CHAPTER 8

Crimes of Obstructing Another from Exercising One's Right

- Promulgated on February 2, 2015. Effective on July 1, 2015.
- Amended on July 23, 2018. Effective on August 15, 2018.
- Amended on December 6, 2021. Effective on March 1, 2022.
- Amended on April 24, 2023. Effective on July 1, 2023.
- Amended on March 30, 2026. Effective on July 1, 2026.

This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Coercion (Criminal Act, Article 324, paragraph 1), Joint Coercion (Punishment of Violences Etc. Act, Article 2, paragraph 2), Coercive Conduct against Victims (Act on the Protection of Children and Youth Against Sex Offense, Article 16, Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 60), Aggravated Coercion (Criminal Act, Article 326), Special Coercion (Criminal Act, Article 324, paragraph 2), Repeated Coercion Within Recidivism Period (Punishment of Violences Etc. Act, Article 2, paragraph 3), Repeated Special Coercion Within Recidivism Period (Punishment of Violences Etc. Act, Article 3, paragraph 4), Obstructing Another from Exercising One's Right (Criminal Act, Article 323), Forcible Taking (Criminal Act, Article 325, paragraph 1), *Quasi*-Forcible Taking (Criminal Act, Article 325, paragraph 2), Aggravated Obstruction of Another from Exercising One's Right (Criminal Act, Article 326), and Evasion of Execution (Criminal Act, Article 327).

※ Note that the underlined provisions applied to certain crimes were deleted or amended following the statutory revisions made after the sentencing guidelines were established. The sentencing guidelines on those crimes will be revised later. For this reason, all or part of the current standards of sentencing would not be applied.

PART A

TYPES OF OFFENSES AND SENTENCING RANGE

1 COERCION

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	General Coercion	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs.
2	Aggravated · Special Coercion	4 mos. – 1 yr. 2 mos.	8 mos. – 2 yrs.	1 yr. 4 mos. – 3 yrs.
3	Repeated Coercion Within Recidivism Period	6 mos. – 1 yr. 6 mos.	10 mos. – 3 yrs.	1 yr. 6 mos. – 4 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Extent of coercion is minor • Cases with special extenuating circumstances that mitigate the offender's involvement • Extenuating motives for the offense	• Playing a leading role or directing/coordinating the offense (excluding Type 3 or Type 2 offenses, whichever Special Coercion applies) • Cases where offenders committed the crimes through the threat of collective force or by carrying a dangerous weapon (excluding cases of Special Coercion) • Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • Morally reprehensible motives • Cases where the extent of coercion is serious • Vulnerable victim • Instigating the subordinate to commit the offense
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle-blowing	• Same-offense recidivism within the statutory recidivism period (this excludes Type 3 offense) • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
		• Victim expresses intent of non-punishment or substantial restitution was made to the victim	• Habitual offenders (This only applies to habitual offenders subject to aggravated punishment under Article 6 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes)
General Sentencing Factor	Conduct	• Minor participation	• Two or more co-offenders • Planned crime
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution	• Different-offense recidivism within the statutory recidivism period. Prior convictions for the same-offense, or a crime of violence resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

▷ Apply the following classification in cases where the offense of Coercion was committed while severely intoxicated by alcohol or drugs (same applies to crimes of Obstructing Another from Exercising One's Right Etc.)

❶ Cases in which the offender voluntarily became intoxicated by alcohol or drugs with the intent to commit a crime, in anticipation of committing a crime, or to use as grounds for exemption after committing a crime, the state of intoxication shall be reflected as a general aggravating factor regardless of whether the defendant was in a state of diminished mental capacity at the time of the offense.

❷ Cases in which offender had no criminal intent and no anticipation of committing a crime, but past experiences, physical condition, or circumstances indicated a propensity to cause harm to others when intoxicated, the state of intoxication shall not be reflected as a mitigating factor regardless of the defendant's mental capacity at the time of the offense.

