LAW
No. 7905, dated 21.3.1995

CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ALBANIA

*(as amended by **Laws**: no. 7977, dated 26.7.1995; no. 8027, dated 15.11.1995; no. 8180, dated 23.12.1996; no. 8460, dated 11.2.1999; no. 8570, dated 20.1.2000; no. 8602, dated 10.4.2000; no. 8813, dated 13.6.2002; no. 9085, dated 19.6.2003; no. 9187, dated 12.2.2004; no. 9276, dated 16.9.2004; no. 9911, dated 5.5.2008; no. 10 054, dated 29.12.2008; no. 145/2013, dated 2.5.2013; no. 21/2014, dated 10.3.2014; no. 99/2014, dated 31.7.2014; no. 35/2017, dated 30.3.2017; no. 147/2020, dated 17.12.2020; no. 41/2021, dated 23.3.2021; and by the **Decisions of the Constitutional Court**: no. 55, dated 21.11.1997; no. 15, dated 17.4.2003; no. 5, dated 6.3.2009; and no. 31, dated 17.5.2012)*

(updated)

Pursuant to Article 16 of Law no. 7491, dated 29.4.1991, "On the main constitutional provisions", upon the proposal of the Council of Ministers,

THE PEOPLE'S ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

GENERAL PROVISIONS

Article 1
Scope of the Criminal Procedural Legislation

1. The criminal procedural legislation must guarantee fair, equal and due legal proceedings, protect personal freedoms and the lawful rights and interests of citizens, and contribute to the strengthening of the legal order and the implementation of the Constitution and State legislation.

Article 2
Compliance with Procedural Norms
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. The procedural provisions determine the rules on the manner of conducting criminal prosecution, investigation, and trial of criminal offenses, as well as the execution of judicial decisions. These rules are binding upon the subjects of criminal proceedings, state authorities, legal entities, and citizens.
2. The criminal procedural provisions shall also apply to juvenile defendants, unless otherwise provided by applicable special law.

Article 3
Independence of the court

1. The court shall be independent and shall render decisions in conformity with the law.
2. The court renders its judgment on the basis of evidence examined and verified in trial hearing.

Article 4
Presumption of Innocence
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. The defendant shall be presumed innocent until his/her guilt has been established by a final court judgment. Any doubt regarding the charge shall be assessed in favor of the defendant.
2. The court shall render a decision of conviction when the defendant is found guilty of the criminal fact attributed to him/her beyond any reasonable doubt.

Article 5
Restrictions on Personal Liberty

1. Personal liberty may be restricted by precautionary measures only in the cases and under the conditions provided by the law.
2. No one may be subjected to torture or humiliating punishment or treatment.
3. Persons convicted to imprisonment shall be guaranteed humane treatment and moral rehabilitation.

Article 6
Guarantee of Defense
(Words added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The defendant has the right to defend himself/herself in person or through the legal assistance of a defense counsel. When he/she lacks sufficient means, free legal defense by an attorney shall be ensured in the cases provided by this Code.
2. The defense counsel shall assist the defendant in guaranteeing his/her procedural rights and in safeguarding his/her lawful interests.

Article 7
Prohibition of Double Jeopardy
(Words amended in title and paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. No one may be tried more than once for the same criminal fact for which he/she has been adjudicated by a final decision, except when the retrial of the case has been ordered by the competent court.

Article 8
Use of the Albanian Language
(Sentence added to paragraph 2 and paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. The Albanian language shall be used in all stages of the proceedings.
2. Persons who do not know the Albanian language shall use their own language and, through an interpreter, shall have the right to speak and to be informed of the evidence and the documents, as well as of the conduct of the proceedings. Persons who are deaf and mute shall have the right to use the sign language.
3. The expenses for translation and interpretation shall be borne by the State.

Article 8/a
Evidence
(Added by Law no. 35/2017, dated 30.3.2017)

1. Facts in criminal proceedings shall be proven by any evidence, provided that such evidence does not infringe fundamental human rights and freedoms.
2. The proceeding authority shall collect and examine both the evidence incriminating the defendant and that which is in his/her favor.

Article 9
Restoration of Rights

1. Persons prosecuted in violation of the law or unjustly convicted shall have their rights restored and be compensated for the damage suffered.

Article 9/a
Rights of the Victim of the Criminal Offense
(Added by Law no. 35/2017, dated 30.3.2017)

1. During criminal proceedings, the victim shall have the rights provided for by this Code.
2. Public authorities shall ensure that victims of criminal offenses are treated with respect for their human dignity and are protected from re-victimization while exercising the rights provided by this Code.

Article 10
Implementation of International Agreements

1. Relationships with foreign authorities in the field of criminal law shall be governed by international agreements, recognized by the Republic of Albania, by generally accepted principles and norms of international law, as well as by the provisions of this Code.

PART ONE

TITLE I
SUBJECTS

CHAPTER I
THE COURT

SECTION I
FUNCTIONS AND COMPOSITION OF THE COURTS

Article 11
Functions of the Court

1. The court is the authority that renders justice.
2. No one may be declared guilty or convicted for the commission of a criminal offense without a court judgment.

Article 12
Criminal Courts

Criminal justice is rendered by:
a) Criminal Courts of First Instance;
b) Courts of Appeal;
c) The Supreme Court.

Article 13
Criminal Courts of First Instance and their Composition
(Amended by Law no. 8602, dated 10.4.2000; Law no. 8813, dated 13.6.2002; Law no. 9276, dated 16.9.2004; Law no. 9911, dated 5.5.2008; and Law no. 35/2017, dated 30.3.2017)

1. Criminal offenses shall be adjudicated in the first instance by judicial district courts and by the Court against Corruption and Organized Crime, in accordance with the rules and responsibilities provided by this Code.
2. The judicial district courts and the Court against Corruption and Organized Crime shall adjudicate with a single judge the following matters:
a) petitions of the parties during the preliminary investigations;
b) appeals against the prosecutor's decision not to initiate criminal proceedings or to dismiss the case for criminal misdemeanors;
c) prosecutor's petitions for dismissal of the charge or the case for crimes;
ç) prosecutor's petitions for referring the case to trial;
d) prosecutor's petitions for approval of the penal order;
dh) petitions related to the enforcement of criminal judgments;
e) petitions for reinstatement of procedural time terms;
ë) petitions related to judicial relations with foreign authorities, pursuant to Title X of this Code;
f) any other requests provided for by this Code or by special laws.
3. The judicial district courts shall adjudicate with a single judge the criminal offenses for which the punishment prescribed is a fine or imprisonment of not more than 10 years. Other criminal offenses shall be adjudicated by a judicial panel composed of three judges.
3/1. The Court against Corruption and Organized Crime shall adjudicate with a judicial panel composed of three judges, unless provided otherwise by this Code. This court shall adjudicate with a single judge the criminal charges against public officials, pursuant to Article 75/a of this Code, for criminal offenses other than corruption and organized crime, for which the punishment prescribed is a fine or imprisonment of not more than 10 years.
4. The trial of juvenile defendants shall be conducted by the respective sections established by law. These sections shall also adjudicate adult defendants accused of committing criminal offenses against minors.
5. The provisions of paragraph 4 of this Article shall not apply in cases specified in paragraph 1 of Article 80 of this Code.

Article 14
Courts of Appeal and their Composition
(Amended by Law no. 8813, dated 13.6.2002; paragraph 3 amended by Law no. 9085, dated 19.6.2003 and by Law no. 9276, dated 16.9.2004; paragraph 2 repealed by Law no. 9911, dated

5.5.2008; paragraph 3 amended by Law no. 35/2017, dated 30.3.2017; paragraph 4 amended by Law no. 41/2021, dated 23.3.2021)

1. The Courts of Appeal shall review in second instance, with a judicial panel composed of three judges, the cases adjudicated by the judicial district courts.
2. Repealed.
3. The Court of Appeal against Corruption and Organized Crime shall review in second instance, with a judicial panel composed of three judges, the cases adjudicated by the Court of First Instance against Corruption and Organized Crime.
4. The adjudication of petitions provided for in paragraph 2 of Article 13 of this Code shall be conducted by a single judge.

Article 14/a

The Supreme Court and its Composition

(Added by Law no. 8813, dated 13.6.2002 and amended by Law no. 35/2017, dated 30.3.2017; and by Law no. 41/2021, dated 23.3.2021)

The Supreme Court shall adjudicate in chambers with a judicial panel composed of three judges. The Supreme Court adjudicates the unification and development of judicial practice in chambers with a judicial panel composed of five judges, and the amendment of judicial practice in joint chambers.

SECTION II
CASES OF INCOMPATIBILITY WITH THE
FUNCTION OF JUDGE IN ADJUDICATION

Article 15

Incompatibility on Grounds of Participation in the Proceedings

(Words added to paragraph 1, paragraph 2 amended, and words of paragraph 3 amended by Law no. 35/2017, dated 30.3.2017; first sentence of paragraph 2 amended by Law no. 41/2021, dated 23.3.2021)

1. A judge who has rendered or participated in the rendering of a decision at one instance of the proceedings may not exercise the functions of judge at other instances, nor participate in retrial or review after the annulment of the decision.
2. A judge who has examined the petitions of the parties during the preliminary investigations or at the preliminary hearing for the same proceeding may not participate in the trial, except in cases otherwise provided by this Code. A judge who examines the petitions of the parties during the preliminary investigations may not exercise the functions of the judge of the preliminary hearing in the same proceeding.
3. A person may not serve as judge in the same proceeding if he or she has acted as prosecutor, or has performed functions of the judicial police, or has served as defense counsel, representative of a party, or as witness, expert, victim, or person who has filed a criminal complaint or appeal in the proceeding.

Article 16

Incompatibility on Grounds of Family, Blood or In-Law Relations

(Words added by Law no. 35/2017, dated 30.3.2017)

1. Persons who are spouses, cohabitants, close relatives (antecedents, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of brothers and sisters) or close in-laws (father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepson, stepdaughter, stepfather and stepmother) with each other or with participants in the trial may not serve as judges in the same proceeding.

Article 17
Recusal
(Words added to paragraphs 1 and 2, and paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. A judge has the duty to recuse himself or herself from adjudicating a specific case:
a) when he or she has an interest in the proceeding, or when one of the private parties or a defense counsel is a debtor or creditor of the judge, his or her spouse, cohabitant, or children;
b) when he or she is the guardian, representative, or employer of the defendant or of one of the private parties, or when the defense counsel or representative of one of these parties is a close relative of the judge or of the judge's spouse;
c) when he or she has given advice or has expressed an opinion regarding the subject matter of the proceeding;
ç) when there exist disputes between the judge, the judge's spouse, or a relative of the judge with the defendant or one of the private parties;
d) when one of the judge's relatives or his/her spouse's relatives has been harmed or damaged by the criminal offense;
dh) when one of the judge's relatives or his/her spouse's relatives exercises or has exercised the functions of prosecutor in the same proceeding;
e) when the judge is in one of the conditions of incompatibility provided for by Articles 15 and 16;
ë) when there exist other important grounds of partiality.
2. The declaration of recusal shall be submitted to the chairperson of the respective court, who shall approve or reject it by a reasoned decision.
3. Chairpersons of the hierarchically superior courts shall decide on the declaration of recusal of any courts' chairperson. A panel of the Supreme Court composed of three judges shall decide on the declaration of recusal of the Chairperson of the Supreme Court.

Article 18
Disqualification of the Judge

1. The parties may request the disqualification of the judge:
a) in the cases provided for by Articles 15, 16, and 17;
b) when, in the exercise of his or her functions and before the rendering of the decision, he or she has expressed an opinion on the facts or circumstances which are the subject of the proceeding.
2. The judge may not render or participate in the rendering of the judgment until the decision declaring the petition for disqualification inadmissible or the decision to reject such petition has been issued.

