CHAPTER 24

Crimes of Homicide

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This guideline applies to adult offenders (nineteen years of age or older) who committed any offenses of Murder (Criminal Act, Article 250, paragraph 1), Murder of an Ascendant (Criminal Act, Article 250, paragraph 2), Rape and Murder (Criminal Act, Article 301-2 and Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 9, paragraph 1 and Act on the Protection of Children and Youth Against Sex Offenses, Article 10, paragraph 1), Murder by Robbery (Criminal Act, Article 338), Hostage Murder in a Hostage Taking (Criminal Act, Article 324-4), Murder of Minor by Abduction or Inducement (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 2), Retaliatory Murder (Act on the Aggravated Punishment of Specific Crimes, Article 5-9, paragraph 1) or Attempts of each of the abovementioned crimes (Criminal Act, Article 254, Article 324-5 and 342, Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 15, and the Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 6).

※ 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

TYPE	CLASSIFICATION	MITIGATED SENTENCING RANGE	STANDARD SENTENCING RANGE	AGGRAVATED SENTENCING RANGE
1	Murder with Extenuating Motive	3 yrs. – 5 yrs.	4 yrs. – 6 yrs.	5 yrs. – 8 yrs.
2	Murder with General Motive	7 yrs. – 12 yrs.	10 yrs. – 16 yrs.	15 yrs. or more, life imprisonment or more
3	Murder with Reprehensible Motive	10 yrs. – 16 yrs.	15 yrs. – 20 yrs.	18 yrs. or more, life imprisonment or more
4	Murder in Combination with Other Serious Offenses	17 yrs. – 22 yrs.	20 yrs. or more, life imprisonment	25 yrs. or more, life imprisonment or more
5	Murder by Extreme Neglect for Human Life	20 yrs. – 25 yrs.	23 yrs. or more, life imprisonment	Life imprisonment or more

▷ To determine the recommended sentencing range for the Attempt of Murder offense, apply 2/3 reduction to the maximum sentencing range and 1/3 reduction to the minimum sentencing range. However, 'life imprisonment' shall be reduced to '20 years. or more', 'life imprisonment or more' shall be reduced to '20 years or more, or life imprisonment'.

CLASSIFICATION			MITIGATING FACTOR	AGGRAVATING FACTOR
Special Sentencing Factor	Conduct	General Application	• Cases with special extenuating circumstances that mitigate the offender's involvement • Use of excessive self-defense • Dolus Eventualis to commit murder • (Severe) provocation by the victim	• Premeditated Murder • Vulnerable victim • Damaging the physical remains of the body of the deceased victim • Exceptionally brutal or cruel methods • Cases where the victim is a lineal ascendant of the offender • Abduction or inducement with a morally reprehensible purpose (Type 4) • Cases where the offender also committed rape with the crime of robbery (Type 4) • Instigating the subordinate to commit the crime
		Attempt	• Minor bodily injuries (includes cases without bodily injuries)	• Serious bodily injuries
	Offender/Etc.		• Hearing and/or speech disabilities • Diminished mental capacity (without fault) • Voluntary surrender to investigative authorities • Victim expresses intent of non-punishment or substantial restitution was made to the victim	• Absence of remorse (excludes cases where the offender is merely pleading not guilty) • Special violent crimes (repeated offenses within the recidivism period)

1) The statutory titles for 'yusa-ganggan' used in this chapter refer to the English translations by the Korea Legislation Research Institute (KLRI). Consequently, varying terms are used to denote the identical legal concept—for example, 'Imitative Rape' under Article 297-2 of the Criminal Act, and '*Quasi*-Rape' or 'Sexual Penetration' under Article 92-2 of the Military Criminal Act. Under the Korean statutory framework, this offense is structurally distinct from traditional rape; therefore, the term "sexual abuse involving non-penile penetration" is used in the 'Types of Offenses and Sentencing Ranges' table of these Sentencing Guidelines. However, for the convenience of users' reference, the KLRI's translations have been adopted verbatim for the titles of the statutory provisions.

