiality)**

(1) Any public official or any former public official who has been engaged in the permission, execution, notice and preparation of various documents, etc. in connection with the communication-restricting measures shall be prohibited from disclosing or divulging matters concerning the communication-restricting measures he/she has learned while performing his/her duties.

(2) Any employee or any former employee of any communications institution shall be prohibited from disclosing or divulging matters concerning the communication-restricting measures.

(3) Any person other than those of paragraphs (1) and (2) shall be prohibited from disclosing or divulging what he/she has learned in connection with the communication-restricting measures except that his/her knowledge is used according to the provisions of this Act.

(4) Matters necessary to keep secret procedures for granting permission, whether to grant permission, the contents of permission, etc. for the communication-restricting measures by the court shall be prescribed by the rules of the Supreme Court. [This Article Wholly Amended by Act No. 6546, Dec. 29, 2001]

**Article 12 (Restriction on Use of Materials Acquired through Communication Restricting Measures)**

Mail or its contents and contents of any telecommunications acquired through execution of the communication-restricting measures referred to in Article 9 shall not be used except for the cases in each of the following subparagraphs:

1. A case where they are used to investigate, prosecute the crimes prescribed in Article 5 (1) that have become the objective of the communication-restricting measures or the crimes related hereto, or prevent such crimes;
2. A case where they are used in disciplinary proceedings for crimes under subparagraph 1;
3. A case where a party concerned in communication uses them in a claim for damages;
4. A case where they are used under the provisions as prescribed in other Acts.

**Article 13 (Procedures for Provision of Communication Confirmation Data for Criminal Investigation)**

(1) Any prosecutor or any judicial police officer may, when he/she deems it necessary to conduct any investigation or to execute any punishment, ask any operator of the telecommunications business under the Telecommunications Business Act (hereinafter referred to as the "operator of telecommunications business") for the perusal or the provision of the communication confirmation data (hereinafter referred to as the "provision of the communication confirmation data").

(2) Any prosecutor or any judicial police officer shall, when he/she asks for the provision of the communication confirmation data under paragraph (1), obtain permission therefor from the competent district court (including any ordinary military court; hereinafter the same shall apply) or branch court with a document in which the reason for such asking, the relation with the relevant subscriber, and the scope of necessary data are entered: Provided, That if the urgent grounds exist that make it impossible to obtain permission from the competent district court or branch court, he/she shall obtain permission immediately after asking for the provision of the communication confirmation data and then shall send it to an operator of the

telecommunications business.<Amended by Act No. 7503, May 26, 2005>

(3) Any prosecutor or any judicial police officer shall, when he/she is provided with communication confirmation data due to the urgent grounds under the proviso of paragraph (2) but he/she fails to obtain permission therefor from the district court or branch court, abandon the communication confirmation data provided to him/her without delay.<Amended by Act No. 7503, May 26, 2005>

(4) Deleted.<by Act No. 7503, May 26, 2005>

(5) Any prosecutor or any judicial police officer shall, when he/she is supplied with the communication confirmation data under paragraph (2), keep records in which necessary matters, including the fact of asking for the provision of the relevant communication confirmation data, are entered and other relevant materials, including the written request for the provision of the communication confirmation data, at the institution to which he/she belongs.<Amended by Act No. 7503, May 26, 2005>

(6) The district court or branch court shall keep records with respect to receiving requests for permission for the provision of the communication confirmation data and granting such permission and other materials related thereto under paragraph (2).<Amended by Act No. 7503, May 26, 2005>

(7) An operator of the telecommunications business shall, when he/she provides any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies with the communication confirmation data, make a report on the provision of the communication confirmation data twice a year to the Minister of Science, Information and Communications Technology (ICT) and Future Planning, and keep records in which necessary matters, including the provision of the communication confirmation data, are entered and other materials related to requests for the provision of the communication confirmation data, etc. for seven years from the date on which each of such communication confirmation data is provided. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(8) The Minister of Science, Information and Communications Technology (ICT) and Future Planning may check on the authenticity of reports made by operators of the telecommunications business under paragraph (7) and the management of related materials, including records, which need to be kept by them.<Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