Article 19
Time Limits and Forms for Requesting Disqualification

1. The petition for disqualification of a judge shall be made in the hearing immediately after establishing the legal standing of the parties.
2. When the ground for disqualification arises or is discovered after establishing the legal standing of the parties, the request must be made within three days from its ascertainment. When the ground arises or is discovered during the hearing, the request for disqualification must be made before the conclusion of the hearing.
3. The petition shall contain the grounds and the evidence and shall be submitted in writing. It shall be filed, together with the relevant documents, with the Clerk's Office of the competent court. A copy of the petition shall be delivered to the judge whose disqualification is sought.
4. When not submitted personally by the parties, the petition may be submitted through the defense counsel or a special representative. The power of attorney must indicate the grounds for which disqualification is requested; otherwise, it shall not be accepted.

Article 20
Concurrence of Recusal and Disqualification

1. A request for disqualification shall be considered not to have been made when, after its submission, the judge declares recusal and the recusal is accepted.

Article 21
Competence to Decide on Disqualification
(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; paragraph 1/1 amended and words added to paragraph 3 by Law no. 35/2017, dated 30.3.2017; paragraph 2 amended by Law no. 41/2021, dated 23.3.2021)

1. The petition for the disqualification of judges shall be examined in chambers by another judge of the same court.
1/1. The judge whose disqualification is sought shall submit in writing his or her opinion regarding the disqualification petition.
2. For a petition seeking the disqualification of a judge of the Supreme Court, the decision shall be taken by another judge of that court, different from the judges of the chamber to which the judge whose disqualification is sought belongs. The decision is final.
3. A petition for disqualification, as well as the repetition of the request on the same grounds, against judges designated to decide on the disqualification, shall not be accepted.

Article 22
Decision on the Disqualification Petition
(Words added to paragraphs 1 and 3 by Law no. 35/2017, dated 30.3.2017; paragraph 4, second sentence amended by Law no. 41/2021, dated 23.3.2021)

1. When the disqualification petition has been submitted by a person not entitled to do so, or without respecting the time limits or forms provided by Article 19, or when the request for recusal from adjudicating the case has been accepted by the chairperson, or when the reasons presented are not based in law, the court examining the complaint shall declare it inadmissible by decision.
2. The court may temporarily suspend any procedural activity or limit it to the execution of the urgent actions.
3. The court, after obtaining the necessary information, shall decide on the disqualification petition within 48 hours from its submission.

4. The decision issued pursuant to the above paragraphs shall be notified to the judge whose disqualification is sought, the prosecutor, the defendant, and the private parties. An appeal may be filed against it together with the final decision.

Article 22/a
Sanctions for a Petition Declared Inadmissible
(Added by Law no. 41/2021, dated 23.3.2021)

The decision declaring inadmissible the disqualification petition or not accepting the disqualification of the judge shall include the respective court costs, as well as a fine of up to 50,000 ALL, to be imposed on the party who, in abuse, has submitted an unjustified petition.

Article 23
Rulings when the Declaration of Recusal or the Disqualification Petition is accepted

1. When the declaration of recusal or the disqualification petition is accepted, the judge may not perform any procedural act.
2. The ruling accepting the declaration of recusal or the disqualification petition shall determine whether and to what extent the actions previously performed by the judge who has recused himself/herself or whose disqualification has been requested shall remain valid.
3. The provisions on recusal and disqualification of the judge shall also apply to the court clerk of the hearing and to the persons assigned to carry out transcriptions or phonographic or audiovisual recordings. The decision on their recusal or disqualification shall be rendered by the court adjudicating the case.

CHAPTER II
PROSECUTOR

Article 24
Functions of the Prosecutor
(Paragraph 5 added by Law no. 8460, dated 11.2.1999; words added to paragraph 5 by Law no. 8813, dated 13.6.2002; paragraphs 1, 2, 3, 4, 5 amended and paragraph 6 added by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor exercises criminal prosecution and represents the accusation in court on behalf of the State, directs and supervises preliminary investigations and the activity of the judicial police, and also personally conducts any investigative action deemed necessary, takes measures for the enforcement of criminal judgments, oversees their execution, as well as exercises the functions of judicial cooperation with foreign authorities, in accordance with the rules established in this Code.
2. The prosecutor has the right not to initiate proceedings, to dismiss the charge or the case, to request from the court the dismissal of the charge or the case, as well as to request the referral of the case to trial, in the cases provided by this Code.
3. The prosecutor has the right to conclude cooperation agreements, drafted in implementation of Article 37/a of this Code, and of special legal provisions on the protection of witnesses and collaborators of justice.
4. The prosecutor may reach an agreement on the conditions for the admission of guilt and the determination of the sentence, in accordance with Article 406/d et seq. of this Code.

5. The prosecutor may submit to the court a petition for approval of the penal order pursuant to the provisions of this Code.
6. When the victim's criminal complaint is not required, criminal prosecution shall be exercised ex officio.

Article 25

Exercise of the Prosecutor's Functions

(Paragraphs 2 and 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The functions of the prosecutor shall be exercised:
a) in preliminary investigations and in first-instance trials, by prosecutors attached to the courts of first instance;
b) in the trials of appealed cases, by prosecutors attached to the courts of appeal and to the Supreme Court.
2. In the exercise of his/her functions, the prosecutor shall be independent. The rules governing the manner in which the prosecutor exercises his/her functions are provided by law.
3. For the criminal offenses provided in Article 75/a of this Code, the functions referred to in Article 24 shall be exercised, in all instances, by prosecutors of the Special Prosecution Office.

Article 26

Recusal of the Prosecutor

(Words added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor has the duty to recuse himself/herself when there exist grounds of partiality in the cases provided for by Article 17.
2. The decision on the declaration of recusal shall be taken, according to their respective competences, by the chairperson of the prosecution office attached to the court of first instance, by the chairperson of the prosecution office attached to the court of appeal, by the Prosecutor General, and by the Chairperson of the Special Prosecution Office. As regards the chairpersons of prosecution offices, the decision shall be taken by the chairperson of the prosecution office of the next higher instance.
3. By the decision accepting the declaration of recusal, the recused prosecutor shall be replaced by another prosecutor.

Article 27

Cases for Replacement of a Prosecutor

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; words added to paragraph 1 and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. The chairperson of the prosecution office shall decide on the replacement of the prosecutor when there exist serious reasons related to duty, in accordance with the law, as well as in the cases provided for in Articles 16 and 17, first paragraph, letters "a", "b", "ç", "d" and "dh". In other cases, the prosecutor may be replaced only with his/her consent.
2. Repealed.
3. The rules established for the recusal and replacement of the prosecutor shall also apply to the judicial police officer.

Article 28

Transfer of the Case Files to another Prosecution Office
(Paragraph 3 added and numbering amended by Law no. 35/2017, dated 30.3.2017)

1. When, during the preliminary investigations, the prosecutor deems that the criminal offense falls within the jurisdiction of a court other than the one where he or she exercises his/her functions, he or she shall immediately transfer the case files to the prosecution office attached to the competent court.
2. If the prosecutor who has received the case files deems that the prosecution office which transferred the case files should proceed, he or she shall notify the Prosecutor General, who, after examining the case files, shall establish which prosecution office must proceed and shall notify the prosecution offices concerned.
3. If the prosecutor deems that the criminal offense falls within the jurisdiction of the Special Prosecution Office, or is informed that an investigation is being conducted by this office concerning the same fact and against the same person, he or she shall transfer the case files to the Chairperson of the Special Prosecution Office, who, after examining them, shall decide either to accept the case files or to return them to the previous prosecution office. The latter is obliged to accept the case files.
4. The investigative actions conducted prior to the transfer or assignment made pursuant to paragraphs 1 and 2 shall be valid and may be used in the cases and in the manner provided by law.

Article 29
Request for Case Files from another Prosecution Office
(Paragraph 3 added and numbering amended by Law no. 35/2017, dated 30.3.2017)

1. When the prosecutor is informed that preliminary investigations are being conducted by another prosecution office against the same person and for the same fact in relation to which he or she is proceeding, he or she shall notify without delay that prosecution office, requesting the transfer of the case files.
2. If the prosecutor who has received the request does not agree with it, he or she shall inform the Prosecutor General, who, after obtaining the necessary information, shall decide, in accordance with the rules on jurisdiction, which prosecution office must proceed, and shall notify the prosecution offices concerned. The designated prosecution office shall immediately be transferred the case files by the other prosecution office.
3. If the prosecutor of the Special Prosecution Office is informed that preliminary investigations are being conducted by another prosecution office against the same person and for the same fact in relation to which he or she is proceeding, he or she shall immediately notify the Chairperson of the Special Prosecution Office, who shall decide, in accordance with the rules on jurisdiction, which prosecution office must proceed. If he or she decides that jurisdiction lies with the Special Prosecution Office, he or she shall notify the designated prosecution office, which must transfer the case files.
4. The acts of preliminary investigation conducted by different prosecution offices shall be admissible and may be used in the cases and in the manners provided by law.

CHAPTER III
JUDICIAL POLICE

Article 30
Functions of the Judicial Police

(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The judicial police, also on its own initiative, shall get notice of criminal offenses, prevent the occurrence of further consequences, identify their perpetrators, conduct investigations, and collect everything that serves the enforcement of criminal law.
2. The judicial police shall perform any investigative act that has been ordered or delegated by the prosecutor.
3. The functions provided for in paragraphs 1 and 2 of this Article shall be carried out by judicial police officers. The investigators of the National Bureau of Investigation shall have the status of judicial police officers.

Article 31
Services and Sections of the Judicial Police
(Words removed from letter "a", letter "c" became "ç", and letter "c" added to paragraph 1, by Law no. 35/2017, dated 30.3.2017)

1. The functions of the judicial police shall be carried out:
a) by judicial police officers belonging to the authorities, which the law entrusts with the duty to conduct investigations, from the moment they get notice of the criminal offense;
b) by judicial police sections established at each district prosecution office and composed of judicial police personnel;
c) by the National Bureau of Investigation attached to the Special Prosecution Office;
ç) by the judicial police services provided for by law.

Article 32
Judicial Police Officers and Agents

1. The following shall be officers of the judicial police:
a) the directors, inspectors, and other members of the police of the Ministry of Public Order, to whom such a capacity is granted by special law;
b) the officers of the military police, the financial police, the forestry police, and of any other police, to whom such a capacity is granted by special law.
2. The following shall be agents of the judicial police:
a) the personnel of the public order police, to whom such a capacity is granted by special law;
b) the personnel of the military police, the financial police, and of any other police recognized by law, when they are on duty.
3. Persons, who are entitled by law to carry out the functions provided for by article 30, within the scope of the service entrusted to them and in accordance with their respective attributes, shall also be judicial police officers and agents.

Article 33
Functional Subordination of the Judicial Police
(Title and paragraphs 1, 2, and 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The judicial police shall be accountable to the prosecutor for the activity conducted during the criminal proceedings.
2. The judicial police shall perform the tasks assigned to it by the prosecutor and shall immediately inform him/her of their results.

3. The officers of the sections and services shall not be removed from the activity of the judicial police, except in the cases provided for by law.
4. The courts and prosecution offices shall have under their direct control the personnel of the sections and may make use of any service of the judicial police.

CHAPTER IV
THE DEFENDANT

Article 34
Acquisition of the Status of Defendant
(Paragraph added to point 1 by Law no. 8460, dated 11.2.1999; paragraph 4 added by Law no. 8813, dated 13.6.2002; paragraph 4 repealed by Law no. 35/2017, dated 30.3.2017)

1. A person acquires the status of defendant when the criminal offense is attributed to him/her by the act of notification of the charge, which contains sufficient information for taking him/her as a defendant. This act shall be notified to the defendant and to his/her defense counsel.
When, after a person has been taken as a defendant, new data emerge which modify or supplement the charge presented, the prosecutor shall issue a decision, which shall be notified to the defendant.
2. The status of defendant shall be retained in every state and instance of the proceedings until a final decision of dismissal, acquittal, or conviction has been rendered.
3. The status of defendant shall be re-acquired when the decision of dismissal is quashed or when the retrial of the proceedings is ordered.
4. Repealed.