❸ Even in cases not falling under ❶ or ❷, if the offender did not suffer from diminished mental capacity at the time of the offense, the intoxication shall not be reflected as a mitigating factor.

2 OBSTRUCTING ANOTHER FROM EXERCISING ONE'S RIGHTS, ETC.

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Obstruction of Exercising One's Rights	– 8 mos.	6 mos. – 1 yr.	10 mos. – 2 yrs. 6 mos.
2	Forcible Taking /*Quasi*–Forcible Taking	4 mos. – 1 yr.	8 mos. – 1 yr. 6 mos.	1 yr. – 3 yrs.
3	Aggravated Obstruction of Exercising One's Rights	4 mos. – 1 yr. 2 mos.	8 mos. – 2 yrs.	1 yr. 4 mos. – 3 yrs.
4	Evasion of Execution	– 8 mos.	6 mos. – 1 yr.	8 mos. – 2 yrs.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	• Dolus Eventualis • Cases with special extenuating circumstances that mitigate the offender's involvement • Actual loss is minor	• Highly egregious conducts or methods • Offenses caused significant damage to the victim • Instigating the subordinate to commit the crime
	Offender/ Etc.	• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities or whistle–blowing • Victim expresses intent of non–punishment or substantial restitution was made to the victim	• Same–offense recidivism within the statutory recidivism period
General Sentencing Factor	Conduct	• Minor participation • Extent of violence or threat is minor (Type 2)	
	Offender/ Etc.	• Diminished mental capacity (with fault) • Sincere remorse • No prior criminal convictions • Considerable restitution to the victim	• Different–offense recidivism within the statutory recidivism period. Prior convictions for the same–offense, or a crime of violence resulting in imprisonment which do not constitute statutory recidivism (within ten years after the completion of the sentence) • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)

DEFINITION OF OFFENSES

1 COERCION

○ This refers to an act that constitutes the offense with the following elements as prescribed in the applicable law (hereinafter the same).

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 General Coercion	Coercion	Criminal Act, Article 324, paragraph 1
	Joint Coercion	Punishment of Violence Act, Article 2, paragraph 2, subparagraph 2
	Coercion on victims and others	Act on the Protection of Children and Youth Against Sex Offense, Article 16, and the Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 60
Type 2 Aggravated · Special Coercion	Aggravated Coercion	Criminal Act, Article 326
	Special Coercion	Criminal Act, Article 324, paragraph 2
Type 3 Repeated Coercion Within Recidivism Period	Repeated Coercion Within Recidivism Period	Punishment of Violence Act, Article 2, paragraph 3, subparagraph 2
	Repeated Special Coercion Within Recidivism Period	Punishment of Violence Act, Article 3, paragraph 4, subparagraph 2

※ Habitual offender of Child Abuse Crimes or Child Abuse Crimes Committed by a mandatory reporter to Report Child Abuse (Applicable to each offense of Coercion per each offenses)

ELEMENTS OF OFFENSE	APPLICABLE LAW
Cases where the offender habitually commits child abuse crimes stipulated in Article 2, subparagraph 4, item 9, 13 of the Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes (This shall only apply to offenders subject to aggravated punishment stipulated in item 9)	Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 6
Cases where the offender with a mandatory duty to report Child Abuse stipulated on each subparagraphs in Article 10, paragraph 2 of the Act on Special Cases Concerning the Punishment, Etc. of Child Abuse Crimes commits child abuse crimes stipulated in Article 2, subparagraph 4, item 9, 13 of the same Act (This shall only apply to offenders subject to aggravated punishment stipulated in item 9)	Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 7

2 OBSTRUCTING ANOTHER FROM EXERCISING ONE'S RIGHTS, ETC.

TYPE	ELEMENTS OF OFFENSE	APPLICABLE LAW
Type 1 Obstruction of Exercising Rights	Obstructing Another from Exercising One's Rights	Criminal Act, Article 323
Type 2 Forcible Taking /*Quasi*-Forcible Taking	Forcible Taking	Criminal Act, Article 325, paragraph 1
	Quasi-Forcible Taking	Criminal Act, Article 325, paragraph 2
Type 3 Aggravated Obstruction Another from Exercising One's Right	Aggravated Obstruction Another from Exercising One's Right	Criminal Act, Article 326
Type 4 Evasion of Execution	Evasion of Execution	Criminal Act, Article 327

