

## Developments in the Law in 2022: Criminal Procedure Law

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### Abstract

Since the passage of the Citizen Judges Act in 2020, various levels of courts have conducted multiple simulated trials in an attempt to identify and address issues. Currently, most of the professional judges responsible for cases under the Citizen Judges Act have participated in these simulated trials. Therefore, the experiences gained and issues uncovered during these simulated trials are expected to have a significant impact on formal operations. Reviewing the substantial experience accumulated during simulated trials is of great value for the smooth operation of citizen participation in criminal trials.

This article, therefore, selects three issues that best illustrate the similarities and differences between the Citizen Judges Act and the Code of Criminal Procedure. Based on legal provisions, legislative intent, records related to simulated trials, and insights from behavioral science, this article explains the appropriate application of the Citizen Judges Act in the following ways:

First, how should evidence rulings be conducted? The Citizen Judges Act adopts a "separate examination of evidence" procedure and requires that the court must, in principle, determine the evidence admissibility during the preparatory process. This differs significantly from existing criminal trial procedures and presents a challenge to the court.

Second, what kind of review mechanism should be adopted for appeals? The Citizen Judges Act has only four articles regulating the appeals process. How

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should the appellate court review trial court decisions, which are made with the participation of citizen judges?

Third, the Citizen Judges Act stipulates that for the second-instance court to overturn the facts determined by the trial court, it must be based on a violation of experience or logical rules. However, the application of these two rules under the Citizen Judges Act is not entirely consistent with their application under the Code of Criminal Procedure. How should the court adjust when applying these two rules?

**Keywords: Admissibility, Adversarialism, Behavioral Science, Heuristic, Experience Rules**