Article 34/a
Rights of the Defendant
(Added by Law no. 35/2017, dated 30.3.2017)

1. The person under investigation or the defendant shall have the right:
a) to be informed, as soon as possible, in a language he or she understands, of the criminal offense for which he or she is being investigated, as well as of the grounds of the charges;
b) to use the language, he or she speaks or understands, or to use sign language, and to be assisted by a translator and interpreter if he or she has a disability in speaking or hearing;
c) to remain silent, to freely present his or her defense, and not to answer certain questions;
ç) to defend himself or herself personally or with the assistance of a retained defense;
d) to have a defense counsel provided by the State, if defense is mandatory or if he or she lacks the financial means to afford one, in accordance with the provisions of this Code and the effective legislation on legal aid;
dh) to meet privately and to communicate with the defense counsel representing him or her;
e) to have sufficient time and facilities for the preparation of his or her defense;
ë) to have access to the case materials, in accordance with the provisions of this Code;
f) to present evidence in support of his or her defense;
g) to question witnesses, experts, and other defendants during the trial;
gj) to exercise other rights provided for by this Code.
2. Before being interrogated for the first time or before the completion of acts in which his or her presence is required by law, the proceeding authority shall inform the defendant of the rights provided for in letters “a”, “b”, “c”, “ç”, “d”, “dh” and “e” of paragraph 1 of this Article, by providing him or her, against signature, a written letter of rights.

3. The rights and guarantees provided for the defendant shall also apply to the person under investigation and to the person to whom the criminal offense is attributed, except in cases where this Code provides otherwise.

Article 34/b

Rights of the Arrested or Detained Person

(Added by Law no. 35/2017, dated 30.3.2017)

1. In addition to the rights provided for in letters "a", "b", "c", "ç", "d", "dh" and "e" of paragraph 1 of Article 34/a of this Code, the arrested or detained person shall have the right:
a) to meet privately with his or her defense counsel before being interrogated for the first time;
b) to be informed of the acts, the necessary evidence, and the grounds for his or her arrest or detention;
c) to request that a family member or another close person be immediately notified of his or her arrest. If the arrested or detained person is a foreign national, he or she shall have the right to request that the consular or diplomatic representation of his or her country be notified, and if he or she is stateless or a refugee, he or she shall have the right to request that an international organization be notified;
ç) to immediately receive the necessary medical care.
2. The procedural authority shall immediately inform the arrested or detained person of the rights provided for in letters "a", "b", "c", "ç", "d", "dh" and "e" of paragraph 1 of Article 34/a of this Code, by giving him or her, against signature, the letter of rights in written form. The person shall have the right to keep the letter of rights.

Article 35

Assistance provided to the Juvenile Defendant

(Punctuation and words added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The juvenile defendant shall be provided legal and psychological assistance, at every state and instance of the proceedings, with the presence of the parent, legal guardian, or other persons requested by the juvenile and accepted by the proceeding authority.
2. The proceeding authority may carry out actions and draft documents, in which the participation of the juvenile is required, without the presence of the persons indicated in paragraph 1, only when such action is in the best interest of the juvenile or when delay could seriously impair the proceedings, but always in the presence of defense counsel.

Article 36

Prohibition on the Use of the Defendant's Statements as Testimony

(Words amended by Law no. 35/2017, dated 30.3.2017)

1. Statements made by the defendant during the proceedings shall not constitute object of testimony.

Article 36/a

Statements of the Justice Collaborator

(Added by Law no. 35/2017, dated 30.3.2017)

1. The justice collaborator shall be questioned in the capacity of a witness. If he or she gives false statements or testimony, he or she shall be held criminally liable pursuant to the law.
2. The statements of the justice collaborator shall be assessed in accordance with the criteria set forth in paragraph 3 of Article 152 of this Code.

Article 37
Statements indicating Self-Incrimination

1. When, before the proceeding authority, a person who has not been taken as a defendant makes statements from which incriminating data emerge against him or her, the proceeding authority shall interrupt the questioning, warning him or her that, following such statements, investigations may be initiated against him or her, and shall invite him or her to appoint a defense counsel. Statements previously made by the person cannot be used against him/her.

Article 37/a
Cooperation with Justice
(Added by Law no. 9276, dated 16.9.2004 and amended by Law no. 35/2017, dated 30.3.2017)

1. A defendant accused of a crime punishable by a maximum sentence of not less than seven years' imprisonment, committed in collaboration, or for one of the criminal offenses provided for in letter "a" of paragraph 1 of Article 75/a of this Code, may acquire the status of justice collaborator by signing a cooperation agreement with the prosecutor. The agreement, which contains the terms of cooperation, may be concluded at any stage and instance of the proceedings, even after the criminal judgment has become final and has entered into execution.
2. The agreement shall be signed when the defendant testifies without any reservation or condition regarding all the facts and circumstances of which he or she has knowledge due to his or her participation in the criminal activity. His or her testimony must constitute decisive evidence of guilt, as regards the provability of the facts and their authorship, as well as for the prevention of serious crimes and the reparation of the damages caused thereby. In his or her testimony, the defendant must identify all assets of criminal origin in his or her possession and that of his or her accomplices. The above-mentioned data must be provided within 30 days from the date of signing the agreement.
3. The justice collaborator shall have the right to request special protection for himself or herself and his or her family, in accordance with the legislation on the protection of witnesses and justice collaborators.
4. In cases of cooperation with justice, the prosecutor shall request the court to reduce the sentence or to exempt the justice collaborator from punishment. When the agreement is concluded during the stage of execution of the judgment, competence to examine the prosecutor's request shall belong to the court that rendered the judgment. The reduction of the sentence or exemption from it shall be assessed in proportion to the contribution given by the justice collaborator regarding the facts and circumstances set forth in paragraph 2 of this Article. The provisions of paragraph 7 of Article 28 of the Criminal Code, as well as the rules of paragraph 1 of Article 480 of this Code, shall apply.
5. The cooperation agreement shall be revoked when the justice collaborator breaches the terms of the cooperation agreement, conceals data on assets or facts of relevance to justice, or makes false statements or testimony. Insofar as compatible, the rules of paragraph 1 of Article 480 of this Code shall apply.

Article 37/b
Content of the Agreement
(Added by Law no. 35/2017, dated 30.3.2017)

1. The agreement with the justice collaborator shall contain:
a) the identity of the prosecutor and the personal particulars of the justice collaborator;
b) the fact that the justice collaborator undertakes the obligation to testify in the capacity of witness;
c) his or her obligation to provide full information, without any reservation or condition, on all the facts and circumstances provided for in paragraph 2 of Article 37/a of this Code, no later than thirty days from the date of signing the agreement;
ç) the warning regarding the revocation of the agreement and criminal liability in the cases provided for in paragraph 5 of Article 37/a of this Code;
d) the right of the collaborator to request the conclusion of an agreement with the prosecutor on the admission of guilt and determination of the sentence, pursuant to Articles 406/d et seq. of this Code;
dh) the obligation of the prosecutor to request the court to reduce the sentence or to exempt him or her from punishment, in fair proportion to the extent of his or her contribution in cooperating with justice;
e) the right of the collaborator to request special protection, pursuant to paragraph 3 of Article 37/a of this Code;
ë) the signatures of the prosecutor, the justice collaborator, and the defense counsel, where present.
2. The statements of the justice collaborator, together with the cooperation agreement, shall form part of the preliminary investigation file.

Article 38
General Rules for Interrogation
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The defendant, even when subject to a precautionary detention measure or when deprived of liberty for any other reason, shall be interrogated in freedom, except in cases where measures must be taken to prevent the risk of escape or violence.
2. It shall not be permitted, not even with the consent of the defendant, to use methods or techniques intended to influence his or her freedom of will or to alter his or her capacity of memory or assessment of facts.
3. Prior to interrogation, the defendant shall be expressly asked whether he or she has understood his or her rights, provided to him or her in writing, pursuant to Articles 34/a and 34/b of this Code. If the defendant has not previously been informed of these rights in accordance with the provisions of this Code, his or her statements may not be used.

Article 39
Interrogation on the Merits of the Case

1. The proceeding authority shall explain to the defendant, in a clear and precise manner, the fact attributed to him or her, acquaint him or her with the evidence existing against him or her and, where investigations are not prejudiced, indicate their sources.
2. The proceeding authority shall invite him or her to explain everything he or she deems useful for his/her defense and shall directly question him or her.
3. When the defendant refuses to answer, this shall be recorded in the minutes. The minutes shall also note, where necessary, the physical characteristics and any distinctive marks of the defendant.

Article 40
Verification of the Defendant's Personal Identity

1. Upon the appearance of the defendant, the proceeding authority shall invite him or her to state his or her personal particulars and any other information that may serve for his or her identification, warning him or her of the consequences for refusing to provide particulars or for providing false ones, except in cases where such statement would imply self-incrimination.
2. The inability to attribute to the defendant his or her exact particulars shall not prevent the proceeding authority from carrying out acts, provided that the physical identity of the person is certain.
3. Incorrect particulars attributed to the defendant shall be corrected by decision of the proceeding authority.

Article 41
Verification of the Defendant's Age

1. At any stage and instance of the proceedings, where there are grounds to believe that the defendant is a minor, the proceeding authority shall carry out the necessary verifications and, where appropriate, shall order an expert examination.
2. When, even after verifications and expert examination, doubts remain as to the defendant's age, it shall be presumed that he or she is a minor.

Article 42
Verification of the Personality of the Juvenile Defendant

1. The proceeding authority shall gather information regarding the personal, family, and social living conditions of the juvenile defendant, with the purpose of clarifying his or her liability and the degree of responsibility, assessing the social significance of the act, and determining appropriate criminal measures.
2. The proceeding authority shall collect information from persons who have had relations with the juvenile and shall hear the opinion of experts.

Article 43
Verifications regarding the Defendant's Criminal Liability

1. When there are grounds to consider that, due to a mental illness occurring after the event, the defendant is incapable of consciously participating in the proceedings, the court shall order, even ex officio, an expert examination.
2. During the time the expert examination is ongoing, the court, at the request of the defense counsel, shall take the evidence that may lead to the acquittal of the defendant, and, where delay poses a risk, any other evidence requested by the parties.
3. When the need to determine criminal liability arises during the preliminary investigations, the expert examination shall be ordered by the prosecutor, ex officio or at the request of the defendant or his/her defense counsel. In the meantime, the prosecutor shall carry out only those acts that do not require the conscious participation of the defendant. Where delay poses a risk, evidence may be taken only in the cases provided for pre-trial admission of evidence.

Article 44
Suspension of Proceedings due to the Defendant's Lack of Criminal Liability
(Paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. When it is established that the mental condition of the defendant is such as to prevent his/her conscious participation in the proceedings, the proceeding authority shall decide on the suspension of the proceedings, provided that no decision of acquittal or dismissal must be rendered. In the decision of suspension, the proceeding authority shall appoint a special guardian for the defendant, who shall be vested with the rights of the legal representative.
2. Repealed.
3. The suspension shall not prevent the proceeding authority from collecting evidence that may lead to the acquittal of the defendant and, where delay poses a risk, any other evidence requested 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 where the defendant is entitled to be present.

Article 45
Revocation of the Suspension Decision

1. The decision of suspension shall be revoked when it is established that the mental condition of the defendant allows his/her conscious participation in the proceedings, or when the defendant must be declared innocent or the case must be dismissed.