DEFINITION OF SENTENCING FACTORS

1 COERCION[1)]

1. THE EXTENT OF COERCION IS MINOR

- This applies where one or more of the following are present:
  - The extent of violence or threat is minor
  - The extent of harm is minor (This excludes cases where the offender commits an offense against vulnerable victims)
  - Other cases with comparable factors

2. CASES WITH SPECIAL EXTENUATING CIRCUMSTANCES THAT MITIGATE THE OFFENDER'S INVOLVEMENT

- This applies where one or more of the following are present:
  - The offender participated in the crime under coercion or threats by another person (excluding cases that fall under Article 12 of the Criminal Act).
  - The offender merely agreed to participate in the crime and neither directed nor directly took part in carrying out the offense.
  - Other cases with comparable factors

3. EXTENUATING CIRCUMSTANCES FOR OFFENDER'S MOTIVE FOR COMMITTING OFFENSE

- This applies where one or more of the following are present:
  - The offender committed the offense as a means of exercising the offender's rights
  - Other cases with comparable factors

1) Sentencing factors regarding Obstructing Another from Exercising One's Right Etc. with identical designations shall have the same definition unless specifically defined otherwise.

4. CASES WHERE SPECIAL COERCION APPLIES

- This indicates cases where Special Coercion prescribed in Article 324, paragraph 2 of the Criminal Act applies.

5. MORALLY REPREHENSIBLE MOTIVES

- This applies where one or more of the following are present:
  - Offense was committed in retaliation against, or out of grievance or hatred toward, the victim.
  - Cases where the Act on Protection of Children and Youth Against Sex Offense, Article 16, or the Act on Special Cases Concerning the Punishment of Child Abuse Crimes, Article 60 is applicable (Coercion of Settlement)
  - Offense was committed for the purpose of the offender's sexual pleasure or caused sexual humiliation to the victim
  - Commissioned coercion with the purpose of economic compensation, etc.
  - Motive derived from the pleasure of committing the crime itself
  - Other cases with comparable factors

6. THE EXTENT OF COERCION WAS SERIOUS

- This applies where one or more of the following are present:
  - The extent of violence or threat was exceptionally serious
  - Cases where the offense caused the victim extreme physical or mental pain in terms of reasons for and duration of the time of coercion
  - Other cases with comparable factors

7. VULNERABLE VICTIMS

- This indicates cases in which the victim was especially vulnerable due to reduced physical or mental capacity or age at the time of the crime and the offender was already aware of or possibly aware of the victim's such circumstances.

8. VICTIM EXPRESSES INTENT FOR NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse with genuine efforts to reach a settlement with the victim; the victim or the family of victim (in the case of a deceased victim) fully understands the legal and social implications of opposing punishment and clearly expresses the intent not to seek punishing the offender. However, this should not apply in the following cases:
  - (1) in cases in which the victim or the family of the deceased opposes punishment as a result of *de facto* coercion or deceit by the offender against the victim's will, or
  - (2) where there is no reasonable or convincing basis for the victim or their legal representative to express no desire for punishment.
- This applies only to cases in which, upon careful and thorough examination and assessment of the victim's or legal representative's age, intelligence, and ability to fully understand the meaning, content, and legal implications of expressing an intent not to seek punishment, it is determined that such expression is both informed and genuine.

9. SUBSTANTIAL RESTITUTION TO THE VICTIM

- This refers to cases in which the offender, through genuine and sustained efforts, has restored the damages to a degree comparable to a formal settlement (in cases where only property damage occurred, approximately two-thirds or more of the total loss), or in which restitution of such degree is reasonably assured.
- In the case of a deposit, this applies only where it amounts to substantial recovery of damages, as determined through careful examination of the following: the opinion of the victim or the victim's legal representative (in case of a deceased victim, this includes the spouse, lineal relatives, and siblings); whether the offender is able by law to recover the deposited money or is likely to do so; and the nature of the legal interest harmed and the scale and degree of the damage.

