LAW No. 7905 dated 21.03.1995

CRIMINAL PROCEDURE CODE
OF
THE REPUBLIC OF ALBANIA

TABLE OF CONTENTS

CHAPTER II - PROSECUTOR

CHAPTER III - JUDICIAL POLICE

CHAPTER IV - THE DEFENDANT

CHAPTER V - THE DEFENCE LAWYER OF THE DEFENDANT

SECTION II - ACTS OF THE COURT

SECTION III - DOCUMENTATION OF THE ACTIONS

SECTION IV - THE TRANSLATION OF THE ACTS

SECTION V - NULLITY OF THE ACTS

CHAPTER II - NOTIFICATION

CHAPTER III - TIME PERIODS

TITLE IV - THE EVIDENCE

CHAPTER I - GENERAL RULES

CHAPTER II - TYPES OF PROOF

SECTION I - TESTIMONY

SECTION II - INTERROGATION OF THE DEFENDANT AND THE PRIVATE PARTIES

SECTION III - CONFRONTATIONS

SECTION IV – IDENTIFICATION / RECOGNITION

SECTION V - THE EXPERIMENT

SECTION VI - EXPERTISE

SECTION VII – MATERIAL / REAL EVIDENCE

SECTION VIII - DOCUMENTS

CHAPTER III - THE MEANS OF SEARCHING FOR EVIDENCE

SECTION I - EXAMINATIONS

SECTION II - INSPECTIONS

SECTION III - SEQUESTRATION

SECTION IV - SURVEILLANCES

TITLE V - PRECAUTIONARY MEASURES

CHAPTER I - PERSONAL PRECAUTIONARY MEASURES

SECTION I - GENERAL RULES

SECTION II – COERCIVE REMAND ORDERS

SECTION III - RESTRICTIVE MEASURES

CHAPTER II - IMPOSITION AND EXECUTION OF THE PRECAUTIONARY MEASURES

CHAPTER III - THE FLAGRANT ARREST AND THE DETENTION

CHAPTER II – RECEIVING NOTICE OF THE CRIMINAL OFFENCE

CHAPTER III - THE REQUIREMENTS OF THE PROCEEDINGS

CHAPTER IV - INVOLVEMENT EX UFFICIO OF THE JUDICIAL POLICE

CHAPTER V - THE ACTIONS OF THE PROSECUTOR

SECTION II - PRELIMINARY ACTIONS

SECTION III - THE TAKING OF EVIDENCE

SECTION IV - NEW ACCUSATIONS

TITLE VIII - COMPLAINTS

CHAPTER I - GENERAL RULES

CHAPTER II - THE APPEAL

CHAPTER III - THE RECOURSE TO THE SUPREME COURT

SECTION I - GENERAL RULES

SECTION II - THE EXAMINATION IN THE SUPREME COURT

SECTION III - THE SENTENCE

CHAPTER IV - REVIEW

TITLE I X - THE ENFORCEMENT OF SENTENCES

CHAPTER I - THE BRINGING OF SENTENCES BEFORE ENFORCEMENT

CHAPTER II - EXAMINATION BY THE COURT OF THE MATTERS RELATED TO THE ENFORCEMENT OF THE DECISIONS

CHAPTER III - CRIMINAL RECORD

CHAPTER IV - PROCEDURAL EXPENSES

TITLE X - JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES

CHAPTER I - EXTRADITION

SECTION I - EXTRADITION ABROAD

LAW
No. 7905, dated 21.03.1995

CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ALBANIA

GENERAL PROVISIONS

Article 1
Duty of the criminal procedure law

1. The criminal procedure law has the duty to provide a fair, equal and due legal process, to protect the personal freedoms and lawful rights and interests of citizens, to assist in strengthening the legal order and applying the Constitution and state laws.

Article 2
Compliance with procedural rules

1. Procedural provisions define rules on the way how to conduct criminal prosecution, investigations and trial of criminal offences, and also the execution of judicial decisions. These rules are mandatory for parties in criminal proceedings, state authorities, legal persons and citizens.

Article 3
Independence of the court

1. The court is independent and decides according to the law.
2. The court issues a decision according to the evidence examined and verified during trial.

Article 4
Presumption of innocence

1. The defendant is presumed innocent until proven guilty by a final court decision. Any doubt on the charge is judged in favor of the defendant.

Article 5
Restrictions on the personal freedom

1. The freedom of person may be restricted by remand orders only in cases and ways prescribed by law.
2. No one may be subjected to torture or humiliating punishment or treatment.
3. Persons convicted to imprisonment are ensured of human treatment and moral rehabilitation.

Article 6
Right of defense

1. The defendant has the right to present his own defense or with the assistance of a defense counsel. When he has no sufficient means, he is provided with the services of a defense counsel free of charge.
2. The defense counsel shall assist the defendant to have his procedural rights guaranteed and his legitimate interests protected.

Article 7
Prohibition of double jeopardy (twice for the same offence)

1. No one may be tried again for the same criminal offence, for which one has been tried by a final decision, except when the competent court has decided the retrial of the case.

Article 8
Use of Albanian Language

1. Albanian language shall be used in all stages of the proceeding.
2. Persons who do not know Albanian language shall use their own language and through an interpreter, have the right to speak and to be informed of the evidence, documents (acts) and also on the process of proceeding.

Article 9
Restitution of rights

1. Individuals who are prosecuted contrary to law or who are unfairly convicted shall have their rights restituted and shall be compensated for the damage suffered.

Article 10
Application of international agreements

1. Relations with foreign authorities in the criminal sphere shall be governed by international agreements, recognized by the Albanian state, by generally admitted principles and norms of international law and also by provisions of this code.

FIRST PART

TITLE I -- PARTIES

CHAPTER I -- COURT

SECTION I -- FUNCTIONS AND COMPOSTION OF COURTS

Article 11
Role of the court

1. Court is the authority that renders justice.
2. No one may be declared guilty and convicted for committing a criminal offence without a court decision.

Article 12
Criminal Courts

Criminal justice is rendered by:
a) criminal courts of first instance;
b) appellate courts;
c) Supreme Court.

Article 13
Criminal courts of first instance and their composition

1. Criminal offences are tried in the first instance by judicial district courts, serious crimes courts, military courts and the Supreme Court according to the rules and responsibilities prescribed by this Code.

2. At the Courts of First Instance are tried by one judge:
   a) the requests of the parties during the preliminary investigations;
   b) the requests for the execution of the decisions;
   c) the requests for the jurisdictional relations with the foreign authorities.

3. The Courts of the Judicial districts and the military courts try with one judge the crimes that are provided to be sentenced with a fine or with imprisonment for at maximum not more than 7 years. The other criminal acts are tried by a trial panel composed of three judges.

The serious crimes courts try with a judicial panel composed of five judges with the exception of the requests provided in paragraph 2 of this Article, which are tried by one judge.

4. Minor persons are tried by respective divisions established in the judicial district courts designated by Presidential decree.

Article 14
Appellate courts and their composition

1. Appellate courts try in second instance in panels composed of three judges, cases tried by the judicial district courts.
2. Military Court of Appeal tries in second instance in panels composed of three judges, cases tried by military courts.
3. The Serious Crime Court of Appeal tries in the second level with a judicial panel composed of five judges, the cases tried from the courts of serious crimes. The trials for the claims/requests provided in Article 13 Paragraph 2 are examined by a trial panel composed of three judges.

Article 14/a
The High Court and its composition

1. The High Court hears in panels in chambers composed of 5 judges and in joint chambers.

SECTION II

INSTANCES OF INCOMPATIBILITY WITH THE FUNCTION OF A SITTING JUDGE

Article 15
Incompatibility on grounds of participating in a (prior) proceeding

1. The judge, who has delivered or taken part in delivering a decision in one of the instances of the proceeding, cannot exercise the functions of a sitting judge in other instances, nor to sit in the retrial after the decision has been quashed.
2. The judge, who has reviewed a remand order or any other application of the prosecutor presented during the preliminary investigation in the same proceeding, may not take part in the trial.
3. The one who has been a prosecutor or has performed the functions of a judicial police or has been a defense counsel, representative of a party or a witness, expert or has lodged a criminal report, complaint, application for proceeding or has issued or has participated in delivery of a decision authorizing the proceedings, may not exercise the function of a judge in the same proceedings.

Article 16
Incompatibility on grounds of family, blood or in-laws relation

1. Persons who, between them or to the parties in a trial, are spouses, close kinship (antecedents, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of sisters and brothers) or close in-laws (mother-in-law, father-in-law, son-in-law, daughter -in-law, sister-in-law, brother-in-law, stepson, stepdaughter, stepmother, stepfather) may not participate as judges in the same proceeding.

Article 17
Recusal

1. A judge has the duty to recuse himself from the trial of an actual case:

a) when he has an interest in the proceeding or when one of the private parties or the defense counsel is his or his spouse or his children debtor or creditor;

b) when he is a guardian, a representative or an employer of the defendant or one of the private parties or when the defense counsel or the representative of one of these parties is his or his spouse close kindred;

c) when he has given advice or expressed any opinion on the subject of the proceeding;

ç) when there are disputes between him, his spouse or any of his close relatives with the defendant or one of the private parties;

d) when any of his own or his spouse's relatives has been harmed or damaged by the criminal offence;

dh) when any of his relatives or of his spouse's performs or has performed the functions of a prosecutor in the same proceeding;

e) when one of the conditions of incompatibility provided by articles 15 and 16 exists;

ë) when there are other important grounds of bias.

2. The resignation is submitted to the chairman of the respective court.

Article 18
Disqualification of the judge

1. The parties may apply for disqualification of a judge:

a) in cases provided for by articles 15, 16 and 17;

b) where during course of exercising the functions and prior to delivery of the decision, he has expressed his opinion about facts or circumstances subject of the proceedings.

2. The judge may not deliver or participate in the delivery of a decision unless the petition for his exclusion has been accepted or rejects.

Article 19
Time limits and forms of applying for disqualification

1. The petition for disqualification of a judge is made during the session immediately after establishing the legal standing (legitimacy) of the parties.

2. When the ground of disqualification arises or is discovered after establishing the legal standing (legitimacy) of the parties, the petition should be made within three days from discovery. Where the ground has arisen or is discovered during the session, the petition for disqualification is made before adjourning the session.

3. The petition contains the grounds and evidence and is submitted in a written form. It is filed, along with documents, to the competent court secretariat. A copy of the petition is given to the judge whose disqualification is required.

4. When it is not made in person by the parties, the petition may be filed by the defense counsel or by a special representative. The power of attorney should stipulate the grounds on which the disqualification petition is based, otherwise it is not accepted.

Article 20
Concurrence between waiver and disqualification

1. The petition for disqualification is deemed as not made, when the judge, even after the petition has been made, declares his waiver and that is accepted.

Article 21
Competence to decide on disqualification

1. The petition for disqualification of judges is heard in session by another judge of the same court. An appeal lies against the decision that accepts or rejects the petition for disqualification together with the final decision of the case.
2. The petition for disqualification of a High Court judge is decided by a chamber of this court, different from the one where the judge whose disqualification is required belongs to. The decision is final.
3. No petition is accepted for disqualification of judges designated to decide on disqualification.

Article 22
Decision on Petition for Disqualification

1. In case when the petition for disqualification is made by the one who had no such right or without complying with the time limits or forms provided for by article 19 or when the grounds presented are (not) based on the law, the court that hears the petition, declares it as unacceptable by a decision.
2. The court may adjourn temporarily any procedural activity or limit it to conducting summary activities.
3. The court, after receiving the necessary information, decides on the petition for disqualification.
4. The decision given in compliance of the above-mentioned paragraphs shall be notified to the judge, whose disqualification is required, prosecutor, defendant and private parties. An appeal may be made against the decision to the High Court.

Article 23
Procedure when waiver and petition for disqualification are accepted

1. When waiver or petition for disqualification is accepted, the judge may not perform any other procedural action.
2. The decision (act) which accepts the waiver or petition for disqualification shall determine whether and to what extent prior actions performed by the judge who tendered his waiver or required to be disqualified, are valid.
3. Provisions on waiver and disqualification of the judge shall also apply to session secretary and persons assigned to make transcriptions or phonographic or audio-visual production. The court that tries the case decides on their waiver or disqualification.

CHAPTER II

PROSECUTOR

Article 24
Functions of the prosecutor

1. The prosecutor conducts criminal prosecution, investigations, examines preliminary investigations, files charges in court and takes measures for the execution of decisions in compliance with the rules provided for under this Code.

2. The prosecutor has the right not to initiate or dismiss the criminal proceedings in cases provided for under this Code.

3. When a complaint or authorization is not necessary for (initiating) proceedings, criminal prosecution shall be exercised *ex officio.*

4. Orders and directives of a higher-ranking prosecutor are mandatory for a lower-ranking prosecutor.

5. A higher-ranking prosecutor has the right to amend or abrogate either on complaint or *ex officio* decisions taken by a lower-ranking prosecutor.

Article 25
Carrying out prosecutor's functions

1. Prosecutor's functions are carried out:

a) during preliminary investigations and first instance trials, by prosecutors attached to first instance courts;

b) during trials of appealed cases, by prosecutors attached to the courts of appeal and Supreme Court.

2. A higher-rank prosecutor has the right to exercise the powers (competence) of a lower-rank prosecutor.

3. During court session a prosecutor carries out his functions in full independence.

Article 26
Waiver of the prosecutor

1. A prosecutor is bound to waive where there are grounds of partiality in cases provided for by article 17.

2. On the statement of waiver decides the Chief of the Prosecution Office attached to the first instance court, prosecution office attached to the court of appeal and the General Prosecutor according to their respective duties. In respect of chiefs of the prosecution offices decide the chiefs of higher level prosecution offices.

3. The prosecutor who has waived shall be substituted with another prosecutor by the decision that accepts the statement of waiver.

Article 27
Cases of substituting a prosecutor

1. The chief of the prosecution office shall substitute the prosecutor when there are serious reasons related to his duty, and also in cases provided for by article 16 and [article] 17, paragraph 1, subparagraphs ‘a’, ‘b’, ‘ç’, ‘d’ and ‘dh’. In other cases, the prosecutor is substituted only with his consent.
2. When the chief of the prosecution office does not decide, even though there are the cases provided for in paragraph 1, the General Prosecutors orders the substitution of the prosecutor.
3. Rules prescribed for waiver and substitution of the prosecutor shall also apply to the judicial police officer.

Article 28
Transfer of documents to another prosecution office

1. When during the preliminary investigations the prosecutor judges that the criminal offence is under the competence of a court different from the one where he carries out his functions, he shall forthwith transfer the documents to the prosecution office attached to the competent court.
2. If the prosecutor who has received the documents, judges that the prosecution office, which transferred the documents should proceed, shall notify the General Prosecutor, who after examining the documents, determines which prosecution office must proceed and notifies the prosecution offices concerned.
3. Investigative actions conducted before the transfer or decision made according to paragraph 1 and 2, is valid and may be used in cases and ways as provided for by law.

Article 29
Requesting documents (acts) from another prosecution office

1. When a prosecutor is informed that the preliminary investigations are being conducted by another Prosecution Office against the same person and for the same facts, on which he is proceeding, he notifies without delay that prosecution office, requesting the transfer of documents.
2. If the prosecutor who has received the request does not agree with it, he shall inform the General Prosecutor, who, after receiving the necessary information, decides in conformity with the rules on the competence of the court, which Prosecution Office must carry on and shall notify the Prosecution Offices concerned. The documents are forthwith transferred to the assigned Prosecution Office by the other Prosecution Office.
3. The preliminary investigations documents conducted by different Prosecution Offices are used in cases and manners provided by law.

CHAPTER III

JUDICIAL POLICE

Article 30
Judicial police functions

1. Judicial police must also *ex officio*, get notice of criminal offences, prevent further consequences, search for their authors, conduct investigations and gather everything that serves the application of the criminal law.
2. Judicial police conduct every investigative action that has been ordered or delegated by the prosecutor.
3. Functions provided for under paragraphs 1 and 2 are carried out by judicial police officers and agents.

Article 31
Services and divisions of judicial police

1. Judicial police functions are carried out by:
a. Judicial police officers and agents belonging to authorities (organs), which the law entrusts with the duty to conduct investigations from the moment they get notice of the criminal offence;
b. Judicial police divisions set up in every district prosecution office and comprising judicial police personnel;
c. Judicial police services as provided by law.

Article 32
Judicial police officers and agents

1. Judicial police officers are:
a. Chiefs, inspectors and other members of police of the Ministry of Public Order, whom a special law recognizes them, such an attribute;
b. Military police, financial police, forest police and any other police officers, whom a special law recognizes them such an attribute.
2. Judicial police agents are:
a. Public order police personnel, whom a special law recognizes them such an attribute;
b. Military police, financial police and any other police personnel recognized by law, when on duty.
3. Persons, whom by law are entitled to carry out the functions provided for by article 30, within the boundaries of the service entrusted and according to respective attributes, are also judicial police officers and agents.

Article 33
Subordination of judicial police

1. Judicial police divisions are under the subordination of the district prosecution offices chiefs.

2. The officer serving in the judicial police is accountable to the district prosecutor for the activity conducted by him and his subordinates.

3. Judicial police officers and agents are bound to carry out the tasks assigned by the prosecutor. Members of divisions may not be removed from judicial police activity, except with the consent of the General Prosecutor.

4. Courts and prosecution offices have under their direct control the divisions' personnel and may make use of any judicial police service.

CHAPTER IV

DEFENDANT
(Suspected Person)

Article 34
Becoming a defendant (suspected person)

1. The person attributed with (the commission of) a criminal offence shall become a defendant (suspected person) by serving notice of the decision of accusation, which stipulates sufficient information for considering him as a defendant. Notice of the decision is served to the defendant and his defense counsel.

If **after taking a person** as a defendant, new information arise that amend the accusation presented or complement it, the prosecutor takes a decision and notice is served to the defendant.

2. The capacity as a defendant shall be retained at any state and stage of the proceeding until the decision of dismissal, acquittal or conviction becomes final.

3. The capacity as a defendant is regained when the decision of dismissal is quashed or a re-examination of the process is decided.

4. Provisions, which are applicable to the defendant, are also applicable to the person under investigation, except in cases when this Code provides otherwise. Rights are guarantees provided for the defendant are also extended to this person.

Article 35
Assistance provided to a minor defendant (suspected person)

1. Legal and psychological assistance shall be provided to a minor defendant at any state and stage of the proceedings, in the presence of the parent or other persons requested by the minor and accepted by the proceeding authority.

2. The proceeding authority may conduct (various) actions and draft documents, which require the participation of the minor without the presence of the persons stated in paragraph 1, only when such a thing is in the interest of the minor or when delay may seriously impair the proceeding, but always in the presence of the defense counsel.

Article 36
Prohibition to use the defendant statement as testimony

1. Statements made by the defendant during the proceedings cannot be used as testimony.

Article 37
Self-incriminating statements

1. When a person not in the capacity of a defendant (suspected person), makes a statement before the proceeding authority, which provide information on his incrimination, the proceeding authority stops the questioning, and warns him that after the statement an investigation may be conducted against him and ask him to assign a defense counsel. Statements previously made by the person cannot be used against him.

Article 37/a
Cooperation with Justice

1. The person under investigations or the defendant charged with a serious crime committed in cooperation, when he cooperates with the prosecutor or with the court, must give full information and without reserves or condition on all the facts, events and circumstances, that serve as a fundamental evidence for the discovery, the investigation, the trial and the prevention of the serious crimes and the repair of the damages caused by them.

In condemning this person the provisions of Article 28 of the Criminal Code are applied.

2. The conditions of collaboration are determined in the protection agreement, drafted pursuant to the special provisions of Law no. 9205, dated 15.03.2004, "On the protection of witnesses and justice collaborators."

3. When the collaboration agreement is made during the trial, the court trying the case decides the reduction of measure of the sentence or the acquittal from the sentence according to article 28 of the Criminal Code. When the cooperation is concluded during the execution of the decision of the sentence, the justice collaborator may request from the court that has sentenced him or from the court of jurisdiction of the place of execution of the sentence the change of the given sentence. The court decides after getting the opinion of the prosecutor.

4. The collaboration agreement may be revoked when the justice collaborator violates the determined conditions or makes false statements.

Article 38
General rules on interrogation

1. The defendant (suspected person), even under a custodial remand order or when deprived of freedom for any other ground, shall be interrogated in a **free state** (not handcuffed), except in cases when measures must taken to prevent the danger of escaping or violence.

2. No methods or techniques, which influence the free will or change the memory and evaluation of facts ability, may be used, even with the consent of the defendant.

3. The defendant, before the interrogation starts, is informed that he has the right not to reply and if he does not reply the proceedings will continue.

Article 39
Interrogation on merit

1. The proceeding authority explains to the defendant (suspected person), in a clear and precise way, the fact attributed to him, tells him the evidence that exist against him and, when investigations are not prejudiced, tells him their sources.

2. The proceeding authority asks him to explain everything that he values useful for his defense and ask him question directly.

3. When the defendant refuses to reply, this shall be stated in the records. When it is necessary, the physical features and eventual specific marks of the defendant are stated in the records.

Article 40
Verifying the personal identity of the defendant

1. When the defendant appears, the proceeding authority ask him to state his personal details and anything else which may be useful to his identification, cautioning him on the consequences if he refuses or gives false personal details, except when this statement implies self-incrimination.

2. Inability to attribute to the defendant his accurate personal details does not prevent the proceeding authority to perform actions, when physical identity of the person is certain.

3. False personal details attributed to the defendant are corrected by a decision of the proceeding authority.

Article 41
Verifying the age of a defendant

1. At any state and stage of the proceeding, when there are reasons to believe that the defendant is a minor, the proceeding authority makes the necessary verifications and when the case warrants, orders expert examination.

2. When after the verification and expert examination, there are still doubts on the age of the defendant, he is presumed a minor.

Article 42
Verifying the character of a minor defendant

1. The proceeding authority gathers information on the living, family and social conditions of the minor defendant for the purpose of clarifying his **culpability** and the degree of liability, to evaluate the social importance of the fact and also to impose appropriate criminal sanction.

2. The proceeding authority gathers information from persons who had relations with the minor and takes note (listens) the experts' opinion.

Article 43
Verifying the culpability of the defendant

1. When there are reasons to believe that, because of mental disorder caused after the event, the defendant is not able to participate in the proceedings, the court orders expert examination even *ex officio*.

2. During the time that the expert examination is going on, the court, on the request of defense counsel, acquires evidence that may lead to the acquittal of the defendant and, when delay poses dander (is detrimental), any other evidence required by the parties.

3. When the need to ascertain the culpability (of the defendant) arises during the preliminary investigation, the prosecutor, either *ex officio* or on the request of the defendant or his defense counsel orders expert examination. In the meanwhile, the prosecutor performs only actions, which do not require the participation of the defendant knowingly. When delay poses danger (is detrimental), evidence may be acquired only in cases provided for under pretrial acquiring of evidence.

Article 44
Suspending proceedings because of defendant's irresponsibility

1. When it is proved that the mental condition of the defendant is as such as to impede his intentional participation in the proceedings, the proceeding authority, decides the suspension of the proceedings, but always when no decision of acquittal or dismissal must be taken. The proceeding authority, in the decision of suspension, assigns to the defendant a special guardian, who is given the rights of a legal representative.

2. The prosecutor, defendant or his defense counsel may make and appeal against the decision of suspension to the Supreme Court.

3. The suspension does not prevent the proceeding authority to acquire evidence that may lead to the acquittal of the defendant and, when delay poses danger, any other evidence required by the parties. The special guardian has the right to participate in actions that must be performed about the character of the defendant and also in those actions that the defendant is entitled to be present.

Article 45
Revoking the decision of suspension

1. The decision of suspension is revoked when it is proved that the mental condition of the defendant allows him to participation intentionally in the proceeding or when the defendant must be declared innocent or the case dismissed.

Article 46
Compulsory medical sanction

1. In any case, when the mental condition of the defendant shows that he must be treated, the court decides even *ex officio,* the hospitalization of the defendant in a psychiatric institution.

2. When it has been decided or when the compulsory medical sanction to the defendant must be taken, the court orders the defendant to be detained (guarded) in a psychiatric institution.

3. During preliminary investigations the prosecutor asks the court to decide on the hospitalization of the defendant in a psychiatric institution and, when delay poses danger, orders the temporary hospitalization until the court takes a decision.

Article 47
Death of the defendant

1. When the death of the defendant is proved, the proceeding authority at any state and stage of the proceeding, after hearing the defense counsel, decides on the dismissal of the case.

2. The decision does not prevent conducting criminal prosecution for the same facts and against the same person when later it is proved that he has not died.

CHAPTER V

DEFENDANT DEFENSE COUNSEL

Article 48
Defense counsel elected by the defendant

1. Defendant has the right to elect not more than two defense counsels.

2. The selection is made by a statement before the proceeding authority or by a document (power of attorney) given or sent by registered mail to the defense counsel.

3. The selection of the defense counsel for a person detained, arrested or convicted to imprisonment, unless he has made his own selection, may be done by his relative in forms provided by paragraph 2.

Article 49
Assigned defense counsel

1. The defendant, who has not elected a defense counsel or who has remained without one, shall be assisted by a defense counsel assigned by the proceeding authority if he requires one.

2. When the defendant is less than eighteen years old or (suffers) from physical or mental impairment that hinders him into exercising his own right of defense, the assistance of a defense counsel is mandatory.

3. The Directing Counsel of the Bar Association makes available to the proceeding authorities the lists of the defense counsels and determines the criteria of their assigning.

4. When the court, prosecutor and judicial police, must carry on an action which stipulates for the assistance of a defense counsel and the defendant has no defense counsel, they serve notice of the action to the assigned defense counsel.

5. When the presence of the defense counsel is required and the elected or assigned defense counsel is not provided, does not appear or has withdrawn from the defense, the court or prosecutor assigns another defense counsel in substitution, who exercises the rights and undertakes the obligations of the defense counsel.

6. The assigned defense counsel may be substituted only for lawful reasons. He shall quit (exercising) his functions when the defendant elects his defense counsel.

7. When the defendant has no sufficient means, the defense expenses shall be covered by the state.

Article 50
Extension of the defendant's rights to the defense counsel

1. The defense counsel enjoys the rights the law recognizes to the defendant, except those preserved to the latter in person.

2. The defense counsel has the right to communicate freely and one to one with the person detained, arrested or convicted, to have prior notice of the investigative actions conducted in the presence of the defendant and to participate in them, to ask questions to the defendant, witnesses and experts, to have access to all the materials of the case at the conclusion of the investigations.

3. The defendant may, by an expressed statement, declare invalid, an action performed by the defense counsel (but) before a court decision in relation to the action.

Article 51
Defense counsel substitution

1. The defense counsel, in case of impediment and for as long as it lasts, may with the consent of the defendant, assign a substituting (counsel).

2. The substituting counsel exercises the rights and undertakes the duties of the defense counsel.

Article 52
Defense counsel guarantees

1. Examining and searching the office of the defense counsel is allowed only:

a) when he or other persons who constantly carry out their activity in the same office, are defendants and only for the purpose of proving the criminal offence attributed to them;

b) to discover traces or material evidence of the criminal offence or to search for items or persons specifically defined.

2. Prior to examining, searching or performing a sequestration in the defense counsel's office, the proceeding authority notifies the Directing Counsel of the Chambers of Advocates in order that one of its members may have the possibility to be present in these actions.

3. Searches, inspections and sequestrations in the defense counsels' offices are performed by the judge in person, whereas during the preliminary investigations they are performed by the prosecutor, based on an authorizing decision of the court.

4. It is not allowed to eavesdrop conversations or communications of defense counsels and their assistants, neither between each other nor to persons they defend.

5. Any form of inspection of the mail between the defendant and his defense counsel is prohibited.

6. Examinations, searches, sequestrations, eavesdropping of conversation or communication results in contravention of the provisions above, except paragraph 2, may not be used.

Article 53
Defense counsel interview of the defendant under detention

1. The person arrested in flagrance (in the course of committing an offence) or under detention has the right to contact his defense counsel forthwith after arrest or detention.

2. The defendant (suspected person) under pre-detention has the right to contact his defense counsel from moment the remand order is executed.

Article 54
One defense counsel for several defendants

1. The defense of several defendants may be undertaken by a joint defense counsel, provided that there are no conflicts of interests amongst the defendant.
2. When the proceeding authority, ascertains conflicts of interest among the defendants issues a decision as such and makes necessary substitutions.

Article 55
Refusal, resignation or revocation of the defense counsel

1. The defense counsel who does not accept the task he has been entrusted with or withdraws from it, notifies forthwith the proceeding authority and the one who has assigned him.
2. Refusal is effective from the time when notice is served to the proceeding authority.
3. Withdrawal has no effects until the party is assisted with a new reliable defense counsel or with a defense counsel assigned *ex officio* and until the time limit given to the substituting defense counsel to examine the documents and evidence has expired.
4. The paragraph 3 provision is also applicable in the case of revocation.
5. The withdrawal of the representative of plaintiff and civil defendant does not prevent the continuity of the proceedings in any case.

Article 56
Responsibility for abandoning or refusing the defense

1. The proceeding authority refers to the Bar Association Directing Counselcases of abandonment, refusal of the defense and defense counsels breaches of duty to be faithful and honest.
2. The Bar Association Directing Counselhas the right to take disciplinary sanctions in case of abandonment or refusal of the defense when assigned *ex officio*.
3. When the Bar Association Directing Counselconsiders the abandonment or the refusal lawful on grounds of infringement of the defense rights, the disciplinary sanctions shall not be issued unless the court has found an infringement of the defense rights.