Article 46
Compulsory Medical Measures

1. In any case where the mental condition of the defendant indicates that he or she must undergo treatment, the court shall order, even ex officio, the admission of the defendant to a psychiatric institution.
2. When a compulsory medical measure has been ordered or must be ordered against the defendant, the court shall order that the defendant be held in a psychiatric institution.
3. During the preliminary investigations, the prosecutor shall request the court to decide on the admission of the defendant to a psychiatric institution, and, where delay poses a risk, shall order temporary admission until the court renders its decision.

Article 47
Death of the Defendant

1. When the death of the defendant is established, the proceeding authority, at any stage and instance of the proceedings, after hearing the defense counsel, shall decide the dismissal of the case.
2. Such decision shall not prevent conducting criminal prosecution for the same fact and against the same person, if it is later proven that he or she has not died.

CHAPTER V
DEFENCE COUNSEL OF THE DEFENDANT

Article 48

Defense Counsel appointed by the Defendant

1. The defendant shall have the right to appoint no more than two defense counsels.
2. The appointment shall be made by a statement before the proceeding authority or by an act delivered to the defense counsel or sent to him/her by registered mail.
3. The appointment of defense counsel for a person who is detained, arrested, or sentenced to imprisonment, until such person has made the appointment himself/herself, may be made by a relative, in the forms provided for in paragraph 2.

Article 49
Mandatory Defense
(Title and paragraphs 1, 2, 3, 5, 7 amended by Law no. 35/2017, dated 30.3.2017)

1. The proceeding authority shall immediately provide a defense counsel paid by the State to the defendant who has not appointed one, or no longer has a retained defense counsel, when:
a) he or she is under eighteen years of age;
b) he or she is deaf and mute;
c) he or she has disabilities that prevent him or her from exercising the right of defense himself or herself;
ç) he or she is accused of a criminal offense for which the law provides a maximum punishment of not less than fifteen years of imprisonment;
d) he or she is accused of a criminal offense under letters "a" and "b" of Article 75/a of this Code;
dh) he or she has been declared absconded or in absentia, by court decision;
e) the arrested or detained person is to be interrogated;
ë) in the cases provided for in paragraph 5 of Article 205 or paragraph 1 of Article 296 of this Code;
f) in any other case provided for by law.
2. If the grounds for mandatory defense under this Article exist, the proceeding authority shall immediately appoint a defense counsel to the defendant. The defense counsel shall assist the defendant in all stages of the proceedings, for as long as the conditions set out in point 1 of this Article exist.
3. The defense counsel appointed under this Article shall be selected by the proceeding authority from the list made available by the Bar Association.
4. If the court, the prosecutor, and the judicial police must perform an act for which defense assistance is required and the defendant has no defense counsel, they shall notify the appointed counsel of such act.
5. When the presence of defense counsel is required and the retained or appointed counsel has not been provided, has not appeared, or has withdrawn from the defense, the court or the prosecutor shall apply paragraph 4 of Article 350 of this Code. If his/her absence is justified, the court or the prosecutor may appoint another defense counsel in substitution, who shall exercise the rights and assume the obligations of defense counsel.
6. The appointed defense counsel may be replaced only for justified reasons. His/her functions shall cease when the defendant chooses his/her own defense counsel.
7. Where defense cannot be provided under this provision and paragraph 3 of Article 49, defense shall be guaranteed by the institutions providing free legal aid, in accordance with the effective legislation.

Article 49/a
The Defendant without Sufficient Financial Means

(Added by Law no. 35/2017, dated 30.3.2017)

Where the cases of mandatory defense do not apply and the defendant, who does not have sufficient financial means, requests defense counsel, the proceeding authority shall appoint counsel from the list made available by the institutions of free legal aid. The expenses of the defense shall be borne by the State.

Article 49/b
Incompatibility to act as Defense Counsel
(Added by Law no. 35/2017, dated 30.3.2017)

The following may not serve as defense counsel:
a) the victim or his/her relatives, as defined in Article 16 of this Code;
b) the person summoned as a witness in the same case;
c) the person who, in the same case, is or has been co-defendant, judge, or prosecutor.

Article 50
Extension of the Defendant's Rights to the Defense Counsel

1. The defense counsel shall enjoy the rights granted by law to the defendant, except for those reserved personally to the latter.
2. The defense counsel shall have the right to communicate freely and privately with the detained, arrested, or convicted person, to be notified in advance of the performance of investigative acts in which the defendant is present and to participate therein, to ask questions to the defendant, witnesses, and experts, and to have access to the entire case file at the conclusion of the investigations.
3. The defendant may nullify, by an expressed statement, any act performed by the defense counsel before a decision has been rendered by the court in relation to such act.

Article 51
Substitute for Defense Counsel

1. The defense counsel, in the event of impediment and for as long as it lasts, may, with the consent of the defendant, appoint a substitute.
2. The substitute shall exercise the rights and assume the obligations of the defense counsel.

Article 52
Guarantees for the Defense Counsel
(Letter "c" added to paragraph 1, second sentence added to paragraph 2, punctuation and words added to paragraph 3, and words removed from paragraph 6, by Law no. 35/2017, dated 30.3.2017)

1. Searches and inspections in the office of defense counsel shall be permitted only:
a) when he or she, or other persons who continuously conduct activity in the same office, are defendants, and solely for the purpose of proving the criminal offense attributed to them;
b) for discovering traces or material evidence of the criminal offense, or for seeking objects or persons specifically identified;

c) in cases where the defense counsel is caught in flagrante delicto or under pursuit, pursuant to paragraph 1 of Article 298 of this Code.
2. Before conducting a search, inspection, or seizure in the defense counsel's office, the proceeding authority shall notify the Governing Council of the Bar Association so that one of its members may have the opportunity to be present during the actions. Except in cases of flagrante delicto, the proceeding authority shall postpone the search, inspection, or seizure until the arrival of the designated member, but not for more than two hours after the Bar Association has been notified. In any case, a copy of the act shall be sent to the Governing Council of the Bar Association.
3. Searches, inspections, and seizures in the defense counsels' offices, pursuant to letters "a" and "b" of paragraph 1 of this Article, shall be carried out personally by the judge, whereas during preliminary investigations they shall be carried out by the prosecutor on the basis of a court authorization decision.
4. It shall not be permitted to intercept the conversations or communications of the defense counsel and their assistants, either among themselves or with the persons they defend.
5. Any form of control over correspondence between the defendant and his or her defense counsel is prohibited.
6. The results of searches, inspections, seizures, or interceptions of conversations or communications, carried out in violation of the above provisions, may not be used.

Article 53
Conversation of the Defense Counsel with the Defendant in Pre-trial Detention

1. A person arrested in flagrante delicto or under detention shall have the right to speak with the defense counsel immediately after the arrest or detention.
2. The defendant under pre-trial detention shall have the right to speak with his or her defense counsel from the moment of execution of the precautionary measure.

Article 54
Defense of Several Defendants by a Single Counsel

1. The defense of several defendants may be undertaken by a single common defense counsel, provided that no conflict of interest exists among the defendants.
2. When the proceeding authority ascertains a conflict of interest among the defendants, it shall declare such conflict of interest by decision and shall make the necessary substitutions.

Article 55
Refusal, Resignation, or Revocation of the Defense Counsel

1. The defense counsel who does not accept the duty entrusted to him/her or who resigns from it, shall promptly notify the proceeding authority and the person who appointed him/her.
2. Refusal is effective from the moment it is notified to the proceeding authority.
3. Resignation shall not take effect until the party has been assisted by a new defense counsel or by one appointed ex officio, and until the expiry of the time that may have been granted to the substitute counsel to acquaint himself or herself with the acts and evidence.
4. The provision of paragraph 3 shall also apply in the case of revocation.
5. The resignation of the representative of the plaintiff or of the respondent shall in no case prevent the continuation of the proceedings.

Article 56
Liability for Abandonment or Refusal of Defense

1. The proceeding authority shall refer to the Governing Council of the Bar Association cases of abandonment of defense, refusal of defense, and breaches by defense counsel of the duties of loyalty and honesty.
2. The Governing Council of the Bar Association shall have the right to impose disciplinary measures in cases of abandonment of defense or refusal of defense when appointed ex officio.
3. When the Governing Council considers abandonment or refusal justified on the grounds of violation of the rights of defense, no disciplinary measure shall be imposed, even if the violation of the rights of defense has not been recognized by the court.

Article 57
Time Limit for the Substitute Defense Counsel

1. In cases of resignation, revocation, or conflict of interests among defendants, an appropriate time limit shall be granted to the new defense counsel of the defendant, or to the one appointed as substitute, in order to acquaint himself or herself with the acts and evidence.

CHAPTER VI
VICTIM, ACCUSING VICTIM, PLAINTIFF AND RESPONDENT
(Title of the Chapter amended by Law no. 35/2017, dated 30.3.2017)

Article 58
Rights of the Victim of the Criminal Offense
(Paragraph 3 added by Law no. 8813, dated 13.6.2002 and amended by Law no. 35/2017, dated 30.3.2017)

1. The victim of the criminal offense shall have the right:
a) to request the prosecution of the perpetrator;
b) to benefit from medical care, psychological assistance, counselling, and other services provided by the authorities, organizations, or institutions responsible for assisting victims of criminal offenses;
c) to communicate in his/her own language and to be assisted by an interpreter, a sign language interpreter, or a communication facilitator for persons with speech and hearing disabilities;
ç) to choose defense counsel and, where applicable, to benefit from free legal aid, in accordance with the effective legislation;
d) to request, at any time, information on the status of the proceedings, as well as to access the acts and evidence, without prejudice to the principle of investigative secrecy;
dh) to request the collection of evidence, as well as to submit other petitions before the proceeding authority;
e) to be informed of the arrest and release of the accused, under the conditions provided in this Code;
ë) to be notified of the decision not to initiate proceedings, the dismissal of the case, the commencement, and conclusion of the trial;
f) to lodge an appeal before the court against the prosecutor's decision not to initiate proceedings and against the decision of the prosecutor or the preliminary hearing judge to dismiss the charge or the case;

g) to claim compensation for damages and to be admitted as a civil plaintiff in the criminal process;
gj) to be exempted, under conditions provided by law, from the payment of any costs for obtaining acts and from court fees for filing claims related to the status of the victim of a criminal offense;
h) to be summoned to the preliminary hearing and to the first trial session;
i) to be heard by the court, even where none of the parties has requested her to be summoned as a witness;
j) to exercise other rights provided for by this Code.
2. The proceeding authority shall immediately inform the victim on the rights referred to in paragraph 1 of this Article and shall keep minutes of such notification.
3. A victim who does not have legal capacity to act shall exercise his/her rights through his/her legal representative or guardian, except where this is not in the best interests of the victim. Where the court finds a conflict of interests between the victim and his/her legal representative or guardian, the court shall appoint a special guardian, in accordance with the provisions of the Family Code.
4. The heirs of the victim shall enjoy the rights provided for in letters "a", "e", "ë", "f", "g" and "j" of paragraph 1 of this Article. Where the heir of the victim is a minor, he or she shall be represented by his/her legal guardian.

Article 58/a
Rights of the Juvenile Victim
(Added by Law no. 35/2017, dated 30.3.2017)

1. In addition to the rights provided for in Article 58 and other provisions of this Code, as well as in the special legislation on juveniles, the juvenile victim shall have the right:
a) to be accompanied by a person of his or her trust;
b) to the protection of the confidentiality of personal data;
c) to request, through his or her representative, that the trial be held without the presence of the public.
2. The proceeding authority shall treat the juvenile victim of the criminal offense by taking into account his or her age, personality, and other circumstances, with the aim of avoiding harmful consequences for his or her future development and upbringing.
3. Where there is reason to believe that the victim is a juvenile and the victim's age is unknown, it shall be presumed that he or she is a juvenile.
4. The juvenile victim shall be questioned without delay by persons specialized for this purpose. Where possible and appropriate, the interview shall be recorded by audiovisual means, in accordance with the provisions of this Code. Such recording may be used as evidence in the criminal proceedings and shall be assessed together with the other evidence, in accordance with the criteria provided for in paragraph 4 of Article 361/a of this Code. Where the juvenile victim is under 14 years of age, the interview shall be conducted in premises adapted for this purpose.