(9) The provisions of Article 6 (excluding paragraph (7) of the same Article) shall apply mutatis mutandis to the matters related to the provision of the communication confirmation data for the criminal investigations, in addition to the matters provided in this Article.<Newly Inserted by Act No. 7503, May 26, 2005> [This Article Newly Inserted by Act No. 6546, Dec. 29, 2001]

#### **Article 13-2 (Provision of Communication Confirmation Data to Court)**



Any court may, when it is deemed necessary for trial, ask any operator of the telecommunications business to provide it with the communication confirmation data under Article 294 of the Civil Procedure Act and Article 272 of the Criminal Procedure Act.<Amended by Act No. 6626, Jan. 26, 2002> [This Article Newly Inserted by Act No. 6546, Dec. 29, 2001]

**Article 13-3 (Notification of Provision of Communication Confirmation Data for Criminal Investigations)**

(1) When any public action is instituted against the cases receiving the provision of communication confirmation data under the provisions of Article 13, or a disposition of not instituting any public action or booking (excluding a decision on suspension of prosecution) is taken, a written notice of the fact of receiving the provision of communication confirmation data, the agency requesting the provision and the relevant period, etc. shall be made within 30 days from the date of taking the said dispositions.

(2) The provisions of Article 9-2 (excluding paragraph (3) of the same Article) shall apply mutatis mutandis to the facts, etc. of receiving the provision of communication confirmation data, in addition to those provided in paragraph (1).

[This Article Newly Inserted by Act No. 7503, May 26, 2005]

**Article 13-4 (Procedures, etc. for Provision of Communication Confirmation Data for National Security)**

(1) Where the collection of information is necessary for the prevention of dangers to the national security, any of the heads of intelligence and investigative agencies may request any operator of the telecommunications business to provide the communication confirmation data.

(2) The provisions of Articles 7 through 9 and 9-2 (3), (4) and (6) shall apply mutatis mutandis to the procedures, etc. for the provision of communication confirmation data under the provisions of paragraph (1). In this case, the "communication restriction measures" shall be deemed to be the "request for the provision of communication confirmation data".

(3) The provisions of Article 13 (3) and (5) shall apply mutatis mutandis to the abandonment of communication confirmation data and the keeping of related data.

[This Article Newly Inserted by Act No. 7503, May 26, 2005]

**Article 13-5 (Confidentiality and Restrictions on Use of Data)**

The provisions of Articles 11 and 12 shall apply mutatis mutandis to the provision of communication confirmation data under the provisions of Article 13 and the obligation for secret observance and the restrictions on the use of data following the provision of

communication confirmation data under the provisions of Article 13-4, respectively. [This Article Newly Inserted by Act No. 7503, May 26, 2005]

**Article 14 (Prohibition of Interference in Others' Conversation Secrets)**

- (1) No person shall record a conversation between others that is not open to the public or listen to it through the employment of electronic or mechanical devices.
- (2) The provisions of Articles 4 through 8, 9 (1) (former part) and (3), 9-2, 11 (1), (3) and (4) and 12 shall apply to recording or listening as referred to in paragraph (1).<Amended by Act No. 6546, Dec. 29, 2001>