Article 57
Substituting defense counsel time limit

1. In case of withdrawal, revocation and conflicts of interest among defendants, sufficient time shall be given to the new defense counsel for the defendant or the one assigned as a substituting counsel to examine the documents and evidence.

CHAPTER VI

Article 58
Rights of the person aggrieved by the criminal offence

1. The person aggrieved by the criminal offence or his heirs have the right to apply for prosecution of the guilty person (perpetrator) and reimbursement of the injury (caused).
2. The aggrieved person who has no legal capacity to act exercises his rights recognized by law, through his legal representative.
3. The aggrieved person has the right to present his claims to the proceeding authority and require the obtaining of evidence. When his claim is not accepted by the prosecutor, he has the right to appeal to the court within 5 days of receiving notice.

Article 59
The aggrieved accuser

1. One who is aggrieved by the criminal offences provided for by articles 90, 91, 92, 112, first paragraph, 119, 120, 121, 122, 125, 127, 148, 149 and 254 of the Criminal Code, has the right to apply in court and take part in the trial as a party to prove the charge and claim the reimbursement of the injury.
2. The prosecutor participates in the trial of these cases and, as the case may be, request for the conviction or acquittal of the defendant.
3. If the private prosecutor or his defense counsel assigned by him does not appear during the session without reasonable grounds, the court dismisses the case.

Article 60
Aggrieved person application for private prosecution

1. The aggrieved person application for trial is filed to the court secretariat. It is invalid if it does not contain:
   a) personal details of the aggrieved person (private prosecutor);
   b) personal details of the accused person (defendant);
   c) name and last name of the representative and the power of attorney;
   d) stipulation of grounds that justify the application;
   e) endorsement of the aggrieved person (private prosecutor) or his representative.
2. Notice of application must be served to the person attributed with the commission of the criminal offence.

Article 61
Civil lawsuit in criminal proceedings

1. One who has suffered material injury by the criminal offence or his heirs may file a civil lawsuit in the criminal proceedings against the defendant or the person liable to pay damages (defendant), claiming the restitution of the property and reimbursement of the injury.

Article 62

Plaintiff time limit for (establishing) lawfulness (legal standing)

1. Legal standing of the plaintiff may be decided by the proceeding authority prior to commencing of the trial.
2. The time limit provided for by paragraph 1 may not be extended.
3. The court on the application of the parties or *ex officio* may order the severance of the civil lawsuit and its submission to the civil division (court), if its trial complicates or impedes the criminal process.

Article 63
Security for the civil lawsuit

1. In order to secure the restitution of property and reimbursement of the injury on the application of the plaintiff, the proceeding authority may order the sequestration of the property of the defendant or the person liable to pay damages. The order is valid until the conclusion of the case.

Article 64
Waiver of the civil lawsuit

1. Waiver of the civil lawsuit may be done at any state and stage of the proceedings by a personal statement of the plaintiff or his representative in the hearing or through a written document filed to the court secretariat and notice served to other parties.
2. If the plaintiff does not present his conclusions at the closing statement (discussion) or files a lawsuit before the civil division (court), it is deemed that he has waived the trial of the civil lawsuit.
3. In case of waiver of the civil lawsuit trial as provided for by article 1 and 2, the criminal court may not recognize the expenses and damage caused to the defendant and the person liable to pay damages from the intervention of the plaintiff. The lawsuit to claim them can be filed with civil division.
4. The waiver does not prevent filing the lawsuit before the civil division court.

Article 65
Summoning the person liable to pay damages (defendant)

1. The one who is liable in a civil trial for the offence committed by the defendant may be summoned in the criminal proceedings on the application of the plaintiff. The defendant who has been acquitted or whose case has been dismissed may be summoned as defendant for the offences of other co-defendants.
2. The application for summoning the person liable for damages must be made before the commencing of the trial.
3. The court issues summon.

Article 66
Voluntary intervention of the person liable for damages (defendant)

1. When the legal standing of the plaintiff is established, the party sued may voluntarily apply in writing to intervene in the proceedings prior to commencing of the trial. The court decides on the application after hearing the parties.

2. The time limit provided for by paragraph 1 may not be extended.

3. The intervention of the party sued loses effects when civil lawsuit is waived.

Article 67
Representative of private parties

1. Private prosecutor (aggrieved person), plaintiff and civil defendant have the right to be represented in the proceedings through a legal representative or through a representative provided with a power of attorney.

2. The address of the private prosecutor (aggrieved person), plaintiff and civil defendant is understood to be for any procedural effect, that of his representative.

3. The representative, in case of impediment and for as long as it lasts, may assign, with the consent of the represented party, a substitution.

Article 68
Powers on civil claim

1. The court, as the case may be, may allow the civil claim wholly or in part or refuse it.

2. A civil claim is not heard, when a decision of acquittal is issued based on the fact that the act is not provided as a criminal offence or when the criminal case is dismissed.

3. When the civil claim is refused during the criminal proceedings, it is not allowed to file it again before the civil division.

TITLE II

JURISDICTION AND COMPETENCE

CHAPTER I

JURISDICTION

Article 69

Criminal jurisdiction

1. Criminal jurisdiction is exercised by criminal courts according to the rules provided for by this Code.

2. Criminal court hears everything that is necessary to take a decision and it decides according to the rules provided by law.

Article 70
Consequences of a criminal decision to civil and administrative case

1. A final criminal decision is mandatory to the court hearing the civil consequences of the offence only pertaining to the fact whether the criminal offence has been committed and whether it is committed by the person tried.

2. A criminal decision that incidentally settles a fact connected to a civil, administrative or criminal case has no mandatory consequences to any other case.

Article 71
Consequences of civil and administrative proceedings to the criminal proceedings

1. A final civil court decision is mandatory for the court that tries the criminal case only pertaining to the fact whether the offence was committed or not, but not about the guilt of the defendant.

2. When the criminal decision depends on the settlement of a dispute pertaining to marital status or citizenship, on which proceedings have commenced before the competent court, the criminal court may even *ex officio* decide to adjourn the trial until the disagreement is settled by a final decision. The adjournment does not prevent the performing of summary actions.

Article 72
Lack of jurisdiction

1. Lack of jurisdiction may be raised, even *ex officio*, at any state and stage of the trial. The court issues a decision and orders, as the case may be, the transfer of the documents to the competent authority.

2. When the lack of jurisdiction is raised during the preliminary investigations, the prosecutor of the case shall submit the documents to the competent court to rule on the matter.

Article 73
Conflicts of jurisdiction

1. When there are conflicts of jurisdiction, the court that raises it takes a decision, which it, along with a copy of the necessary documents for its settlement, transfers to the Supreme Court, stipulating the parties and defense counsels.

2. Provisions of section IV of Chapter II under this title shall apply.

CHAPTER II
COMPETENCE

SECTION I
SUBJECT MATTER (*rationae materiae)* COMPETENCE

Article 74
Competence of judicial district court

1. Judicial district court is competent to try criminal offences, provided those that fall under the competence of Serious Crime Court, Military Court and Supreme Court.

Article 75
Military Court Competence

Military court is competent to try military personnel, prisoners of war and other persons pertaining to criminal offences provided for by Military Criminal Code and other legal provisions, provided those that fall under the competence of Serious Crime Court and Supreme Court.

Article 75/a
The jurisdiction of the serious crimes court

The serious crime court tries the crimes provided in Articles 73, 74, 75, 79, letter "c", and "ç", 109, 109/b, 110/a, 111, 114/b, 128/b, 219, 220, 221, 230, 230/a, 230/b, 231, 232, 233, 234, 234/a, 234/b, 278/a, 282/a, 283/a, 284/a, 287/a, 333, 333/a and 334 of the Penal Code, by including the cases when they have been performed by subjects that are under the jurisdiction of the military court, or by minors.

Article 75/b

1. Supreme Court hears appeals pertaining to infringement of law and petitions for review of final decision.
2. Supreme Court tries, sitting as a first instance court, in panels composed of 5 judges assigned by lottery, criminal offences committed by the President of the Republic, Members of the Parliament, Prime Minister and Members of the Counsel of Ministers, judges of the Supreme Court and judges of the Constitutional Court, when they are in office at the time of the trial.

SECTION II
TERRITORIAL JURISDICTION

Article 76
General rules

1. Territorial jurisdiction is determined, in order, by the venue where the criminal offence is committed or is attempted to be committed or the venue where the consequence has occurred.

2. If the venue indicated in paragraph 1 is not known, the jurisdiction belongs, in order, to the court of the residing place or the domicile of the defendant.

3. If the jurisdiction cannot be determined in this way, it belongs to the court where the Prosecution Office which recorded the criminal offence first, is placed.

4. Rules prescribed in the above paragraphs are also applicable during the preliminary investigations.

Article 77
Jurisdiction for criminal offences committed abroad

1. If the offence is committed wholly abroad, the jurisdiction is determined, in order, by the residing place, domicile, and place of arrest or surrender of the defendant. In case of several defendants, the proceedings shall be carried on by the court, which is competent for their biggest number.

2. If it cannot be determined in the ways stipulated in paragraph 1, the jurisdiction belongs to the court where the prosecution office which recorded the criminal offence first, is located.

3. In case where the criminal offence is partly committed abroad, the jurisdiction is determined according to the general rules pertaining to territorial jurisdiction.

Article 78
Jurisdiction for proceeding against judges and prosecutors

1. Proceedings in which a judge or a prosecutor is a defendant or a person aggrieved by the criminal offence which, according to the rules of this chapter would fall under the jurisdiction of the district court where the judge or the prosecutor exercises his functions or did exercise them at the time when the offence was committed, are under the jurisdiction of the court which has territorial jurisdiction and which is located in the centre of another closest in distance district, except when in this district the judge or the prosecutor has come afterwards to exercise his functions. In the latter case, another court, which is the closest in distance to the court where the judge or the prosecutor exercised his functions at the time when the criminal offence was committed, has the jurisdiction.

SECTION III
JURISDICTION AS A RESULT OF JOINDER OF CONNECTED PROCEEDINGS

Article 79
Joinder of proceedings cases

1. The proceeding organ may decide to join the proceedings when:

a) a criminal offence under investigation has been committed by several persons in conspiracy amongst them or when several persons have independently committed the criminal offence;

b) a person is accused of several criminal offences.

c) a person is accused of several offences, of which some are committed to accomplish or conceal others or to ensure to the perpetrator or to others unlawful benefits or acquittal.

Article 80
Joinder of proceedings under the jurisdiction of different courts

1. In case of connected proceedings, which cannot be severed and one or some of which are under the jurisdiction of the serious crime court and other procedures are under the jurisdiction of other first instance courts, the serious crime court is the competent one.

2. In case of connected proceedings, which cannot be severed and one or some of which are under the jurisidiction of first instance courts and others under the jurisdiction of the Supreme Court, the latter is the competent court.

Article 81
Boundaries on joinder of criminal offences committed by minors

1. When some of the connected proceedings fall under the jurisdiction of ordinary court, whereas the others under the court that tries cases against minors, the latter is the competent court for all the proceedings, except cases when the court find it fit that they must be severed.

2. When defendant is an adult at the time of trial, but he was a minor at the time when he committed one or several offences, the case is tried by the court that tries cases against minors.

Article 82
Territorial jurisdiction determined by the connection of proceedings

1. Territorial jurisdiction for connected proceedings, which several courts have the same subject matter jurisdiction, the competent court is the one which has jurisdiction over the most serious criminal offence and if offences are equally serious, to the competent court for the offence that was recorded first.

2. Crimes are deemed more serious than contravention. Amongst crimes or contravention, is deemed as most serious the criminal offence which provides for the longest maximal sentence or, when maximum sentences are equal, the longest minimum sentence. If an imprisonment and fine sentence is provided, the fine sentence is taken into account only when imprisonment sentences are equal.

SECTION IV
PROCEDURE IN CASE OF LACK OF JURISDICTION

Article 83
Non jurisdiction

1. Non subject matter jurisdiction may be raised, also *ex officio*, at any state and stage of the process.

2. Non territorial jurisdiction may, including the one that results from joinder of connected proceedings, may be raised or challenged only prior to trial has commenced.

Article 84
Non jurisdiction declared during preliminary investigation

1. When during the preliminary investigations or during their conclusion the prosecutor ascertains that he lacks jurisdiction for any reasons, he transfers the documents to the prosecutor attached to the competent court.

Article 85
Non jurisdiction declared at the first instance trial

1. If at the first instance trial, the court sees it appropriate that the proceeding is under the jurisdiction of another court it declares its non jurisdiction for any reasons by a decision and orders the transfer of documents to the competent court.

Article 86
Court of Appeal and Supreme Court decision on jurisdiction

1. When the court of appeal ascertains that the first instance court had no jurisdiction, it quashes the decision appealed and transfers the case to the competent court.

2. The Supreme Court decision on the jurisdiction is mandatory, except when new facts arise that lead to a different legal definition, which makes competent another higher level court.

Article 87
Evidence admitted by a non-competent court

1. Non compliance with the provisions on jurisdiction does not render the evidence admitted invalid.

2. Statements made before a court, which did not have subject matter jurisdiction, if repeated, may be used only to rebut the content of the deposition.

Article 88
Remand orders issued by a non-competent court

1. Remand orders issued by a court, which at the same time or afterwards is declared as a non-competent court on any ground, lose their effects, if the competent court does not decide on the remand orders within ten days from receiving the documents.

SECTION V
CONFLICTS OF JURISDICTION

Article 89
Cases of conflicts

1. There is a conflict when, in any state and stage of the proceedings, when two or more courts concurrently take or refuse to take for trial, the same charge attributed to the same person.
2. Conflicts during the preliminary investigations shall be settled by the highest prosecutor in rank.
3. During preliminary investigations, no conflict of territorial jurisdiction because of connected proceedings may be raised.

Article 90
Raising the conflict of (jurisdiction)

1. The conflict of (jurisdiction) may be presented by the prosecutor or defendant and private parties to one of the courts in the conflict. A written and reasoned application is filed to the court secretariat of one of the courts in conflict attached to other necessary documents.
2. The court which raises the issue of conflict issues a decision and presents it to the Supreme Court along with a copy of the necessary documents for its settlement, stating the parties and defence counsels.
3. The court that has issued the decision notifies forthwith the court in conflict.

Article 91
Settlement of the conflict

1. The conflict is settled by the Supreme Court by a decision. The court examines information and documents that it deems necessary.
2. Notice of decision is immediately served to the courts in conflict, respective prosecution offices, defendant and private parties.

SECTION VI
JOINDER AND SEVERANCE OF CASES

Article 92
Joinder of cases

1. Cases which are before the same court and in the same state and stage may be joined if it is not detrimental to the expediency of their settlement:

a) in cases provided for by article 79;

b) in cases of criminal offences committed by several persons against each other;

c) in cases when the evidence of a criminal offence or its circumstance impacts the evidence of another criminal offence or its circumstance.

Article 93
Severance of cases

1. The severance of cases may be decided also *ex officio* only when it is not detrimental to proving the facts, in these cases:

a) when proceedings have been adjourned against one or more defendants or one or more charges;

b) when one or more defendants do not appeared in court because of the invalidity of the writ of summons, lack of knowledge without his fault about the writ of summons or because of lawful impediments;

c) when one or more defence counsels have failed to appear before the court because of failure to serve notice or because of lawful impediments;

ç) when the judicial investigation against one or more defendants or for one or more charges is complete, whereas against other defendants or for other charges it is necessary to perform other actions.

2. In addition to cases provided for by paragraph 1, the severance of cases may also be agreed upon by the parties, when the court deems it useful for the expediency of the trial.

SECTION VIII
TRANSFER OF CASES

Article 94
Grounds of transfer

1. When public security or freedom of will of parties in the process is impaired by grave local conditions, which may damage holding the trial and which may not be avoided in any other ways, the Supreme Court, on the reasoned application of the prosecutor attached to the court at issue or on the application of the defendant, transfers the case to another court at any state and stage of the trial.

Article 95
Transfer Application

1. The transfer application is filed, along with related documents, to the competent court secretariat and notice is served to other parties within seven days.

2. The defendant application is endorsed by him in person or his special representative.

3. The court transfers the application forthwith to the Supreme Court, along with eventual documents and remarks.

4. Non compliance with the forms and time limits provided for by paragraphs 1 and 2 constitutes grounds for dismissing the application.

Article 96
Effects of the application

1. Filing the transfer application does not suspend the trial, but the court may not conclude the case unless and until a decision is issued allowing or dismissing the application.
2. The Supreme Court may decide to suspend the trial. The suspension does not prevent the performance of summary actions.

Article 97
Decision on transfer application

1. The Supreme Court, after obtaining the necessary information, takes a decision in the consulting chamber, without the participation of the parties.
2. Notice of the decision which allows the application shall be served to the court, which was holding the trial and the one assigned to try it. The court, which was holding the trial, transfers the documents forthwith to the assigned court and orders that notice of the Supreme Court decision is served to the prosecutor, defendant and private parties.
3. The court assigned by the Supreme Court states by a decision whether and to what extent the actions performed are still valid.

TITLE III

DOCUMENTS, NOTICES AND TIME LIMITS

CHAPTER I -- DOCUMENTS (ACTS)

SECTION I -- GENERAL RULES

Article 98
Language of acts

1. Criminal procedural documents are made in Albanian language.
2. The person who does not speak Albanian language is questioned in his native tongue and records are kept also in this language. Procedural documents provided on his application are translated in the same language.
3. Breach of these rules causes the documents to be invalid.

Article 99
Endorsement of documents

1. When a document is required to be endorsed, if the law does require otherwise, it is sufficient to write by hand at the end of the document the first and last name of the person who must endorse it.
2. Endorsement by mechanical means or signs different from the writing is invalid.

3. When the person is not able to endorse, the official to whom a written documents is presented or puts into writing an oral deed, ensures the identity of the person and stipulates this fact at the bottom of the document in the presence of a third person.

Article 100
Date of the documents

1. When law requires the date of a document, the documents shall state the day, month, year and the venue where the document is drafted. Stipulation of the time is mandatory only when expressly required.

2. When the invalidity of a documents is provided because of the date has not been stipulated, this rule is valid only in case when the date cannot be accurately determined based on the elements of the document itself or in other related documents.

Article 101
Replacement of original documents

1. When the original of a procedural document is damaged, lost or disappeared and for various reasons cannot be found, a certified authentic copy has the value of the original and is placed in the location of the original.

2. The court, for this purpose, may even *ex officio,* order the person who possess the copy to hand it over to the secretariat.

Article 102
Redrafting of documents

1. When a document cannot be replaced, the court even *ex officio* verifies the content of the missing document and orders whether and how it should be redrafted.

2. When the idea of the missing document is known, it is redrafted based on the idea, provided that one of the judges, who has endorsed it, certifies that it has been the same with the idea.

Article 103
Prohibition on the publication of a document

1. It is prohibited to publish, even in part, secret document or only their contents that are connected to the case through means of press or mass media.

2. It is prohibited to publish, even in part, non secret documents until the conclusion of the preliminary investigations.

3. It is prohibited to publish, even in part, trial documents when it is closed to public. Restriction on publication is removed when the time limits provided for by law on state archives expire or ten years have lapsed from the date when the decision became final, provided that the publication is authorised by the Minister of Justice.

4. It is prohibited to publish personal details and photographs of minor defendants and witnesses, accused or injured by the criminal offence. The court may allow the publication only when the interest of the minor requires so or when the minor has reached the age of sixteen years.

Article 104
Breaching prohibition on publication

1. Breaching prohibition on publication by a state or public entity officer is a disciplinary infringement unless it constitutes a criminal offence. In this case, the prosecutor notifies the authority entitled to take disciplinary sanction.

Article 105
Obtaining copies, extracts and certificates

1. Whoever is interested may obtain on his own expenses, during proceedings and after its conclusion, copies, extracts or certificates of specific documents.
2. Pertaining to preliminary investigation documents, the application is examined by the prosecutor or the court, which has issued the decision for those of the trial.
3. Issuing of copies, extracts or certificates does not remove the prohibition on publication.

Article 106
Prosecutor's application for copies of documents and information

1. Prosecutor has the right, when it is necessary for purposes of investigations, to request from the court, even in cases of obligation of secrecy, copies of documents related to other criminal cases under his prosecution, and also written information pertaining to their content.
2. The court, within five days, shall respond (allow) or reject application by a reasoned decision.
3. Provisions of paragraph 1 and 2 shall apply also to applications made by the Minister of Public Order and the Chief of the Intelligence Service, when they need copies of documents and information in order to prevent criminal offences.

Article 107
Participation of deaf, mute and deaf-mute person in the drafting of procedural documents

1. When a deaf, mute or deaf-mute person wishes or must give explanations, it is acted in this way:
a) Questions and warning are given to the deaf person in writing and he replies orally.
b) Questions and warning are given to the mute person orally and he replies in writing.
c) Questions and warning are given to the deaf-mute person in writing and he replies in writing.
2. If the deaf, mute or deaf-mute person does not know how to read or write, the proceeding authority shall assign one or more interpreters selected amongst persons who are used to communicate with them.

Article 108
Witnesses in procedural documents

1. The contents of a procedural document may not be witnessed for the purpose of certifying by:

a) minors up to fourteen years old and persons who suffer from patent mental disorder or who are in a serious state of drunkenness or intoxication by narcotic or psychotropic substances.

b) persons under remand orders.

Article 109
Power of Attorney for certain procedural documents

1. When the law allows that the document to be drafted through a special representative, the Power of Attorney is issued by a notary public or by a private written document, certified by competent authorities, otherwise it is not accepted, and must contain, in addition to information specifically required by law, the subject for which it is given and the facts it refers to. The Power of Attorney is attached to documents.

2. Power of Attorney issued by state authorities must have the director's signature and the seal of the institution.

Article 110
Memorandums and applications of parties

1. Parties and their representatives have the right, at any state and stage of the proceedings, to present memorandums and written applications.

2. The proceeding authority shall render a decision within fifteen days.

Article 111
Statements and applications of persons under restriction

1. A defendant (suspect) under restriction because of a remand order has the right to present complaints, applications and statements through the director of the institution, who issues a document acknowledging their acceptance. They are recorded in a special book, and are communicated forthwith to the competent authority and have the same effect as if accepted directly by that authority.

2. A defendant (suspect) who is under a house arrest or under supervision in a treatment facility has the right to present complaints, applications and statements to the judicial police officer, who certifies their acceptance and takes care to forward them forthwith to the competent authority.

3. Same rules apply to criminal reports, complaints, applications and statements presented by private parties or aggrieved person.

SECTION II
COURT DOCUMENTS

Article 112
Forms of court disposition

1. Court acts by a decision and order.
2. A decision is given in the name of the Republic.
3. A decision and order are based on reasons, otherwise they are invalid.
4. A decision is taken in the consulting chamber, without the presence of the (session) secretary and the parties.
5. When a member of the panel of judges has not voted in favour of what has been decided, on his request, it is drafted a summary of the records, which states the reasons for objection. Records are signed by all members and are put in a sealed envelope at the secretariat.
6. Orders are issued without complying with any specific formalities and, when it is not provided otherwise, they are also issued orally.

Article 113
Filing court documents

1. Original court documents are placed to the secretariat within five days from their issuance. The prosecutor and other persons to whom the law recognises the right to appeal shall be notified about decisions that can be appealed.

Article 114
Correction of material errors

1. Correction of decisions and orders containing material errors may also be done *ex-officio* by the court, which has issued the document. When against this document an appeal is made, which is accepted, then the correction is made by a decision of the court hearing the appeal, based on which, a note is written in the original of the document.

SECTION III
DOCUMENTING THE ACTIONS

Article 115
The minutes

1. Documenting of actions is done by keeping records.

2. Records are kept by the court secretary, in full or summarised form, in stenography, other technical means and, when these means are unavailable, in handwriting.

3. When records are kept in a summarised form, they must be reproduced in phonographic format and, if conditions allow, in audio-visual format if it is necessary.

Article 116
Contents of the records

1. Records stipulate the venue, year, month, day and, when it is necessary, the time when it was commenced and concluded, personal details of persons who have participated, stipulation of grounds, if known, of the absence of persons who should have participated and requests made by the parties.

Article 117
Endorsement of records

1. The records, except the one kept during trial hearing, after being read, are endorsed at the bottom of each page by the one who kept them, the person who proceeds and the persons who have participated.

2. When one of the participants does not wish or is not able to endorse it, this is written down along with the ground.

Article 118
Transcription of records kept by stenographic means

1. The tapes with stenography symbols are transcripted into ordinary writing not latter than five days from the date when they were typed and they are attached to the documents along with the transcription.

2. When the person who has typed the tapes is prohibited to perform the transcription, the court orders that the transcription be entrusted to an appropriate person, even outside from state administration.

Article 119
Phonographic or audio-visual reproduction

1. Phonographic or audio-visual reproduction is made by technicians, who may be outside from state administration, under the supervision of the court secretary.

2. In case of phonographic reproduction, the commencing and ending time of reproduction is noted down in the records.

3. In case phonographic reproduction is incomprehensible, the records kept in a summarised form shall be used as evidence.

4. Phonographic or audio-visual records shall be attached to the documents.

Article 120
Forms of recording in particular cases

1. The court may decide to keep the records in a summarised form when actions to be recorded are simple in content or when mechanical means for their reproduction or technical assistants are unavailable.

2. When the records are kept in a summarised form, the court takes care to note down the essential parts of statements and circumstances under which they have been made.

Article 121
Oral statements of parties

1. When the law does not require a document in the written form, the parties may make themselves or through special representatives, oral applications or statements. In this case, the court secretary drafts the minutes and records the statements. The power of attorney is attached, when the case is so, to the records.

2. A certificate or a copy of the statement made may be issued to the party that requests it on its own expenses.

Article 122
Invalidity of the records

1. The records are invalid when there are doubts regarding persons who have participated in it or the signature of the personnel who drafted it is not attached.

SECTION IV
TRANSLATION OF DOCUEMNTS

Article 123
Assigning an interpreter

1. A defendant who does not know Albanian language has the right to be assisted by an interpreter free of charge in order to understand the charge and to follow the actions he participates in. He is bound to make a written statement through the interpreter that he does not know Albanian language.

2. The proceeding authority also assigns an interpreter when a written document must be translated into a foreign language.

3. The interpreter is also assigned when the court, prosecutor or judicial police officer, knows the language which must be translated.

Article 124
Incapacity and incompatibility of interpreter

1. The task of an interpreter may not be performed by:

a) a minor, a person who is prohibited to interpret, a person whose legal capacity to act has been removed, a person suffering from mental illness, a person who has been prohibited or suspended to exercise public duties and profession;

b) a person under remand order;

c) a person who may not be questioned as a witness, a person who has been summoned as a witness and expert in the same process or in a connected process. However, in case when a deaf, mute or deaf-mute person is questioned, the interpreter may be among their relatives.

Article 125
Application for disqualifying and resignation of interpreter

1. The parties have the right to apply for the disqualification of interpreter for reasons provided for under article 124.

2. Where there is a reason to apply for disqualification or resignation, the interpreter is bound to state that.

3. The application for disqualification or resignation may be submitted prior to assigning the task and, for reasons made known subsequently, before the interpreter has completed his task.

4. The proceeding authority takes a decision on the application for disqualification or resignation.

Article 126
Assigning the task to the interpreter

1. The proceeding authority verifies the identity of the interpreter and asks him whether there are any reasons for his disqualifications.

2. The interpreter is warned of his obligation to perform an accurate interpretation and to keep the secrecy of actions conducted in his presence. Subsequently, he is asked to perform his duty.

Article 127
Time limits for written translations. Substitution of translator

1. The proceeding authority assigns a time limit to the translator in case when the translation of written documents requires a long time. The translator may be substituted when he does not present (complete) the translation in writing within the time limit.

2. The substituted translator, after being summoned to show causes for failing to fulfil his duty, may be punished by the court with a fine up to ten thousand leke.

SECTION V
INVALIDITY OF DOCUMENTS

Article 128
Absolute invalidity (Null and Void)

1. Procedural documents are absolutely invalid (null and void) when they do not comply with the provisions related to:

a) conditions to be a judge in the concrete case and the number of judges necessary to form panels defined in this Code;

b) the right of the prosecutor to conduct criminal prosecution and his participation in the proceedings;

c) summoning the defendant or the presence of the defence counsel when it is mandatory.

2. A document specified by law as absolutely invalid (null and void) cannot be validated.

Article 129
Relative invalidity (Voidable)

1. Invalidities, different from those provided for by article 128, may be declared as such on the application of parties.

2. Invalidity in relation to preliminary investigation documents and those in relation to pre-trial admission of evidence must be objected to prior to trial commences.

3. The invalidity proven during the trial may be objected to in conjunction with the appeal against the final decision.

4. Time limits to raise or object invalidity may not be extended.

5. The invalidity of a document, when the party is present, must be objected to prior to its drafting or, when this is impossible, immediately after it is drafted.

Article 130
Evaluation of invalidity

1. Except in cases provided otherwise by law, invalidity is not taken into account where:

a) the interested party has expressly withdrawn the objection or accepted the consequences of the document.

b) the party has benefited from the right, which the invalid document has been ordered for earlier.

2. Invalidity of announcements, communications and notifications is not taken into account if the interested party has appeared or refused to appear.

3. A party which states that it has appeared only to raise the irregularity of a document has the right to a period of time, not less than three days, to defend.

4. Prosecutor evaluates the invalidity (of documents) during the preliminary investigations.

Article 131
Consequences of invalidity

1. An invalid document renders as invalid subsequent documents, which are preconditioned on the one which has been declared invalid.

2. The court that declares a document invalid orders its remaking when this is necessary and possible, charging the expenses to the one who has intentionally or by serious negligence caused the invalidity (of the document).