CLASSIFICATION		MITIGATING FACTOR	AGGRAVATING FACTOR
General Sentencing Factor	Conduct	• Minor participation • (Moderate) provocation by the victim	• Abandoning the physical remains of the body of the deceased victim
	Offender/Etc.	• Rescuing or transferring the victim to the hospital after committing the crime • Diminished mental capacity (with fault. Does not apply to Type 4 murder; murder after rape, murder after sexual abuse involving non-penile penetration[1)], murder after indecent acts by compulsion, murder after abduction or murder after inducement against the minor, or murder after taking hostage) • Sincere remorse • Considerable restitution	• Different-offense recidivism within the statutory recidivism period which does not constitute recidivism offense under the Act on Special Cases Concerning the Punishment of Specific Violent Crimes (Repeat offense within the statutory recidivism period of three years). Prior convictions for the same-offenses or a crime of violence resulting in imprisonment which do not constitute a repeat offense within the statutory recidivism period (within ten years after completion of 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 Murder Crimes were committed while severely intoxicated due to alcohol or drugs:

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.

DEFINITION OF OFFENSES

1 TYPE 1-MURDER WITH EXTENUATING MOTIVE

- Type 1 includes murders committed with motives that can be considered as extenuating circumstances, with one or more of the following factors:
  - Murder with Causes Attributable to the Victim
    - Where the offender or the offender's relative has received physical or mental harm (such as domestic violence, sexual assault, or others) consistently from the victim over a prolonged period of time.
    - Where the offender or the offender's relative has received several death threats from the victim (In this case, excessive use of self-defense is not considered as a Special Mitigating Factor).
  - Murder of a family member while in the mental state that clearly lacks capacity to make the right judgment
  - Other cases with comparable factors

2 TYPE 2-MURDER WITH GENERAL MOTIVE

- Type 2 includes murders with general motives with one or more of the following factors or murders that do not fall into the Type 1, 3, 4, or 5:
  - Murder Committed Out of Resentment
    - Murder committed out of resentment in response to a partner's change of heart or demand to end their relationship.
    - Murder committed out of grudge due to the perception that the offender was ignored or despised by the victim.
    - Murder committed in a fit of rage following verbal dispute or a physical encounter.
  - Murder Committed as a Result of Domestic Grievances
    - Murder of a marriage partner due to delusional infidelity.
    - Murder of a marriage partner due to accumulated grievance toward the victim.

- Murder Committed Out of Resentment in Debtor and Creditor Relations
  - Murder committed due to the victim's refusal to pay the debt.
  - Murder committed due to the victim's demands to pay the debt.
- Other cases with comparable factors

3 TYPE 3-MURDER WITH REPREHENSIBLE MOTIVES

- Type 3 includes murders with an exceptionally high degree of condemnation in regard to reprehensible motives for committing the crime with one or more of the following factors:
  - Retaliatory Murder as Prescribed in Act on the Aggravated Punishment of Specific Crimes (Act on the Aggravated Punishment of Specific Crimes, Article 5-9, paragraph 1)
    - Murder committed with the intention of retaliating against accusations, complaints, statements, testimonies, or submission of materials.
    - Murder committed with intent to prevent or nullify accusations, complaints, statements, testimonies, or submission of materials, or to fabricate statements, testimonies, or submitted materials.
  - Murder Committed with Motives Pertaining to Money, Adultery, or Organizational Benefits
    - Murder committed out of greed (such as inheritance-motivated murder or the murder for proceeds of an insurance, and the like).
    - Contract murder committed for the purpose of gaining economic benefit.
    - Murder of a marriage partner for the purpose of maintaining an adulterous relationship.
    - Murder committed as a result of rivalry between criminal organizations.
  - Murder Committed in the Commission of Other Crimes or to Prevent Disclosure of the Committed Crime
    - Murder committed in the commission of other offenses (murder of prison guard for fleeing or murder of bodyguard to abduct a particular individual).
    - Murder committed due to fear of disclosing the committed crime or the victim reporting the offense.