**Article 15 (Control of National Assembly)**

- (1) Any of the standing committees and any committee for inspection and investigation of state administration of the National Assembly may, when it is deemed necessary, ask the Minister of Court Administration or the heads of agencies or institutions that have filed requests or applications for the communication-restricting measures or have executed such communication-restricting measures to make a report on any specific communication-restricting measures, etc., and ask the Minister of Science, Information and Communications Technology (ICT) and Future Planning to make a report detailing wiretapping equipment authorized and reports filed in connection of such wiretapping equipment, respectively. <Amended by Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>
- (2) Any of the standing committees and any committee for inspection and investigation of state administration of the National Assembly may, by a decision, conduct on-the-spot inspection or other inspection on wiretapping equipment currently in possession of investigative agencies, telephone switchboard rooms and other places of agencies that have executed the wiretapping or institutions that have cooperated in wiretapping. In this case, any person participating in the on-the-spot inspection and other inspection shall be prohibited from divulging secrets he/she has learned therefrom without any good cause.
- (3) The on-the-spot investigation or other investigation referred to in paragraph (2) shall not be conducted for the purpose of violating any person's privacy or intervening in any pending trial or the prosecution of a case under investigation.
- (4) The head of any central administrative agency that has executed the communication-restricting measures, has been commissioned to execute such communication-restricting measures or has cooperated in executing the communication-restricting measures shall, upon receiving a request from any of the standing committees or any committee for inspection and investigation of state administration of the National Assembly, make a report on the communication-restricting measures related to Articles 5 through 10 to the National Assembly as prescribed by Presidential Decree: Provided, That any of the heads of

intelligence and investigative agencies shall make such report to the Intelligence Committee of the National Assembly. [This Article Wholly Amended by Act No. 6546, Dec. 29, 2001]

**Article 15-2 (Cooperative Obligation of Operators of Telecommunications Business)**

(1) The operators of telecommunications business shall cooperate with the communication-restricting measures and the request for provision of communication confirmation data taken and made under this Act by any prosecutor, any judicial police officer or any of the heads of intelligence and investigative agencies.  
(2) Matters necessary for the cooperation by the operators of telecommunication business for the execution of communication-restricting measures under the provisions of paragraph (1), the keeping period of communication confirmation data and other matters for the cooperation of the operators of telecommunication business, shall be prescribed by Presidential Decree. [This Article Newly Inserted by Act No. 7503, May 26, 2005]

**Article 16 (Penalty Provisions)**

(1) Any of the following persons shall be punished by imprisonment with labor for not less than one year but not more than ten years or by suspension of qualification for not more than five years: <Amended by Act No. 12229, Jan, 14, 2014>

1. A person who has censored any mail, wiretapped any telecommunications or recorded or eavesdropped on any conversations between other individuals in violation of the provisions of Article 3;

2. A person who has disclosed or divulged the contents of communications or conversations he/she has learned in a manner referred to in subparagraph 1.

(2) Any of the following persons shall be punished by imprisonment with labor for not more than ten years:<Amended by Act No. 7503, May 26, 2005>

1. A person who has commissioned the execution of communication-restricting measures or asked for cooperation in the execution of such communication-restricting measures without delivering a written permission for communication-restricting measures or a copy of the cover of an emergency wiretapping statement or any other person who has executed the commissioned communication-restricting measures or cooperated in the execution of such communication-restricting measures without receiving a written permission for communication-restricting measures or a copy of the cover of an emergency wiretapping statement in violation of the provisions of Article 9 (2);

2. A person who has violated the provisions of Article 11 (1) (including him/her to whom the provisions of Article 14 (2) shall apply and to whom the provisions of Article 13-5 shall apply mutatis mutandis).

(3) Any person who has violated the provisions of Article 11 (2) (including him/her to whom the provisions of Article 13-5 shall apply mutatis mutandis) shall be punished by imprisonment with labor for not more than seven years.<Amended by Act No. 7503, May 26, 2005>

(4) Any person who has violated the provisions of Article 11 (3) (including him/her to whom the provisions of Article 14 (2) shall apply and to whom the provisions of Article 13-5 shall apply mutatis mutandis) shall be punished by imprisonment with labor for not more than five years.<Amended by Act No. 7503, May 26, 2005> [This Article Wholly Amended by Act No. 6546, Dec. 29, 2001]

#### **Article 17 (Penalty Provisions)**

(1) Any person falling under any of the following subparagraphs shall be punished by imprisonment with prison labor for not more than five years or by a fine not exceeding 30 million won: <Amended by Act No. 7138, Jan. 29, 2004>