CHAPTER II
NOTICES

Article 132
Authorities and modes of notices

1. Notices of documents are served by court dispatchers or postal service.
2. Where the judge deems it necessary, may order judicial police to serve notice.
3. When the court secretariat hands over a copy of the document to the interested person, it is as good as serving notice. In such a case, the court secretary enters a note on the original document about the delivery and the date.
4. Notices served by the court to the interested parties in their presence are entered in the records.

Article 133
Summary notices by telephone, telegraph and fax

1. The court, in summary cases, may order that persons requested by the parties, except the defendant, may be served notice through telephone by the court secretariat or judicial police. On the original copy of the notice are entered the requested telephone number, the name and job of the person who gets the notice, his relationship with the one who is served notice, date and time of the telephone call.
2. Service of notice through telephone is valid from the time when it is made, but always when receiving confirmation through telegram from the person served notice.
3. Notice may also be served through telegram and fax.
4. The court, under special circumstances, may decide by a reasoned order that service of notice to the person, except the defendant, be affected by using appropriate technical means that guarantee the service.

Article 134
Serving notice of prosecutor's documents

1. Notice of prosecutor's documents during preliminary investigations is served by judicial police or through postal service, in modes provided for under article 133.
2. Delivering a copy of the document to the interested person by the court secretariat has the same value as notice. The person delivering the document enters to the original copy to such effects and the date.
3. Oral announcements made by prosecutor substitute notices, on the condition that this fact is entered in the records.

Article 135
Private parties' notices

1. Parties' notices may also be served by their representatives by sending a copy of the document through registered mail with proof of receipt.

Article 136
Notices to prosecutor

1. Notices to prosecutor may be directly served by the parties, defence counsels or their representatives, through delivery of a copy of the document to the secretariat. The one, who takes it in custody, enters in the original and photocopied copy of the document personal details of the one who submitted it and the date.

Article 137
Notices to private parties

1. Notices to the person injured by the criminal offence are served in the same way as a defendant in a free state is notified for the first time. Where the places mentioned in article 140 are not known, the service is done by filing the document to the secretariat. When from the documents it results that his residing place or residence is abroad, he is summoned by registered mail with proof of service, in which he must state or elect his residence within the Albanian State territory. If after twenty days from receiving the registered mail the statement or election of the residence is not made yet, the notice is served by filing the document to the secretariat.
2. Notice of the first summon to the defendant in the civil claim is served according to the modes determined for serving notice to a free defendant.
3. Notices to plaintiff and defendant in the civil claim are served to their representatives.

Article 138
Public notices to injured persons

1. When serving notice to injured persons is difficult because of their number or impossibility to identify some of them, the court may order service through public notice.
2. The notice is deemed as served when court dispatcher submits to the secretariat a copy of the document alongside documents that prove the public notice.

Article 139
Serving notice to a defendant (accused) under detention

1. Notice to a defendant (accused) under detention is served at his detention place by handing over to him the document.
2. Where the defendant (accused) refuses to accept a copy of the document or when he is absent for justified reasons the document is handed over to the person in charge of the institution who, in the latter case, notifies the interested person through the fastest means.

3. The above-mentioned provisions are also applicable in case where the defendant (accused) is under pre-detention for another accusation or is serving an imprisonment sentence.

4. Where the detainee is released because of the change of the remand order, he is bound to state or elect his residence. This is entered into release records and is communicated to the proceeding authority. Where notice cannot be served to the stated or elected residence, then the document is served to his defence counsel.

Article 140
Serving notice to a free defendant (accused)

1. Notice to a free defendant (accused) is served by delivering him a copy of the document. Where it may not be delivered to him in person, notice is served to his residence or working place, by delivering the document to a person who cohabitates with him or to a neighbour, or to a person who works with him.

2. Where the venues mentioned in paragraph 1 are not known, notice is served to his temporary residence or to a venue where he frequently resides, by delivering it to one of the persons mentioned in paragraph 1.

3. A copy of the notice may not be delivered to a minor less than 14 years of age or to a person with obvious mental incapability.

4. Where the persons mentioned in paragraph 1 are absent or are not suitable, or refuse to accept the document, then the defendant (accused) is searched for in other venues. In case when even in this way the notice cannot be served, the document is delivered to the administrative center of the neighborhood or village where the defendant lives or works. The notice of delivery is posted on the gate of defendant's house or working place. The court dispatcher notifies him on the delivery through registered mail with proof of receiving. Effects of the notice start to run from the time when receiving the registered mail.

5. Notice to the defendant who is serving in the military service is served by handing over to him the document and when the delivery to him cannot be so affected, the document is notified to the command, which is obliged to notify forthwith the concerned person.

6. The defendant is obliged to notify the proceeding authority by telegram or registered mail on any changes to his stated or elected residence.

Article 141
Serving notice to a defendant at large

1. Where notice cannot be served conform rules prescribed for serving notice to a free defendant, the proceeding authority orders a search for the defendant. If the search does not give any positive result, a decision of failure to be found (absconding) is issued, which, after assigning a defence counsel to the defendant, the notice is ordered to be served by delivering a copy to the defence counsel. The person at large is represented by the defence counsel.

2. The decision of absconding shall cease to have effects when the preliminary investigations are concluded or when the court delivers its decision.

3. Notice to a defendant who is evading service or a fugitive is served by delivering a copy of the document to his defence counsel and when he does not have a defence counsel, the proceeding authority assigns *ex-officio* a defence counsel, who represents the defendant.

Article 142
Service of notice to a defendant abroad

1. When defendant's residence or staying place abroad is known, proceeding authority sends him a registered mail with proof of receiving, notifying him on the criminal offence he is charged with and asks him to state or elect a residence in Albanian territory. If, after three days from receiving the registered mail, the statement or election of the residence is not made or when as such is not so notified, notice is served by delivering it to the defence counsel.

2. When it results that there is no sufficient information to act according to paragraph 1, the proceeding authority, prior to issuing a decision of not found, orders for searches to be conducted outside of the state territory, according to rules defined in international agreements.

Article 143
Invalidity of service of notice

1. Service of notice is invalid:

a) where the document has not been served in full, provided the law allows service of notice by extracts;

b) where in the copy of the document being served is missing the signature of the one who has made the notice;

c) where specific provisions regarding the person to whom a copy should be served have been breached;

ç) where the notice for the defendant in a free state is not posted;

d) where in the original copy of the document served is missing the signature of the person who has undertaken the service of notice according to article 140, paragraph 1;

dh) where forms of serving notice by special technical means have not been complied with and therefore, the one who should have been served notice, was not so served notice of the document.

CHAPTER III
TIME LIMITS

Article 144
General rules

1. Procedural time limits are determined in hours, days, months or years.
2. Time limits are calculated according to the common calendar.

3. Where time limits determined in days ends on a holiday or public holiday, it is postponed until the next working day or non public holiday.

4. Except where the law provides otherwise, the hour or the day in which the time limit starts to run, shall not be calculated in the determined time limit. The last hour or the last day is calculated.

5. The time limit for making statements, filing of documents or performing other acts in court is deemed expired at the moment in time when, according to the rule, offices are closed to the public.

Article 145
Time limits that may not be extended

1. Time limits that may not be extended are those provided by law in specific cases. These time limits may be extended only when the law does provide otherwise.

2. The party, in whose favour a time limit has been issued, may request or allow its limitation by a statement filed to the proceeding authority secretariat.

Article 146
Extension of time limits to appear

1. When the defendant's residence, as it results from the documents or the stated or elected residence is outside the district where the proceeding authority has its headquarters, the time limit to appear shall be extended for as many days as needed for the travelling. In any case, the extension of time limit may not exceed three days. The extension of time limit for the defendant residing abroad is determined by the proceeding authority taking into account the distance and means of transport used.

2. These rules shall also apply to the time limits designated for the appearance of any other person to whom the proceeding authority has issued an order or a writ of summons.

Article 147
Renewal of time limits

1. The designated time limit may be renewed if the prosecutor, defendant, private parties and defence counsels prove that they had no possibility to comply with the time limits due to unforeseen events or *force majeure.*

2. In case the decision is rendered in absentia, the defendant may request the renewal of the time limit in order to make an appeal when he proves that he had notice of the decision.

3. The application for the renewal of the time limit is filed within ten days from the disappearance of the fact that constituted an event or *force majeure*, whereas in cases provided for by paragraph 2, from the day when the defendant has received actual knowledge of the act (decision). Renewal of time limit is not allowed more than once for each party at every stage of the proceedings.

4. The authority that carries on at the time of filing of the application rules on it.

5. The decision that allows the renewal of the time limit may be appealed only alongside the final decision.

6. An appeal may be made to the Court of Appeal against the decision rejecting the application for renewal of the time limit.

Article 148
Consequences of renewal of time limits

1. The court that has decided the renewal of the time limit, on the request of the party and to the extent that it is possible, orders the repetition of actions in which the party was entitled to take part.

2. Where renewal of the time limit is ordered by the Supreme Court, the repetition of the actions is decided by the court, which is competent to hear the case on its merits.

TITLE IV
EVIDENCE

CHAPTER I
GENERAL PROVISIONS

Article 149
Meaning of Evidence

1. Evidence is a notice (information) on the facts and circumstances relevant to the criminal offence, which are obtained from sources provided for by the criminal procedural law, in accordance with the rules prescribed by it and which serve to prove or not the commission of the criminal offence, its consequences, the guilt or innocence of the defendant and the extent of his responsibility.

Article 150
Object of Evidence

1. Constitute object of evidence facts relevant to the charge, guilt of the defendant, issuing of the remand order, punishment and civil liability, and also facts on which the application of procedural rules depends.

Article 151
Obtaining of evidence

1. During the preliminary investigations, evidence is obtained by the proceeding authority conform the rules provided for under this Code.
2. During the trial, evidence is obtained on the request of the parties. The court decides by an order, excluding evidence prohibited by law and those who are patently unnecessary. Provisions on obtaining evidence may be revoked at any stage of court trial.
3. When evidence, which is not governed by law, is requested, the court may obtain it if it is worth to prove the facts and it does not vitiate the freedom of will of the person. The court decides on obtaining the evidence after hearing the parties about the way of obtaining it.
4. Evidence obtained in contravention of prohibitions provided by law may not be used. Non application is also raised *ex-officio* at any stage and instance of the proceedings.

Article 152
Evaluation of evidence

1. Evaluation of evidence is establishing their accuracy/authenticity and evidential value. Any evidence is subject to (trial) examination and has no pre-determined value. The court evaluates the evidence based on its conviction after their examination in their entirety.
2. Establishment of a fact may not be induced based on indications, provided they are important, accurate and in accordance with each other.

3. Statements made by a co-defendant in the same criminal offence or by a defendant in a connected proceeding, are evaluated in accordance with other evidence that corroborate their accuracy.

CHAPTER II
TYPES OF EVIDENCE

SECTION I
TESTIMONY

Article 153
Scope of testimony

1. A witness is examined on facts, which constitute object of evidence. He cannot testify on the moral standing of defendant, except when the case is relevant to facts that serve to determine his character in relation to the criminal offence and danger posed to the society.

2. The examination of a witness may also extend to kindred relationship and any existing interests between the witness and parties or any other witnesses, as well as to circumstances, the proof of which is necessary to evaluate his trustworthiness. The testimony on facts that serve to define the character of the person injured by the criminal offence is admitted only when the charge against the defendant must be evaluated against the injured person conduct.

3. A witness is examined on specific facts. He may not testify about what is said in public and may not express personal opinions, except when they cannot be severed from the testimony on facts.

Article 154
Indirect (hearsay) testimony

1. When the witness, for the introduction of facts, refers to other persons, the court, on the request of the party or even *ex-officio*, orders that they be summoned to testify.

2. Non compliance with the provisions of paragraph 1 makes the statements on facts that the witness has learned from other persons invalid, except in cases when their questioning is impossible because they are deceased, seriously ill or cannot be found.

3. A witness cannot be questioned on facts that he has learnt from persons who are obliged to maintain their professional or state secrecy, except in cases where these persons have given statements on the same facts or have spread them out in any other way.

4. The testimony of a witness who refuses or is unable to tell the person or the source of information on the facts he is questioned on cannot be used.

Article 155
Legal capacity to testify

1. Any one has the legal capacity to testify, except those who because of their mental disorder or physical disabilities are unable to testify.

2. When for the evaluation of sayings, the verification of mental or physical capacity to testify is required, the court, even *ex-officio*, may order the appropriate verifications.

Article 156
Incompatibility with the task of a witness

1. May not be questioned as witnesses:

a) persons who, due to physical disabilities or psychological disorders, are not able to give a proper testimony;

b) defendants in a joint criminal offence or in a connected proceeding, even when the case against them has not been initiated, or they have been acquitted or convicted, except in cases when the decision of acquittal has become final;

c) those who, in the same proceedings, perform or have performed the function of a judge or prosecutor;

ç) the defendant in the civil case.

Article 157
Obligations of a witness

1. A witness is bound to appear in court, to comply with its orders and to answer truthfully the questions asked.

2. A witness may not be compelled to testify on facts, which may incriminate him.

Article 158
Exemptions from obligation to testify

1. It is not obliged to testify:

a) a defendant's close kindred or in-laws, according to definitions of article 16, except in cases where they have lodged a criminal report or complaint or where they or a close relative of them are injured by the criminal offence;

b) a spouse, for facts learnt from defendant during their marital life;

c) a spouse divorced from defendant;

d) one, who even though is not defendant's spouse, cohabitates or has cohabitated with him;

e) one, who is related to the defendant in an adoptive relationship.

2. The court explains to the persons mentioned above their right not to testify and asks them if they wish to benefit from this right. Non compliance with this rule causes the testimony to be invalid.

Article 159
Maintaining professional secrecy

1. May not be compelled to testify on what they know due to their profession, except in cases where they have the obligation to report to proceeding authorities:

a) religious representatives, whose statutes are not in contravention of the Albanian legal order;

b) attorneys at law, legal representatives and notaries;

c) physicians, surgeons, pharmacists, obstetrics and anyone who exercises a medical profession,

d) those who exercise other professions, which the law recognises them the right not to testify on what is related to professional secrecy.

2. When the court has reasons to suspect that the claim made by these persons in order to avoid the testimony has no grounds, orders the necessary verification. Where it (claim) results baseless, the court orders the witness to testify.

3. Provisions provided under paragraph 1 and 2 shall also apply to professional journalists pertaining to the names of persons whom they have got information from during the course of their profession. But, when the information is indispensable to prove the criminal offence and the truthfulness of the information may only be proved through identification of the source, the court orders the journalist to reveal the source of his information.

Article 160
Maintaining state secrecy

1. State employees, public employees and persons appointed to a public service are obliged not to testify on facts that are state secret.

2. When the witness claims that the fact is a state secret, the proceeding authority requests a written confirmation from the competent state authority.

3. When the secret is confirmed and the evidence is not essential to the solution of the case, the witness is not examined, whereas, the evidence is essential, the proceeding authority adjourns the case until the highest authority of the state administration shall reply. Subsequently, the witness is compelled to testify.

4. If after thirty days from the service of the request, the competent state authority does issue the confirmation of the secret, the witness is requested to testify.

5. Judicial police officers and agents, as well as, state intelligence service personnel may not be compelled to reveal the names of their informers. Information given by them may neither be obtained nor used if these officials are not questioned as witnesses in relation to the information.

Article 161
Exclusion of secrecy

1. Information or documents related to criminal offences, which aim to overthrow the constitutional order, may not be object of state secret. The nature of the criminal offence is defined by the proceeding authority.

2. When the exclusion of secrecy is not accepted, the competent state authority is notified.

Article 162
Testimony of the President of the Republic

and other high state officials

1. The testimony of the President of the Republic is obtained at the residence where he carries out his function as Head of the State.

2. Where the testimony of the Chairman of Parliament, the Prime Minister, the Chairman of the Constitutional Court or the Chief of the High Court, must be obtained, they may request to be questioned at the office where they carry out their function. When the court considers their presence as indispensable to perform identification or confrontation proceedings, it is preceded as in usual cases.

Article 163
Obtaining testimony from diplomatic personnel

1. In case when a diplomatic personnel or C*harge d'Affair* abroad must be questioned at the time he is outside the Albanian state territory, the request for questioning is transmitted through the Ministry of Justice to Albanian diplomatic or consulate authority, except in cases when their appearance is deemed necessary.

2. International conventions and customs shall be complied with when obtaining the testimony of diplomatic personnel of a foreign country accredited to Albania.

Article 164
Compulsory Appearance

1. When a witness, who is properly summoned, does not appear at the designated place, day and hour, without any lawful impediments, the court may order his compulsory appearance.

2. The person under compulsory appearance cannot be held more than the necessary time requiring his presence, in any way, not longer than twenty-four hours.

3. The provisions of paragraph 1 and 2 shall also apply to expert and interpreter.

Article 165
Liability for perjury or refusal to testify

1. When during the examination the witness gives contradictory or incomplete statements or statements contrary to the evidence obtained, the court cautions him for perjury. The same caution is administered to the witness who unduly refuses to testify.

2. When the witness insists on refusing to testify or when it is found that the witness commits perjury, the court asks the prosecutor to proceed according to the law.

SECTION II

INTERROGATION OF DEFENDANT AND PRIVATE PARTIES

Article 166
Request for examination

1. Defendant and civilly liable party are examined if they so request or they give their consent when they are asked to (testify). The same applies to the civil claimant, except when he must be questioned as a witness.

Article 167
Questioning of a defendant in a connected proceeding

1. Persons held as defendants in a connected proceeding, who are or were prosecuted separately, are questioned on the request of the party or *ex-officio*.
2. They are obliged to appear before the court, which, when necessary, orders their compulsory appearance. Provisions relevant to summoning of witnesses shall apply.
3. Persons stipulated in paragraph 1 are assisted by the elected defence counsel and, in his absence, by a defence counsel assigned *ex-officio*.
4. Prior to questioning, the court informs the persons stipulated under paragraph 1 that they have the right not to answer.
5. Provisions of the above paragraphs shall also apply during preliminary investigations to persons who are defendants in a criminal offence connected to the one under proceeding.

Article 167/a
The interrogation in distance of a person taken as defendant in a related/linked proceeding or who suffers the sentence abroad

The defendant in a related proceeding, who is already proceeded or who suffers the sentence abroad for another crime, when the extradition is refused, may be interrogated in a distance, through audiovisual connection, according to the international agreements, provided that the foreign state guarantees the participation of the defense lawyer of the defendant in the place where the interrogation will take place.

Article 168
Questioning of private parties

1. Provisions provided for under articles 153, 154, 157, paragraph 2 and 363 are applicable to questioning of private parties.
2. When the party refuses to answer a question, it is so stipulated in the records.

SECTION III
CONFRONTATIONS

Article 169
Grounds of confrontation

1. Confrontation is allowed only between persons who have been questioned and there are inconsistencies among them on certain facts and circumstances.

Article 170
Rules on confrontation

1. The proceeding authority, after reminding the persons to be confronted of their previous statements, asks them whether they confirm or alter them, inviting them, if the need arises, to make their respective objections.

2. In the records are stated the questions asked by the proceeding authority, statements made by the persons confronted and anything else that has happened during the confrontation.

SECTION IV
IDENTIFICATIONS

Article 171
Identification of persons

1. When the need arises to conduct the identification of a person, the proceeding authority invites the one who must do the identification to describe the person (to be identified), telling all the signs he remembers and asking him whether he has been previously summoned to do the identification and also about other circumstances, which may contribute to the accuracy of identification.

2. Actions provided for by paragraph 1 and statements made by the person who does the identification are entered in the records.

3. Non compliance with the provisions of paragraph 1 and 2 is a cause for the invalidity of identification.

Article 172
Performing identification

1. The proceeding authority, after taking away the person that will do the identification, ensures the presence of at least two persons looking as alike as possible to the person to be identified. It invites the latter to choose his place in relation to others, taking care to be portrayed, as much as possible, in the same circumstances under which would have been seen by the person called to do the identification. After the person who will do the identification appears, the court asks him whether he knows anyone of those presented for identification, and if yes, it invites him to show whom he knows and to specify whether he is sure.

2. When there are reasons to think that the person called to do the identification, may get scared or to have other influences by the presence of the person to be identified, the proceeding authority orders the act to be performed without the latter seeing the former.

3. The records state the mode of performing the identification otherwise it is invalid as a consequence. The proceeding authority may order, for purposes of documentation, that the performance of identification be photographed or filmed.

Article 173
Identification of items

1. When the identification of material evidence or other items relevant to the criminal offence must be performed, the proceeding authority acts in compliance with the rules for identification of persons to the extent they are applicable.

2. After finding, when possible, at least two similar items to the one to be identified, the proceeding authority asks the person called to identify whether he recognises any of them and, if the answer is yes, invites him to state which of them he recognised and to specify whether he is sure.

3. The records state the mode of performing the identification otherwise it is invalid as a consequence.

Article 174
Other identifications

1. When the proceeding authority decides the identification of voices, sounds or any other thing that may be object of perception by senses, it acts in compliance with the rules for identification of persons to the extent they may be applicable.

Article 175
Identification of or by several persons

1. When several persons are called to do the identification of the same person or item, the proceeding authority performs it one by one separately, prohibiting any communication between the one who has done the identification and those who will do it subsequently.

2. When a person must identify several persons or items, the proceeding authority orders the person or item to be identified to be placed among different persons or items.

3. Provisions of articles 171, 172 and 173 are applicable.

SECTION V
EXPERIMENT

Article 176
Requirements of Experiment

1. Experiment is allowed when it is necessary to prove whether a fact has happened or it may have happened in a certain way.

2. The experiment is the reconstruction, to the extent this is possible, of the situation under which a fact has happened or it is judged that has happened, reconstructing the manner the fact itself has happened.

Article 177
Rules on performing the experiment

1. A decision of the proceeding authority for performing an experiment contains summarised information on its object and states the day, time and venue where the actions will take place. The same decision or in a subsequent one, an expert may be assigned to perform the designated actions.

2. The proceeding authority takes the appropriate measures for performing the actions, ordering also the photographing and filming, and also not to endanger the public and personal security.

SECTION VI
EXPERT EXAMINATION

Article 178
Object of Expert Examination

1. Expert examination is allowed when it is necessary to carry out researches or to acquire information or evaluations that require special technical, scientific or cultural knowledge.

2. Expert examination to determine the professionalism in the (commission) of the criminal offence, criminal drive, the character and personality of the defendant and, in general, the psychical features that do not depend on pathological causes, are not allowed.

Article 179
Assigning of Expert

1. An expert is assigned by selecting him among persons recorded in certain books for this purpose or among those who have special knowledge in the relevant subject. When the expert examination is declared invalid or new examination is needed to be performed, the proceeding authority takes measures, when possible, that the new task shall be entrusted to another expert.

2. Notice of the proceeding authority decision to assign an expert shall be served to the defendant or his defence counsel, informing him that he has the right to ask for disqualification of the expert, to propose other experts, to take part in expert examination, when possible, and to present questions to the expert.

3. When researches and evaluations seem very complex or require different knowledge in several subjects, the proceeding authority entrust the performance of examination to several experts.

4. Expert is bound to perform his task, except in cases where there exists one of the grounds that excludes him from being an expert or when he claims that he is not competent or

does not have the ability to perform the expert examination and his request is accepted by the proceeding authority.

Article 180
Incompatibility with the task of an expert

1. The task of an expert may not be performed by:

a) a minor, one who is legally barred or whose legal capacity to act has been removed or suffers from a mental illness;

b) one who is suspended, even temporarily, from public duties or from carrying out a profession;

c) one, against whom has been issued body remand orders;

ç) one who may not be questioned as a witness or may not be taken as an interpreter or has the right not to testify or not to interpret.

Article 181
Disqualification of Expert

1. The parties may request the disqualification of an expert in cases provided for under this Code for disqualification of a judge.

2. When there is a ground for disqualification, the expert is bound to declare it.

3. The statement declaring the ground for disqualification made by the expert or the request for disqualification by the parties may be presented until the tasks have not been assigned and, when the grounds have arisen on the spot or are known subsequently, before the expert has given his opinion.

4. On the statement of the expert declaring the grounds for disqualification or the request for disqualification, decides by order the proceeding authority that has ordered the expert examination.

Article 182
Provision on proceeding authority

1. The proceeding authority orders the expert examination by a reasoned decision, which contains the assigning of expert, a brief presentation of the case, the day, time and venue assigned for the appearance of the expert.

2. The proceeding authority summons the expert and takes the necessary measures for the appearance of persons subject to expert examination.

Article 183
Assigning the task

1. The proceeding authority, after being ensured on the expert's identity, asks him whether there are grounds of disqualification for the task of expert, warns him on the obligations and liabilities provided for by the criminal law, drafts the requests for expert examinations and invites him to make the following statement: "Being aware of the moral and legal responsibility of the task I am undertaking, I shall perform it with honesty and fairness and I shall keep the secrecy of all the actions connected to the examination".

2. Remuneration of the expert is determined by an order of the authority that ordered the expert examination.

Article 184
Expert Actions

1. In order to answer the requests for examination, the proceeding authority may authorise the expert to look into acts, documents and anything else included in the prosecutor's or court file.

2. The expert may also be authorised to take part during the questioning of parties and obtaining of evidence.

3. When the expert requests information from the defendant, injured person or other persons, the information will be used only for the purposes of expert examination.

4. When for the needs of expert examination it is necessary to destroy or change the essence of an item, the experts, when possible, are bound to preserve the rest of the item, evidence the part used for the examination, informing the proceeding authority and the parties as such.

Article 185
Expert examination report

1. The expert opinion is given in writing.

2. When the assigned experts are more than one and they have different opinions, each one of them presents his opinion in a separate report.

3. Where facts are complex and the expert cannot give an immediate answer, the proceeding authority gives him a period of time not longer than sixty days. In case of need for especially complex verifications, this period of time may be extended for more than once for periods of time not longer than thirty days, but not exceeding the maximum period of time of six months.

Article 186
Replacement of expert

1. An expert may be replaced when he does not give his opinion within the determined period of time or when the application for extending the time period is not accepted or when he is negligent in performing his task.

2. The replacement decision of the proceeding authority is issued after the expert is heard. The replaced expert may be fined up to ten thousand leke.

3. The expert is also replaced when the request for disqualification is accepted.

4. The replaced expert is bound to hand over to the proceeding authority documents and results of the actions performed.

SECTION VII
MATERIAL EVIDENCE

Article 187
Meaning of material evidence

1. Material evidence are items that have been used as means in committing a criminal offence or on which there are marks/impressions or which have been the object of the defendant actions, proceeds of the criminal offence or any other kind of assets which are permissible to be confiscated according to Article 36 of the Criminal Code as well as any other item which may contribute to the clarification of the circumstances of the case.

Article 188
Obtaining of material evidence

1. Material evidence are described in detail in the records, when it is possible they are photographed or filmed and, on the order of the proceeding authority, shall be attached to the trial file.

Article 189
Preservation of material evidence

1. Material evidence that because of their nature may be perished, are handed over for use to certain entities, which are bound to return the same or their value if they cannot be returned to the persons they belong to.

Article 190
Provisions on material evidence

1. The court or prosecutor in the final decision or in the decision dismissing the case decides what shall be done with the material evidence, ordering:

a) items that have served or designated as means for committing a criminal offence and items which constitute benefits gained from it or given or promised payment for its commission shall be acquired and transferred to the state, except in cases when they belong to persons who have not been involved in the commission of the criminal offence;

b) items, the maintenance or transfer of which is prohibited shall be delivered to the respective entities or destroyed;

c) items that have no value shall be destroyed;

d) other items are returned to the persons that they belong to and, when there is dispute on their ownership, shall be kept until the it is resolved by the court.

2. Material evidence may also be returned to the persons they belong to before the conclusion of the proceedings, provided it does not harm the solution of the case.

SECTION VIII
DOCUMENTS

Article 191
Obtaining of documents

1. It is permitted to obtain documents that represent facts, persons or items through photographing, filming, recording or any other means.

2. When the original copy of a document is destroyed, lost or vanished, its copy may be obtained.

3. Documents that constitute material evidence must be obtained whoever produced or possesses them.

Article 192
Documents on personality

1. It is permitted to obtain criminal records certificates and final court decisions in order to judge on the defendant's and injured person's personality when the fact under proceedings must be assessed in relation to their conduct or moral qualities.

2. These documents may also be obtained to assess the credibility of a witness.

Article 193
Obtaining records of other proceedings

1. It is permitted to obtain the records of other criminal proceedings pertaining to pre-trial preservation (admission) of evidence or evidence admitted during trial examination.

2. It is permitted to obtain records of evidence in a civil trial that has ended with a final judgement.

3. It is permitted to obtain documents of actions that cannot be repeated.

4. In addition to the cases provided for under paragraph 1, 2, and 3, records of evidence may be used during trial examination if the parties agree or for rebuttals provided for by articles 364 and 367.

5. Final (court) decisions may be obtained for purposes of evidence pertaining to the existence of a fact, assessing it in unity with other evidence.

Article 194
Anonymous documents

1. Documents which constitute anonymous information may neither be obtained nor used, except when they constitute material evidence or are produced by the defendant.

Article 195
False documents

1. When the court judges that an obtained document is false, after the conclusion of the proceedings, it informs the prosecutor and also sends him the document.

Article 196
Translation of documents

1. When a document written in a foreign language is obtained, the proceeding authority orders its translation.

2. The proceeding authority, when necessary, orders the transcription of the magnetic tape.

Article 197
Issuing of copies

1. When the proceeding authority orders the obtaining of a document, on the request of the interested party, it may authorise the secretariat to issue certified copies of the document.

CHAPTER III
MEANS OF SEARCHING FOR EVIDENCE

SECTION I
EXAMINATIONS

Article 198
Cases and types of examination

1. Examination of persons, places and items is ordered by the proceeding authority when it is necessary to discover traces and other material consequences of the criminal offence.