- Murder Committed for an Unspecified Reason Against Indiscriminate (Random) Number of People, or to Fulfill the Offender's Desire to Kill Another Individual
- Other cases with comparable factors

4 TYPE 4-MURDER COMMITTED IN COMBINATION WITH OTHER SERIOUS OFFENSES

- Type 4 includes murders committed in combination with additional serious offenses with one or more of the following factors:
  - Rape and Murder/Sexual Abuse Involving Non-penile Penetration and Murder/ Indecent Acts by Compulsion and Murder (Criminal Act, Article 301-2, Act on Special Cases Concerning the Punishment of Sexual Crimes, Article 9, paragraph 1, Act on the Protection of Children and Youth Against Sex Offenses, Article 10, paragraph 1)
  - Murder of Minor by Abduction or Inducement (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 2)
  - Hostage Murder in a Hostage Taking (Criminal Act, Article 324-4)
  - Murder by Robbery (Criminal Act, Article 338)

5 TYPE 5-MURDER COMMITTED BY EXTREME NEGLECT FOR HUMAN LIFE

- Type 5 includes murders that reflect the offender's extreme tendency towards neglect for human life with one or more of the following factors:
  - Multiple Killings of Indiscriminate Targets (Randomly) that Victimizes Two or More People
  - Murder Committed Against Two or More People Out of Pure Desire to Kill
  - Other cases with comparable factors

DEFINITION OF SENTENCING FACTORS

1. 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.

2. PROVOCATION BY THE VICTIM

- This means there are certain causes attributable to the victim as well as the offender at the time the crime was committed.
- Nonetheless, this is limited to cases that fall outside the use of excessive self-defense. When the long-existing causes attributable to the victim, such as cases of domestic violence where the victim has been inflicted for a prolonged period of time, and this such cause has been taken into account in offense Type classification, then this factor should not be considered in duplication.

3. PREMEDITATED MURDER

- This applies where one or more of the following are present:
  - Advance preparation and possession of a weapon used in the offense
  - Planned conspiracy
  - Inducement of victim
  - Preparation for the destruction of evidence
  - Prior planning of an escape plan
  - Other cases with comparable factors

4. VULNERABLE VICTIMS

- This indicates cases in which the victim was especially vulnerable due to the physical and/or mental disability or age at the time of the crime and the offender was already aware of or possibly aware of the victim's such circumstances.
- In case the committed crime was Murder of a Minor by Abduction or Inducement (Act on the Aggravated Punishment of Specific Crimes, Article 5-2, paragraph 2, subparagraph 2), this factor applies when the victim was younger than thirteen years of age or physically or mentally disabled and the offender was already aware of or possibly aware of the victim's such circumstances.

5. MURDER COMMITTED WITH EXCEPTIONALLY BRUTAL OR CRUEL METHODS

- This means cases where the victim has been killed by extreme physical or mental pain in terms of the degree and duration of the pain, including the following:
  - Murder committed through arson
  - Murder committed by the use of explosives
  - Cases where bodily harm was deliberately inflicted upon the victim prior to killing
  - Cases where the murder was committed by stabbing or striking vital points of the victim dozens of times by using a knife or other lethal weapons
  - Other cases with comparable factors

6. ABDUCTION OR INDUCEMENT WITH A REPREHENSIBLE PURPOSE

- This means cases where the purpose of abduction or inducement had one or more of the following:
  - Cases where the purpose was to commit murder
  - Cases where the purpose was to take property
  - Cases where the purpose was to engage in indecent acts, sexual intercourse, or for profit-making
  - Cases where the purpose is to exploit labor, engage in the sex trade or sexual exploitation, or to harvest internal organs of another
  - Cases where the purpose is to engage in overseas trafficking

7. MINOR BODILY INJURIES (THIS INCLUDES CASES WITHOUT BODILY INJURY)

- This indicates cases where the inflicted injury requires two weeks or less medical care, affecting relatively limited bodily parts, which does not disrupt the day-to-day activities of the victim, and does not require medical intervention such as surgical stitches and the like.
- This includes cases where the offense did not result in any bodily injury.