10. CAUSING HARM IN THE COURSE OF ATTEMPTED SETTLEMENT (EXCLUDING CASES WHERE SEPARATE CRIMES SUCH AS COERCION ARE ESTABLISHED)

- This indicates cases in which harm is inflicted by persistently harassing the victim, by applying undue pressure by suggesting tangible or intangible disadvantages for refusing the settlement, or by using other equivalent methods, in the course of attempting settlement.

11. SINCERE REMORSE

- This indicates cases in which, after examining and assessing the specific circumstances surrounding the offender's admission of the offense and any voluntary efforts made toward victim restitution and/or the prevention of re-offending, the offender is deemed to show genuine remorse for the offense.

12. NO PRIOR CRIMINAL CONVICTIONS

- This indicates cases in which, the offender has never committed a crime even once prior to the relevant offense. However, this excludes cases targeting unspecified victims or multiple victims, or cases where crimes were committed repeatedly over a prolonged period.

2 OBSTRUCTING ANOTHER FROM EXERCISING ONE'S RIGHTS, ETC.

1. ACTUAL DAMAGE IS MINOR

- This applies where one or more of the following are present:
  - Cases where actual damage caused by the offense is significantly less than the equivalent value of the damaged property, taking into account the existing business relation or the contractual relation between the offender and the victim, or where the actual damage is minor (Type 1, Type 2)
  - Cases in which the act of concealment or the false assumption of debt has had little effect on the amount of the claim the creditor can actually recover, such as where the concealed property had low enforceability or low collateral value (Type 4)
  - Other cases with comparable factors

2. HIGHLY EGREGIOUS CONDUCTS OR METHODS

- This applies where one or more of the following are present:
  - Means and methods for the commission of the offense were meticulously done in advance
  - The offender used highly intelligent schemes to commit the offense
  - The offender used judicial proceedings to commit Evasion of Execution
  - Other cases with comparable factors

3. INFLICTING SERIOUS HARM TO THE VICTIM

- This applies where one or more of the following are present:
  - The harm caused by the offense is severe, such as large-scale economic losses or a large number of victims.
  - The offense caused the victim to face financial difficulties in livelihood or business because the victim was unable to recover all or a large portion of the debt owed (Type 1, Type 3)
  - Other cases with comparable factors

PRINCIPLES APPLICABLE TO SENTENCING FACTORS

1 DETERMINING THE SENTENCING RANGE

- When determining the appropriate sentencing range, judges must consider only the Special Sentencing Factors.
- However, where multiple Special Sentencing Factors are present, the applicable sentencing range shall be determined after assessing the factors in accordance with the following principles:
  - ❶ Greater weight is accorded to Conduct Factors than to Offender/Etc. Factors of equal number. However, where a victim has intent of non-punishment, such wishes may be treated on a par with a Conduct Factor.
  - ❷ Conduct Factors *inter se*, and Offender/Etc. Factors *inter se*, shall be treated as equivalent.
  - ❸ If the sentencing range applicable cannot be determined by the aforementioned principles in ❶ and ❷, judges are to decide the sentencing range by a comprehensive comparison and assessment of Special Sentencing Factors based on the principles set forth in ❶ and ❷.
- After the assessment of sentencing factors, where aggravating factors outweigh mitigating factors, the aggravating sentencing range is recommended; where mitigating factors outweigh aggravating factors, the mitigating sentencing range is recommended; and in all other cases, the standard sentencing range is recommended.

2 DETERMINING THE SENTENCE TO BE IMPOSED

- The sentence to be imposed shall be determined within the sentencing range established under paragraph 1 above, by comprehensively taking into account both General Sentencing Factors and Special Sentencing Factors.