2. When the criminal offence has left no traces or material consequences or when those have destroyed, lost, altered or removed, the proceeding authority describes the situation and, when possible, verifies how it has been prior to changes and also takes steps to ascertain the way, time and grounds for changes that may have occurred.

3. The proceeding authority may order photographing, filming and any other technical act.

Article 199
Examination of persons

1. Examination is performed by honouring the dignity and, as far as possible, the protection of the person being examined.

2. Prior to examination, the person examined is informed of his right to request the presence of a confidant, provided that he may be found immediately and is suitable.

3. Examination may also be performed by a physician. In such a case, the proceeding authority may choose not to take part in the examination.

4. When it is necessary to ascertain facts that are important to the case, it is permitted to take blood specimen and other bodily interventions even without the consent of the person, if it posses no danger to his health.

Article 200
Corpse examination

1. Corpse examination is performed by proceeding authority in the presence of a forensic doctor.

2. A judge or prosecutor for the examination of a corpse may order (his) exhumation, informing a member of the deceased family to participate, except when the participation may harm the purpose of the examination.

Article 201
Examination of places and items

1. Defendant or the one, who is in charge of the place where the examination will be performed or the item which will be examined, shall initially be given a copy of the order for performing the examination.

2. In case of examination of places, the proceeding authority may order, on reasonable grounds, that the persons present shall not leave before the conclusion of the examination and may use force to get back those who leave.

SECTION II
SEARCHES

Article 202
Grounds for conducting searches

1. When there are reasonable grounds to think that someone hides in his body material evidence of the criminal offence or items belonging to the criminal offence, the court issues a decision for body search. When these items are located at certain place, search of the place or house is ordered.

2. The court which has issued the decision may act itself or order judicial police officers to conduct the search, stipulated in the search order.

3. In case of flagrant arrest or chasing of a person fleeing, which does not allow the obtaining of a search order, judicial police officers conduct a search of the person or place, complying with the rules prescribed under article 299.

Article 203
Request to hand in

1. When a certain item is sought, the proceeding authority may request its handing in. If the item is handed in, the search is not conducted, except when it is judged necessary.

2. In order to specify the items that may be sequestered or to verify certain circumstances, necessary for the investigation, the proceeding authority or its authorised judicial police officers may search bank operations, documents and correspondence.

Article 204
Body search

1. Prior to conducting a body search, the one who will be searched, is handed over a copy of the search order, informing him of his right to request the presence of a reliable person, provided that can be found immediately and is suitable.

2. The search is conducted in compliance with the dignity and safety of the one being searched.

Article 205
Search of premises

1. Defendant, when present and the one who is in charge of the place, is handed over a copy of the search order, informing them of the right to request the presence of a reliable person.

2. When the persons stipulated in paragraph 1 are absent, a copy of the order is handed over to a relative, neighbour or to a person who works with him.

3. The proceeding authority may search the persons present when it judges that they may conceal material evidence or items belonging to the criminal offence. It may order that persons present may not leave prior to conclusion of the search and may use force to get back those who leave.

Article 206
Time of house search

1. A house search or a search of a closed place attached to it may not commence before seven o'clock and after twenty o'clock. In urgent cases, the proceeding authority may order in writing that the search be conducted beyond these restrictions.

Article 207
Sequestration during search

1. Items found during search may be sequestered in compliance with the provisions on sequestration.

SECTION III
SEQUESTRATION

Article 208
Scope of sequestration

1. A judge or prosecutor may order, by a reasoned decision, sequestration of material evidence and items connected to the criminal offence, when they are necessary to prove the facts.

2. Sequestration is carried out by the one who has issued the order or by judicial police officers being authorised in the same order.

3. A copy of the sequestration decision is handed over to the interested person, if he is present.

Article 209
Sequestration of correspondence

1. When the court has reasonable grounds to think that in the postal or telegraphic offices there are letters, negotiable instruments, envelopes, boxes, telegrams and other items of correspondence sent by or to the defendant, even under another name or through another person, it [the court] orders their sequestration.

2. When sequestration is performed by a judicial police officer, he must hand in to the judicial authority the correspondence items sequestered without opening and without having access to their content in any other way.

3. The items sequestered but do not form part of the correspondence that can be sequestered, are returned to the one they belong to and may not be used.

Article 210

Sequestration in banks

1. The court may order the sequestration of bank documents, negotiable instruments, sums deposited in current accounts and any other thing, even if they are in safety vaults, when there are reasonable grounds to think that they are connected to the criminal offence, even though they do not belong to the defendant or are not under his name. In urgent cases this decision may be taken by the prosecutor.

Article 211
Obligation to hand in and maintain secrecy

1. Persons bound to maintain professional or state secrecy must immediately hand in to the proceeding authority acts and documents, even in the original copies, and anything else kept by them because of their duty, service or profession, except when they declare that it is a state secret or a secret related to their duty or profession. In the latter case, the necessary verifications are conducted and, when it results that the declaration is groundless, the proceeding authority orders the sequestration.

2. When the competent authority confirms the state secret and the evidence is crucial to the solution of the case, the proceeding authority decides to acquire the evidence.

3. If within thirty days from the request, the competent authority does not confirm the secret, the proceeding authority orders its sequestration.

Article 212
Appeal against the sequestration decision

1. Defendant, the person in whose possession the items have been sequestered and the one who has the right to request their return, may appeal in court against the decision of sequestration.

2. The appeal does not suspend the execution of the decision.

Article 213
Copies of sequestered documents

1. The preceding authority may order the issuing of copies of sequestered acts and documents, returning the original copies and, when the original copies must be retained, orders the secretariat to issue certified copies.

2. In any case, the person or office where the sequestered took place has the right to have a copy of the records of sequestration.

3. When the sequestered document is part of a volume or register which cannot be severed from, and the proceeding authority needs the original, the volume or register shall be under the order of the proceeding authority. Secretary of the proceeding authority issues to the interested persons, when they request, copies, extracts or certificates of parts of the volume or register which have are not subject of sequestration.

Article 214
Custody of sequestered items

1. Sequestered items are kept under the custody of secretariat. If this is not possible or appropriate, the proceeding authority orders that they be kept in custody in another place, specifying the manner of custody.

2. During the delivery, the person in charge is warned on the obligation of custody and presentation of items when requested by the proceeding authority and the punishment also provided by the criminal law for the one who violates the obligation of preservation.

Article 215
Sealing of sequestered items

1. Sequestered items are kept under the seal of the proceeding authority or, depending on the nature of the items, by other adequate means, stating that they are maintained for the needs of justice.

2. The proceeding authority issues copies of the documents and photographs or other reproductions of sequestered items which may alter or which are difficult to be preserved, which he attaches to the documents and orders them to be filed in the secretariat.

3. Items that may alter, the proceeding authority orders, as the case may be, their conversion or destruction.

Article 216
Opening and closing of seals

1. The proceeding authority, when it wants to open seals, verifies whether or not they are damaged and when it ascertains any changes, it keeps the records. After performing the action that required the opening of seals, the items sequestered are sealed again, attaching close to the seal the date of intervention.

Article 217
Return of sequestered items

1. If retaining of sequestration is not necessary for purposes of evidence, the sequestered items are returned to the one they belong to, even before the final decision is issued. When it is necessary, the proceeding authority orders the repossession of returned items.

2. The court may order, on the request of prosecutor or civil claimant, not to return the sequestered items, when sequestration must be retained to secure the civil claim.

3. The sequestered items are returned to the person they belong to, after the decision becomes final, except when confiscation is ordered.

Article 218
Rules on returning of sequestered items

1. The court decides to return the sequestered items where there is no doubt on their belonging.

2. When items are sequestered from a third party, they may not be ordered to be returned in favour of others parties, without the third party being heard by the court.

3. During the preliminary investigations, the return of sequestered items is ordered by the prosecutor. Interested parties may appeal in court against the order.

Article 219
Provisions in case of non-returning of items

1. If after one year from the day the decision has become final, the request for return has not been filed or has not been accepted, the court which has issued the decision, orders that the money and negotiable instruments shall be deposited in a bank, in a special account. Items are ordered to be sold, but when they have scientific or artistic value, they are transferred to the relevant institutions.

2. The sale may be ordered also before the time period stipulated in paragraph 1, when the items may not be preserved without the danger of deteriorating or considerable expenses.

3. The proceeds gained from the sale are deposited in a special bank account.

Article 220
Expenses for sequestered items

1. Expenses necessary for maintaining sequestered items, are covered by the state, which has priority over any other creditor to the sums deposited from the items and values not returned.

SECTION IV
SURVEILLANCES

Article 221
Restriction on permission

1. Interception of communications of a person or a telephone number, by telephone, fax, computer or other means of any kind, the secret interception by technical means of conversation in private place, the interception by audio and video in private places and the recording of incoming and outgoing telephone numbers, is permitted only where there is a proceeding:

a) for intentionally committed crimes for which is provided a punishment of imprisonment of not less than seven years, in maximum;

b) for the criminal contravention of insult and threat committed through the means of telecommunications.

2. Secret photographic, filmed or video surveillance of persons in public places and use of tracking devices of whereabouts are permitted only when there is a proceeding for intentionally committed crimes which a punishment of imprisonment of no less than two years is provided.

3. Interception/Surveillance may be ordered against:

a) a person suspected of committing a criminal offence;

b) a person who is suspected of receiving or transmitting communications from the suspect;

c) a person who takes part in transaction with the suspect;

ç) a person whose surveillance may lead to the discovery of the crime scene or the identity of the suspect.

4. The results of interception/surveillance are valid for all the communicators.

5. Preventive interception/surveillance is governed by a separate law. It results may not be used as evidence.

Article 222
Decision on permitting interception/surveillance

1. The court authorises interception on the request of prosecutor or private prosecutor (injured party), in cases permitted by law on a reasoned decision, when it is indispensable for carrying on the investigations, and when there is sufficient evidence to prove the charge. A special appeal lies against the decision of the court, which refuses the request for interception.

Surveillance in public places, recording of incoming and outgoing telephone numbers and the use of tracking devices for whereabouts are authorised by the prosecutor.

When one of the two persons who will be subjected to surveillance is willing to commit and record the respective action, according to an agreement with the judicial police officer, the action is permitted with the authorisation of the prosecutor.

2. When there are reasonable grounds to think that the delay may seriously damage the investigations, the prosecutor orders the interception by a reasoned decision and informs the court immediately, but not later than twenty-four hours. The judge, within forty-eight hours from the order of the prosecutor, makes the evaluation by a reasoned decision. When evaluation is not done within the determined time period, interception cannot continue and its results cannot be used.

3. Decision on interception stipulates the way it shall be done and its duration, which cannot exceed fifteen days. This time-limit can be extended by the court on the request of the prosecutor whenever it is necessary for a period of 20 days when proceeding for crimes and up to 40 days when proceeding for serious crimes.

The decision of the court on secret photographic or video surveillance or on the interception/surveillance of conversations in private places (premises) may authorise a judicial police officer or a qualified expert to enter into these places in a secret way, acting in conformity with the decision. This authorisation should be carried out within 15 days.

4. A prosecutor acts in person or through a judicial police officer in performing an interception/surveillance.

5. In the book which is maintained by the prosecution office are entered documents ordering, authorising, evaluating or extending interceptions/surveillances, as well as the time of commencing and finishing each interception/surveillance proceeding.

Article 222/a
Appeal against a decision permitting interception/surveillance

1. An appeal may be made against a decision permitting interception/surveillance within ten days by an interested party who has learned of the surveillance for breach of criteria provided under article 221.

2. The appeal is examined by Court of Appeal or General Prosecutor if the authorisation is issued by a prosecutor. When the appeal is found correct, the Court of Appeal or the General Prosecutor cancels the writ that authorises the interception/surveillance and orders the deletion of all materials obtained from interception/surveillance.

Article 223
Interception Proceedings

1. Interception proceedings may be performed only through equipments installed in designated places, authorised and supervised/controlled by the district prosecutor.

1/1 When one of the conditions of interception/surveillance no longer exist , the judicial police officer immediately notifies the prosecutor who orders the discontinuance of interception/surveillance and informs the court, when the order is issued by the court.

2. Communications intercepted are recorded and the actions performed are recorded. The records specify the transcription of the contents of communications intercepted.

3. Minutes and (other) records shall be immediately handed over to the prosecutor and within five days from the conclusion of the actions, they are filed with the secretariat alongside writs which have ordered, authorised, evaluated or extended the interception/surveillance. When the filing may damage the investigation, the court authorises the prosecutor to postpone the filing until the conclusion of the preliminary investigations.

4. Defence lawyers and representatives of the parties are immediately informed on the filing with the secretariat and of their right to examine the documents and to listen to the records. The court, after hearing the prosecutor and defence lawyers, decides to remove records and minutes, which use is prohibited.

5. The court orders full transcription of records that must be obtained. Transcriptions are entered into trial file. Defence lawyers may make copies of transcriptions.

Article 224
Custody of documents

1. Minutes and records are kept under the custody of the prosecution office that ordered the interception until the decision becomes final, except those of which use is prohibited. But, when these documents are not necessary, the interested persons may request their destruction. The court that has made the evaluation of interception rules on the request. The destruction of (documents) shall be done under the control of the judge and records of the actions shall be kept.

2. When the prosecutor decides to dismiss the case, he shall inform in writing the court of this decision. The court decides about destroying the minutes and records within the time designated by it and informs the person intercepted. On the request of the prosecutor, service of notice may be not served [omitted] when there is a danger to the life or health of others or when a commenced investigation is endangered.

Article 225
Use of interception results in other proceedings

1. Interception results may be used in other proceedings only in cases where they are necessary to the investigation of crimes. In these cases, the minutes and records of interception are filed with the other proceeding authority.

Article 226
Prohibition of use

1. Interception results may not be used when they are made out of cases permitted by law or when the provisions of this section are not complied with.

2. Interception of conversations or communications of those who are obliged to keep the secrecy because of their profession or duty may not be used, except when those persons have testified on the same facts or have revealed them in any other way.

3. The court orders the destruction of interception documents that may not be used, except when they constitute material evidence.

TITLE V
REMAND ORDERS

CHAPTER I
PERSONAL REMAND ORDERS

SECTION I
GENERAL RULES

Article 227
Classification of personal remand orders

1. Personal remand orders are classified into coercive and prohibitive remand orders.

Article 228
Grounds for issuing personal remand orders

1. No one may be subjected to personal remand orders unless there is a reasonable suspicion against him, based on evidence.

2. No remand order may be enforced where there are grounds of exculpation or cessation of the criminal offence.

3. Personal remand orders are issued when:

a) there are important reasons which put into danger obtaining or truthfulness of evidence;

b) defendant has absconded or there is a danger that he may abscond;

c) due to the circumstances of the act and defendant's personality there is a danger that he may commit serious crimes or other similar criminal offences, with the one he is being prosecuted.

Article 229
Criteria for issuing personal remand orders

1. The court in issuing remand orders shall take into account the appropriateness of each of them with the degree of security needed to be taken in an actual case.

2. Each remand order must be in proportion with the importance of the act and sentence provided for the actual criminal offence. It is taken into account continuity, repetition and also the mitigating and aggravating circumstances provided for by the Criminal Code.

3. When the defendant is a minor, the court takes into account the requirement for an uninterrupted actual educational process.

Article 230
Special criteria for issuing remand in custody order

1. Remand in custody order may be issued only when any other order is inappropriate because of the particular danger posed by the offence and defendant (suspect).

2. No remand in custody order may be issued against a pregnant or suckling woman, a person under particularly grave health conditions or who is above seventy years old or a dragoman or alcoholic, who undergo a therapeutic programme in a special institution.

3. In cases provided for by paragraph 2, remand in custody order may be issued only where there are grounds of a particular importance for crimes punished in maximum with not less than ten years imprisonment.

4. Minors may not be arrested when accused of a criminal contravention.

Article 231
Replacement or joinder of personal remand orders

1. In case of breach of a remand order requirements, the court may order its replacement or joinder with a more severe remand order, taking into account the importance, reasons and circumstances of the breach. In case of breach of restraining remand orders requirements, the court may decide its replacement or joinder with a coercive measure.

SECTION II
COERCIVE REMAND ORDERS

Article 232
Types of coercive remand orders

1. Coercive remand order are:
a) prohibition to leave the country;
b) obligation to appear before the judicial police;
c) prohibition and obligation to reside in a certain place;
ç) property security;
d) house arrest;
dh) remand in custody;
e) temporary hospitalisation in a psychiatric hospital.

Article 233
Prohibition to leave the country

1. The judge, with the decision prohibiting to leave the country, orders the defendant (suspect) not to leave Albanian state territory without his authorisation.

2. The court assigns the necessary duties to ensure the enforcement of the decision and to prevent the use of passport and any other valid identifying documents for leaving the country.

Article 234
Obligation to appear before judicial police

1. The court, with the decision to appear before judicial police, orders the defendant (suspect) to appear to a designated judicial police office.

2. The court determines the days and time of appearance, taking into account the work and residence of the defendant (suspect).

Article 235
Prohibition and (or) obligation to reside in a certain place

1. The court, with the decision prohibiting to reside, orders the defendant not to reside in a certain place and not to go there without his (its) authorisation.

2. The court, with the decision compelling to reside, orders the defendant (suspect) not to leave the commune or municipality territory where he usually resides without its authorisation. When, due to the personality of the defendant or conditions of the region, residing in this place does not ensure security needs, the obligation to reside may be ordered in the territory of another commune or municipality.

3. The court when ordering the obligation to reside, stipulates the police authority where the defendant (suspect) must appear without delay and state the place where he will assign his residence. The court may order the defendant (suspect) to state to police authorities, time and places where he may be found every day.

4. Police authority is informed on court orders for the purpose of supervising their compliance with and to report to the prosecutor any breach.

Article 236
Property Security (Bail)

1. Property security means depositing in a bank an amount of money determined by the court, which will be transferred to the state if the defendant (suspect) does not appear before the proceeding authority.

2. Initially, a statement singed by the defendant or another person who deserves trust is presented in court, where they state that they agree to deposit in a bank the sum determined by the court.

3. After presentation of the document of depositing the amount and hearing the prosecutor, the court orders the enforcement of the decision.

4. In case of non appearance, the amount deposited shall, by a court decision, be transferred to the state.

Article 237
House arrest

1. The court, with the decision of house arrest, orders the defendant (suspect) not to leave his residence or a certain place where he lives in, is being cured or is being taken care of.

2. When it is necessary, the court shall impose restrictions or prohibitions to the defendant in communicating with other persons, except those whom he lives with.

3. Prosecutor and judicial police monitor defendant compliance with the orders imposed on him.

4. Duration of house arrest is governed by the same rules applicable to detention.

5. The period of time under house arrest shall be taken into account in issuing the sentence.

Article 238
Remand in custody

1. The court, with the decision of remand in custody, orders judicial police to apprehend the defendant (suspect) and escort him immediately to a pre-detention facility to be held there at the order of the proceeding authority.

2. The period of time under pre-detention shall be taken into account in issuing the sentence.

Article 239
Temporary hospitalisation in a psychiatric institution

1. When a person that must be arrested is suffering from mental disorder and, because of this, his capacity to understand or volition is lost or diminished, the court instead of pre-detention, may order his temporary hospitalisation in a psychiatric institution imposing the necessary measures to prevent his absconding.

2. Hospitalisation may not continue when it is proved that the defendant no longer suffers from mental disorder.

SECTION III
RESTRAINING ORDERS

Article 240
Types of restraining orders

1. Restraining orders are:

a) suspension from carrying out a public duty or service;

b) temporary restraining from carrying out certain professional or business activities.

Article 241
Grounds of enforcement of restraining orders

1. Restraining orders may be enforced only when proceeding for criminal offences, which the law provides for an imprisonment sentence in maximum not less than one year.

Article 242
Suspension from carrying out a public duty or service

1. The court, with the decision which provides for suspension from carrying out a public duty or service, prohibits the defendant temporarily, wholly or in part, from activities connected to them.

2. This order is not applied against persons elected under election law.

Article 243
Temporary restraining from carrying out certain professional or business activities

1. The court, with the decision which provides for restraining from carrying out certain professions or managing duties in legal persons, prohibits the defendant temporarily, wholly or in part, from carrying out activities connected to them.

CHAPTER II
ASSIGNING AND ENFORCEMENT OF REMAND ORDERS

Article 244
Application for assigning remand orders

1. Remand orders are assigned on the application of the prosecutor who presents to the competent court the grounds on which the application is based.

2. When the court also states its non-competence on any ground, if the conditions and the urgency for assigning the remand order exist, it shall so assign and transfer the file to the competent court.

3. The court can not assign a remand order more severe than the one applied for by the prosecutor.

Article 245
Decision of the court

1. The decision assigning remand orders stipulates:

a) personal details of the person subject to the remand order or anything else which helps to identify him and, when possible, his whereabouts;

b) a summary description of the facts, stating the articles of the law deemed breached;

c) a presentation of the special grounds and information which legally justify the remand order;

ç) duration of the remand order, where it has been ordered to ensure the truthfulness or obtaining of evidence;

d) date, signature of the presiding judge, assisting secretary and the seal of the court.

Article 246
Enforcement of remand orders

1. Police officer or agent entrusted with the execution of arrest warrant shall give to the person subject of the order a copy of the decision and informs him of the right to elect a defence council, informs immediate the defence counselelected by the defendant or assigned *ex-officio* and keeps minutes on all the actions performed. The minutes are sent to the court which has issued the decision and to the prosecutor.

2. In case there is doubt on the accuracy of the decision ordering the remand order or the identity of person subject of order, judicial police officers and agents in charge do not execute it.

3. The court serves notice of decision on other remand orders to the defendant.

4. After service of notice or execution, decisions are filed with the court secretariat, which has issued them. Defence councils are also notified on the filing.

5. A copy of the decision assigning a restraining order is sent to the authority that is competent to assign such an order in usual cases.

6. Every two months from the execution of the remand in custody order, the prosecutor shall inform the court which has issued the decision on the detainee. The information is submitted in writing and contains information on the status of proceedings, questioning of the defendant and other persons, summary of information received, and attaching copies of documents of the file. When the case warrants, the judge may revoke or replace the remand order.

Article 247
Searching for the person who is not found (absconding)

1. When the person against whom a remand order has been issued is absconding, the judicial police officer or agent keeps the minutes in which he records the searches conducted and sends it to the court that has issued the decision.

2. When the court judges that the searches conducted are complete, declares the person absconding.

3. Through the act declaring the absconding, the court assigns a defence counselto the person absconding and orders that a copy of the decision, assigning the measure, be filed with the secretariat.

4. The person who escapes from the place he is under watch is, for all purposes, equated with the person absconding.

5. To facilitate the search for the absconded person, the court may order the interception of telephone conversation and other forms of communication.

Article 248
Questioning of the arrested person

1. Not later than three days from the execution of the remand order, the court questions the person against whom it issued the remand into custody or house arrest order.

2. The court through questioning verifies enforcement conditions of the arrest orders and the security needs. When these conditions do not exist, the court revokes or replaces the remand order.

3. During questioning of the arrested person, take part the prosecutor and defence counselwho are notified by the court secretariat.

4. When the questioning of the arrested person must be held in a court of another district, the court requests that the questioning is conducted by a judge of that court.

Article 249
Appeal against remand orders

1. Within ten days from the execution or service of notice of the court decision, which issued or rejected a remand order, the prosecutor, defendant or his defence counselmay appeal to the highest court.

2. In respect of the defendant who has absconded, the time limit starts to run from the date of service of notice according to article 141.

3. The application is filed with the secretariat of the court that issued the decision appealed, which is bound to transmit the documents to the Court which will hear the appeal within 5 days.

4. The prosecutor, defendant and his defence counselare notified on the hearing at least three days before the date specified.

5. The application is heard within 10 days from receiving the documents.

6. The court decides, as the case may warrant, to overrule, alter or approve the decision, even on different grounds from those presented or those stipulated in the reasoning part of the decision.

7. When the decision is not announced or enforced within the specified time limit, the writ, based on which the coercive remand order has been issued becomes void.

8. An appeal may be made to the Supreme Court against the decision of the Court of Appeal for contravention of law.

9. On the expiry of six months from the enforcement of the decision of arrest, the defendant and his defence counsel may appeal to the highest court.

10. The Supreme Court rules on within fifteen days from receiving the documents.

Article 250
Counting/Determining the duration of remand orders

1. The effects of pre-detention start to run from the time of the arrest or detention.

2. When the defendant is under pre-detention for another criminal offence, the effects of the order start to run from the day when notice of decision is served.

3. Effects of other remand orders start to run from the time when notice of decision is served.

4. When against a defendant are issued several decisions assigning the same remand order for the same fact, the time limits start to run from the day when the first one was enforced or served notice.

CHAPTER III
FLAGRANT ARREST AND DETENTION

Article 251
Arrest on the spot

1. Judicial police officers and agents perform mandatory arrest of whoever is caught committing or attempting to commit an intentional crime, which the law prescribes an imprisonment sentence in maximum not less than five years.

2. Judicial police officers and agents have the right to arrest whoever is caught committing or attempting to commit an intentional crime, which the law prescribes an imprisonment sentence in maximum not less than two years or a negligent criminal offence, which the law prescribes an imprisonment sentence in maximum not less than ten years.

3. In case of necessity, due to the importance of the fact or danger posed by the offender, substantiated by a separate document, judicial police officers and agents have the right to arrest anyone caught committing the act, even when the conditions under paragraph 2 are lacking.

4. In cases provided for under paragraph 1, any person is authorised to perform flagrant arrest for crimes prosecuted *ex-officio*. The person who performed the arrest must immediately hand over the person arrested to the judicial police, who keep the minutes of handing over and gives him a copy.

Article 252
State of flagrance

1. It is under a state of flagrance the one who is caught committing a criminal offence or the one who immediately after committing the offence is chased by judicial police, injured person or other persons or one who is caught with items and material evidence that appear that he has committed the criminal offence.

Article 253
Detention of a suspect in a crime

1. When there are reasonable grounds to think that there is a danger of absconding, the prosecutor orders the detention of the person suspected of committed a crime, which the law prescribes an imprisonment sentence in maximum not less than two years.

2. Judicial police perform the detention *ex officio*, when it is not possible to wait for the order of the prosecutor because of the urgent situation.

Article 254
Prohibition to arrest and detain in specific circumstances

1. It is not permitted to arrest or detain (a person) when from the circumstances of the act it arises that the conduct was in the course of carrying out a duty or in the exercise of a lawful right or when an exculpating ground exist.

Article 255
Judicial police duties in case of arrest or detention

1. Judicial police officers and agents that have made an arrest or a detention or have taken into custody the person arrested, inform immediately the prosecution office of the place where the arrest or detention took place. They inform the person arrested or detained that he is under no obligation to make any statement and if he wants to talk, whatever he says, may be used against him in trial. The judicial police officers or agents also inform the detainee or the person arrested on his right to elect a defence counsel and immediately notify the elected defence counsel or, as the case may be, the one assigned by the prosecutor.

2. Judicial police officers and agents shall, as soon as possible, place the arrested or detained person under the order of the prosecutor in the pre-detention premises, by sending the relevant minutes.

3. When the arrested or detained person is ill or a minor, the prosecutor may order that he remains under supervision in his house or in another guarded place.

4. Judicial police, with the consent of the arrested or detained person must, without delay, notify his family members. When the arrested or detained person is a minor, it is mandatory to notify his parent or guardian.

Article 256
Interrogation of the person arrested or detained

1. The prosecutor interrogates the person arrested or detained in the presence of the defence counsel elected or assigned *ex-officio*. He informs the person arrested or detained on the act he is under proceeding and the reasons of interrogation, telling him information against him and, without prejudicing the investigations, the sources (of information).

Article 257
Cases of immediate release of the person arrested or detained

1. When it is clearly proven that the arrest or detention is made because of mistaken identity or the requirements of law are not complied with or when the arrest or detention

order have become void because of the infringement of the time limit to file an application for evaluating the order, the prosecutor orders, by a reasoned decision, that the arrested or detained person be released immediately. In these cases, the release is also ordered by the judicial police officer who immediately informs the prosecutor of the place where the arrest or detention took place.

Article 258
Application for evaluating the arrest or detention

1. When the prosecutor does not order the immediate release, within forty eight hours from the arrest or detention, applies for evaluation of the remand order to the court of the place where arrest or detention took place. Non-compliance with this time limit makes the arrest or detention void.

2. The court assigns the evaluation session as soon as possible, giving notice to the prosecutor and the defence counsel.

Article 259
Evaluating session

1. The evaluating session is conducted in the mandatory presence of the prosecutor and defence counsel. When the defence counsel elected or assigned *ex-officio* is not found or does not appear, the court assigns a substituting defence counsel.

2. The prosecutor provides the grounds of arrest or detention. Subsequently, the court hears the person arrested or detained and the defence counsel or only the latter, when the arrested or detained person has refused to appear.

3. When it is proved that the arrest or detention is lawful, the court issues a decision for evaluating the remand order. An appeal may be filed against the decision of the court to the highest court by the prosecutor and the person arrested or detained and, when there is an appeal by the prosecutor, the court assigns a remand order.

4. When the arrest or detention is unlawful, the court decides the immediate release of the person arrested or detained. The prosecutor may appeal against the decision to the court of appeal or directly to the Supreme Court.

5. The arrest or detention loses it validity when the court decision on the evaluation is not announced within the next forty-eight hours from the time when the prosecutor filed his application in court.

CHAPTER IV
REVOCATION AND CESSATION OF REMAND ORDERS

Article 260
Revocation and replacement of remand orders

1. Coercive and restraining remand orders are revoked immediately when it is proved that the grounds and criteria for their application are lacking.