Article 58/b
Rights of the Sexually Abused Victim and the Human Trafficking Victim
(Added by Law no. 35/2017, dated 30.3.2017)

In addition to the rights provided for in Articles 58 and 58/a of this Code, the sexually abused victim and the human trafficking victim shall also have the right:
a) to be questioned without delay by a judicial police officer or prosecutor of the same gender;
b) to refuse to answer questions relating to private life that are clearly unrelated to the criminal offense;

c) to request to be heard through audiovisual means, in accordance with the provisions of this Code.

Article 59

The Accusing Victim

(Paragraph 3 added by Law no. 8813, dated 13.6.2002; words added to paragraph 1 by Law no. 10 054, dated 29.12.2008; title amended, references removed in paragraph 1, and paragraphs 4 and 5 added by Law no. 35/2017, dated 30.3.2017)

1. A person harmed by the criminal offenses provided for in Articles 90, 91, 92, 112 paragraph one, 119, 119/b, 120, 121, 122, 125, 127, and 254 of the Criminal Code shall have the right to file a petition before the court and to participate in the trial as a party, in order to substantiate the charge and to seek compensation for damages.
2. The prosecutor shall participate in the adjudication of these cases and, as appropriate, shall request the conviction or the acquittal of the defendant.
3. If the accusing victim or his/her appointed counsel fails to appear at the hearing without reasonable cause, the court shall order the dismissal of the case.
4. An accusing victim who does not have legal capacity to act shall exercise the rights granted to him/her by law through his/her legal representative.
5. Where several victims in the same case file a petition before the court pursuant to Article 59 of this Code, their requests shall be joined in a single trial.

Article 60

Petition of the Accusing Victim

(Title, letter "a" of paragraph 1, and paragraph 2 amended; words added to letters "b" and "ç" of paragraph 1, by Law no. 35/2017, dated 30.3.2017)

1. The petition for trial of the accusing victim shall be filed with the Clerk's Office of the court. It shall be invalid if it does not contain:
a) the personal particulars of the accusing victim and his/her correct address;
b) the personal particulars of the person accused and his/her address;
c) the name and surname of the representative and the power of attorney;
ç) an indication of the grounds justifying the petition, as well as the evidence on which it is based;
d) the signature of the accusing victim or of his/her representative.
2. The petition must be notified to the accused person and to the prosecutor.

Article 61

Civil Lawsuit in Criminal Proceedings

(Words removed from paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. A person who has suffered damage from the criminal offense, or his/her heirs, may bring a civil action in the criminal proceedings against the defendant or the respondent, in order to seek restitution of property and compensation for damages.

Article 62

Time Limit for the Legal Standing of the Civil Plaintiff

(Paragraph 3 added by Law no. 8813, dated 13.6.2002)

1. The legal standing of the civil plaintiff may be decided by the proceeding authority until the commencement of the trial.
2. The time limit provided for in paragraph 1 may not be extended.
3. At the request of the parties or ex officio, the court may order the severance of the civil lawsuit and its submission to the civil court, if its adjudication hinders or delays the criminal proceedings.

Article 63
Securing the Civil Lawsuit

1. To secure restitution of property and compensation for damages, upon the petition of the civil plaintiff, the proceeding authority may order the sequestration of the property of the defendant or the respondent. This measure shall remain in force until the conclusion of the case.

Article 64
Waiver of the Adjudication of the Civil Lawsuit

1. Waiver of the adjudication of the civil action may be made at any stage and instance of the proceedings by means of a personal statement by the plaintiff or by his/her representative in the hearing, or by a written act filed with the Clerk's Office of the court and notified to the other parties.
2. Failure of the civil plaintiff to submit his/her conclusions at the closing statement or to file a lawsuit before the civil court, is deemed as a waiver from the civil action.
3. Where waiver of the adjudication of the civil action occurs pursuant to paragraphs 1 and 2, the criminal court may not recognize the expenses and damages caused to the defendant and the respondent by the intervention of the civil plaintiff. An action for their recovery may be brought before the civil court.
4. Waiver shall not preclude the bringing of the action before the civil court.

Article 65
Summoning of the Respondent

1. A person who is civilly liable for the offense committed by the defendant may be summoned in the criminal proceedings at the request of the civil plaintiff. A defendant who has been acquitted, or in respect of whom the case has been dismissed, may be summoned as a respondent for the offenses of other co-defendants.
2. The petition for summoning the respondent must be made before the commencement of the trial.
3. The summoning shall be ordered by court decision.

Article 66
Voluntary Intervention of the Respondent

1. When the legal standing of the civil plaintiff is established, the respondent may voluntarily intervene in the proceedings until the commencement of the trial, by filing a written petition. The court shall decide on the petition after hearing the parties.
2. The time limit provided for in paragraph 1 may not be extended.
3. The intervention of the respondent shall cease to have effect when the adjudication of the civil action is waived.

Article 67

Representative of the Private Parties

1. The accusing victim, the civil plaintiff, and the respondent shall have the right to be represented in the proceedings by their legal representative or by a representative vested with a power of attorney.
2. The address of the accusing victim, the civil plaintiff, and the respondent shall, for all procedural purposes, be deemed to be that of their representative.
3. The representative, in the event of impediment and for as long as it lasts, may, with the consent of the represented party, appoint a substitute.

Article 68
Rulings of the Civil Lawsuit

1. The court shall, as the case may be, uphold the civil action in whole or in part, or dismiss it.
2. Where a judgment of acquittal is rendered on the grounds that the act is not provided for as a criminal offense, or where the criminal case is dismissed, the civil action shall remain not adjudicated.
3. Where the civil lawsuit is dismissed in the criminal proceedings, it may not be brought again before the civil court.

TITLE II
JURISDICTION AND COMPETENCES

CHAPTER I
JURISDICTION

Article 69
Criminal Jurisdiction

1. Criminal jurisdiction shall be exercised by the criminal courts in accordance with the rules established in this Code.
2. The criminal court shall examine everything necessary for rendering the decision and shall adjudicate in accordance with the rules established by law.

Article 70
Effects of the Criminal Judgment on Civil and Administrative Proceedings

1. A final criminal judgment shall be binding on the court examining the civil consequences of the offense only with regard to whether the criminal offense was committed and whether it was committed by the adjudicated person.
2. A criminal judgment that incidentally resolves a fact related to a civil, administrative, or criminal case shall have no binding effect in any other proceeding.

Article 71
Effects of Civil and Administrative Proceedings on Criminal Proceedings

1. A final civil judgment shall be binding on the court adjudicating the criminal case only with regard to whether the offense occurred or not, but not with regard to the guilt of the defendant.

2. Where the criminal judgment depends on the resolution of a dispute concerning family status or nationality, for which proceedings have been initiated before the competent court, the criminal court may decide, even ex officio, to suspend the trial examination until the dispute is resolved by a final decision. Suspension shall not prevent the undertaking of urgent actions.

Article 72
Lack of Jurisdiction

1. Lack of jurisdiction may be raised, even ex officio, at any state and instance of the proceedings. The court shall render a decision and, where applicable, order the transfer of the acts to the competent authority.
2. Where lack of jurisdiction is raised during preliminary investigations, the prosecutor conducting the proceedings shall decide to transfer the acts to the competent court for to rule on the matter.

Article 73
Conflicts of Jurisdiction
(Second sentence of paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Where there is a conflict of jurisdiction, the court raising it shall render a decision, which, together with a copy of the acts necessary for its resolution, shall be submitted to the Supreme Court, indicating the parties and their defense counsels.
2. The provisions of Section IV of Chapter II of this Title shall apply. The Supreme Court shall decide within 30 days from receipt of the acts.

CHAPTER II
COMPETENCES

SECTION I
SUBJECT-MATTER JURISDICTION

Article 74
(Amended by Law no. 8813, dated 13.6.2002, Law no. 9911, dated 5.5.2008, and Law no. 35/2017, dated 30.3.2017)

1. The judicial district court shall have jurisdiction over the adjudication of criminal offenses, except for those falling within the jurisdiction of the Court against Corruption and Organized Crime.

Article 75
Competences of the Military Court
(Amended by Law no. 8813, dated 13.6.2002 and repealed by Law no. 9911, dated 5.5.2008)

Article 75/a
Competences of the Court against Corruption and Organized Crime
(Added by Law no. 8813, dated 13.6.2002 and amended by Laws no. 9276, dated 16.9.2004, no. 9911, dated 5.5.2008, no. 145, dated 2.5.2013, no. 21, dated 10.3.2014, no. 99, dated 31.7.2014, and no. 35/2017, dated 30.3.2017; words added to letter "a" by Law no. 147/2020, dated 17.12.2020; letter "a" amended by Law no. 41/2021, dated 23.3.2021)

The Court against Corruption and Organized Crime shall adjudicate:
a) the crimes provided for in Articles 230, 230/a, 230/b, 230/c, 230/ç, 231, 232, 232/a, 232/b, 233, 234, 234/a, 234/b, 244 paragraph 2, 244/a, 245, 245/1 paragraphs 2 and 4, 257, 258 paragraph 2, 259 paragraph 2, 259/a, 260, 312, 319, 319/a, 319/b, 319/c, 319/ç, 319/d, 319/dh, 319/e, 328, and 328/b of the Criminal Code;
b) any criminal offense committed by a structured criminal group, criminal organization, terrorist organization, or armed gang, as defined by the Criminal Code;
c) criminal charges against the President of the Republic, the Speaker of Parliament, the Prime Minister, members of the Council of Ministers, judges of the Constitutional Court and of the Supreme Court, the Prosecutor General, the High Inspector of Justice, mayors, members of Parliament, deputy ministers, members of the High Judicial Council and of the High Prosecutorial Council, and the heads of central or independent institutions as provided for in the Constitution or by law;
ç) criminal charges against the former officials referred to above, when the offense was committed during the exercise of their functions.

Article 75/b
(Added by Law no. 8813, dated 13.6.2002; paragraph 1 amended and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. The Supreme Court shall review appeals for violations of the law, in order to ensure the uniform interpretation, development, and modification of judicial practice, as well as exercise other competences as provided for in this Code.
2. Repealed.

SECTION II
TERRITORIAL JURISDICTION

Article 76
General Rules

1. Territorial jurisdiction shall be determined, in order, by the place where the criminal offense was committed or attempted, or by the place where its consequence occurred.
2. If the place referred to in paragraph 1 is unknown, jurisdiction shall belong, in order, to the court of the defendant's residence or domicile.
3. If jurisdiction cannot be determined in this way either, it shall belong to the court of the place where the prosecution office that first recorded the criminal offense is located.
4. The rules set forth in the above paragraphs shall also apply during the preliminary investigation.

Article 77
Jurisdiction for Criminal Offenses committed abroad

1. Where the offense has been committed entirely outside the territory of the state, jurisdiction shall be determined, in order, by the place of residence, domicile, arrest, or surrender of the defendant. Where there are multiple defendants, the court competent for the greatest number of them shall proceed.

2. If jurisdiction cannot be determined in the manner indicated in paragraph 1, it shall belong to the court of the place where the prosecution office that first recorded the criminal offense is located.
3. Where the criminal offense has been committed partly outside the territory of the state, jurisdiction shall be determined on the basis of the general rules of territorial jurisdiction.