GENERAL APPLICATION PRINCIPLES

1 SPECIAL ADJUSTMENTS TO THE RECOMMENDED SENTENCING RANGE

❶ After the assessment of Special Sentencing Factors, if a case falls within the Aggravating Sentencing Range and either i) two or more Special Aggravating Factors exist alone, or ii) Special Aggravating Factors outnumber Special Mitigating Factors by two or more, the upper limit of the recommended sentencing range may be increased by up to 1/2.

❷ After the assessment of Special Sentencing Factors, if a case falls within the Mitigating Sentencing Range and either i) two or more Special Mitigating Factors exist alone, or ii) Special Mitigating Factors outnumber Special Aggravating Factors by two or more, the lower limit of the recommended sentencing range may be reduced by up to 1/2.

2 RELATION BETWEEN THE RECOMMENDED SENTENCING RANGE UNDER THE SENTENCING GUIDELINES AND THE APPLICABLE SENTENCING RANGE BY LAW

- Where the sentencing range recommended under this guideline conflicts with the statutory applicable aggravated/mitigated sentencing range, the upper or lower limit of the applicable sentencing range by law shall govern.

3 APPLICATION OF DISCRETIONARY MITIGATING FACTORS BY LAW

- Where a judge declines to apply discretionary statutory mitigating factors listed in the Sentencing Factor Table of this guideline, such factors shall be considered as extenuating circumstances among mitigating factors.

GUIDELINES ON SENTENCING MULTIPLE OFFENSES

1 APPLICABLE RANGE

- This section applies to concurrent crimes prescribed in the first part of Article 37 of the Criminal Act. However, when concurrent crimes under the first part of Article 37 of the Criminal Act include both an offense set forth in the sentencing guidelines and an offense not covered by the sentencing guidelines, then the minimum level should be the minimum of the sentencing range of the offense that is set forth in this sentencing guideline.

2 DETERMINING THE BASE OFFENSE

- The "base offense" refers to the offense subject to the most severe punishment after selecting the type of punishment and applying any statutory aggravation and/or mitigation thereto. However, where the upper end of the sentencing range under the sentencing guidelines for an offense covered by this chapter is lower than the upper end of the sentencing range under the sentencing guidelines for the other concurrent offense, the other concurrent offense shall become the base offense.

3 DETERMINING THE SENTENCING RANGE FOR THE CONCURRENT MULTIPLE OFFENSES

- Except for concurrent offenses that are treated as a single offense under the sentencing guidelines, the following method of aggravation for multiple offenses shall apply:
  - ❶ For multiple offenses involving two offenses, the upper end of the sentencing range shall be determined by adding 1/2 of the upper end of the sentencing range of the other offense to the upper end of the sentencing range of the base offense.

❷ For multiple offenses involving three or more offenses, the upper end of the sentencing range shall be determined by adding the following three figures: (1) the upper end of the sentencing range of the base offense, (2) 1/2 of the upper end of the sentencing range of the offense with the highest sentencing range among the other offenses, and (3) 1/3 of the upper end of the sentencing range of the offense with the second highest sentencing range among the other offenses.

❸ For multiple offenses where the lower end of the sentencing range of the other offense is higher than the lower end of the sentencing range of the base offense, the lower end of the sentencing range after applying the method of aggravation for multiple offenses shall be the lower end of the sentencing range of the other offense.