2. When security needs are lowered or when the remand order applied does not match up to the importance of the fact or the sentence which may be issued, the court replaces the remand order with another lenient one.

3. When the security needs are elevated, the court on the application of the prosecutor replaces the applied remand order with a more severe one.

4. The application of the prosecutor or defendant for the revocation or replacement of the remand order is heard by the court within five days from its filing. When the case warrants, the court also decides *ex-officio* during pre-trial admition of evidence or during trial.

Article 261
Cessation of remand orders

1. Remand orders cease when:

a) on the same act and against the same person, the case has been dismissed or a decision of acquittal has been issued;

b) the sentence is quashed or suspended on condition;

c) the duration served under pre-detention is longer than the sentence issued;

d) after the expiry of the time limit provided for under article 245, paragraph 1 letter "ç", renewal has not been ordered within the boundaries provided for under articles 264 and 267.

2. Pre-detention ordered during preliminary investigations is ceases if the court does not proceed with the interrogation within the time limit provided for under article 248.

3. Cessation of remand orders does not prevent the court or any other authority in carrying out the rights recognised by law in enforcing the supplementary punishments or other restraining orders.

Article 262
Consequences of cessation of remand orders

1. When the arrest ceases, the court immediately releases the person against whom the order has been issued.

2. In case that other remand orders cease, the court decides their immediate removal.

Article 263
Duration of pre-detention

1. Pre-detention ceases if since its execution the following time limits have lapsed without the documents being filed in court:

a) three months, when proceeding for criminal contraventions;

b) six months, when proceeding for crimes sentenced up to ten years of imprisonment;

c) twelve months when proceeding for crimes sentenced to not less than ten years of imprisonment or life imprisonment.

2. The pre-detention ceases if since the date of filing of documents in court, the following time limits have lapsed without a decision being issued in the first instance:

a) two months when proceeding for criminal contraventions;

b) nine months when proceeding for crimes sentenced up to ten years of imprisonment;

c) twelve months when proceeding for crimes sentenced to not less than ten years of imprisonment or life imprisonment.

3. The pre-detention ceases if, since the date of issue of the sentence in the first instance, the following time limits have lapsed, without a decision being issued in the court of appeal:

a) two months when proceeding for criminal contraventions;

b) six months when proceeding for crimes sentenced up to ten years of imprisonment;

c) nine months when proceeding for crimes sentenced to not less than ten years of imprisonment or life imprisonment.

4. In case where the decision is quashed by the Supreme Court and the case is returned to the court of first instance or court of appeal and also where the decision is quashed by the court of appeal and returned to the court of first instance, time limits provided for in each instance of proceeding start to run again from the day of decision in the Supreme Court or Appeal Court.

5. In case where the defendant under pre-detention absconds, time limits start to run again from the time he is placed in pre-detention again.

6. The entire time period of pre-detention, taking also into account the extension of time provided for under article 264, point 2, cannot exceed the following time limits:

a) ten months when proceeding for criminal contraventions;

b) two years when proceeding for crimes sentenced in minimum up to ten years of imprisonment;

c) three years when proceeding for crimes sentenced to not less than ten years of imprisonment or life imprisonment.

7. When at the end of the pre-detention time limit, the prosecutor communicates to the defendant a new charge, which prescribes longer pre-detention time limits than the first charge, he asks the court to assign a new pre-detention time limit. The court decides in judicial session, after hearing the parties.

8. When the new charge relates to a new act, which was unknown at the beginning of the proceedings, the court assigns a new time limit, which starts to run from the beginning, whereas in cases where only the legal classification of the offence changes, the court assigns the remand order, and the time limit start to run based from the previous remand order.

Article 264
Extension of pre-detention

1. When the examination of the defendant's mental status has been ordered, at any state and stage of the proceedings, the pre-detention time limits are extended with the time assigned for performing the examination. The extension is decided by the court on the request of the prosecutor and after hearing the defence counsel. The decision of the court may be appealed to Court of Appeal or directly to the Supreme Court.

2. During preliminary investigations, the prosecutor may apply for extension of the pre-detention of time limits, which are expiring, where there are important security needs and especially complex verifications which make necessary the extension. The court takes a decision after hearing the prosecutor and defence counsel. Extension may be done once for a period of time which may not exceed three months.

3. The pre-detention time may not exceed half of the maximum punishment provided for the criminal offence under proceeding.

Article 265
Suspension of pre-detention time limits

1. Time limits provided for under article 263 may be suspended by a court decision that can be appealed:

a) for the time the judicial examination is adjourned or postponed because of the unjust acts or requests of the defendant or his defense counsel, except in cases where the request is made to obtain evidence;

b) for the time the judicial examination is adjourned or postponed because of non-appearance or abandonment by one or more defense counsels, who leave one or more defendant without counseling.

Article 266
Provisions in case of release from prison (pre-detention)

1. The court, when the requirements under which the pre-detention was ordered still exist, assigns against the defendant released from detention because of expiry of the time limits, other remand orders if there are the required conditions.

2. Pre-detention, when necessary, may be renewed:

a) When the defendant has intentionally breached the orders issued in connection with a remand order issued based on paragraph 1, but always when the security needs exist.

b) With the conviction, when the security needs provided for under article 228, paragraph 3 exists.

3. With the renewal of the pre-detention, the time limits start to run again but, for the purposes of determining the total pre-detention period, is taken into account the time served under the previous pre-detention.

4. Judicial police officers and agents may detain a defendant who, in breach of orders pursuant to a remand order issued based on paragraph 1, has fled. Provisions on detaining a person suspected of committing a criminal offence, to the extent they are consistent with, are applicable.

Article 267
Maximum time limits of other remand orders

1. Coercive remand orders, otherwise than pre-detention, cease when since the time of their enforcement, has lapsed a time period twice in length of the time limits provided for under article 263.

2. Restraining orders cease when three months have lapsed since their execution. When they have been issued in order not to destroy evidence, the court may order their renewal up to the limits provided for under paragraph 1.

CHAPTER V

COMPENSATION FOR UNJUST IMPRISONMENT

Article 268
Application requirements

1. One who is acquitted by a final decision, has the right to be compensated for the time served under pre-detention, except in cases when it is proved that the wrong decision or non discovery in due time of the unknown fact, is caused, wholly or in part, by him.

2. The same right applies also to a convicted person, who has been under pre-detention, when it is proved by a final decision that the decision which assigned the remand order, is issued without complying when the requirements provided for under articles 228 and 229.

3. The provisions of paragraph 1 and 2 are also applicable in favour of the person whose case has been dismissed by the court or prosecutor.

4. When it is proved by a court decision that the act is not provided under the law as a criminal offence, because of the abrogation of the respective provision, the right of compensation is not recognized for that part of the pre-detention time served before the abrogation.

Article 269
Application for compensation

1. The application for compensation must be filed within three years from the date when the decision of acquittal or dismissal became final, otherwise it is not accepted.

2. The amount of compensation and the manner of assessment, and also the compensation in cases of house arrest, are determined by special law.

CHAPTER VI
PROPERTY REMAND ORDERS

SECTION I
PROPERTY ATTACHMENT ORDER

Article 270
Conditions and effects of the order

1. When there are reasonable grounds to think that there is no guarantee for the payment of fine sentence, expenses of the proceedings and any other obligation to the state property, the prosecutor request the attachment of the defendant's movable or immovable property or sums of money or items that others owe him, within the boundaries that law permits their sequestration.

2. The plaintiff may request the attachment of the property of the defendant or the person liable to a civil claim, under the conditions provided for by paragraph 1.

3. Property attachment issued on the request of the prosecutor is also applicable to the person liable for a civil claim.

Article 271
Court decision on attachment

1. Property attachment is ordered on the decision of the competent court.

2. When a decision in the first instance court has been issued, the property attachment is ordered before the documents are transferred to the court of appeal.

3. The property attachment order is enforced by court bailiff according to the rules prescribed by the Civil Procedure Code.

4. The property attachment ceases to have effects when the decision of acquittal or dismissal of the case becomes final.

Article 272
Offer of security for the obligation

1. When the defendant or the person sued under a civil claim offers an appropriate legal means to guarantee the obligation (pawn, guarantee, deposit, charge) the court does not order the property attachment or revokes it and assigns the mode of performing the obligation.

2. When the offer is made alongside the appeal, the court revokes the property attachment order if it deems that the offer of guarantee is in proportion to the value of the property attached.

Article 273
Execution of attachment order

1. The property attachment order is converted into executable attachment order when the fine sentence or the order compelling the defendant and the person liable under a civil claim for reimbursement of the damage, becomes final.

2. Mandatory execution of the property attached is done according to the rules provided for under Civil Procedure Code. From the proceeds of sale of the property attached and from those means offered to guarantee the obligation are paid in order, payments belonging to the plaintiff for reimbursing the damage and legal expenditures, fine sentences, proceedings expenditures and any other payments in favour of the state.

PART II

TITLE VI
PRELIMINARY INVESTIGATIONS

CHAPTER I
GENERAL PROVISIONS

Article 277
Authorities entrusted with the preliminary investigations

1. Prosecutor and the judicial police conduct, within their assigned competence, necessary investigations connected to the criminal prosecution.

2. Prosecutor leads the investigations and has under his charge the judicial police.

3. Criminal offences that are judged at the first instance by the Supreme Court are prosecuted by the General Prosecutor’s Office.

Article 278
Court competence during preliminary investigations

1. During preliminary investigations, in cases provided by law, the court rules on the application of prosecutor, defendant, injured person and private parties.

2. All acts conducted by the prosecutor during the preliminary investigation are examined by the same judge.

Article 279
Obligation to keep the secrecy

1. Investigations are secret until and unless the defendant has received any information about them. When it is necessary for the continuation of the investigations, the prosecutor may order that particular documents to be kept secret until the conclusion of the investigations.

2. The prosecutor may allow, by a reasoned decision, the publication of particular documents or parts thereof. The documents made public are filed with the prosecutor's secretary.

CHAPTER II
RECEIVING NOTICE OF THE CRIMINAL OFFENCE

Article 280
Receiving notice of the criminal offence

1. Prosecutor and judicial police receive notice of criminal offences *ex-officio* and through notice of others.

Article 281
Criminal report by public officials

1. Public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence that is prosecuted *ex-officio*, are bound to lodge a written criminal report even if the person to whom the criminal offence is attributed is not identified.

2. The criminal report is presented to a prosecutor or judicial police officer.

3. Where during civil or administrative proceedings, a fact which constitutes a criminal offence prosecuted *ex-officio* is uncovered, the relevant authority lodges a criminal report to the prosecution office.

4. The criminal report contains the essential elements of the fact (act), the sources of evidence, personal details, residence and anything else which serves to identify the person whom the fact (act) is attributed to, of the injured person and those who are able to clarify the circumstances of the fact (act).

Article 282
Criminal report from medical personnel

1. The medical personnel that is legally bound to lodge a criminal report, must present it within forty-eight hours and send it to the prosecutor or any judicial police officer of the place where he has intervened or provided the assistance and, when the delay may bring any danger, to the nearest judicial police officer.

2. The medical personnel criminal report stipulates the person to whom the assistance was given and, when it is possible, his personal details, residence and anything else that serves to identify him, circumstances of the act, means used to commit it and its consequences.

3. When several persons have provided their medical assistance in the same case, all of them are obliged to make a criminal report, with the right to draft and endorse a single document.

Article 283
Criminal report from citizens

1. Any person that has received notice of a criminal offence prosecuted *ex-officio* must lodge a criminal report of it. In cases specified by law, lodging of criminal report is compulsory.

2. The criminal report is lodged orally or in writing to a prosecutor or to a judicial police officer, personally or through a representative.

3. Anonymous criminal reports may not be used except in cases provided for by article 195.

Article 284
Complaint

1. The prosecution for the criminal offences provided for by articles 89, 102, paragraph one, 105, 106, 130, 239, 240, 241, 243, 264, 275 and 318 of the Criminal Code, may commence only with the complaint of the injured person, who may withdraw it at any stage of the proceedings.

2. The injured person lodges a statement with the prosecutor or judicial police in person or through a special representative, in which he expresses his willingness to prosecute an act provided by law as a criminal offence.

3. When the complaint is made orally, the records kept for this purpose are endorsed by the complainant or his representative.

4. The one who receives the complaint ensures the identity of the complainant and submits the documents to the prosecutor.

5. In cases provided for by article 59, the complaint is filed with the court by the injured private accuser (private prosecutor).

Article 285
Waiver of the right of complaint

1. Waving the right to lodge a complaint is made personally or by a representative through an endorsed statement or orally before the prosecutor or judicial police officer who keeps minutes, which are mandatory endorsed by the person making the statement.

2. Provisional or conditional waiver is not valid.

3. The same statement may also contain the waiver in respect of the civil claim.

Article 286
Withdrawal of complaint

1. The withdrawal of the complaint is made personally or through a representative through a statement presented to the proceeding authority.

2. The withdrawal of the complaint may be made at any stage of the proceedings, until and unless the court decision has become final.

3. The proceedings expenditures are borne by the one who withdraws the complaint, except when the withdrawal statement consensually provides that they are to be borne wholly or in part by the one against whom the complaint has been lodged.

Article 287
Recording criminal offences notice

1. Prosecutor enters into the records every criminal offence notice brought to his notice or received *ex-officio* and, at the same time or from the moment when found out, the name of the person, attributed with the commission of the criminal offence.

2. It is prohibited the publication of the records entered until the person attributed with the commission of the criminal offence is held as a defendant.

CHAPTER III

PROCEEDING REQUIREMENTS

Article 288
Authorisation to proceed

1. When authorisation to prosecute is provided for, the prosecutor makes an application to the competent authority.

2. The application to authorise the proceeding must be presented within thirty days from the entering into records of the name of the person for whom the authorisation is necessary. When he has been arrested in flagrance, the authorisation is required immediately and, in any case, before the evaluation (court) session.

Article 289
Prohibition to perform actions

1. Until the authorisation to proceed is issued it is not permitted the detention, the establishment of security measures, searches, (physical) examination of the person, identification, confrontation or interception of conversations or communication of the person for whom the authorisation is required. He can be interrogated only if he asks for that himself.

2. When a proceeding is against several persons and, the authorisation is necessary for some of them and its issuance is delayed, the proceeding may only be against defendants for whom the authorisation is not necessary.

Article 290
Circumstances that do not permit initiation of proceedings

1. The criminal prosecution may not commence and, if it has commenced, must be dismissed at any stage of the proceedings when:

a) the person has died;

b) the person is irresponsible or has not reached the criminal liability age;

c) the complaint of the injured person is lacking or he withdraws it;

ç) the act is not provided by law as a criminal offence or when it is clearly proved that the act does not exist;

d) the criminal offence has ceased;

dh) an amnesty has been issued;

e) in all other cases provided by law.

Article 291
Decision not to initiate proceedings

1. When the circumstances that do not permit the initiation of proceedings exist, the prosecutor issues a reasoned decision not to initiate the proceedings.

2. Notice of the decision is served forthwith to those who have lodged a criminal report or a complaint, who may appeal it in court within five days from service of notice of decision.

Article 292
Resumption of criminal prosecution

1. The decision of non initiation of the proceedings, dismissal or acquittal issued because of lack of complaint for initiation of proceedings or application for authorisation of proceedings, do not prevent conduct of criminal prosecution for the same act and against the same person, if subsequently the complaint is lodged, authorisation is issued or the personal condition that made the authorisation necessary ceases.

CHAPTER IV

EX OFFICIO ACTIVITY OF JUDICIAL POLICE

Article 293
Reporting the criminal offence to prosecutor

1. On receiving notice of a criminal offence the judicial police, without delay, report in writing to the prosecutor, the essential elements of the fact (act) and other elements gathered until that point in time. It reports, wherever possible, the personal details, residence and any thing else that serves to identify the person under investigations, the injured person and those who are able to provide the circumstances of the fact (act).

2. In urgent and serious crimes cases, the report is made immediately even orally.

3. Judicial police in the report, stipulate the day and hour when they received notice of the criminal offence.

Article 294
Preserving sources of evidence

1. The judicial police, even after reporting the criminal offence, continue to perform the functions stipulated under article 30, gather and record every element valid for reconstruction of the fact (act) and for identifying the perpetrator. In particular it proceeds:

a) In searching for and recording items and traces of the criminal offence, as well as in preserving them and the crime scene for as long as this is necessary;

b) In searching for and questioning the persons who are able to tell the circumstances of the fact (act).

c) In performing the acts provided for in subsequent articles.

2. After the intervention of the prosecutor, the judicial police performs all the investigative actions necessary as well as any other action ordered or delegated by the prosecutor.

3. The judicial police, when performing acts which require special technical knowledge, may assign experts, who cannot refuse the assignment.

Article 294/a
Simulated actions

1. A judicial police officer and agent or a person authorized by them may be assigned to make a simulated purchase of items that derive from a crime or to simulate a corrupt act or to commit other simulated acts in order to uncover financial or ownership information of a person who is suspected of committing a crime, concealing the cooperation with the police or their duty as police personnel.

2. These acts are done with the authorization of the prosecutor who oversees the investigations or the prosecutor who has territorial jurisdictions of the place where the action will take place. After these acts are performed, the judicial police should submit all the evidence collected to the prosecutor and a summary report.

3. A criminal act should not be provoked, by abetting a person to commit a crime, which he would not have committed it if police had not intervened. When provocation is proved the results may not be used.

Article 294/b
Infiltrated Police Personnel

1. For the purposes of uncovering serious crimes, a judicial police officer may, with the authorization of the prosecutor, be infiltrated into composition of a criminal group in order to identify the members of the group and collect information necessary for the investigation, concealing his cooperation with the police or his duty as police personnel.

2. The infiltrated police personnel should not provoke a criminal act that would not have been committed without his intervention. When provocation is proved the results may not be used.

3. The authorization of the prosecutor should specify the time period of the infiltration, which may be extended by the prosecutor for up to six months and the permitted scope of the infiltrated personnel, stipulating, according to the case, the unlawful actions that he may commit, without endangering the life of others.

4. The infiltrated police personnel may be questioned as a witness.

Article 295
Identification of the person under investigation

1. The judicial police carry out all the necessary acts for the identification of the person under investigation, including fingerprints examination, photographic and anthropometric examination.

2. When he refuses to identify himself or presents personal details or identity cards that are suspected to be false, the judicial police escort him to its offices and keep him in custody for as long as it is necessary for his identification, but not longer than twelve hours.

3. The prosecutor is immediately informed on his escort and release.

Article 296
Information on the person under investigation

1. Judicial police officers gather information from the person under investigation, under the mandatory presence of his defence counsel.

In case the defence counsel is not found or does not appear, the judicial police ask the prosecutor to assign another defence counsel.

2. In the crime scene or in evident criminal offences, judicial police officers may, even without the presence of the defence counsel, gather from the person under investigation, even if arrested or detained in flagrance, information which are necessary to continue the investigation.

3. The judicial police may take a statement from the person under investigation, but its use in trial is not permitted, except when used to rebut a testimony before the court.

Article 297
Gathering other information

1. Judicial police gather information from persons who may tell useful circumstances for the purposes of investigation.

2. Provisions of articles 155 to 160 shall apply.

Article 298
Searches

1. In cases of flagrance or pursue of the person fleeing, judicial police officers perform a search on the person or premises when they have reasonable grounds to think that the person hides items or traces of the criminal offence which may disappear or be lost or that these items or traces are in a certain place or over the place where the person under investigation or absconding is located.

2. When a detention must be carried out, an arrest decision or an imprisonment decision executed, judicial police officers may carry out a search of the person or premises, where

there exist the conditions stipulated in paragraph 1 and there are particular reasons of urgency that does not permit the issue of a search warrant. When any delay may prejudice the successful conclusion of investigation, the search of residence may be carried out even beyond the time limits provided for under article 206.

3. The records of the acts carried out are transmitted without delay, but not later than forty eight hours, to the prosecutor of the place where the search was conducted who, within the next forty eight hours, evaluates the search.

Article 299
Acquiring of boxes/parcels and correspondence

1. When it is necessary for the purposes of proceedings to obtain sealed or closed in any other way parcels, judicial police officers send them intact to the prosecutor for any eventual sequestration. If there are reasonable grounds to think that the parcels contain information that may be lost because of delay, judicial police officer informs through the fastest means, the prosecutor who may authorize the immediate opening (of parcels).

2. In cases of letters, envelopes, parcels, monetary and property values, telegrams or other means of correspondence that are permissible to be sequestered, judicial police officers, in urgent cases, order the person at the postal service to suspend dispatching. If within forty eight hours from judicial police order, the prosecutor does not order the sequestration, the items of the correspondence are dispatched to their destination.

Article 300
Summary/Immediate verification on site

1. Judicial police officers and agents take measures that traces and instruments of the criminal offence are recorded and preserved and the state of crime scene and objects are not changed before the intervention of the prosecutor, when he has confirmed his participation.

2. When there is danger that items may change or be lost and the prosecutor may not intervene urgently, judicial police officers conduct the necessary investigations and, if it is the case, sequester the material evidence and items connected to the criminal offence.

Article 301
Evaluation of sequestration

1. When judicial police order a sequestration according to article 300, enters in the records the ground and gives a copy of the records to the person whose items were sequestered. The records are sent without delay and, in any case, not later than forty eight hours, to the prosecutor of the place where the sequestration was enforced.

2. The prosecutor within the next forty eight hours approves the sequestration if the conditions exist by a reasoned decision or return the sequestered items. A copy of the decision is served to the person whose items were sequestered. The decision may be appealed in court within ten days by the defendant or his defence counsel, the person whose items are sequestered and by the one who has the right to their return. The appeal does not suspend the execution of sequestration.

Article 302
Assistance of defence counsel

1. The defence counsel of the person under investigation has the right to attend, without the right of prior notice, searches and summary verification on site, except in cases of immediate opening of parcels authorized by the prosecutor.

Article 303
Records of judicial police actions

1. The judicial police records, even in a summary form, all the actions performed.
2. The judicial police keep the records for:
a) criminal reports or complaints lodged orally;
b) summary information and statements taken from the person under investigation;
c) information obtained from persons who may provide useful circumstances for the purposes of investigation;
ç) examinations, identifications, searches and sequestrations;
d) documents for identification of the person under investigation, obtaining of parcels or correspondence, and orders of sequestration;
e) investigation actions delegated by the prosecutor.
3. Records of judicial police actions, material evidence and items connected to the criminal offence, shall be put in charge of the prosecutor.

CHAPTER V
ACTIONS OF PROSECUTOR

Article 304
Investigative actions of prosecutor

1. Prosecutor leads the investigation and carries out in person any investigative action, which he deems necessary.
2. He may request from judicial police to carry out actions specifically delegated, including the interrogation of the defendant and confrontations, in the presence of the defendant and his defence counsel. In such a case the judicial police comply with the rules pertaining to the assigning and participation of the defence counsel in investigative actions.
3. In case of particular actions to be carried out in another district, when he is of the opinion not to proceed in person, he can delegate, according to the respective subject matter competence, the prosecutor of that district. In urgent cases or important reasons, the delegated prosecutor has the right to carry out *ex officio* any action necessary for the purposes of the investigation.

Article 305
Taking over the investigations

1. The General Prosecutor, on the complaint of the defendant, injured person or *ex officio* too, orders by a reasoned decision to take over the investigations if the district prosecutor does not exercise a criminal prosecution or does not dismiss it within the prescribed time limits.
2. The General Prosecutor carries out the necessary investigations and drafts his requests within thirty days from the decision to take over the investigations.

Article 306
Relations between various prosecution offices

1. Prosecution offices which prosecute in connected investigations coordinate the work between them. For this purpose they exchange documents and information and also notifications on the instructions given to the judicial police. They may also proceed jointly in carrying out special actions.

2. The investigations of two different prosecution offices are deemed to be connected:

a) in case of joinder of proceedings or in respect of criminal offences committed by several persons against each other;

b) when the evidence of a criminal offence or its circumstances impact on the evidence of another criminal offence or its circumstances;

c) when the evidence of several criminal offences ensues, even in part, from the same source.

Article 307
Voluntary appearance to make statement

1. The one who has received notice that he is being investigated has the right to appear before a prosecutor and make a statement.

2. When the one who appears voluntarily refutes the act which he is under proceedings and is permitted to present his exculpation, the act performed is equated with interrogation.

3. The voluntary appearance does not prevent application of remand orders.

Article 308
Summons of appearance

1. The prosecutor summons the person under investigation to appear when he wants to interrogate him or when he must carry out actions that require his presence.

2. The summons contains:

a) personal details or other personal data that are valuable for his identification;

b) the day, hour and venue of appearance;

c) the type of the act which he is summoned for;

ç) a warning that the prosecutor may order his compulsory appearance, in case of non-appearance without lawful impediments.

3. The summons contains also a summary of the act, which results from the investigations carried out up to that moment.

4. The summons is served at least three days prior to the day of appearance, except when due to eventual reasons, the prosecutor thinks to shorten the time limit.

Article 309
Assigning and assistance of defence counsel

1. The defendant who has no defence counsel is notified by the prosecutor that he shall be assisted by a defence counsel assigned *ex-officio*.

2. The defence counsel elected or assigned *ex-officio* receives at least twenty-four hours prior notice when proceeding with interrogation, examination or confrontation. When delay may damage the proceedings, the notice to the defence counsel is served urgently.

3. Records of the actions performed by the prosecutor and judicial police, which the defence counsel has the right to attend, are filed with the prosecution office secretariat within three days from performing the action, with the defence counsel having the right to examine and make copies of them.

Article 310
Notice to the defendant to take part in searches and sequestrations

1. When the prosecutor shall conduct a search or sequestration, he [the prosecutor] serves notice to the defendant to attend together with his elected defence counsel and, when there is no such counsel, assigns a defence counsel *ex- officio*.

2. When the defendant and his defence counsel have properly been served notice, but have not attended without any reasonable cause, a defence counsel is assigned *ex officio*. The situation is stipulated in the relevant records.

Article 311
Interrogation of the defendant in a connected proceeding

1. The person who is a defendant in a connected proceeding is interrogated by the prosecutor in forms provided for by article 167.

Article 312
Obtaining of information

1. The prosecutor obtains information from the injured person and those who can provide useful circumstances for the purposes of investigation, complying with the rules prescribed for obtaining of testimony.

2. The persons are summoned which contains:

a) personal details of the person;

b) day, time and the venue of appearance;

c) the warning that the prosecutor may order compulsory appearance in case of non appearance without lawful impediments.

3. The prosecutor summons in the same way the interpreter and expert.

Article 313
Identification of persons and items

1. The prosecutor, when it is necessary, proceeds with the identification of persons, items or anything else, which is can be perceived by senses.

2. The persons, items and other objects are presented or showed in pictures to the person making the identification.

3. When there are reasonable grounds to think that the person summoned to make the identification may be hesitant or influenced in the presence of the person under identification, the prosecutor takes steps that the action is performed without the knowledge of the one under identification.

Article 314
Assignment of expert

1. When the prosecutor proceeds with actions which require technical knowledge, he may assign an expert giving him specific tasks. The expert may not refuse the assignment, without reasonable grounds.

2. The expert may be authorized by the prosecutor to participate in specific investigation acts.

3. When technical verifications pertain to persons, items or places which state has changed, the prosecutor notifies the defendant and defence counsel, the injured person and his representative on the date, time and the place where the action will take place.

Article 315
Recording the actions of prosecutor

1. The prosecutor keeps records:

a) on oral criminal reports and complaints;

b) on examination, searches and sequestrations;

c) on interrogation and confrontations of the defendant;

ç) on information obtained from persons who provide useful circumstances for the purpose of investigation;

d) on verifications pertaining to persons, items or places which state has changed.

2. The actions are recorded during their performance or immediately afterwards, when there are inevitable circumstances that prevent their recording on site.

3. The document that contains the notice received on the criminal offence and the documents pertaining to the investigations, such as orders and instructions to the judicial police, applications in court, notices, etc, are kept in a special file with the prosecution office secretariat alongside documents received from judicial police.

CHAPTER VII
PRE-TRIAL ADMISSION OF EVIDENCE

Article 316
Cases of pre-trial admission of evidence

1. During the preliminary investigation, the prosecutor and the defendant may request from the court to proceed with the pre-trial admission of evidence in these cases:

a) in obtaining the testimony of a person when there are reasonable grounds to think that he may not be questioned during trial because of disease or other serious impediments;

b) in obtaining the testimony of a person when there are reasonable grounds to think that the person may be subject to violence, threat or promise to offer money or other gains in order not to testify or give false testimony;

c) in the interrogation of the defendant pertaining to the liability of others and when one of the circumstances provided for by letters a) and b) exists;

ç) in confrontation among persons who have made contradictory statements before the prosecutor and when one of the circumstances provided for by letters a) and b) exists;

d) in an expert examination or judicial experiment, when the evidence pertains to a person, item or a place, which state may undergo inevitable changes. The expert examination may also be requested when if done during trial, it would bring the suspension of the trial for more than sixty days.

dh) in an identification appearance, when because of particular reasons, the act may not be postponed until trail.

Article 317
Application for pre-trial admission of evidence

1. The application for pre-trial admission of evidence is filed within the time limits for conclusion of the investigations and contains:

a) evidence to be admitted and its importance to the court decision;

b) persons under proceeding on the facts subject of proof;

c) circumstances that do not permit admission of evidence during trial.

2. The application filed by the prosecutor stipulates the defence counsels of the interested persons according to paragraph 1, letter b, the injured person and his defence counsel.

3. Non compliance with the provisions of paragraph 1 and 2 brings as a consequence non admission (of evidence).

4. The prosecutor may decide to extend the preliminary investigations for the purpose of pre-trial admission of evidence.