Article 78
Jurisdiction over Proceedings against Judges and Prosecutors

1. Proceedings in which a judge or prosecutor assumes the status of defendant or of victim of a criminal offense, which under the rules of this Chapter would fall within the jurisdiction of the district court where the judge or prosecutor exercises his/her functions or exercised them at the time when the offense was committed, shall fall within the jurisdiction of the court having subject-matter jurisdiction and located in the center of another nearest district, except where in that district the judge or prosecutor has subsequently come to exercise his/her functions. In the latter case, jurisdiction shall belong to the court of another nearest district to that in which the judge or prosecutor was exercising his/her functions at the time the criminal offense was committed.

SECTION III
JURISDICTION BY REASON OF JOINDER OF CONNECTED PROCEEDINGS

Article 79
Cases of Joinder of Proceedings
(Words amended by Law no. 8813, dated 13.6.2002)

1. The proceeding authority may order the joinder of proceedings:
a) where the criminal offense under investigation was committed by several persons in collaboration with one another, or where several persons independently caused the offense;
b) where a person is charged with several criminal offenses;
c) where a person is charged with several offenses, some of which were committed in order to perpetrate or to conceal the others, or to ensure for the perpetrator or for others unlawful benefits or impunity.

Article 80
Joinder of Proceedings falling within the Jurisdiction of Different Courts
(Amended by Law no. 8813, dated 13.6.2002; paragraph 1 amended and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. In cases of connected proceedings which cannot be separated, where one or several fall within the jurisdiction of the Court against Corruption and Organized Crime and the others within the jurisdiction of other courts of first instance, jurisdiction shall lie with the Court against Corruption and Organized Crime. This rule shall also apply in the case of juvenile defendants. In such case, the court shall apply the rules governing the adjudication of juveniles.
2. Repealed.

Article 81
Boundaries of Joinder in Cases of Criminal Offenses Committed by Juveniles
(Words of paragraphs 1 and 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Where some of the connected proceedings fall within the jurisdiction of the ordinary court and others within the relevant sections dealing with juvenile cases, jurisdiction over all proceedings shall belong to the latter, except where the court considers that they should be separated.
2. Where the defendant, at the time of trial, is an adult but committed one or more offenses while a juvenile, the case shall be adjudicated by the relevant section dealing with juvenile cases.

Article 82
Territorial Jurisdiction determined by the Connection of Proceedings

1. Territorial jurisdiction for connected proceedings, in which several courts have the same subject-matter jurisdiction, shall belong to the court competent for the most serious criminal offense, and where the offenses are of equal seriousness, to the court competent for the offense that was recorded first.
2. Crimes shall be considered more serious than misdemeanors. Among crimes or among misdemeanors, the more serious offense shall be the one for which the higher maximum penalty is provided, or, where the maximum penalties are equal, the one for which the higher minimum penalty is provided. Where both imprisonment and fines are provided, the fine shall be taken into account only when the imprisonment penalties are equal.

SECTION IV
RULINGS ON GROUNDS OF LACK OF JURISDICTION

Article 83
Lack of Jurisdiction

1. Lack of subject-matter jurisdiction may be raised, even ex officio, at any state and instance of the proceedings.
2. Lack of territorial jurisdiction, and that arising from the joinder of proceedings due to their connection, may be raised or challenged only before the commencement of the trial examination.

Article 84
Lack of Jurisdiction declared during Preliminary Investigations
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Where, during the preliminary investigations or at their conclusion, the prosecutor finds himself/herself lacking jurisdiction for any reason, he/she shall order the transfer of the acts to the prosecutor attached to the competent court.
2. Where the prosecutor declares lack of jurisdiction, he or she shall immediately notify both courts. Within three days from receipt of the prosecutor's notification, the court shall transmit to the competent court the acts of the preliminary investigations conducted up to that point.

Article 85
Lack of Jurisdiction declared in the First Instance Trial

1. If, during the first instance trial, the court deems that the proceedings fall within the jurisdiction of another court, it shall declare, by decision, its lack of jurisdiction for any reason and order the transfer of the acts to the competent court.

Article 86
Decision of the Court of Appeal and the Supreme Court on Jurisdiction
(Words of paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The Court of Appeal, when it ascertains that the court of first instance lacked subject-matter jurisdiction, shall quash the appealed decision and remit the case to the competent court.
2. The decision of the Supreme Court on jurisdiction shall be binding, except where new facts arise that lead to a different legal definition, conferring jurisdiction upon a higher court.

Article 87
Evidence obtained by a Court Lacking Jurisdiction
(Words of paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. Failure to comply with the provisions on jurisdiction shall not render inadmissible the evidence obtained.
2. Statements made before a court lacking subject-matter jurisdiction, if repeated, may be used only to challenge the content of the testimony.

Article 88
Precautionary Measures ordered by a Court Lacking Jurisdiction

1. Precautionary measures ordered by a court which, at the same time or subsequently, is declared lacking jurisdiction on any ground, shall lose effect if, within ten days from the receipt of the acts, the competent court does not decide on the precautionary measure.

SECTION V
CONFLICTS OF JURISDICTION

Article 89
Cases of Conflict
(Paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. A conflict shall exist, at any state and instance of the proceedings, when two or more courts simultaneously assume or refuse to assume jurisdiction over the same charge attributed to the same person.
2. Conflicts arising during the preliminary investigation stage between prosecution offices of general jurisdiction shall be resolved by the higher-ranking prosecutor. In the event of a conflict during the preliminary investigation between the Special Prosecution Office and another prosecution office, the competence and jurisdiction of the former shall prevail. The provisions of Articles 28 and 29 of this Code shall apply.
3. During preliminary investigations, no conflict may be raised on grounds of territorial jurisdiction based on the connection of proceedings.

3. During preliminary investigations, no conflict of territorial jurisdiction because of connected proceedings may be raised.

Article 90

Submission of the Conflict

1. A conflict may be submitted by the prosecutor attached to one of the courts in conflict, or by the defendant and the private parties. The submission shall be filed with the Clerk's Office of one of the courts in conflict, by means of a written and reasoned petition, to which the necessary documentation shall be attached.
2. The court raising the conflict shall issue a decision by which it submits to the Supreme Court a copy of the acts necessary for its resolution, indicating the parties and their defense counsels.
3. The court that has issued the decision shall promptly notify the court in conflict.

Article 91
Resolution of the Conflict

1. Conflicts shall be resolved by the Supreme Court by decision. The court shall obtain such information, acts, and documents as it deems necessary.
2. The decision shall be immediately notified to the courts in conflict, the respective prosecution offices, the defendant, and the private parties.

SECTION VI
JOINDER AND SEVERANCE OF CASES

Article 92
Joinder of Cases

1. The joinder of cases pending in the same state and instance before the same court may be ordered, provided that the expeditious resolution of the cases is not impaired:
a) in the cases provided for by Article 79;
b) in cases of criminal offenses committed by several persons to the detriment of one another;
c) in cases where the evidence of one criminal offense or of a circumstance thereof has an impact on the evidence of another criminal offense or of a circumstance thereof.

Article 93
Severance of Cases
(Letter "c" repealed, punctuation adjusted, and words added to letter "ç" of paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The severance of cases may be ordered, even ex officio, only when the establishment of facts is not impaired, in the following instances:
a) when the proceedings have been suspended for one or more defendants or for one or more charges;
b) when one or more defendants have failed to appear at trial due to invalidity of the summons, lack of knowledge of the summons through no fault of their own, or due to lawful impediments;
c) Repealed;
ç) when for one or more defendants or for one or more charges the trial investigation has been completed, while for the other defendants or for the other charges further acts are necessary, except where the charge has been brought for the commission of the criminal offense in cooperation.
2. In addition to the cases provided for in paragraph 1, severance may also be ordered by agreement of the parties, where the court deems it useful for the purpose of expediting the trial.

SECTION VII
TRANSFER OF THE CASE

Article 94
Grounds for Transfer
(Amended by Law no. 8813, dated 13.6.2002)

1. At any state and instance of the trial, where public security or the freedom of will of the persons participating in the proceedings are endangered by serious local circumstances that may impair the conduct of the trial and cannot be avoided by other means, the Supreme Court, upon the reasoned petition of the prosecutor attached to the court conducting the proceedings or of the defendant, shall transfer the case to another court.

Article 95
Petition for Transfer

1. The petition for transfer shall be filed, together with the documents related thereto, with the Clerk's Office of the competent court and shall be notified to the other parties within seven days.
2. The defendant's petition shall be personally signed by him/her or by a specially appointed representative.
3. The court shall immediately transmit the petition, together with the documents and any observations, to the Supreme Court.
4. Failure to comply with the forms and time limits provided for in paragraphs 1 and 2 shall constitute grounds for inadmissibility of the request.

Article 96
Effects of the Petition

1. The submission of a transfer petition shall not suspend the trial, but the court may not conclude the case until a decision has been made on the acceptance or rejection of the petition.
2. The Supreme Court may order the suspension of the trial. Suspension shall not prevent the performance of urgent actions.

Article 97
Decision on the Petition for Transfer

1. The Supreme Court, after obtaining the necessary information, shall decide in chambers, without the participation of the parties.
2. The decision granting the request shall be notified to the court that was conducting the proceedings and to the court designated to adjudicate the case. The court that was conducting the proceedings shall immediately transfer the acts to the designated court and shall order that the decision of the Supreme Court be notified to the prosecutor, the defendant, and the private parties.
3. The court designated by the Supreme Court shall declare, by decision, whether and to what extent the actions already performed shall retain their effect.

TITLE III
DOCUMENTS, NOTIFICATIONS, AND TIME LIMITS

CHAPTER I
DOCUMENTS

SECTION I
GENERAL RULES

Article 98
Language of Documents
(Paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Criminal procedural documents shall be drafted in the Albanian language.
2. A person who does not speak the Albanian language shall be questioned in his/her mother tongue or in another language he or she understands, chosen by him/her. The record shall be kept in the Albanian language.
3. Violation of these rules shall render the document invalid.

Article 99
Signature of Documents

1. Where the signature of a document is required, unless the law provides otherwise, it shall suffice to write by hand at the end of the document the first name and surname of the person required to sign.
2. A signature affixed by mechanical means or by marks other than handwriting shall be invalid.
3. Where a person is unable to sign, the official before whom the written document is presented or who records the oral act shall ascertain the identity of the person and record this fact at the end of the document, in the presence of a third person.

Article 100
Date of Documents

1. Where the law requires the date of a document, the documents shall indicate the day, month, year and the place where the document was drafted. Indication of the hour is necessary only when expressly provided.
2. Where the invalidity of a document is prescribed due to the absence of a date, this rule shall apply only where the date cannot be established with certainty on the basis of the elements contained in the document itself or in related document.

Article 101
Replacement of Original Documents

1. Where the original of a procedural document has been destroyed, lost, or has disappeared and cannot be found for various reasons, an authenticated verified copy shall have the value of the original and shall be placed where the original was kept.
2. For this purpose, the court, even ex officio, shall order by decision the person holding the copy to deliver it to the Clerk's Office.

Article 102

Reproduction of Documents

1. If a document cannot be replaced, the court, even ex officio, shall verify the content of the missing document and order whether and in what manner it must be reproduced.
2. If the draft of the missing document exists, it shall be reproduced on the basis of the draft, provided that one of the judges who signed it certifies that it was identical to the draft.

Article 103
Prohibition of Publication of Documents

1. The publication, even partial, of secret documents related to the case, or even of their content alone, through the press or mass media, is prohibited.
2. The publication, even partial, of non-secret documents is prohibited until the conclusion of the preliminary investigations.
3. The publication, even partial, of the judicial examination documents is prohibited where the trial is held behind closed doors. The prohibition of publication shall be lifted when the time limits set by law for the State archives have expired, or when a period of ten years has elapsed from the date on which the decision became final, provided that publication has been authorized by the Minister of Justice.
4. The publication of the personal details and photographs of defendants and witnesses who are minors, accused, or victims of the criminal offense, is prohibited. The court may authorize publication only when it is required in the interest of the minor, or when the minor has reached the age of sixteen years.