PART B

GUIDELINE ON SUSPENDING A SENTENCE

1 COERCION

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Cases where offenders committed the crimes through the threat of collective force or by carrying a dangerous weapon • Morally reprehensible motives • Cases where the extent of coercion is serious • Vulnerable victim • Offense committed repeatedly over a prolonged period • Child abuse committed by a mandatory reporter defined in Article 7 of the Act on Special Cases Concerning the Punishment of Child Abuse Crimes • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Dolus Eventualis • Cases with special extenuating circumstances that mitigate the offender's involvement in the offense or motives to commit the offense • Extent of coercion is minor • Cases where the offender prevented or hindered the commission of the crime by a co-offender • No prior criminal convictions • Victim expresses intent of non-punishment or substantial restitution was made to the victim
General Circumstances	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties • Drug or alcohol addiction • Absence of sincere remorse • Planned crime • Where the offense was committed against an unspecified number of persons or multiple victims, or was repeatedly committed over a considerable period • Playing a leading role as a co-offender • Post-offense evidence tampering or attempting to destroy or conceal evidence	• Stable social/family ties • The offense was committed impulsively, without prior deliberation • Voluntary surrender to investigative authorities or whistle-blowing • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • The offender's physical condition is severely impaired • Minor participation as a co-offender • Rescuing or transferring the victim to the hospital after committing the offense

CLASSIFICATION	ADVERSE	AFFIRMATIVE
	• No genuine effort to reverse the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

2 OBSTRUCTING ANOTHER FROM EXERCISING ONE'S RIGHTS, ETC.

CLASSIFICATION	ADVERSE	AFFIRMATIVE
Primary Circumstances	• Highly egregious conducts or methods • Inflicting serious harm to the victim • Prior convictions for the same-offense [suspended sentence of imprisonment without labor or a more severe punishment imposed within the past five years, or three or more fines (including suspended fine)]	• Dolus Eventualis • Cases with special extenuating circumstances that mitigating the offender's involvement • Actual damage is minor • No prior criminal convictions • Victim expresses intent of non-punishment or substantial restitution was made to the victim
General Circumstances	• Two or more prior convictions resulting in a suspended sentence of imprisonment without labor or heavier punishment • Lack of social/family ties • Drug or alcohol addiction • Absence of sincere remorse • Planned crime • Playing a leading role as a co-offender • Post-offense evidence tampering or attempting to destroy or conceal evidence • No genuine effort to reverse the harm • Causing harm in the course of attempted settlement (excluding cases where separate crimes such as coercion are established)	• Stable social/family ties • Voluntary surrender to investigative authorities or whistle-blowing • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • The offender's physical condition is severely impaired • Minor participation as a co-offender • Rescuing or transferring the victim to the hospital after committing the offense • Cases where detaining the offender would impose excessive hardship on dependent family members • Considerable restitution

DEFINITIONS OF CIRCUMSTANCES TO CONSIDER WHEN SUSPENDING A SENTENCE

- For identical factors in both Sentencing Factors and the Circumstances for Suspending a Sentence, refer to the definitions set forth in the Definition of Sentencing Factors.
- Calculation of the Period of Prior Criminal Convictions
  - For cases where a suspended sentence of imprisonment or a fine was imposed, the period of a prior conviction is calculated from the date on which the judgment became final to the date of the commission of the offense.
  - For cases where a sentence of imprisonment was executed, the period of a prior conviction is calculated from the date on which the sentence was fully served to the date of the commission of the offense.

PRINCIPLES APPLICABLE TO CIRCUMSTANCES WHEN SUSPENDING A SENTENCE

- When the recommended sentence is imprisonment with labor and judges decide to suspend execution of the sentence, they must give greater weight to the Primary Circumstances than to the General Circumstances, and the following principles should be considered:
  ❶ When two or more Primary Affirmative Circumstances exist alone, or when Primary Affirmative Circumstances outnumber Primary Adverse Circumstances by two or more, it is recommended to suspend the sentence.
  ❷ When two or more Primary Adverse Circumstances exist alone, or when Primary Adverse Circumstances outnumber Primary Affirmative Circumstances by two or more, imprisonment is recommended.
  ❸ In cases in which ❶ or ❷ apply, but the difference between the number of General Adverse (Affirmative) Circumstances and General Affirmative (Adverse) Circumstances is greater than the difference between the number of Primary Affirmative (Adverse) Circumstances and Primary Adverse (Affirmative) Circumstances, or in cases other than ❶ or ❷, the judges shall decide whether to suspend the sentence after comparing and assessing all the Circumstances comprehensively.