1. A person who has failed to keep a cover copy of a written permission for communication-restricting measures or an emergency wiretapping statement, etc. in violation of the provisions of Article 9 (2);

2. A person who has failed to keep records in violation of the provisions of Article 9 (3) (including him/her to whom the provisions of Article 14 (2) shall apply);

3. A person who has failed to confirm a telephone number of any person subject to the communication-restricting measures, which is entered in the written permission for communication-restricting measures or the emergency wiretapping statement, or divulged any password used for telecommunications in violation of the provisions of Article 9 (4);

4. A person who has manufactured, imported, sold, distributed, possessed or used wiretapping equipment, and advertised them for the aforementioned purposes without obtaining authorization thereof in violation of the provisions of Article 10 (1);

5. A person who has failed to make or keep authorization records of wiretapping equipment in violation of the provisions of Article 10 (3) and (4);

5-2. A person who has engaged in detecting illegal wiretapping equipment either by failing to make a registration under the provisions of Article 10-3 (1), or by making a false registration;

6. A person who has been provided with the communication confirmation data or provided such data in violation of the provisions of Article 13 (4).

(2) Any person falling under any of the following subparagraphs shall be punished by imprisonment with labor for not more than three years or by a fine not exceeding ten million won:<Amended by Act No. 7138, Jan. 29, 2004; Act No. 8867, Feb. 29, 2008; Act No. 11690, Mar. 23, 2013>

1. A person who has given or received a unique number of terminal equipment in contravention of the provisions of Article 3 (3);
2. A person who has failed to discontinue immediately the emergency communication-restricting measures in violation of the provisions of the latter part of Article 8 (2) or the latter part of Article 8 (9);
3. A person who has failed to give notice with respect to the execution of the communication-restricting measures in violation of the provisions of Article 9-2 (including him/her to whom the provisions of Article 14 (2) shall apply);
4. A person who has failed to report the current status of the provision of communication confirmation data, etc. to the Minister of Science, Information and Communications Technology (ICT) and Future Planning or to keep relevant materials in violation of the provisions of Article 13 (7). [This Article Wholly Amended by Act No. 6546, Dec. 29, 2001]

#### **Article 18 (Criminal Attempts)**

Attempts of the crimes prescribed in Articles 16 and 17 shall be punished.

**ADDENDA** <No. 4650, 27. Dec, 1993> (1) (Enforcement Date) This Act shall enter into force six months after the date of its promulgation. (2) (Repealed Act) The Temporary Post Control Act is hereby repealed. (3) (Transitional Measures) A person, possessing or having used any wiretapping equipment, who is subject to authorization at the time this Act enters into force, shall, with the authorization referred to in Article 10, prepare and keep a register within three months after the date this Act enters into force; a person who violates it shall be subject to subparagraph 2 of Article 17.

**ADDENDA** <No. 5454, 13. Dec, 1997> This Act shall enter into force on January 1, 1998. (Proviso Omitted.)

**ADDENDA** <No. 5681, 21. Jan, 1999>

#### **Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. Articles 2 through 4 Omitted.

**ADDENDA** <No. 6146, 12. Jan, 2000>

**Article 1 (Enforcement Date)** This Act shall enter into force on July 1, 2000. Articles 2 through 9 Omitted.

**ADDENDA** <No. 6305, 29. Dec, 2000> **Article 1 (Enforcement Date)** This Act shall enter into force on January 1, 2001. Articles 2 through 8 Omitted.

**ADDENDA** <No. 6346, 08. Jan, 2001> (1) (Enforcement Date) This Act shall enter into force three months after the date of its promulgation. (Proviso Omitted.) (2) Omitted.

**ADDENDA** <No. 6546, 29. Dec, 2001> **Article 1 (Enforcement Date)**

This Act shall enter into force three months after the date of its promulgation.