Article 104
Violation of the Publication Prohibition

1. Violation of the publication prohibition by a state official or an official of a public entity, where it does not constitute a criminal offense, shall amount to a disciplinary violation. In such case, the prosecutor shall notify the body competent to take disciplinary measures.

Article 105
Obtaining Copies, Extracts, and Certificates
(Words added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. During the proceedings and after their conclusion, any person having an interest may, at his/her own expense, obtain copies, extracts, or certificates of specific documents or of audio or audiovisual recordings.
2. The request shall be examined by the prosecutor, for documents of the preliminary investigation, or by the court that rendered the decision, for those of the judicial examination.
3. The issuance of copies, extracts, or certificates does not remove the prohibition of publication.

Article 106
Prosecutor's Request for Copies of Documents and for Information

1. The prosecutor has the right, when necessary for the conduct of investigations, to request from the court, even in cases where secrecy is required, copies of documents related to other criminal cases under his/her responsibility, as well as written information on their content.

2. Within five days, the court shall respond to the request or refuse it by a reasoned decision.
3. The provisions of paragraphs 1 and 2 shall also apply to requests made by the Minister of Public Order and the Chairperson of the Intelligence Service, where copies of documents and information are required by them for the prevention of criminal offenses.

Article 107
Participation of the Deaf, Mute, and Deaf-Mute Persons in the drafting of Procedural Documents

1. When a deaf, mute, or deaf-mute person wishes or is required to give explanations, the following procedure shall apply:
a) to the deaf person, the questions and the warning are presented in writing, and he/she responds orally;
b) to the mute person, the questions and the warning are presented orally, and he/she responds in writing;
c) to the deaf-mute person, the questions and the warning are presented in writing, and he/she responds in writing.
2. If the deaf, mute, or deaf-mute person does not know how to read or write, the proceeding authority shall appoint one or more interpreters chosen among those persons who are accustomed to communicating with them.

Article 108
Witnesses in Procedural Acts
(Paragraph 1, letter "b" repealed by Law no. 35/2017, dated 30.3.2017)

1. The following cannot serve as witnesses to attest to the content of a procedural act:
a) minors under the age of fourteen and persons who have evident mental illness or who are in a state of severe intoxication or under the influence of narcotic or psychotropic substances;
b) Repealed.

Article 109
Power of Attorney for Certain Procedural Acts

1. Where the law permits that a document be drafted by means of a special representative, the power of attorney shall be granted by notarial deed or by private writing authenticated by the competent authorities; otherwise, it shall not be accepted. It must contain, in addition to the data specifically required by law, the specification of the object for which it is granted and the facts to which it refers. The power of attorney shall be attached to the documents.
2. A power of attorney issued by state authorities must bear the signature of the chairperson and the official stamp.

Article 110
Memoranda and Petitions of the Parties

1. The parties and their representatives shall have the right, at any state and instance of the proceedings, to submit written memoranda and petitions.
2. The proceeding authority shall issue a decision within fifteen days.

Article 111
Statements and Petitions of Persons in Pre-trial Detention

1. A defendant detained by way of precautionary measures shall have the right to submit complaints, petitions, and statements through the director of the institution, who shall issue a receipt for their delivery. They shall be recorded in a special register, communicated immediately to the competent authority, and shall have the same effect as if they had been filed directly with that authority.
2. A defendant under house arrest or held under guard in a medical facility shall have the right to submit complaints, petitions, and statements to the judicial police officer, who shall certify their receipt and ensure their immediate transmission to the competent authority.
3. The same rules shall apply to criminal reports, complaints, petitions, and statements submitted by private parties or by the victim.

SECTION II
DOCUMENTS OF THE COURT

Article 112
Forms of the Court's Rulings
(Paragraph 2 amended by Law no. 8813, dated 13.6.2002; paragraph 5 amended, paragraph 6 renumbered as paragraph 7, and paragraph 6 added by Law no. 35/2017, dated 30.3.2017)

1. The court rules by decisions and orders.
2. Decisions are rendered in the name of the Republic.
3. Decisions and orders must be reasoned; otherwise, they shall be null and void.
4. Decisions are taken in the closed chamber, without the presence of the clerk and the parties.
5. When a member of the judicial panel votes against an interlocutory decision, he or she shall state in writing the grounds of dissent, which shall be attached to the minutes of the hearing.
6. When a member of the judicial panel votes against the final decision, he or she shall state in writing the grounds of dissent, and the document shall remain in the judicial file.
7. Orders are issued without the observance of special formalities and, unless otherwise provided, may also be given orally.

Article 113
Filing of Court Documents

1. The originals of the court documents shall be filed with the Clerk's Office within five days from their issuance. For acts subject to appeal, the prosecutor and the persons entitled by law to the right to appeal shall be notified.

Article 114
Correction of Material Errors

1. The correction of decisions and orders containing material errors may also be made ex officio by the court that issued the act. When an appeal is lodged against such act and the appeal is admitted, the correction shall be made by decision of the appellate court, on the basis of which a notation shall be entered in original document.

SECTION III
RECORDING OF THE PROCEEDINGS

Article 115
Minutes of the Hearing
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Where possible, the activities conducted during the judicial hearing, as well as any other activity conducted outside it, shall be documented through audio or audiovisual recording. The recording shall begin and end simultaneously with the judicial hearing.
2. The recording of the judicial hearing shall be carried out by the court clerk, under the direction and supervision of the panel presiding judge.
3. Where it is not possible to keep the minutes through audio or audiovisual recording, they shall be kept in the form of an accurate summary, either typewritten or handwritten, under the supervision of the panel presiding judge.
4. The minutes shall indicate:
a) the place, year, month, day, and hour at which the hearing commenced and concluded;
b) the composition of the court;
c) the name of the prosecutor;
ç) the personal particulars of the defendant or other identifying personal data, as well as the particulars of the defense counsel, the accusing victim, the private parties, and their representatives;
d) the particulars of the persons participating in the trial;
dh) where applicable, the reasons for the absence of parties, their representatives, and the persons summoned to participate in the hearing.
5. The minutes shall describe every activity conducted during the trial and shall reproduce in summarized form:
a) the petitions and submissions of the parties;
b) the accurate listing of the title of every submission, memorandum, or final written argument presented by the parties, including the number of pages;
c) the questions and statements of the persons participating in the trial, including witnesses and experts;
ç) the evidence taken;
d) the decisions and orders issued by the court during the trial.
6. When the minutes are kept in summarized form by typewriting or handwriting and one of the parties requests that parts of its statements, or those of the opposing party, be included in the minutes, the court shall take this request into account.
7. Written memoranda submitted by the parties in support of their petitions and conclusions shall be attached to the minutes.
8. Where the minutes are kept in summarized form by typewriting or handwriting, they shall be signed at the bottom of each page by the clerk and at the end by the panel presiding judge. The minutes shall form an integral part of the judicial file and shall be preserved for as long as the file is preserved.
9. Where the minutes are kept by audio or audiovisual recording, the recording shall be preserved in the relevant electronic system for as long as the judicial file is preserved.
10. The parties shall have the right, at any time, to obtain copies of the recording and of the minutes kept in typewritten or handwritten form, upon payment of the relevant fees.

Article 116

Transcription of Minutes Kept through Audio or Audiovisual Recording
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The transcription of minutes kept through audio or audiovisual recording shall be carried out by the court clerk or, under his/her supervision, by technicians designated by the court for this purpose, accurately reflecting the entire content of the recording.
2. The transcript shall be signed by the court clerk and the person who prepared it.
3. The transcription of the minutes shall be carried out when:
a) it is requested by the members of the judicial panel;
b) it is requested in writing by the parties to the trial and such request is approved by the panel presiding judge, after the payment of the fees established for this purpose by order of the Minister of Justice. When the transcription of the minutes is requested after the conclusion of the trial, the decision on the request shall be made by the chairperson of the court.
4. The transcription of the recording may cover all hearings of a case, specific hearings, or selected portions thereof, according to the request of the party seeking transcription. If carried out during the trial, the transcription materials shall be attached to the judicial file and shall form an integral part thereof.
5. For the documentation of procedural actions during the preliminary investigation stage, the above provisions shall apply to the extent possible.

Article 117
Signing of the Minutes
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The minutes kept in written form, with the exception of those recorded during court hearings, after being read, shall be signed at the bottom of each page by the person who drafted them, by the person conducting the proceedings, and by the participants.
2. When one of the participants refuses or is unable to sign, a note shall be made indicating the reason.

Article 118
Transcription of Records kept by Stenographic Means
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 119
Phonographic or Audiovisual Reproduction
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 120
Forms of Documentation in Special Cases
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 121
Oral Statements of the Parties

1. When the law does not require the written form of the document, the parties may submit requests or statements orally, either personally or through special representatives. In such cases, the court

clerk shall draft the minutes and record the statements. Where applicable, the special power of attorney shall be attached to the minutes.
2. Upon request, the party shall be issued, at its own expense, a certificate or a copy of the statements made.

Article 122
Invalidity of the Minutes and the Recording
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The minutes kept in typed or handwritten form shall be invalid when there are doubts as to the identity of the persons who participated, or when the signature of the official who drafted them is missing.
2. In addition to the provisions of paragraph 1 of this Article, minutes kept by audio or audiovisual means shall be invalid for the portion in which the content of the recording is incomprehensible.

SECTION IV
TRANSLATION OF DOCUMENTS

Article 123
Appointment of the Translator
(Sentence added to paragraph 1 and paragraph 4 added by Law no. 35/2017, dated 30.3.2017)

1. The defendant who does not understand the Albanian language has the right to be assisted free of charge by a translator in order to understand the charge and to follow the proceedings in which he or she participates. Through the translator, the defendant is required to make a written statement stating that he or she does not understand the Albanian language. Where the defendant declares that he or she understands the Albanian language, he/she may waive this right.
2. The proceeding authority shall also appoint a translator when a document in a foreign language must be translated.
3. A translator shall be appointed even when the court, the prosecutor, or the judicial police officer is familiar with the language that must be translated.
4. The provisions on the appointment of a translator for the defendant shall also apply to the victim.

Article 124
Incapacity and Incompatibility of the Translator
(Second sentence of letter "c" of paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The following persons may not perform the duty of translator:
a) minors, those prohibited from acting as translators, those deprived of legal capacity to act, persons suffering from mental illness, and those prohibited or suspended from exercising public duties or the profession;
b) persons subject to precautionary measures;
c) persons who cannot be heard as witnesses, those summoned as witnesses or as experts in the same proceedings or in proceedings connected thereto. However, when a person who is deaf, mute, or both deaf and mute is to be questioned, the interpreter may be chosen from among his/her relatives, provided there is no incompatibility.

Article 125

Request for the Exclusion and Withdrawal of the Translator

1. The parties have the right to request the exclusion of the translator on the grounds provided in Article 124.
2. Where grounds exist for requesting exclusion or withdrawal, the translator is obliged to declare them.
3. A request for exclusion or withdrawal may be submitted before the assignment of the duty and, for grounds that become known later, before the translator has completed his/her duty.
4. The proceeding authority shall decide on the request for exclusion or withdrawal.

Article 126
Assignment of the Translator's Duty

1. The proceeding authority verifies the identity of the translator and inquires whether there are grounds for his/her exclusion.
2. The translator is warned of the obligation to provide an accurate translation and to maintain secrecy regarding the acts carried out in his/her presence. After this, he or she is invited to perform his/her duty.

Article 127
Time Limits for Written Translations. Replacement of the Translator

1. The proceeding authority shall assign a time limit for the translator when written translations require extended work. The translator may be replaced if he or she does not submit the written translation within the set time limit.
2. The replaced translator, after being summoned to present the reasons for failing to fulfill his/her duty, may be sanctioned by the court with a fine of up to ten thousand ALL.