Article 318
Request of the injured person

1. The injured person may request from the prosecutor to apply for the pre-trial admission of evidence.

2. If he does not accept the request, the prosecutor takes a reasoned decision and notifies the injured person who may appeal it in court.

3. The private prosecutor (injured person) may request from the court to proceed with the admission of the evidence before the start of the trial.

Article 319
Filing of application

1. The application for the pre-trial admission of evidence is filed with the court secretariat alongside other possible items and documents. Notice of it is served to the parties and interested person by the one who has made it.

2. Within two days from serving notice of the application, the prosecutor and the defendant may present their arguments pertaining to the grounds of application, present for admission other items and documents and also provide other facts and interested persons.

3. The prosecutor may request from the court to postpone the time determined for pre-trial admission of the evidence requested by the defendant, when such an action would damage the obtaining of evidence. The court rules on the request, after hearing the defendant and his defence counsel.

Article 320
Provisions on the application for pre-trial admission of evidence

1. Within two days from the reply confirming the service of notice on the application for pre-trial admission of evidence, the court rules on whether admitting or rejecting the application for pre-trial admission of evidence.

An appeal lies against the decision to the court of appeal within 5 days. The Court of Appeal examines the appeal within 10 days from submission of the documents into this Court.

2. By the decision accepting the request the court determines:

a) the subject of the evidence within the limits of the request;

b) the persons who are interested to the obtaining of the evidence according to the request.

c) the date of the hearing, which may not exceed a time period of ten days from the date of the rendering of the decision

3. When the defendant whose presence is necessary for the provision of proof fails to appear without any lawful excuse the court orders his forcible accompaniment.

4. When there are urgent reasons and the custody of evidence may not be carried out in the district of the competent court, this may empower the court of the place where the evidence can be obtained.

Article 321
The taking of evidence

1. The hearing of the taking of the evidence is held in the compulsory presence of the prosecutor and defence lawyer of the defendant. The attorney of the injured has also the right to participate.

2. The defendant and the injured have the right to participate when a witness or another person must be interrogated. In other cases they may participate with prior authorisation of the court.

3. It is prohibited the taking of the evidence related with facts dealing with persons who are not represented by the defence lawyers in the hearing.

4. The minutes, objects and documents obtained in order to provide the custody of the evidence shall be sent to the prosecutor. The defence lawyers have the right to access and to issue copies of them.

Article 322
The use of obtained evidence

1. The evidence obtained under the rules of this chapter may be used in the court examination only against the defendant whose defence lawyers have participated in their taking.

2. The decision rendered on basis of a proof obtained under the rules of this chapter, in which the injured has been not able to participate, does not produce effects, except when the aggrieved person has accepted it even tacitly.

CHAPTER VIII
THE TIME PERIOD S FOR THE TERMINATION OF INVESTIGATIONS

Article 323
The time period s of preliminary investigations

1. Within three months after the date in which the name of the person, to whom is attributed the criminal offence, is noted in the register of notification of the criminal offence, the prosecutor decides the bringing of the case before the court or its dismissal or suspension.

2. When an authorisation to proceed is required, the continuation of the time period shall be suspended from the moment of the request until the day when the authorisation is presented to the prosecutor.

Article 324
The prolongation of the time period

1. The prosecutor may prolong the time period of investigations up to three months.

2. Further prolongation, each of them not more than three months, may be done by the prosecutor in case of complex investigations or when it is objectively impossible to terminate them within the prolonged time period. The time period of the preliminary investigations may not exceed eighteen months.

Beyond the time period of two years, in extraordinary cases, the term of the investigations may be prolonged only with the approval of the General Prosecutor up to one year, not more than three months for every prolongation, without intruding the terms of the prolongation of the pre detention time.

3. The decision prolonging the time period of investigations is notified to the defendant and the injured person.

4. The investigation operations performed after the expiry of the time period may not be used.

Article 325
The appeal against the prolongation of the time period of investigation

1. The defendant and the injured have the right, within ten days from the notification, to appeal the decision of the prosecutor prolonging the investigations in the district court.

2. After hearing the defendant, the defence lawyer, the injured and the prosecutor the court, within ten days, shall examine the appeal.

3. If the court accepts the appeal, the investigations may not continue or may continue only for a time period fixed by the court itself.

4. The decision of the court may be appealed, but this does not suspend the execution of the decision.

Article 326
The suspension of investigations

1. In case the offender is unknown or when the defendant undergoes a grave malady, which stops ulterior investigation, the prosecutor decides the suspension of investigations.

2. The suspension of investigations is decided after being carried out all the possible operations.

3. The suspended investigations restart upon decision of the prosecutor.

CHAPTER IX
THE TERMINATION OF INVESTIGATIONS

Article 327
The actions of the judicial police and prosecutor

1. After caring out the necessary investigation operations, the judicial police shall send the acts to the prosecutor, together with an explanatory report of the facts and evidence and suggestions how to terminate the investigations.

2. The prosecutor, after examining the acts and becoming certain that the defendant or the defence lawyer is familiar with them, decides, as the case may be, the dismissal of the case or its bringing before the court.

Article 328
The dismissal of the case

1. In any stage of the proceedings, the prosecutor decides the dismissal of the charge or of the case when:

a) it is clear that the fact does not exist

b) the fact is not provided by law as a criminal offence

c) the aggrieved person has not lodged a complaint or waives it in cases where the proceedings are initiated on his request;

ç) the person cannot be taken as defendant or he may not be punished;

d) a reason which renders the criminal offence null and void or does not allow the initiation or the continuation of the criminal proceedings exists

dh) it proved that the defendant has not committed the offence or it is not proved that he committed it;

e) the defendant is convicted by a final court decision for the same criminal offence

ë) the defendant dies

f) in other cases provided by law.

Article 329
The appeal against the decision dismissing the case

1. The aggrieved person and the defendant are entitled to appeal the decision dismissing the charge or the case in the district court, except when a decision has proven that the fact does not exist.

2. When does not find right the appeal of the injured, the court decides the continuation of the investigation, whereas when accepts the appeal of the defendant alters the decision of dismissal into a formula in favour of the defendant.

3. The decision of the court is subject to appeal by the prosecutor, injured and the defendant.

Article 330
Charging complainant with the expenses and damages

1. The payment of the expenses of the proceedings that are covered by the state, when the case is dismissed because the fact does not exist, shall be in charge of the injured person who has engaged the proceedings by making the appeal.

2. The expenses made by the defendant and the civilly sued, when the request them and also the compensation for the damage shall be in the charge of the appellant.

3. When the case has been dismissed because of withdrawal of appeal, the expenses shall be in charge of the appellant, except when the act of withdrawal has provided by agreement that they are entirely or partly in charge of the one subject to appeal.

4. The expenses and damages shall be set by the prosecutor. His decision may be appealed to the court by the injured, defendant and civilly sued.

Article 331
The bringing of the case before the court

1. When the evidence of the guilt of the defendant is complete, the prosecutor shall submit the request for the trial to be held.

2. .The request for trial contains;

a) the personal data of the defendant and the injured by the criminal offence

b) explanation of the fact, indicating the respective articles of the Criminal Code

c) the sources of evidence and the facts they refer to

d) the date and the signature of the prosecutor

3. The request is notified to the defendant and injured.

Article 332
The file of the trial

1. The request of the prosecutor for trial is enclosed;

a) the acts related with the indictment of criminal offence and of the request excepting the civil lawsuit;

b) the minutes of disclosed actions which have been carried out by the judicial police and the prosecutor;

c) the acts relating to the imposition of precautionary measures;

ç) the minutes of the actions made for the custody of evidence and of those completed abroad on basis of ordering letter;

d) the criminal record and other documents related with the personality of the defendant

dh) real evidence and objects pertaining to the criminal offence when it must not be preserved in another place;

e) minutes of search, recognition and experiment;

ë) written reports of the experts;

f) the minutes of the evidence of the other connected proceedings;

g) the minutes and the records of the interception of the conversation and communication;

gj) any other act provided by law.

2. The copies of these acts and other evidence obtained during the preliminary investigations shall remain in the file of the prosecutor.

TITLE VII
THE TRIAL

CHAPTER I
THE PRE-TRIAL ACTIONS

Article 333
The fixing of the hearing

1. Within ten days from the recording of the request of the prosecutor or of the injured accuser the judge who chairs the panel and who is appointed to try the case, shall fix the date for the hearing to be held.

2. The date of the hearing is notified to the prosecutor, defendant, defence lawyer, the injured, the private parties and their attorneys at least ten days before the date fixed for trial.

Article 334
The request for speedy trial

1. Under the requirements provided by law, the prosecutor may demand the direct trial whereas the defendant the accelerated trial.

2. In these cases the rules this Code provides for special trials shall apply.

Article 335
The rights of the parties

1. Up to the date fixed for trial the parties, their defence lawyers and attorneys have the right to watch the attached objects, to examine the acts and the documents collected in the secretary for the file of the court trial and also to issue copies of them.

Article 336
Urgent actions

1. In cases that the custody of evidence requires, the chairing judge, upon request of the parties, orders the obtaining of the evidence which later cannot be obtained for sure, observing the rules provided for the court examination.

2. The day, the hour and the place of the obtaining of the evidence are notified, at least twenty-four hours beforehand, to the prosecutor, the defendant, the injured and the defence lawyer.

3. The minutes of the completed operations are put in the file of trial.

Article 337
The summons of the witnesses and experts

1. The parties that request the interrogation of the witnesses and experts must deposit in the secretary of the court, at least five days before the date fixed for trial, their roll-call.

2. The chairing judge orders, even ex-officio, the summons of the expert appointed during the preliminary investigation for the custody of the evidence.

Article 338
Efforts for reconciliation

1. In case of criminal offences prosecutable on request of the injured accuser the court summons the injured and the one subject to the request for trial proposing the solution of the case by consent. In case the injured withdraws the request and the accused accepts this, the

court dismisses the case. On the contrary, they shall fix the date of the hearing and explains their right to be assisted by defence lawyers.

CHAPTER II
THE COURT EXAMINATION

SECTION I
GENERAL RULES

Article 339
The publicity of the hearing

1. The hearing shall be public otherwise it shall be null and void.
2. Juveniles aged under sixteen years and those who are drank, intoxicated or mentally disordered shall be not allowed in the hearing.
3. It is prohibited the presence of armed persons in the hearing, except members of public order forces.

Article 340
Cases of closed hearings

1. The court decides to hold the court examination or some of its actions in camera:
a) when the publicity may damage the social morality or may divulge data to be kept secret for the interest of the state, if this is requested by the competent authority.
b) in case of behaviours which impair the normal performance of the hearing
c) when it is necessary to protect the witnesses or the defendant
ç) when necessary during the questioning of juveniles
2. The decision of the court holding the hearing in camera is revoked once the causes which required it no longer exist.

Article 341
The conduct of the hearing

1. The hearings are conducted by the chairman. His orders regarding the silence and the public order are compulsory for the parties and participants and they are executable by public order authorities. The ones who hinder the normal performance of the hearing shall be expelled by decision of the chairman and if they do not obey shall be punished by fine up to ten thousand lekë. The order is final.
2. When a criminal offence is committed in the hearing the prosecutor proceeds according to law and, if there is the case, orders the arrest of the offender.

Article 342
Uninterrupted trial

1. When the court examination may not terminate in a sole hearing the court decides to continue it the next working day.

2. The court may interrupt the court examination, up to fifteen days, only under particular circumstances.

3. The postponement and interruption of the court examination are declared by the chairman in the hearing. The announcement is equal to notification for the ones who are present or who must deem to be present.

4. When due to the lawful reasons, the trial panel changes, the new member must become acquainted with the content of the judicial process, except if requested by him, this case must be examined from the beginning. When more than one member of a trial panel consisting of three judges or more than two members of a trial panel consisting of five judges changes, the trial starts from the beginning.

Article 343
The suspension of the court examination

1. When the solution of the criminal case is depended on the solution of a civil or administrative dispute for which a trial is being held, the court may decide the suspension of the court examination until the case is resolved by a final decision.

2. The decision of the suspension is subject to appeal to the Supreme Court.

3. When the administrative or civil trial does not terminate within six months the court may revoke the decision of the suspension even ex-officio.

Article 344
The presence of the defendant in the hearing

1. The defendant participates in the hearing as a free person even when he is detained, except when it is necessary to take measures to prevent the escape or violence.

2. The defendant who, due to his behaviour hinders the normal performance of the hearing even having been warned shall be expelled from the court room by order of the chairman.

3. The expelled defendant is deemed to be present and is represented by the defence lawyer. He can be readmitted to enter the courtroom in any time.

4. The absence of the defendant as a result of expulsion and has not accepted to have a defence counsel, does not prevent the hearing to be held. In this case a defence counsel is assigned ex officio and the trial continues. The defendant or the defence counsel assigned by him may be admitted in court at any time.

Article 345
The minutes of the hearing

1. The secretary keeps the minutes of the hearing, which contains:

a) the place, the date, the hour of the opening or of the closer of the hearing;

b) the composition of the court;

c) the name and the family name of the prosecutor and the injured accuser;

ç) personal data of the defendant or other personal data which help to identify him, the personal data of the defence lawyers, private parties and their attorneys.

2. Immediately after the closure of the hearing the minutes, signed at the foot of each page by the keeper, shall be submitted to the chairman to confirm it.

3. The minutes of the hearing shall be put in the file of the court examination.

Article 346
The content of the minutes

1. The minutes describe the actions performed in the hearing and in a summarized form describe the requests and the conclusions of the prosecutor, injured accuser, defence lawyers and attorneys of private parties.

2. The oral orders of the president are entirely reproduced. The orders announced in the hearing by means of reading are attached to the minutes.

Article 347
The request of parties regarding the minutes

1. The parties have the right to request that in the minutes are written any statement they have an interest in. The written memorial presented by the parties supporting their requests and conclusions are attached to the minutes.

2. The chairman may, even ex-officio, order that the secretary reads special parts of the minutes in order to verify its entirety and accuracy. The requests for correction or cancellation and also those provided by paragraph 1 are subject to the decision of the chairman.

SECTION II

PRELIMINARY ACTIONS

Article 348
Verification of the presence of the parties

1. Before the start of the court examination the chairman makes sure of the presence of the parties.

2. When the defence lawyer appointed ex-officio is not present the chairman appoints as substitute another defence lawyer according to article 49, paragraph 5.

Article 349
The repetition of writ of summons

1. The court, even ex-officio, orders the repetition of the summons for trial when it results that the defendant or the person subject to request for trial of the injured accuser has not received the notification or the notification is uncertain.

Article 350
The absence of the defendant or the defence lawyer

1. When the defendant, even in detention, or the person subject to request for trial of the injured accuser does not appear before the hearing and it results that the absence is caused by force majoure or any other obstacle which exempts from the responsibility the court, even

ex-officio postpones or suspends the judicial examination, fixes the date of the new hearing and orders the renewal of the summons.

2. The reading of the decision fixing the new hearing is equal to the notification for all of them who are or must be considered as present.

3. The court decides on basis of paragraph 1 even when the defence lawyer is absent, except when the defendant is assisted by two defence lawyers and the obstacle to appear is connected with one of them or when the hindered defence lawyer has appointed a substitute or when the defendant requests to be proceeded in the absence of the hindered defence lawyer.

4. When it results that the notification has not been duly, the court decides the postponement of the judicial examination and orders the renewal of the notification.

Article 351
The announcement of absence

1. When the defendant in free state or in detention fails to appear before the hearing even having been notified and there were no lawful excuses for the failure to appear the court, after hearing the parties, declares his absence. In this case he will be represented by the defence lawyer.

2. The decision stating the absence is void when it is proven that it has come because of failure to receive notification or absolute impossibility to appear.

3. In case the defendant is appeared after the announcement of the decision, the court revokes the decision declaring the absence. When the appearance is made before the start of the final discussion, the defendant may request to be interrogated. It shall be valid the previous actions, but when the defendant proves that the notification has been deleted not due to his fault, the court orders the acquiring or the reproduction of the action which thinks that are important to the sentence.

Article 352
The absence and voluntary abandonment by the defendant

1. When the defendant requests or gives the consent that the court examination is performed in his absence or, as imprisoned, refuses to participate, he shall be represented by the defence lawyer.

2. The defendant who after appearing leaves voluntarily the hearing shall be deemed to be present, provided that he is represented by the defence lawyer.

3. The provisions of paragraph 2 shall also apply when the detained defendant leaves at any time of the court examination or during its intervals.

4. The trial in absentia may be also held when proven that the defendant is absconding.

Article 353
Compulsory appearance of the defendant

1. The court may order the forcible accompaniment of the defendant or of the person subject to a request for trial of the injured accuser when has failed to appear or is declared in absentia, in case his presence is necessary to the taking of the evidence but not to his interrogation.

Article 354

Preliminary objections

1. The request dealing with jurisdiction, competences, jointer or separation of the proceedings, legitimating of the plaintiff and civilly sued may not be expanded later on if they have not been raised immediately after the legitimating of the parties, except when the possibility to raise them appears only during the court examination.

2. For the preliminary requests the right to speak is enjoyed by the prosecutor, the injured accuser, the defendant or his defence lawyer and one representative of each private party. Objections shall not be allowed.

3. The preliminary requests are subject to a decision of the court.

Article 355
Announcement of the opening of court examination

1. After caring out the actions indicated in the article hereto, the chairman announces the judicial examination opened and explains the identity of the defendant and the accusation in his charge.

Article 356
Opening statement and the request for evidence

1. The prosecutor or the injured accuser exposes in summarised form the facts subject to accusation and indicates the evidence to be examined.

2. The defence lawyer of the defendant, the attorneys of the plaintiff and civilly sued respectively, indicate the facts they intend to prove and request the taking of the evidence.

3. The taking of the evidence which have been not requested beforehand shall be permitted when the requesting party claims to not having been able to request them.

Article 357
Actions of the court pertaining to evidence

1. After hearing the parties, the court renders decision for the taking of the evidence.

2. During the court examination the parties may present claims in relation to the taking of the evidence. The court may, by decision, revoke the taking of the evidence which are unnecessary or accept the taking of the evidence which have been refused.

Article 358
Statements of the defendant

1. The chairman informs the defendant that he has the right to make, in any stage of the court examination, the statements he considers adequate. When during the statements the defendant does not meet the object of the accusation the chairman forwarns him and he continuous, shall deprive him from the right to speech.

2. The secretary reproduces entirely the statements of the defendant, except when the chairman orders that the minutes are kept in a summarized form.

SECTION III
OBTAINING OF EVIDENCE

Article 359
Order of obtaining evidence

1. The court examination starts by taking the evidence requested by the prosecutor or the injured accuser and continues by taking those, which are required by the defendant, the defence lawyer and other parties.

Article 360
Appearance and oath of the witness

1. Before starting the questioning, the presiding judge warns the witness on his legal obligation and liability to say the truth, except when the witness is a juvenile up to fourteen years.

2. The secretary of the court reads the witness' oath:

"I swear that I shall say the truth, all the truth and I shall say nothing which is not true`.

After this, the witness declares: -I swear- and gives his personal details.

3. Failure to observe the provisions of paragraph 2 and 3 renders these actions null and void.

Article 361
Examination of witnesses

1. The questioning of the witnesses is made directly by the prosecutor or the defense lawyer or attorney who has demanded the questioning. After this, the questioning continues by the parties, in order.

2. The one who has demanded the questioning may ask questions even after the other parties have terminated theirs.

3. Questions are prohibited that influence negatively the impartiality of the witness or that intend to suggest the answers.

4. The presiding judge may permit the witness to look at the documents prepared by the witness in order to help his memory.

5. The questioning of juvenile witnesses may be performed by the presiding judge, upon the parties' requests and objections. The presiding judge may be assisted by a member of the juvenile's family or by an expert of child education. When it is considered that the direct questioning of the juvenile does not harm his psychological condition, the presiding judge orders the continuation of the questioning according to the provisions of paragraphs 1 and 2. The order may be revoked during the questioning.

6. During the questioning of the witness the presiding judge may ask questions and, when appropriate, intervene to insure orderly questioning, the truthfulness of the answers, the accuracy of the interrogations and objections, as well as to guarantee respect for the person.

7. The witness may be interrogated at a distance, in the country or abroad, through audiovisual connection, in compliance with rules stipulated in international agreements and provisions of this Code. The person authorized by the Court remains at the witness's location, certifies his/her identity, and ensures the correct process of interrogation and of the implementation of protective measures. These actions are recorded in a report.

Article 361/a
The Interrogation of Justice Cooperators and Protected Witnesses

1. The interrogation of justice collaborators and protected witnesses is conducted under special measures for their protection, which are determined by the court, *sua sponte* or upon the request of parties.

When technical means are available, the court may determine that the interrogation will be conducted at a distance, via audiovisual connection according to the rules stipulated in article 361, paragraph 7.

2. When the court had decided that it is appropriate to conceal the identity of the person to be interrogated, the court orders appropriate measures to be taken to enable that the voice and face of the person to be unrecognizable by the parties.

If the recognition of identity or line-up of the person is indispensable, the court orders the summoning of the person, or requires that such person be accompanied by authorities to appear. In this case, the court orders necessary measures to be taken to avoid the distinct appearance of the face of the person whose identity is modified.

Article 362
Rebuttal of testimony

1. In order to rebut, wholly or in part, the contents of the testimony or when refuses to testify, the parties may use the prior statement of the witness made before the prosecutor or the judicial police and which are in the file of the prosecutor, but only after the witness has testified on facts and circumstances rebutted.

2. This statement does not constitute evidence in itself for the facts admitted in it, but it may be evaluated by the court to determine the credibility of the person examined and shall be included in the trial file.

3. The statement given before a prosecutor or judicial police officer may be evaluated as evidence, if it is connected to other evidence that corroborates its truth.

4. Statements given previously and included in the trial file conform paragraph 2 of this article, may be admitted as evidence even when it is proved that the witness even during examination hearing is subject to violence, threat, promise to give money or other benefits with the purpose that he refuses to testify or gives false testimony and also when other circumstances that impair his sincerity are proved.

Article 363
Expert Examination

1. Interrogation of the experts is performed in accordance with the provisions regarding the interrogation of the witnesses at the extent they are applicable.

2. The expert has the right in any case to consult with the documents, notes and publications, which may be taken even ex-officio.

3 The expert may be interrogated in distance by following the rules provided in Article 361 Paragraph 7 of this Code.

Article 364
Examination of witnesses and experts in their houses

1. In case of absolute impossibility to appear, upon request of the parties, the court may decide that the examination of the witness and expert are performed in their residing place, notifying the day, hour and place of interrogation. The interrogation may be also made by a sole judge of the panel in the presence of the parties.

2. The interrogation is made in the ways provided by the above articles closed to the public. The defendant and the private parties are represented by the defence lawyer and their attorneys, but may participate even in person. The court may allow the intervention of the defendant during interrogation.

Article 365
Questioning of private parties

1. The interrogation of private parties starts by the one who has requested it and continues with the interrogation by the prosecutor, defence lawyers, attorneys of the parties and the defendant. The one who started the interrogation may make questions even after other parties.

2. The testimony may be challenged using the statements made during the preliminary investigations by the interrogated party and which are put in the file of the prosecutor, provided that the party has testified to the facts and circumstances subject to challenge.

Article 366
Assignment of the expert during trial

1. In case the court, ex-officio or upon the request of the parties, disposes of an expertise, it shall immediately call the expert who must express his opinion during the same hearing. If this is not possible, the court shall interrupt the court examination and fixes the date of a hearing to be held, but not later than thirty days.

Article 367
Obtaining new evidence

1. After the taking of required evidence the court, if necessary, may ask additional questions and, even ex- officio, disposes of the taking of additional evidence. In case there is not possible to proceed in the same hearing, the trial is interrupted and the date for the hearing to be held later is fixed.

Article 368
Records in obtaining evidence

1. In the minutes of the taken evidence shall be noted the identities of the witnesses, experts and interpreters, as well as the forewarning be made to say the truth and their responsibility in case of giving false evidence, expertise or interpretation.

2. The court secretary reproduces the questions asked by the parties and the president, as well as the answers of the interrogated persons.

3. In case the court decides for the minutes to be held in a summarized form, the control of its accuracy is made by the chairman.

Article 369
Permissible readings

1. The court, even ex-officio, decides to read, entirely or partly, the acts of the file of court examination.

2. Upon request of the parties, the court may decide to read the acts made during the preliminary investigations when, because of unforeseen circumstances, they cannot be remake.

3. The reading of the statements made by an Albanian or foreign citizen, residing abroad, may be made if he is summons and has failed to appear or when he is not found during the searches of the judicial police. In such cases the act is evaluated related to other proofs.

4. The officer or the agent of the judicial police, who is interrogated as witness, may use the acts of the judicial police to support his memory.

5. Instead of the reading, the court, even ex-officio, may present the acts connected with proceedings.

Article 370
Reading of statements made by the defendant

1. In order to rebut, wholly or in part, the content of the defendant statement, the parties may use the statements made by him previously and which are in the file of the prosecutor, if he has explained the facts and the circumstances subject to objection.

2. In case the defendant is declared in absentia or has failed to appear or refuses to answer for the statements declared in the presence of the defence lawyer, the court decides to read the minutes of the statements made by him during the preliminary investigations.

3. In case the statements are made by persons held as defendants in a connected proceeding, the court orders the forcible accompaniment. In case the presence of the one who makes the statement cannot be provided, the court, after hearing the parties, decides the reading of the minutes, which contain the statements.

Article 371
The putting of the acts in the court file

1. The minutes and the acts which are read, as well as the documents presented by the parties and accepted by the court are put, along with the minutes of the hearing, in the court file.

SECTION IV
NEW ACCUSATIONS

Article 372
Amendment of the charge

1. When during the trial the fact turns out different from what is described in the application for trial and its trial is under the jurisdiction of that court, the prosecutor amends the charge and continues with the respective charge.

Article 373
Charge for another offence

1. When during the trial, another criminal offence connected to the offence under trial according to the article 79, letter b, or when an aggravating circumstance which is not stated in the trial application emerges, the prosecutor communicates to the defendant the criminal

offence or the circumstance, provided that the trial is not under the jurisdiction of a superior court.

Article 374
The accusation for a new fact

1. When during the court examination a new fact, in the charge of the defendant, which is not mentioned in the request for trial and for which must be proceeded ex-officio comes about, the prosecutor proceeds in usual way, withdrawing the file to continue the preliminary investigations. However, if the prosecutor demands, the court may allow the examination during the same hearing when the defendant agrees and the speed of proceedings is not damaged.

Article 375
Amending the legal qualification of the offence

In its final decision the court may give to the fact a different definition from that given by the prosecutor or the private prosecutor, lenient or more severe, provided that the criminal offence is under its jurisdiction.

Article 376
Rights of the parties

1. In cases provided by articles 372,373, and 374, the chairman makes known to the defendant that he may request a time period for the defence. When the defendant requests a time period, the chairman interrupts the court examination to perform it in due time, but not later than ten days. The other parties may also request the acquiring of new evidence.
2. The chairman orders the summons of the injured, within a time period not less than five days.
3. When the defendant is tried in absentia, the prosecutor requests the court to put the new accusation in the minutes of the court examination and to notify the defendant for this. In such a case, the chairman interrupts the court examination and fixes another hearing, respecting the time periods provided by paragraph 1.

Article 377
Returning the acts to the prosecutor

1. When the prosecutor withdraws the accusation and in the state that the proofs are it is certified that the defendant is not guilty or it results that there is one of the cases of the cessation, the court decides the acquittal or the cessation. In contrary the court decides the transfer of the acts to the prosecutor.

SECTION V
CLOSING STATEMENT/DISCUSSION

Article 378
Holding Discussion

1. After obtaining the evidence, the prosecutor, the defence counsel of the defendant and the representatives of other parties prepare and present the relevant conclusions.

2. The civil plaintiff presents written conclusions, which must include, when it is requested the compensation of the damage, and the assessment of the missed profit.

3. The prosecutor, the defence counsels and the representatives of the parties can make objections.

4. In any case, the defendant and the defence counsel must present the final speech, if they request it.

5. The final discussion may not be interrupted to obtain new evidence, except when the court considers it necessary.

6. Upon the termination of the debate, the chairman declares the court review closed.

CHAPTER III
DECISION

SECTION I
TAKING THE DECISION

Article 379
Promptness of the decision

1. Decision is taken forthwith after the closure of the trial.

2. Taking the decision may not be postponed except in cases of absolute impossibility. The postponement is decided by the presiding judge by an order based on grounds.

Article 380
Evidence used to take decision

1. In taking the decision the court may not use evidence other than those which are obtained or verified in the court examination.

Article 381
Collective decision taking

1. The panel, led by the presiding judge, decides separately for each case connected with the fact and the law, with the execution of the precautionary measures, punishments and civil liability.

2. The judges and assistant judges expose their opinion and vote for each issue. The chairman collects the votes starting from the judge who is less experienced and votes the last himself.

Article 382
Drafting the decision

1. After being rendered, the sentence shall be reasoned based upon the evidence and criminal law and it shall be signed by all of the members of the panel.

Article 383
Elements of the decision

1. The sentence shall contain:

a) the court that has rendered it,

b) the personal data of the defendant or other personal data which are useful for his identification and also the personal data of the other private parties,

c) the accusation,

ç) the summarized exposition of the circumstances of the fact and the evidence on which the decision is based as well as the reasons why the court considers unacceptable the contrasting evidence.

d) disposition, indicating the articles of the law which have applied,

dh) the date and the signature of the judge.

2. The sentence is void when the disposition or the signatures of the members of the panel are missing.

Article 384
Pronouncing the decision

1. The decision is pronounced in session by the presiding judge or a member of the panel by reading it.

2. The pronouncement is also valid as a notification for the parties that are or must be deemed to be present in the hearing.