**Article 2 (Applicability)** (1) The amended provisions of Articles 5 (1), 6 (1) through (7), 7 (1) through (3), 8, 9, 9-2 and 14 (2) shall apply from the first communication-restricting measures for which a request is filed for permission or approval (including a case where a judicial police officer files such request) or whose execution commences on or after the date this Act enters into force.

(2) The amended provisions of Articles 13 and 13-2 shall apply from the first communication confirmation data for which a request is filed for approval therefor or provision thereof on or after the date this Act enters into force.

**Article 3 (Transitional Measures concerning Wiretapping Equipment of State Organs)** Any state organ that is in possession of wiretapping equipment at the time when this Act enters into force shall make a report thereon to the Minister of Information and Communication or notify the Intelligence Committee of the National Assembly in accordance with the amended provisions of Article 10-2 within three months after the date this Act enters into force.

**Article 4 (Transitional Measures concerning Penalty Provisions)**

The application of the penalty provisions in response to any act committed prior to the enforcement of this Act shall be governed by the previous provisions.

**ADDENDA** <No. 6626, 26. Jan, 2002> **Article 1 (Enforcement Date)**

This Act shall enter into force on July 1, 2002. Articles 2 through 7 Omitted.

**ADDENDA** <No. 7138, 29. Jan, 2004>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation: Provided, That the amended provisions of Article 10-3 shall enter into force six months after the date of its promulgation.

(2) (Transitional Measures) A person who engages in the business of detecting illegal wiretapping equipment at the time this Act enters into force shall make a registration under the amended provisions of Article 10-3 within six months from the date this Act enters into force. **ADDENDA** <No. 7371, 27. Jan, 2005>

This Act shall enter into force on the date of its promulgation.

**ADDENDA** <No. 7428, 31. Mar, 2005> **Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation. Articles 2 through 6 Omitted.

**ADDENDA** <No. 7503, 26. May, 2005> This Act shall enter into force three months after the date of its promulgation.

**ADDENDA** <No. 8728, 21. Dec, 2007> **Article 1 (Enforcement Date)**

This Act shall enter into force one year after the date of its promulgation. Articles 2 through 6 Omitted.

**ADDENDA** <No. 8733, 21. Dec, 2007> **Article 1 (Enforcement Date)**

This Act shall enter into force nine months after the date of its promulgation. (Proviso Omitted.) Articles 2 through 11 Omitted.

**ADDENDA** <No. 8867, 29. Feb, 2008> **Article 1 (Enforcement Date, etc.)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.) Articles 2 through 12 Omitted.

**ADDENDA** <No. 9752, 28. May, 2009>

(1) (Enforcement Date) This Act shall enter into force on the date of its promulgation.

(2) (Applicability) The amended provisions of Article 9-3 shall apply to confiscation, search or investigation executed on or after the date this Act enters into force.

**ADDENDA** <No. 9819, 02. Nov, 2009> **Article 1 (Enforcement Date)**

This Act shall enter into force six months after the enforcement of this Act. Articles 2 through 6 Omitted.

**ADDENDA** <No. 11690, 23. Mar, 2013> **Article 1 (Enforcement Date)**

(1) This Act shall enter into force on the date of its promulgation.

(2) Omitted. Articles 2 through 7 Omitted.

**ADDENDA** <No. 11731, 05. Apr, 2013> **Article 1 (Enforcement Date)**

This Act shall enter into force on the date of its promulgation. (Proviso Omitted.)

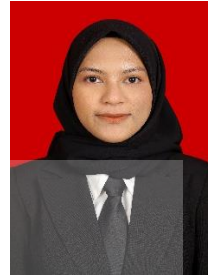
Articles 2 and 3 Omitted. **ADDENDA** <No. 12229, 14. Jan, 2014> This Act shall enter into force on the date of its promulgation.

STATE ISLAMIC UNIVERSITY  
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## CURRICULUM VITAE

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Demikian *Curriculum Vitae* ini saya buat dengan sebenar-benarnya, semoga dapat dipergunakan sebagaimana mestinya.

Hormat Saya