8. SERIOUS BODILY INJURIES

- This indicates cases with after-effects causing impairment, disfigurement, severe disability injuries inflicted to vulnerable body parts, or further bodily injuries are anticipated.

9. VICTIM EXPRESSES THE INTENT OF NON-PUNISHMENT

- This indicates cases in which the offender shows sincere remorse; 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.

10. 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, 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 defendant 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.
- Cases where the victim has received aid from the State under the Crime Victim Protection Act in connection with the damage (including where the defendant subsequently fulfills the obligation to indemnify the State) shall be excluded, absent special circumstances.

11. 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.

12. ABSENCE OF REMORSE (THIS EXCLUDES CASES WHERE THE OFFENDER MERELY DENIES THE OFFENSE)

- This means cases in which the offender admits to committing the crime, yet shows no sign of guilt or remorse and instead tries to justify the conduct. This factor should be distinguished from merely denying the offense.

13. MINOR PARTICIPATION

- This refers to cases in which the nature of participation in the commission of the offense was passive or the offender had a limited role.
- However, this is not applicable in cases in which the offender had an active role in the commission of the offense by causing another person to commit the Murder.

14. DIMINISHED MENTAL CAPACITY (WITH FAULT)

- This indicates cases in which the diminished mental capacity is caused by alcohol, substances, or the like.
- However, this does not apply to the following Type 4 offenses set forth in this Chapter, which includes Offense of Rape, Sexual Abuse Involving Non-penile Penetration and Murder, and Murder/Indecent Acts by Compulsion and Murder, Murder of Minor by Abduction or Inducement, and Hostage Murder in a Hostage Taking.

15. PRIOR CRIMINAL CONVICTIONS OF THE SAME-OFFENSE

- This means cases with criminal conviction for Murder, Murder of a Lineal Ascendant and Attempt of the Murder of an Ascendant, and Attempts thereof, Retaliatory Murder under the Act on the Aggravated Punishment of Specific Crimes, Sexual Assault, Robbery, and Abduction and Inducement as set forth in this guideline.

16. 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.

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 or bereaved family member 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.
- Where the upper limit of the sentencing range under the sentencing guidelines exceeds 25 years, life imprisonment may be imposed.

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. If the resulting upper limit exceeds 25 years, life imprisonment may be imposed.

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 FOR ATTEMPTED MURDER

CLASSIFICATION		ADVERSE	AFFIRMATIVE
Primary Circumstance	Risk of Recidivism, Etc.	• Premeditated Murder • Exceptionally brutal or cruel methods • Morally reprehensible motives • Prior convictions for the same-offense (suspended sentence of imprisonment without labor or a more severe punishment imposed within the past ten years)	• Cases where the offender attempted to prevent or hinder the commission of the crime by a co-offender • Extenuating circumstances for offender's motive for committing offense • Voluntary abandonment of the offense • (Severe) provocation by the victim • No prior criminal convictions
	Others	• Serious bodily injuries • No restoration of caused harm	• Minor bodily injuries (includes cases without bodily injury) • Victim expresses intent of non-punishment or substantial restitution was made to the victim
General Circumstance	Risk of Recidivism, Etc.	• 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 • Carrying of a dangerous weapon • Absence of sincere remorse • Offense against a random stranger	• Stable social/family ties • Voluntary surrender to investigative authorities • Sincere remorse • No prior convictions resulting in a suspended sentence of imprisonment without labor, or heavier punishment • (Moderate) provocation by the victim
	Others	• Playing a leading role as a co-offender • Post-offense evidence tampering or attempt to conceal or destroy evidence • Causing harm in the course of attempting to reach a settlement (excluding cases where separate crimes such as coercion are established)	• Offender's minor participation as a co-offender • Rescuing or transferring the victim to the hospital after committing the offense • The offender's physical condition is severely impaired • 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 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.
- No Prior Criminal Convictions
  - This refers to cases where the defendant 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 of time.

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.