Article 385
Correction of the decision

1. The court even ex-officio, proceeds with the correction of the decision when it must correct any material error.

Article 386
Filing the decision

1. The decision is filed with the secretariat immediately after the pronouncement. The assigned clerk endorses the signature and writes down the date of the filing.

2. The notification of filing and a copy of the decision shall be served to the defendant who is declared in absentia.

SECTION II
DISMISSAL OF THE CASE AND ACQUITTAL DECISION

Article 387
Decision dismissing the case

1. When the criminal prosecution should not have been initiated or it must not continue or when the criminal offence is quashed, the court dismisses the case, stating the grounds for doing so.

2. The court decides in the same way when the existence of a proceeding requirement or a condition that quashes the criminal offence is doubtful.

Article 388
Acquittal decision

1. The court shall render a decision of acquittal when:
a) the fact does not exist or it is not proved that it exists;
b) the fact does not constitute a criminal offence;
c) the fact is not provided by law as a criminal offence;
ç) the criminal offence is committed by a person who cannot be charged or punished;
d) it is not proved that the defendant has committed the offence he is accused of;
e) the act has been committed under lawful conditions or under an exculpatory condition and also when there is doubt about their existence.

Article 389
Procedures on remand orders

1. By a decision of acquittal or dismissal the court orders the release of the defendant under pre-detention and cancels other remand order. When the decision is conditionally suspended, it is proceeded in the same way.

SECTION III
CONVICTION

Article 390
Conviction of the defendant

1. When the defendant is found guilty of the criminal offence that is attributed to him, the court convicts him, determining the type and the extent of the sentence.
2. When the defendant has committed several criminal offences, the court issues the sentence for each of them and applies the provisions on joinder of criminal offences and sentences.

Article 391
Pronouncement on forged documents

1. Forgery of a document proved by a court decision, it is stated in the ruling of the court, which sets forth, as the case may be, the deletion, wholly or in part, renewal, reproduction or amendment of the document, determining also the way how this must be done.
2. Declaration of forgery may be appealed in conjunction with the final decision.

Article 392
Obligation to pay the fine

1. When the convicted person does not have an income or assets that may be sequestered, the court charges the one that is civilly liable for the obligations of the defendant to pay an amount equal to the fine.

Article 393
Obligation for the expenses

1. The convicted person is charged with the payment of the procedural expenses connected with the criminal offence, which he is punishment with.
2. The persons convicted for the same criminal offence or for connected criminal offences are jointly obliged to pay the expenses. The persons convicted in the same trial for criminal offences which are not connection among them are jointly obliged to pay only the common expenses related to the criminal offences for which conviction has been secured.

Article 394
The liability of the civilly sued

1. In the decision of punishment the court disposes even of the request for the restitution of the object and the compensation for the damage, as well as of the way of the payment of the obligation.
2. In case liability of the civilly sued is accepted, he is obliged solidarily with the defendant to restitute the object and compensate the damage

Article 395
Assessment of the damage

1. When the obtained evidence make possible the assessment of the damage, the court disposes of the right of compensation of the damage in its entirety and transfers the act to the civil court.
2. Upon request of the civil plaintiff, the defendant and the civilly sued may be obliged to pay an amount approximately equal to the damage which is deemed to be proved. This obligation is executed immediately.

Article 396
The temporary execution of the civil liability

1. Upon the request of the civil plaintiff, when there are lawful reasons, the obligation for the restitution of the object and the compensation for the damage is declared temporary executable.

Article 397
The obligation of the private parties to pay procedural expenses

1. Upon decision which accepts the request for the restitution of the object or the compensation for the damage, the court obliges solidarily the defendant and the civilly sued to pay the procedural expenses to the favour of the civil plaintiff, except when evaluates that it must decide the entire or partial compensation of them.
2. When the request is rejected or the defendant is found innocent, except when he is irresponsible, the court obliges the civil plaintiff to pay the procedural expenses made by the

defendant and the civilly sued in relation to the civil lawsuit, but in any case when there are no reasons for the complete or partial compensation. When it is proved the gross negligence, the court may also charge with the compensation of the damages caused to the defendant or the civilly sued.

Article 398
The obligation of complainant to pay the expenses and damages

1. In case the court acquits the defendant for a criminal offence which is proceeded on complaint, because the fact does not exist or the defendant has not committed it, the claimant is charged with the payment of the expenses for the proceedings made by the state, as well as with the expenses and the compensation of the damage to the favour of the defendant and the civilly sued.

Article 399
The announcement of the decision compensating the moral damage

1. Upon the request of the civil plaintiff, the court decides the announcement of the conviction, as a method of reinstating of the moral damage arising out from by the criminal offence.
2. The announcement of the decision is made, fully or summarily, in the newspapers indicated by the court, on the expenses of the defendant or civilly sued.
3. If the announcement is not made in the fixed time period, the civil plaintiff may operate personally having the right to ask for the expenses to be covered by the convicted.

CHAPTER IV
SPECIAL TRIALS

SECTION I
DIRECT TRIAL

Article 400
Cases of the direct trial
(Amended point 1 by the Law no. 8813 date 13.06.2002)

1. When the defendant is arrested on view/spot, the prosecutor may, within forty eight hours, file in court the concurrent application for the evaluation of the arrest and simultaneous the trial.
2. If the arrest is considered as being right and there is no need for other investigations, it is proceeded immediately in the trial, whereas when it is not found grounded, the acts are restituted to the prosecutor. But even in the latter case, when the defendant and the prosecutor give their consent, the court proceeds with the direct trial.
3. The prosecutor may proceed with the direct trial even with the defendant who, during the interrogation, has confessed and his guilt is plain. In this case the defendant is summoned to appear within fifteen days from the date of the registration of the criminal offence.
4. When the criminal offence, for which is requested the direct trial, is connected with other criminal offences for which the conditions of this type of trial are missing, it is

proceeded separately for other offences and other defendants, except when this separation impairs the investigations. When the jointer is necessary, the rules of the usual trial shall apply.

Article 401
Preparation of the direct trial

1. In case the prosecutor thinks that must proceed with a direct trial, he orders the appearance of the defendant in the hearing. When the latter is free the time period for the appearance may not be less than three days.
2. The order, along with the respective acts, are sent at the chancellery of the court.
3. The defence lawyer is notified without delay by the prosecutor of the date of the trial. He has the right to read and make copies of the documentation subject to completed investigations.

Article 402
Conduct of the direct trial

1. During the direct trial the provisions of the chapter for the court examination shall apply.
2. The prosecutor, the defendant and the civil plaintiff may introduce other evidence during the court examination.
3. The defendant has the right to ask for a time period up to three days to prepare the defence. In this case the court examination shall be postponed until the new hearing, which shall be performed after the termination of the time period.
4. The defendant may require the accelerated trial. The court, after taking the opinion of the prosecutor and finds the request as right, decides to continue the trial, observing the rules specified for the accelerated trial. On contrary, it continues the direct trial.

SECTION II
SUMMARY TRIAL

Article 403
Application for summary trial

1. The defendant or his special attorney may require that the case terminates until the court examination starts.
2. The request is made in writing, whereas during the hearing orally. The written request is deposited in the secretary of the court at least three days before the date fixed for hearing.

Article 404
Conduct of the court on application

1. When the court evaluates that the case may be solved in the state that the acts are, decides to perform the accelerated trial. On contrary, it refuses the request.

Article 405
Summary trial hearing

1. The hearing is performed in the presence of the prosecutor, the defendant and his defence lawyer, as well as the private parties.

2. The court makes the verifications connected with the constitution of the parties.

3. In case the defence lawyer of the defendant fails to appear, the court appoints another defence lawyer as substitute.

4. When the defendant fails to appear in the hearing because of lawful excuses, the court fixes the date of the new hearing and orders that the defendant is given notice.

5. After the request of the defendant is read, the chairman announces the opening of the debate.

6. The prosecutor introduces in substance the results of the preliminary investigations and gives his opinion for the request of the defendant.

7. In case the civil plaintiff does not accept the accelerated trial, the civil lawsuit is not subjected to trial.

Article 406
Decision

1. In cases the decision is rendered, the court commutes the punishment by imprisonment or fine to one third. The sentence by life imprisonment is replaced by 25 years imprisonment.

2. If requested, the court decides even for the civil lawsuit.

3. The prosecutor and the defendant may appeal the sentence of the court.

4. There shall be applicable the provisions of chapter III of this title as long as they are compatible.

TITLE VIII
COMPLAINTS

CHAPTER I
GENERAL RULES

Article 407
Cases and means of complaint

1. The law provides the cases in which the decisions and writs of the court may be complained, as well as the means of complaining.

2. The complaint of the writs of the court, unless the law otherwise provide, may be made along with the complaint of the decision.

3. The means of the complaining are: the appeal, the recourse to the Supreme Court and the request for review.

4. The right to appeal belongs to the one whom the law acknowledges expressly. When the law does not make any difference amongst the parties, this right belongs to each of them.

5. In case the appeal is made before the incompetent court, this shall transfer the acts to the competent court.

Article 408
Complaint of prosecutor

1. The prosecutor of the district and the prosecutor in the court of appeal may appeal, in cases provided by law, despite the request made during the hearing by the representative of the prosecutor. The prosecutor in the court of appeal may appeal despite the appeal or the opinion of the district prosecutor.

2. The appeal may be made even by the prosecutor of the hearing who, in this case, may participate in the court of appeal with the authorisation of the prosecutor in this court.

Article 409
Complaint of private prosecutor

1. The injured accuser may appeal, personally or through his attorney, either for criminal or civil matters. He may withdraw the appeal made by the attorney.

Article 410
Complaint of the defendant

1. The defendant may appeal personally or through his defence lawyer. The guardian of the defendant may make any appeal that the defendant is entitled to.

2. The sentence rendered in absentia is subject to the appeal of the defence lawyer only in case he is provided with a power of attorney issued as provided by law.

3. The defendant may withdraw the appeal made by his defence lawyer, but when he is not legally capable the consent of the tutor must be taken.

4. The appeal of the defendant against the sentence or acquittal extends its effects even in that part of the decision that defines the obligation for the restitution of the property, the compensation for the damage and the payment of the court procedure expenses.

Article 411
Complaint of plaintiff and civil defendant

1. The civil plaintiff may appeal the points of the sentence, which are connected with the civil lawsuit and, in case of acquittal, only for the effects of the civil liability.

2. The civil plaintiff may appeal the disposition of the sentence regarding the liability of the defendant and the civilly sued for the restitution of the property, the compensation for the damage and procedural expenses.

Article 412
Form of complaint

1. The appeal can be made by a written act, in which there are indicated the decision subject to appeal, its date, the court which has rendered it as well as the points of the decision subject to appeal, the reasons of appeal and what is requested.

Article 413
Filing of complaint

1. The act of appeal is submitted to the secretary of the court, which has rendered the decision subject to appeal. The secretary of the court notes the day of receipt on it and the name of the person who submits it, attaches it with the acts and, when required, issues the certification of receipt.

2. The private parties, the defence lawyers and the attorneys may submit the act of appeal even to the secretary of the court of the place of their residence or to a consul abroad. In these cases, the act is sent immediately in the secretary of the court that has rendered the sentence.

3. The appeal may be sent as a registered letter to the secretary of the court that has rendered the sentence. The secretary of the court writes in the envelope the day of its reception and encloses it with the acts. The appeal is considered as made on the date of the sending of the act by the registered letter.

Article 414
Notification of complaint

1. The act of appeal is notified to the prosecutor, the defendant and the private parties by the secretary of the court that has rendered the sentence.

Article 415
Time limits of complaint

1. The time period to appeal is ten days. This time period starts from the next day of the announcement of the sentence or the notification of decision.

2. The one who has made an appeal has the right, up to five days before hearing, to present to the secretary of the court that shall examine the case, other grounds connected with the appeal.

3. The time periods provided by this article may not be extended without any reason, except in cases provided by law.

Article 416
Scope of complaint

1. The appeal made by a defendant, when is not based only in personal grounds, is also valid for the other defendants.

2. The appeal made by the defendant is also valid for the civilly sued.

3. The appeal of the civilly sued shall also be valid for the defendant for criminal effects.

Article 417
Suspension of execution

1. The execution of the decision under appeal is suspended until the trial in the court of appeal terminates. In case of recourse or request for review, the decision may be suspended by an order, respectively, of the President of the Supreme Court or of the court of appeal.

2. The appeal of the decisions related with the personal freedoms do not have pending effects.

Article 418
Waiver of complaint

1. The prosecutor who has made the appeal may renounce from it until the start of the court examination, whereas the renouncement of the prosecutor in the court that examines the appeal may be made until the start of the final debate.

2. The defendant and the private parties may renounce from the appeal even through the defence lawyer or the attorney.

3. The statement of renouncement is made in the forms and ways provided for the submission of appeal, as the case may be, in the court that has rendered the sentence or in the court that examines the appeal.

Article 419
Transmitting the documents

1. The court that has rendered the sentence shall send, within ten days, to the court that shall examine the case, the acts of proceedings and the appeal.

Article 420
Non admission of complaint

1. The Appeal is not admitted:

a) when it is made by the one who is not legitimated;

b) when the decision is not subject to appeal;

c) when there are not respected the provisions regarding the form, submission, sending, notification and the time period of appeal;

d) when it is renounced from appeal.

2. The dismissal may be declared, even ex-officio, in any state or stage of the proceedings.

3. The decision of dismissal is notified to the one who has made the appeal and it is subject of appeal to the Supreme Court.

Article 421
Charging of expenses

1. Upon the decision rejecting or declaring the claim unacceptable, the private party who has made it is charged with the expenses of proceedings.

2. The co-defendants who have been participated in trial are charged with the expenses jointly with the defendant who has made the claim.

3. In the trials of claims made only for civil interests, the expenses shall be charged to losing private party.

CHAPTER II
APPEAL

Article 422

The right of appeal

1. The prosecutor, the defendant and the private parties may appeal the decisions of the first instance court.

Article 423
Counter appeal

1. The party who has not made the appeal within the time period may make an opposing appeal within five days from the day he has received the notification of the appeal of the other party.

2. The opposing appeal is submitted and notified according to the general rules of appeals.

3. The prosecutor counter appeal does not produce any effects on the co-defendant who has not made any appeal.

4. The counter appeal loses the effects in case the appeal of the other party is not accepted or it is waived.

Article 424
Competent court

1. The appeal of the sentences of the district court is subject to the decision of the court of appeal.

2. The appeal of the sentences of the military court is subject to the decisions of the military appeal court.

3. Appeals made against the decisions of the serious crimes court are ruled on by the serious crimes court of appeal.

Article 425
Limits of trying the case

1. The court of appeal examines the case thoroughly and it does not restrict itself to only the grounds presented in appeal. It examines even the part that belongs to the co-defendants who have not made appeal within the limits provided by the reasons explained in the appeal.

2. When the appellant is the prosecutor, the court of appeal:

a) may give to the fact a more serious legal qualification, alter the classification or extend the length of punishment, alter the precautionary measures and impose any other measure ordered or allowed by law;

b) may sentence the one who is acquitted, acquit him under a cause different from that accepted in the decision subject to appeal, impose the measures indicated in the letter;

c) may impose, alter or exclude supplementary punishment and precautionary measures.

3. When appellant is the defendant only, the court may not impose a heavier sentence, a heavier precautionary measure, acquit under a cause less favourable than that of the decision subject to appeal.

Article 426
Preliminary trial actions

1. The president of the college of the court of appeal orders the summons of the defendant, civil plaintiff and the civilly sued, as well as the defence lawyers and their attorneys. The time period may not be less than ten days.

2. The writ of summons is void when the defendant is not surely identified or when the place, the day and the hour of appearance are not fixed exactly.

Article 427
Retrial

1. When a party requests the retaking of the evidence administered during the court examination in the first instance or the taking of new evidence, the court, if evaluates it necessary, decides the entire or partly re-performance of the judicial examination.

2. The evidence found after the trial in the first instance or those which appear on the spot, are subject to the court decision which, as the case may be, orders whether they must be taken or not.

3. The re-performance of the judicial examination is decided even ex-officio when the court evaluates it as necessary.

4. The court decides the re-performance of the court examination when it is proved that the defendant has not participate in the first instance because he has been not notified or has been not able to appear due to lawful excuses.

5. For the remaking of the court examination, decided according to the above paragraphs, is proceeded immediately and when this is not possible, the court examination is postponed for a period not more than ten days.

Article 428
Court of appeal decision

1. The court of appeal, after examining the case, decides:

a) the unchanging of the decision;

b) the alteration of the decision;

c) the cancellation of the decision and the dismissal when there are the cases which does not permit the initiation and the continuation of the proceedings or when the guilt of the defendant is not proved;

ç) the cancellation of the decision and the restitution of the acts of the first instance court when the provisions regarding the requirements to be a judge in the concrete case, the number of the judges necessary for the constitution of the colleges defined in this Code, with the exercise of the prosecution by the prosecutor and his participation in the proceedings, with the participation of the attorney of the injured accuser and the defence lawyer of the defendant, the violation of the provisions for introduction of new accusations, are not observed and also in any case when special provisions specify the nullity of the sentence.

Article 429
Transferring the documents to the first instance court

1. When it is decided according to the point ç) of the article 428, the court of appeal orders the sending of the acts to another college of the same or nearest court.

2. When recourse to the Supreme Court has not been made, the file with the documents is sent to the court that has rendered the decision.

Article 430
Powers pertaining to the execution of civil obligation

1. Upon request of the civil plaintiff, the court of appeal may decide the temporary execution of the obligation when the first instance court has not expressed the opinion or has rejected the request. It may also decide the suspension of the execution of the obligation to prevent any serious and non-reparable damage that may occur.

CHAPTER III
APPEAL TO THE SUPREME COURT

SECTION I
GENERAL RULES

Article 431
Direct Appeal to Supreme Court

1. Court decisions pertaining to conflict of jurisdiction and power and also special cases provided by law are subject of direct appeal to the Supreme Court.

Article 432
Appeal against final decisions

1. Appeal against the final decisions of the Court of Appeal may be done under these grounds:
a. non-compliance with or wrong application of the criminal law;
b. infringements that make the court decision null and void as a consequence conform article 128 of this Code.
c. procedural infringements that have effected the decision.

Article 432/a
Appeal in the interest of the law
(Abrogated by the Constitutional Court Decision no. 55/1997)

Article 433
Non admission of Appeal

1. The recourse must be made only in cases provided by law otherwise it shall be dismissed.
2. The dismissal of the recourse is decided by the college of the Supreme Court in the consulting room, in absence of the parties.

Article 434
Limits of Hearing by the Supreme Court

1. The Supreme Court examines the case within the limits of the raised causes. But, for legal issues which should be examined ex-officio by the court in any stage or instance of the proceedings, and which have been not examined, the Supreme Court has the right to decide.

Article 435
Filing of Appeal

1. The recourse should be submitted in writing within thirty days from the date in which the sentence has become final. It must explain exactly the causes why the sentence is considered unlawful.
2. The act of recourse and the memos should be signed, with the consequence of non-acceptance, by the defence lawyer. When the defendant has not got a selected defence lawyer, the chairman of the college appoints another defence lawyer ex-officio and, in this case, the notifications are also made to the defendant.

SECTION II
HEARING IN THE SUPREME COURT

Article 436
Preliminary actions

1. The president of the Supreme Court appoints the relevant colleges for the review of the recourses.
2. The chairman of the college fixes the date of the review of the recourse.
3. The secretary of the Court notifies the prosecutor in the Supreme Court for the depositing of the acts related to appeal and at least ten days before the date of the hearing shall post it up.

Article 437
Hearing

1. The Supreme Court hears in a chambers consisting of five judges.
2. The provisions related to publicity, the rules of the hearing and the right to debate in the first and second instance trial do also apply to the Supreme Court, as far as this can be made.
3. The defendant and the private parties are represented by the defence lawyer.
4. The chairman of the college verifies the legitimacy of the parties and the correctness of the notifications.
5. The assigned judge reports the case. After the speech of the prosecutor, the defence lawyer and the attorneys of the private parties organise the defence. The reply is not permitted.

Article 438
Harmonization or alteration of case law (judicial practice)

1. In cases of need to harmonize or modify the judicial practice, the Supreme Court has the right to withdraw for examination in the joint chambers cases just arrived for hearing in the criminal chamber.

2. The withdrawal of the cases is performed upon the decision of the Chairman of Supreme Court or penal chamber;

3. The decision of the joint chambers is an obligatory for the courts in the trial of similar cases.

SECTION III
DECISION

Article 439
Taking Decision

1. The decision is rendered immediately after the termination of the hearing, except the cases when because of the complex nature or the importance of the case the president of the college evaluates as necessary to postpone the rendering of the sentence as long as this is necessary.

2. The sentence is signed by all the members of the college and is announced in the hearing being read by the chairman or one of the judges.

Article 440
Compulsory enforcement of the decision requirements

1. The duties and the conclusions of the Supreme Court are compulsory for the court, which reviews the case.

Article 441
Ruling of the decision

1. After the examination of the case, the criminal college or the joint colleges of the Supreme Court decide:

a) the approval of the sentence subject to appeal

b) the alteration of the sentence for the legal qualification of the offence, for the type and the duration of punishment, for the civil effects of the criminal offence.

c) the cancellation of the sentence and the solution of the case without sending it back for review;

ç) the cancellation of the sentence and the sending back of the acts for review.

d) The cancellation of the verdict of appeal court and the remaining into force of the verdict of the first instance court.

Article 442
Quashing the decision and solution of the case without returning for retrial

1. The Supreme Court decides the cancellation of the sentence and the solution of the case without sending it back for retrial when:

a) the fact is not provided as a criminal offence, the criminal offence no longer exists or the criminal proceedings must not have initiated and continued;

b) the sentence is null and void in cases provided in this Code;

c) the decision is rendered indicating a wrong person;

ç) there are contradictions between the appealed decision and another previous one connected with the same person and with the same criminal offence, rendered by the same or another criminal court.

2. In cases provided by letter a) the court decides the dismissal of the case; in cases provided by letters b) and c) the decision is notified to the prosecutor in order that he takes the necessary measures; in cases provided by letter ç) the court orders the execution of the decision which has imposed the lighter decision.

Article 443
Quashing the decision and returning the documents for retrial

1. Except for cases provided by article 442 the Supreme Court, when cancels a decision, sends the acts to the court that has rendered the decision subject to cancellation.

2. When the cancellation is not made for all the dispositions of the decision the Supreme Court states in the decision which parts of it are cancelled.

Article 444
Quashing the decision only in respect of civil liabilities

1. When cancels only the dispositions or the issues related with the civil lawsuit or when accepts the appeal of the civil plaintiff against the decision of acquittal of the defendant the Supreme Court sends the relevant acts to the competent civil court.

Article 445
Correction of errors

1. Legal errors in the reasoning part of the decision or the wrong reference to the law text do not bring the cancellation of the decision subject to recourse unless they have had decisive influence on it. However, the court decision shall specify the errors and the corrections.

Article 446
Effect of the decision on the remand orders

1. When on basis of a decision of the Supreme Court the continuation of an imprisonment or of a supplementary punishment or a precautionary measure shall terminate, the secretary informs immediately the prosecutor in the relevant court of that decision.

Article 447
Retrial after quashing

1. The debate on the competency recognized by the decision of cancellation in the retrial shall not be permitted.

2. The retrying court shall respect the decision of the Supreme Court for any issue of the law it has decided.

3. The nullities proved in previous trials or during preliminary investigations may not be presented in the retrial.

4. The cancellation of the decision is also valid for the defendant who has not made an appeal, except when the reason of cancellation is personal.

Article 448
Appeal against the decision after retrial

1. The decision of the retrying court is subject to recourse in the Supreme Court when it is rendered by the court of appeal and in the court of appeal when it is rendered by the first instance court.

2. The decision of the retrying court may be appealed only for reasons which are not connected with the issues decided by the Supreme Court or for non-observance of article 447, paragraph 2.

CHAPTER IV
REVIEW

Article 449
Decisions subject to review

1. The review of final sentences is permitted in any time for cases provided by law, even when the punishment is executed or ceased.

2. The decisions of acquittal rendered for crimes may be reviewed on demand of the prosecutor, provided that from the rendering of the decision shall have not passed five years.

Article 450
Reviewing Cases

1. The review may be requested:

a) when the facts of the grounds of the sentence do not comply with those of another final sentence;

b) when the sentence is relied upon a civil court decision which after has been revoked;

c) when after the sentence new evidence have appeared or have been found out which solely or along with those ones evaluated prove that the sentenced is not guilty;

ç) when it is proved that the conviction is rendered as a result of the falsification of the acts of the trial or of another fact provided by law as a criminal offence.

Article 451
Reviewing Application

1. There may request for review:

a) the tried or his tutor, when the sentenced has died, the successor or a relative;

b) the prosecutor in the court which has rendered the sentence.

Article 452
Application Form

1. The request for review is made personally or through the attorney. It must comprise the evidence which motivate it and must be presented, along with the eventual documents, to the secretary of the Supreme Court that has rendered the sentence.

2. In cases provided by article 450, paragraph 1, letters (a), (b), (ç) the request must be attached the certified copies of the acts referred to in it.

3. In case of death of the person tried after the presentation of the request for review the chairman of the penal college appoints a guardian who exercises the rights that in the trial of review should have enjoyed by the person tried.

Article 453
Supreme Court Hearing of the Application

1. The request of reviewing is examined by the penal college of the Supreme Court in the consulting room in absence of the parties.

2. When the request is made in absence of cases provided by article 450, or when it is complied by those who do not have such a right or when it evidently result unmotivated, the penal college decides its rejection.

3. When the request is accepted, the penal college decides the cancellation of the sentence and the delivering of the case for reexamination in panel to the court of first instance that has rendered the sentence or to the court of appeal, when it is only against its decision. The verdict is of final decision.

Article 454
Suspension of the Execution

1. The Penal College of Supreme Court and the court charged for the reexamination of the case may decide the suspension of the execution of the verdict.
2. The verdict is of final decision.

Article 455
Reviewing trial

1. The court charged for the retrial of the case decides the date of the judicial session and orders the summoning of the parties.

2. The provisions of the first instance trial within the limits of the reasons presented in the request for review shall apply.

Article 456
Decision

1. The decision is rendered in conformity to the provisions of the rendering of the decision by the first instance court.

2. When the request for review is accepted the court shall cancel the sentence. The sentence may not be rendered by only making another evaluation of the evidence taken in the previous trial.

3. When the request is rejected the court charges the expenses to the one who made it and when the suspension is ordered, shall decide the reinstatement of the execution of the sentence or the precautionary measure.

4. Upon request of the interested person the decision of acquittal is posted in summarized form in the district where the decision has been rendered and in the last residing place of the sentenced. The president of the court may order that this decision is announced in a newspaper.

Article 457
Powers in case of accepting the application

1. The court by the decision of acquittal orders the restitution of the amounts paid for the execution of fine penalty, for the expenses of the court procedure and the cancellation of patrimonial security measures and also for the compensation of the damage in the favour of the civil plaintiff who has participated in the trial of review. It shall also order the restitution of the confiscated object except those which production, use and keeping constitutes a criminal offence.

Article 458
Appeal against the decision

1. The decision rendered in the trial of review is subject to appeal.

Article 459
Compensation for unlawful imprisonment

1. The one who is acquitted during the review, when has not given intentional causes or gross negligence for the wrong decision, is entitled to a compensation in proportion with the duration of the sentence and personal and familiar consequences deriving from the sentence.
2. The compensation is made by payment of an amount of money or by providing means.
3. The request for compensation is made, by effect of non-acceptance within two years from the day that the decision of review has become final and or submitted to the secretary of the court that has rendered the decision.
4. The request is communicated to the prosecutor and to the all of the interested person.
5. The decision of compensation is subject to appeal.

Article 460
Compensation in case of death

1. When the sentenced dies even before the proceedings of review the right to compensation belongs to his heirs. The undeserved heirs shall not have this right.

Article 461
Effect of non acceptance and dismissal of the application for review

1. The non-acceptance of the request or the decision rejecting it do not impair the right to present a new request grounded on other evidence.

TITLE I X
EXECUTION OF SENTENCES

CHAPTER I
PUTTING IN MOTION EXECUTION OF SENTENCES

Article 462
Executable decisions

1. The sentence of the court is brought for enforcement immediately after becoming final.

2. The decision of acquittal, exclusion of the tried from the punishment and that of dismissal are brought for enforcement immediately after the announcement.

3. The sentenced to death is entitled to present request for petition for mercy to the President of the Republic. The submission of the request suspends the execution.

The case is reported to the President of the Republic, even ex-officio from the court where the decision has become final.

4. The way of execution of the sentences is regulated by special law.

Article 463
Actions of the prosecutor

1. The prosecutor in the first instance court which has rendered the sentence takes the measures for the execution of the sentence. He makes requests to the competent court and intervenes in all of the actions of execution.

2. The decisions of the prosecutor are notified, within thirty days, to the defence lawyers selected by the interested person or, when there is no such, to the one appointed by the prosecutor.

3. When necessary the prosecutor may demand the caring on of special actions from a prosecutor of another district.

4. When the execution starts the prosecutor notifies in writing the court, which has rendered the sentence.

Article 464
Execution of imprisonment sentences

1. In order to execute a sentence to imprisonment the prosecutor issues the order of execution.

2. The order of the enforcement comprises the personal data of the sentenced, the holdings of the sentence and the necessary dispositions for execution.

3. When the sentenced is detained the order is sent to the state authority that administers the prisons and is notified to the interested person, whereas when the sentenced is not held detained it shall be ordered his imprisonment.

4. The same way shall be acted in cases of the enforcement of decisions of compulsory hospitalisation in medical or educational institutions.

Article 465
Calculation of the pre-detention period and sentence served

1. In imposing the length of imprisonment the prosecutor shall assess the period of detention served for the same offence or for another criminal offence, the served period of punishment to imprisonment for another criminal offence when the punishment is revoked or when for the criminal offence has been awarded amnesty or pardon.

2. In any case the assessment shall comprise the period of detention or the punishment served after the commission of the criminal offence subject to the imposition of the punishment to be executed.

3. After making the assessments the prosecutor issues the order which is notified to the sentenced and his defence lawyer.

Article 466
Execution of the remand orders issued by the court

1. The precautionary measures ordered by the court are executed by the prosecutor in the court that has rendered the decision.

Article 467
Execution of a fine sentence

1. The decisions comprising the fine penalty are executed by the bailiff's office.

2. When it is proven that the execution of the fine or of a part of it is impossible the prosecutor demands from the court that has rendered the decision to make the conversion. Upon request of the punished the court may postpone the conversion up to six months. This period is not assessed in the time periods of the prescription.

3. The decision of conversion is subject to appeal, which suspends its execution.

Article 468
Execution of supplementary punishments

1. For the execution of the supplementary punishment the prosecutor sends the abridgement of the sentence to the judicial police authorities, to the police of public order and to other interested authorities.

Article 469
Execution of several sentences

1. When a single person is sentenced for various criminal offences the prosecutor in the court of the last decision demands from the court to determine which sentence shall be executed, observing the rules regarding the joinder of sentences.

2. The demand of the prosecutor is notified to the sentenced and his defence lawyer.

CHAPTER II

HEARINGS BY THE COURT OF ISSUES RELATED TO THE EXECUTION OF DECISIONS

Article 470
Competent court for execution

1. The court which has rendered the sentence is competent to examine the requests and claims related to its enforcement.

2. When the execution is related with several sentences rendered by various courts the competent court shall be the one, which has rendered the sentence that, has been the last to become final.

Article 471
Court Procedure

1. The court proceeds with the request of the prosecutor, the interested person or defence lawyer.

2. When the request is evidently groundless or it renovates a rejected request, based on the same grounds, the court, after hearing the prosecutor, declares it unacceptable by decision which is notified within five days to the interested person. The decision is subject to appeal.

3. Except for cases provided by paragraph 2 the court fixes the date of the hearing and notifies the parties and defence lawyers at least 10 days before it.

4. The hearing is held in compulsory presence of the prosecutor and defence lawyer. The interested party can be heard personally or in written form, if he requires it.

5. The court renders a decision, which is notified, to the parties and defence lawyers.

The decision is subject to appeal, but it does not suspend the execution except when the court that has rendered it otherwise decides.

6. The minutes of the hearing is kept in summarized form.

Article 472
Suspicion on the physical identity of the imprisoned person

1. In case of uncertainty on the identity of the person arrested in order to enforce the sentence, the court interrogates him, performs the investigations necessary for his identification and takes decision which is notified to the interested person.

2. When it ascertains that he is not the person to be subjected to execution, the court orders his immediate release. In case the identity remains uncertain, it decides the suspension of the execution, the release of the prisoner and notifies the prosecutor to complete further investigations.

3. In case the error on the identity of the person is certain, the prosecutor orders his release and sends immediately the acts to the court.

Article 473
Mistaken name

1. When a person is sentenced instead of another person because of error relating to the name, the court decides the correction only in case the person who should be subjected to proceedings is cited as a defendant also with another name to appear before the trial. To the contrary, it is decided the review of the case according to the article 450 paragraph 1 letter ‘c’. In any case, the execution against the person who is victim of miscarriage of justice is suspended.

Article 474
Several decisions on the same fact

1. In case several decisions are rendered against the same person for the same fact, the court orders the execution of the decision by which is expressed the lightest punishment, declaring the others as unexecutable. In case the main punishments are equal, the supplementary punishment shall be considered.

2. In case there are some decisions of dismissal or acquittal, the interested person indicates the decision to be executed and if he does not do this, the prosecutor in case of dismissal and the court in case of acquittal, order the enforcement of the most favourable decision.

3. In case of a decision of acquittal and of a sentence, the court orders the execution of the decision of acquittal, revoking the sentence, whereas in case of a decision of dismissal of the prosecutor and of a decision rendered in the trial, the court orders the execution of the decision rendered in trial.

Article 475
Joinder of sentences

1. In case of several decisions, taken in various proceedings against the same person, the injured or the prosecutor may request from the court to follow the rules of joinder of sentences.

Article 476
Suspending the execution of decision

1. The court which has rendered the sentence, upon request of the sentenced, the defence lawyer or prosecutor, may decide the postponement of the execution of the decision in following cases:

a) when the sentenced suffers a grave malady which does not permit the execution of the decision. The execution shall be postponed until the sentenced is recovered.

b) when the sentenced is pregnant or she has a baby under one year old. The execution shall be postponed until the child shall reach the age of one year.

c) when the immediate serving of the punishment may bring serious consequences to the sentenced or his family. The postponement of the execution in these cases may not exceed six months

d) in any other case evaluated by the court as particular, being postponed the execution up to three months.

2. Upon submission of the request, the court has the right to suspend the execution of the decision until that is examined.

3. The decision of the court is subject to appeal.

Article 477
Conditional release

1. The court of the place of the execution orders the release on bail and revokes it, according to the criteria provided by the Criminal Code.

2. The request may not be renewed if six months have passed from the day the decision rejecting the request has become final.

Article 478

Release of prisoner

1. The court of the place of the execution may decide the release of the prisoner when the continuation of the imprisonment may threaten his life.

Article 479
Revocation of the decision because of abrogation of the criminal offence

1. In case of abrogation or constitutional unlawfulness of the criminal provision, the court revokes the sentence declaring that the fact is not provided as a criminal offence. The same way is acted in case of dismissal or acquittal because the criminal offence no longer exists.

Article 480
Other powers

1. In the stage of the execution, the court is competent to decide the termination of the criminal offence after the punishment, the termination of the punishment, the confiscation or the restitution of confiscated objects, as well as for any case provided by law.
2. In case is verified that the criminal offence or the punishment have no longer exist, the court declares this even ex-officio, taking the respective steps.

CHAPTER III
CRIMINAL RECORDS

Article 481
Criminal record office

1. In the criminal record office which is under the Ministry of Justice, there are deposited the abridgements of the decisions for the persons tried for criminal matters.

Article 482
Entries in the criminal record book

1. In the criminal record there are registered by abbreviations:
a) the sentences, once they become final;
b) the sentences rendered by the court in the stage of execution;
c) the decisions related to the execution of supplementary sentences;
d) decisions of acquittal and dismissal.

Article 483
Deleting entries

1. The notes in the register are cancelled after the reception of the official notification of the death of the person to whom belong the notes or when he reaches the age of eighty.
2. There shall also be cancelled the notes related to:
a) decisions revoked due to review or abrogation of the criminal offence;

b) the decisions of acquittal or dismissal on expiry of ten years from the date on which the decision has become final;

c) decisions of punishment for contraventions when a fine penalty is involved, on expiry of ten years from the day when the decision has been executed.

Article 484
Criminal record certificates

1. The authorities of justice state administration and entities in charge with public services are entitled to take certificates of notes of a said person when the certificate is necessary for their assignment.

2. The prosecutor may request the certificate herein of for the defendant or the sentenced and, by authorisation of the court, he and the defence lawyer may also request certificate for the injured persons and witnesses.

3. The person subject to the note in the criminal record is entitled to take the respective certificate and he has no obligation to explain the reasons in the request.

CHAPTER IV
PROCEDURAL EXPENSES

Article 485
Expenses suffered by the state

1. The criminal procedural expenses are paid in advance by the state, except those related to the acts requested by the private parties.

2. The procedural expenses include the expenditures during all the stages of the proceedings for examinations, experiments, expertise, notifications, for the defence lawyers appointed ex-officio and any other expense duly recorded.

3. In the final decision the court defines the obligation to pay the expenses paid in advance by the state.

Article 486
Payment of the procedural expenses

1. The obligation to pay procedural expenses are executed by the bailiffs office.

2. In case of insolvency, the bailiff's office informs the financial police, which obtains data on the real financial situation of the debtor and on any changes of it.

Article 487
Solution to the claims on expenses

1. The claims related to procedural expenses are subject to decisions of the court which has rendered the decision and which acts under the rules provided by article 471.

TITLE X

JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES

CHAPTER I
EXTRADITION

SECTION I
EXTRADITION ABROAD

Article 488
Meaning of extradition

1. The surrender of a person to a foreign country to execute a sentence by imprisonment or the delivery of an act, which proves his proceedings for a criminal offence, can be made only by means of extradition.

Article 489
Application for extradition

1. The extradition is permitted only upon request submitted to the Minister of Justice.
2. The request for extradition are attached :

a) the copy of the sentenced by imprisonment or of the act of proceedings;

b) a report of the criminal offence in charge of the person subject to extradition indicating the time and the place of the commission of the offence and its legal qualification;

c) the text of legal provisions to be applied, indicating whether for the criminal offence subject to extradition the law of the foreign country provides death penalty.

d) personal data and nay other possible information which supports to define the identity and the citizenship of the person subject to extradition.

3. When several requests for extradition compete the Minister of Justice sets forth the order of examination. He takes into consideration all of the circumstances of the case and, particularly the date of the reception of the request, the importance and the place where the criminal offence is committed, the citizenship and the domicile of the person subject to request, as well as the possibility of a re-extradition by the requesting country.

4. In case for a sole offence the extradition is requested simultaneously by several countries it shall be provided to the country subject to the criminal offence or to the country within which territory has been committed the criminal offence.

Article 490
Conditions on extradition

1. The extradition is permitted by expressed condition that the person subject to extradition shall not be prosecuted, shall be not sentenced nor shall he be surrendered to another country for a criminal offence which has occurred before the request for extradition and which differs from that which the extradition is provided for.
2. The requirements of the paragraph 1 shall be not considered when:

a) the extraditing party gives expressed consent that the extradited is prosecuted even for another criminal offence and the extradited does not mind;

b) the extradited, although has been able, has not left the territory of the country he is extradited. After thirty days from his release or after has left is returned voluntarily.

3. The Minister of Justice that permits the extradition may impose even other requirements which he considers as appropriate.

Article 491
Dismissal of the extradition application

1. The extradition may not be provided:

a) for an offence of a political nature or when it results that it is requested for political reasons.

b) when there are grounds to think that the person subject to extradition shall be subjected to persecution or discrimination due to race, religion, sex, citizenship, language, political belief, personal or social state or cruel, inhuman or degrading punishment or treatment or acts which constitute violation of fundamental human rights.

c) when the person subject to the request for extradition has committed a criminal offence in Albania.

ç) when he is being tried or has been tried in Albania regardless the criminal offence has been committed abroad.

d) when the criminal offence is not provided as such by the Albanian legislation;

e) the Albanian state has provided an amnesty for this offence;

f) when the requested person is Albanian citizen and there is no agreement otherwise providing;

g) when the law of the requesting state does not provide the prosecution or the punishment for the same.

Article 492
Actions of the prosecutor

1. When receives a request for extradition from a foreign country, the Minister of Justice, if does not rejects it, shall send along with the documents to the prosecutor in the competent court.

2. The prosecutor, after receiving the request, orders the appearance of the interested person in order to identify him and to obtain his eventual consent for the extradition. The interested is explained the right to be assisted by a defence lawyer.

3. The prosecutor, through the Minister of Justice, requests from the foreign authorities the documents and the information which he considers necessary.

4. Within three months from the date on which the request for extradition has arrived, the prosecutor submits the request to the court for examination.

5. The request of the prosecutor shall be deposited in the secretary of the court along with the acts and attached objects. The secretary shall take care of the notification of the person subject to extradition, his defence lawyer and the eventual representative of the requesting country who, within ten days, have the right to access to the documents and to issue copies of them as well as to examine the attached objects and to present memos.

Article 493
Coercive measures and sequestrations

1. Upon request of the Minister of Justice, presented through the prosecutor, the person subject to request for extradition may be subjected to coercive measures and an order

imposing the attachment of the real evidence and of the objects related to the criminal offence for which is requested the extradition may be issued.

2. The imposing of the coercive measures shall be subjected to the provisions of the title V of this Code, as far as this can be done, considering the requirements that provide that the person subject to extradition shall not try to evade the extradition.

3. The coercive measures and the attachment shall be not imposed when there are reasons to believe that the requirements to provide a decision in the favour of extradition do not exist.

4. The coercive measures are revoked when within three months from the start of their execution it has not terminated the proceedings before the court. Upon the request of the prosecutor the time period can be prolonged, but not longer than one month, when necessary to make particularly complex verifications.

5. The authority competent to render decision on the basis of the paragraphs herein, is the district court or, during the proceedings before the court of appeal, that one.

Article 494
Temporary execution of coercive measures

1. Upon request of the foreign country, presented by the Minister of Justice through the prosecutor in the competent court, the court may impose temporarily a coercive measure before the request for extradition arrives.

2. The measure may be imposed when:

a- the foreign country has declared that the person has been subjected to a measure restricting his personal freedom or to a sentence by imprisonment and that it is going to present request for extradition;

b- the foreign country has presented circumstantial data regarding the criminal offence and sufficient elements for the identification of the person;

c- there is the eventual event of his escape.

3. The competency to impose the measure shall belong to, respectively, the court of the district where in which territory the person has the domicile, residence or the dwelling- house or the court of the district where he is. In case the competency cannot be determined by the above ways, competent shall be the court of Tirana district.

4. The court may also order the attachment of the real evidence and of the objects pertaining to the criminal offence.

5. The Minister of Justice gives notice to the foreign country of the temporary coercive measure and of the eventual attachment.

6. The coercive measures are revoked if, within eighteen days and anyhow in a maximum of forty days from the notification herein of, the request for extradition and the documents enclosed do not arrive to the Ministry of Justice.

Article 495
Arrest by the judicial police

1. In case of urgency, the judicial police may carry out the arrest of the person who is subject to request for temporary arrest. It also carries out the attachment of the real evidence of the criminal offence and of the objects connected with it.

2. The authority which has carried out the arrest shall immediately inform the prosecutor and the Minister of Justice. The prosecutor, within forty-eight days, shall make

the arrested available to court of the territory where the arrest has taken place, sending also the relevant documents.

3. The court, within forty eight hours from the arrest, approves it if there are the requirements or orders the release of the arrested person. The decision rendered by the court shall be informed to the Minister of Justice.

4. The arrest shall be revoked in case the Minister of Justice does not request, within ten days from the approval, its continuance.

5. The copy of the decision rendered by the court regarding the coercive measures and attachments, in accordance with these articles, shall be notified to the prosecutor, interested person and his defence lawyers who may appeal to the court of appeal.

Article 496
Right of the person under coercive measure to be heard

1. In case a precautionary measure is imposed, the court, as soon as possible and anyway not later than five days after the execution of the measure or its evaluation, makes sure of the identity of the person and takes its eventual consent for extradition, noting this in the minutes.

2. The court makes known to the interested person the right to a defence lawyer and, ex- officio, if he is absent, can appoint another defence lawyer. The defence lawyer must be notified, at least twenty-four hours before for the above-mentioned actions and has the right to participate in them.

Article 497
Hearing the extradition application

1. After the reception of the request of the prosecutor, the court fixes the hearing and notifies, at least ten days in advance, the prosecutor, the person subject to request for extradition, his defence lawyer and the eventual representative of the requesting state.

2. The court collects data and makes the necessary verifications and hears the persons summoned to appear before the trial.

Article 498
Court decision

1. The court renders the decision in favour of the extradition when it possesses important data on the guilt or when there is a final decision. In this case, when there is a request of the Minister of Justice, presented through the prosecutor, the court decides the holding into custody of the person who should be extradited and who is in free state, as well as the attachment of the real evidence and objects which belong to the criminal offence.

2. The court renders the decision rejecting the extradition in cases provided for the non-acceptance of the request for extradition.

3. When the court renders the decision against extradition, the extradition cannot be executed.

4. The decision against the extradition prohibits the rendering of a successive decision in the favour of extradition as a result of a new request presented for the same facts by the same state, except when the request is based on elements that are not evaluated by the court.

5. The decision of extradition regarding the request for extradition may be appealed to the court of appeal by the interested person, his defence lawyer, the prosecutor and the representative of the requesting state, according to the general rules of appeal.

Article 499
Powers on extradition

1. The Minister of Justice decides for the extradition within thirty days from the date the decision of the court has become final. After the expiration of this time period, even in case the decision is not rendered by the Minister, the person subject to extradition, if imprisoned, shall be released.

2. The person shall be released even in case the request for extradition is rejected.

3. The Minister of Justice communicates the decision to the requesting state and, when this is favourable, the place of the surrender and the date by which it is expected to start. The time period of the surrender is fifteen days from the fixed date and, upon motivated request of the requesting state, it may be also extended to fifteen other days. For reasons that do not depend on the parties it can be it can be set another day for surrender but always respecting the time periods defined by this paragraph.

4. The decision of extradition shall lose its effect and the extradited shall be released in case the requesting state does not act, within the fixed time period, to receive the extradited.

Article 500
Suspension of handing over

1. The execution of extradition is suspended when the extradited should be tried in the territory of Albanian State and must serve a punishment for criminal offences committed before or after that subject to extradition. But the Minister of Justice, after listening the competent proceeding authority of the Albanian state or the one of the execution of sentence, might order the temporary surrender in the requesting state of the person subject to extradition, defining the time periods and the way how to operate.

2. The Minister may agree the rest of the punishment to be served in the requesting state.

Article 501
Extending extradition and re-extradition

1. In case of new request for extradition, submitted after the delivery of the extradited and which subject is a criminal offence occurred before the delivery, different from that subject to the provided extradition, there are respected, as far as they are applicable, the provisions of this chapter. The request must be attached to the statements of the extradited, made before the judge of the state requesting the extension of the extradition.

2. The court proceeds in absentia of the extradited.

3. It shall not be any trial in case the extradited, by his statements provided in paragraph 1, has accepted the extension of extradition.

4. The above provisions are also applied in case the requesting state, which is surrendered the person, requests the consent for extradition of the same person in another state.

Article 502

Transiting

1. The transit through the territory of the Albanian state of an extradited person from a state to another, is authorised, upon request of the latter, by the Minister of Justice, if the transfer does not impair the sovereignty, the security or other state interests.

2. The transfer is not authorized:

a) when the extradition is provided for facts which are not provided as criminal offences by the Albanian law;

b) in cases provided by article 491, paragraph 1;

c) when an Albanian citizen, for whom the extradition in the state which has requested the transit transfer should not have been provided, is involved.

3. The authorization is not required in case the transit transfer is made by plain and there is not expected the landing in the Albanian territory. But, when the landing takes place, there shall apply, as far they are in accordance with the fact, the provisions for the precautionary measures.

Article 503
The costs of extradition

The expenses done in the Albanian territory are covered by the Albanian party when there is no other agreement.

SECTION II
EXTRADITION FROM ABROAD

Article 504
Application of Extradition

1. The Minister of Justice is competent to request from a foreign state the extradition of the proceeded or sentenced person, who must be subjected to a measure that restricts the individual freedom. In this case, the prosecutor in the court of the territory where the proceedings take place or the sentence is rendered, makes a request to the Minister of Justice, sending the necessary acts and documents. In case does not accept the request, the Minister notifies the authority which has made it.

2. The Minister of Justice is competent to decide about the conditions eventually imposed by the foreign country to provide the extradition, when they do not run against the main principles of the Albanian rule of law. The proceeding authority is obliged to respect the accepted conditions.

3. The Minister of Justice may decide, for the purpose of extradition, the searching abroad for the proceeded or sentenced person and his temporary arrest.

4. The detention abroad, as a consequence of a request for extradition introduced by the Albanian state, is calculated in the duration of the detention, according to the rules provided in title V of this Code.

CHAPTER II
INTERNATIONAL REGATORY LETTERS

SECTION I
REGATORY LETTERS FROM ABROAD

Article 505
Ministry of Justice Powers

1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except when evaluates that the requested actions impair the sovereignty, the security and important interests of the state.

2. The Minister does not grant support to the letter of application when it is certain that the requested actions are prohibited expressly by law or contradict the fundamental principles of the Albanian rule of law. The Minister does not grant support to the letter of application when there are motivated reasons to think that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence to the performance of the process, and when it is certain that the defendant has expressed freely his consent for the letter of application.

3. In cases the letter of application has as subject the summons of the witness, expert or a defendant before a foreign judicial authority, the Minister of Justice does not grant support to the letter of application when the requesting state does not give sufficient guarantee for the un-encroachment of the cited person.

4. The Minister has the right to not grant support to the letter of application in case the requesting state does not give the necessary guarantee of reciprocity.

Article 506
Judicial Proceedings

1. The foreign letter of application cannot be executed unless the court of the place where he must be proceeded has rendered a favourable decision rendered.

2. The district prosecutor, after taking the acts from the Minister of Justice, submits his request to the court.

3. The court disposes of the execution of the letter of application by a decision.

4. The execution of the letter of applications not accepted:

a) in cases the Minister of Justice does not grant support to the letter of application

b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 507
Execution of letters rogatory

1. The decision for the execution of the letter of application shall appoint the panel that must carry out the requested action.

2. For the performance of the requested actions the provisions of this Code shall apply, except in case the special rules requested by the foreign judicial authority, which are not in contrary with the principles of the Albanian rule of law, must be observed.

Article 508
Summoning witnesses requested by a foreign authority

1. The citation of the witnesses, residing in the territory of the Albanian state, to appear before the foreign judicial authority, are sent to the prosecutor of respective district, who takes measures for the notification, acting as in case of notification of the defendant in free condition.

SECTION II
LETTERS ROGATORY FOR ABROAD

Article 509
Service of letters rogatory to foreign authorities

1. The letters of application of the courts and prosecution offices, addressed to foreign authorities for notification and the taking of the proofs, shall be sent to the Minster of Justice who takes the measures to send them through diplomatic channel.

2. When ascertains that the security or other important interests of the state could be in danger the Minister, within thirty days from the reception of the letter of application, decides to give it up.

3. The Minister communicates to the proceeding authority that has presented the request, the date of its reception and the notification that he has sent the letter of application or the order to give up the procedure in relation to the letter.

4. In case of urgency the proceeding authority may order the sending of the letter of application through diplomatic channel informing the Minister of Justice.

Article 510
Inviolability of the person summoned

1. The person summoned on basis of the letter of application, when appears, may not be subjected to restrictions of personal freedom due to facts occurred before the writ of summons.

2. The un-encrochement provided by paragraph 1 shall cease when the witness, the expert or the defendant, even having the possibility, has not left the territory of the Albanian state, after the expiration of fifteen days from the moment his presence is no longer requested by the judicial authority or when, after has left, he has come back voluntarily.

Article 511
Value of the documents received through letter rogatory

1. When the foreign country has imposed conditions for the usage of the requested acts, the Albanian proceeding authority must respect them in case they do not run against the prohibitions provided by law.

CHAPTER III
EXECUTION OF CRIMINAL DECISION

SECTION I
EXECUTION OF FOREIGN CRIMINAL DECISION

Article 512
Recognition of foreign criminal decision

1. The Minister of Justice, when receives a sentence rendered abroad for Albanian citizens or foreigners or persons without citizenship, but residing in the Albanian state or for persons proceeded criminally in the Albanian state shall send to the prosecutor in the district court of the domicile or residence of the person a copy of the decision and relevant documents, along with the translations in Albanian language.

2. The Minister of Justice demands the recognition of a foreign sentence when judges that in accordance with an international convention this decision must be executed or must be recognised other effects in the Albanian state.

3. The prosecutor shall submit a request to the district court for the recognition of the foreign sentence. Through the Minister of Justice he may request from foreign authorities the necessary information.

Article 513
Recognition of criminal decision of foreign courts on civil liabilities

1. Upon request of the interested, in the same proceedings and by the same decision, may be declared valid the civil dispositions of the foreign sentence in relation to the obligation to restitute the property or to compensate for the damage.

2. In other cases the request is presented, by the one who has an interest, to the court where the civil dispositions of the foreign sentence should be executed.

Article 514
Terms of recognition

1. The foreign court sentence may not be recognized when:

a) the sentence has not become final according to the laws of the state in which it has been rendered,

b) the sentence contains dispositions which run against the principles of the rule of law of the Albanian state,

c) the sentence has been not rendered by an independent and impartial court or the defendant has been not cited to appeal before the trial or has been not recognized the right to be questioned in a language that he understands and to be assisted by a defence lawyer,

ç) there are grounded reasons to think that the proceedings have been influenced by considerations regarding race, religion, sex, language or political beliefs,

d) the fact for which is rendered the sentence is not provided as a criminal offence by the Albanian law,

dh) for the same fact and against the same person in the Albanian state has been rendered a final decision or a criminal proceeding is in course.

Article 515
Coercive measures

1. Upon request of the prosecutor the court that is competent to recognize a foreign sentence may impose a coercive measure to the sentenced person who is in the Albanian territory.

2. The chairman of the court, within five days from the execution of the coercive measure, takes steps regarding the identification of the person and notifies him the right to a defence lawyer.

3. The coercive measure imposed under this article shall be revoked when from the start of its execution have expired three months without being rendered the decision of recognition from the district court or six months without becoming final the decision.

4. Revocation and replacement of the coercive measure is subject to decision of district court.

5. The copy of the decision rendered by the court is notified, after the execution, to the prosecutor, the sentenced from the foreign court and his defence lawyer who may appeal to the court of appeal.

Article 516
Issuing the decision

1. When recognises a foreign sentence the court determines the punishment to be served in the Albanian state. It converts the punishment imposed in the foreign sentence into one of the sentences provided for the same fact by the Albanian law. This punishment shall be similar as a nature with that which is rendered by the foreign sentenced. The duration of the sentence may not exceed the maximal limit provided for the same fact by the Albanian law.

2. When the foreign sentence does not specify the duration of the sentence, the court provides it on basis of criteria indicated in the Criminal Code.

3. When the execution of the sentence rendered in the foreign state is suspended on parole the court, by the decision of recognition, in addition to other issues, does also dispose of the suspension on parole of the sentence. The same does the court when the defendant has been released on parole in the foreign country.

4. In order to specify the punishment by fine, the sum specified in the foreign sentence shall be converted in equal value into Albanian currency, observing the exchange rate of the day on which the recognition has been provided.

5. The decision of recognition regarding the execution of a confiscation shall also order the execution of the confiscation.

Article 517
Sequestration

1. Upon request of the prosecutor, the competent court may impose the attachment of sequestrable objects.

2. The decision is subject to appeal.

3. Shall be respected, as far as they are applicable, the provisions regulating the preventive attachment.

Article 518
Execution of the foreign decision

1. After being recognised, the criminal sentences of foreign courts are enforced in conformity to Albanian law.
2. The prosecutor in the court that has made the recognition of a sentence takes the measures for its execution.
3. The sentence by imprisonment served in the foreign country is calculated for the effects of the execution.
4. The sum deriving from the execution of the fine penalty is paid into the bank of Albania. It may be paid into the state where the sentence is rendered, upon its request when that state, under the same circumstances should have decided the payment to be executed into the favour of the Albanian state.
5. The confiscated objects shall be delivered to the Albanian state. They are delivered, upon its request, to the state where the decision subject to recognition is rendered when this state is under the same circumstances should have decided the delivery in the Albanian state.

SECTION II
EXECUTION ABROAD OF ALBANIAN CRIMINAL DECISION

Article 519
Conditions for executing abroad

1. In cases provided by international conventions or by article 501, paragraph 2, the Minister of justice requests the execution the execution of the sentences abroad or gives the consent when it is requested by a foreign state.
2. The execution of a sentence by a restriction of personal liberty abroad may be requested or permitted only if the sentenced has become aware of the consequences, has declared freely that he gives consent and when the execution in the foreign state is appropriate to his social rehabilitation.
3. The execution abroad is also allowed when there are conditions provided by paragraph 2, if the sentenced is in the territory of the state subject to request and the extradition is rejected or anyway is not possible.

Article 520
Judgment

1. Before requesting the execution of a decision abroad the Minister of Justice shall send the acts to the prosecutor who presents a request to the court.
2. When it is necessary the consent of the sentenced, this should be given before the Albanian court. In case he is abroad the consent may be given before the Albanian counsellor authority or before the foreign court.

Article 521
Cases when execution of the sentence abroad is not allowed

1. The Minister of Justice may not request the execution abroad of a criminal sentence by restriction of personal liberty when there are grounds to think that the sentenced shall be subjected to persecution or discrimination acts due to race, religion, nationality, language or political beliefs or inhuman, cruel or degrading punishment and treatment.

Article 522
Application for pre-detention abroad

1. When it is requested the enforcement of a sentence restricting the personal liberty and the sentenced is abroad, the Minister of Justice requests his detention.
2. By the request for the execution of a confiscation the minister of Justice has the right to request the attachment of attachable objects.

Article 523
Suspension of Execution in Albanian State

1. The execution of the sentenced in the Albanian state is suspended once the execution in the foreign state has started.
2. The sentence may no longer be enforced in the Albanian state when, according to the foreign countries laws, it has been entirely served.

Article 524
Final Provisions

1. Code of Criminal Procedure of the People's Socialist Republic of Albania, approved by the law number 6069, dated 25.12.1979, along with amendments and ulterior modifications as well as any other provision running against this Code are abrogated.

Article

Procedural provisions pertaining to serious crime courts will be applied after coming into force of the law that sets the operating date of their activity

Article 525

1. This Code enters into force on 1 August 1995.

Promulgated by the decree no. 1059 dated 05.04.1995 of the President of the Republic of Albania, Sali Berisha.