SECTION V
INVALIDITY OF ACTS

Article 128
Invalidity of Acts
(Amended by Law no. 35/2017, dated 30.3.2017)

Procedural acts shall be invalid only in cases expressly provided for by this Code.

Article 128/a
Absolute Invalidity
(Added by Law no. 35/2017, dated 30.3.2017)

1. Procedural acts shall be absolutely null and void when the provisions concerning the following are not respected:
a) the conditions for serving as a judge in the specific case and the number of judges required for the formation of judicial panels, pursuant to the provisions of this Code;
b) the prosecutor's prerogative to exercise criminal prosecution and his/her participation in the proceedings;

c) the summons of the defendant, the victim, or the presence of defense counsel when it is mandatory.
2. An act that is designated by law as absolutely invalid cannot be rendered valid.

Article 129
Relative Invalidity
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Invalidities other than those provided for in Article 128 may be declared upon the request of the parties.
2. When the party is present, the invalidity of an act must be challenged before it is carried out or, when this is not possible, immediately after it has been carried out.
3. Invalidity relating to acts of the preliminary investigation and to acts concerning the pre-trial admission of evidence must be challenged at the preliminary hearing or in court proceedings before the beginning of the judicial examination, pursuant to Article 355 of this Code.
4. Invalidity established during trial may be challenged together with the appeal against the final decision.
5. Time limits for raising or challenging invalidity cannot be extended.

Article 130
Assessment of Relative Invalidity
(Title amended; letter "b" of paragraph 1 and paragraph 4 amended; letter "c" added to paragraph 1, by Law no. 35/2017, dated 30.3.2017)

1. Except in cases otherwise provided by law, invalidity shall not be taken into consideration:
a) when the interested party has expressly waived the right to challenge it or has accepted the consequences of the act;
b) when the party has benefited from the right which the invalid act is intended to protect;
c) when it has been caused by the party itself, or when that party has no interest in raising it.
2. The invalidity of communications and notifications shall not be taken into consideration if the interested party has appeared or has refused to appear.
3. A party declaring that he/she appeared solely to raise the irregularity of the act shall be entitled to a time limit, not less than three days, to prepare the defense.
4. During the preliminary investigation, the assessment of invalidity shall be made by the prosecutor, and if not carried out by the latter, it shall be assessed by the judge of the preliminary hearing.

Article 131
Effects of Invalidity Declaration

1. The invalidity of an act renders invalid any subsequent acts that depend on the one declared invalid.
2. The court that declares the invalidity of an act shall order its repetition, where necessary and possible, charging the relevant expenses to the party that caused the invalidity intentionally or through gross negligence.

CHAPTER II
NOTIFICATIONS

Article 132
Authorities and Forms of Notifications

1. Notifications of acts shall be served by the court dispatcher or through the postal service.
2. The judge, when deemed necessary, may order that notifications be carried out by the judicial police.
3. When a copy of the act is delivered directly to the interested party by the court Clerk's Office, such delivery has the value of a served notification. In such case, the court clerk shall record on the original act the delivery and the date thereof.
4. Notifications served by the court to the interested parties in their presence shall be recorded in the official minutes.

Article 133
Special Notifications and Notifications by Other Technical Means
(Title amended, paragraphs 2 and 4 amended, paragraph 5 added and paragraph 3 repealed by Law no. 35/2017, dated 30.3.2017)

1. In urgent cases, the court may order that persons requested by the parties, except for the defendant, be notified by telephone by the court Clerk's Office or by the judicial police. The telephone number called, the name and duty of the person receiving the notification, their relationship with the person to be notified, and the date and time of the call shall be noted on the original notification record.
2. Notification by telephone is valid from the moment it is made, provided that receipt thereof is documented.
3. Repealed.
4. When deemed appropriate, except for the defendant, the court may order the notification of a person through other technical means that ensure the notification, provided that receipt thereof is documented.
5. Notification of a witness with a hidden identity, a protected witness, or a justice collaborator shall be served through delivery of a copy of the act to the prosecutor.

Article 134
Notification of the Prosecutor's Documents

1. Notification of the prosecutor's documents, during the preliminary investigation, shall be served by the judicial police or through postal service, in the forms provided for by Article 133.
2. Delivery of a copy of the document to the interested party by the Clerk's Office shall have the value of a served notification. The person delivering the document shall note in the original document its delivery and the date.
3. Oral notifications made by the prosecutor shall replace notifications, provided that this fact is recorded in the minutes.

Article 135
Notifications by Private Parties

1. Notifications by the parties may also be served by delivering a copy of the document through their representatives by registered mail with acknowledgment of receipt.

Article 136
Notifications addressed to the Prosecutor

1. Notifications addressed to the prosecutor may also be served directly by the parties, their defense counsels, or their representatives, through delivery of a copy of the act to the court Clerk's Office. The person receiving it shall record on the original and on the copy of the act the identifying details of the person who made the delivery and the date.

Article 137
Notifications to the Victim and Private Parties
(Title amended by Law no. 35/2017, dated 30.3.2017)

1. Notifications to the victim of the criminal offense shall be served in the same manner as in cases where the defendant at liberty is notified for the first time. When the places indicated in Article 140 are unknown, notification shall be carried out by depositing the act with the court Clerk's Office. When documents indicate that the residence or domicile of the victim is abroad, he or she shall be summoned by registered mail with acknowledgment of receipt, requiring him or her to declare or elect a residence within the territory of the Republic of Albania. If no declaration or election of residence is made within twenty days from receipt of the registered mail, notification shall be served by depositing the act with the court Clerk's Office.
2. Notification of the first summons for the respondent shall be carried out in the forms prescribed for the first notification of a defendant at liberty.
3. Notifications for the civil plaintiff and the respondent shall be served to their representatives.

Article 138
Notifications through Public Announcement for Victims
(Title and paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. When notification of victims is difficult due to their number, the impossibility of identifying some of them, or when notification is impossible because the locations indicated in Article 140 are unknown, the court may order that notification be carried out by public announcement on its notice board and its official website. The notification shall remain published for no less than ten days.
2. Notification shall be deemed effected when the court dispatcher deposits with the court Clerk's Office a copy of the act together with the documents certifying the public announcement.

Article 139
Notification of the Imprisoned Defendant

1. Notification to the imprisoned defendant shall be served to the detention premises by delivering the act to him/her.
2. When the defendant refuses to receive a copy of the act or is absent for justified reasons, the act shall be delivered to the chairperson of the institution, who, in the latter case, shall notify the defendant by the fastest means possible.
3. The above provisions also apply when the defendant is in pre-trial detention for another charge or is serving an imprisonment sentence.
4. When the imprisoned defendant is released due to a change in the precautionary measure, he or she shall be obliged to declare or elect a residence. This fact shall be recorded in the release

document and notified to the proceeding authority. When notification at the declared or chosen residence is not possible, the act shall instead be delivered to the defense counsel.

Article 140
First Notification of the Defendant at Liberty
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The first notification of the defendant at liberty shall be served by personally delivering to him/her a copy of the act together with the letter of rights, pursuant to Article 34/a of this Code. When personal delivery cannot be served, notification shall be made at his/her residence or workplace by delivering the act to a cohabitant, a neighbor, or a person who works with him/her. The notification act shall indicate the particulars of the person receiving it and his or her relationship to the defendant.
2. When the places indicated in paragraph 1 are not known, notification shall be served at the defendant's temporary residence or at the place where he/she most frequently stays, by delivering it to one of the persons indicated in paragraph 1.
3. A copy of the notification may not be delivered to a minor under the age of fourteen or to a person with an evident intellectual disability.
4. If the defendant is a minor, as a rule, he or she shall be notified through his/her parents or guardian, as well as in accordance with the special legislation on minors.
5. When the persons indicated in paragraph 1 are absent, unsuitable, or refuse to receive the act, efforts shall be made to locate the defendant in other places. If notification still cannot be served, the act shall be deposited at the administrative center of the neighborhood or village where the defendant resides or works. Notice of the deposit shall be posted on the door of the defendant's residence or workplace, on the notice board, and on the court's website. The court dispatcher shall inform the defendant of the deposit by registered mail with return receipt. The effects of notification shall arise from the moment of receipt of the registered mail.
6. Notification of a defendant performing military service shall be made by delivering the act to him/her personally; when such delivery is not possible, the act shall be notified to the command, which is obliged to immediately inform the concerned person.
7. With the first notification act, the proceeding authority shall invite the defendant to declare or choose his/her residence or the place and manner of further notifications for the purposes of the proceedings. The defendant is obliged to notify in writing or declare before the proceeding authority any changes thereto.

Article 140/a
Notification of the Legal Entity as a Defendant
(Added by Law no. 35/2017, dated 30.3.2017)

1. Notification of the defendant as a legal entity shall be served at its registered office. The person receiving the notification shall indicate in the notification act his or her identity, position within the legal entity, and the date of receipt of the notification.
2. If notification under the preceding paragraph is not possible, it shall be served by posting the notification at the declared address of the registered office, on the court's notice board and its official website, as well as by posting it on the official website of the National Business Center in cases concerning legal entities registered in the commercial register.

Article 141

Notification of the Defendant When Not Found

1. When notification cannot be served pursuant to the rules prescribed for the notification of a defendant at liberty, the proceeding authority shall order the search for the defendant. If the search does not yield a positive result, a decision of failure to find him/her shall be issued, by which, after a defense counsel has been appointed for the defendant, it shall be ordered that notification be served by delivering a copy to the defense counsel. The person who cannot be found shall be represented by the defense counsel.
2. The decision of failure to find the defendant ceases to have effect upon the conclusion of the preliminary investigations or upon the rendering of the court's decision.
3. Notification for a defendant who is in hiding or has absconded shall be carried out by delivering a copy of the act to the defense counsel, and should he or she have no defense counsel, the proceeding authority shall appoint one ex officio, to represent the defendant.

Article 142
Notification of the Defendant Abroad
(Paragraph 2 added and the existing paragraph 2 renumbered as paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. When the residence or domicile of the defendant abroad is known, the proceeding authority shall send him/her a registered mail with acknowledgment of receipt, by which he or she is notified of the criminal offense with which he/she is charged and is requested to declare or elect a domicile in Albanian territory. If, within three days of receipt of the registered mail, no declaration or election of domicile is made, or when such declaration is not communicated, notification shall be served by delivering a copy to the defense counsel.
2. Where the defendant is notified pursuant to paragraph 1, he or she shall be invited to declare or elect a domicile in Albanian territory. Notification served at the declared address shall be deemed valid.
3. When it appears that there is insufficient information to proceed in accordance with paragraph 1, the proceeding authority, prior to issuing a decision of failure to find the defendant, shall order that searches also be conducted outside the territory of the state in accordance with the rules established in international agreements.

Article 142/a
Notification of Foreign Persons Enjoying Immunity
(Added by Law no. 35/2017, dated 30.3.2017)

1. Except where otherwise provided by international agreements, the notification of foreign persons enjoying immunity, pursuant to international law, shall be carried out through the ministry responsible for foreign affairs.

Article 143
Invalidity of Notifications

1. A notification is invalid:
a) when the act has been notified incompletely, except in cases where the law permits notification by extract;
b) when the copy of the notified act lacks the signature of the person who served the notification;

c) when the special provisions regarding the person to whom the copy must be delivered have been violated;
ç) when the posting of the notification for the defendant at liberty has not been made;
d) when the original of the notified act lacks the signature of the person who undertook the notification, pursuant to Article 140, paragraph 1;
dh) when the forms for notification by special technical means have not been respected and, as a result, the person who was to be notified has not received the act.

CHAPTER III
TIME LIMITS

Article 144
General Rules

1. Procedural time limits are set in hours, days, months, or years.
2. Time limits are calculated according to the regular calendar.
3. A time limit set in days, when it expires on a rest day or holiday, is extended until the following working or non-holiday day.
4. Except in cases where the law provides otherwise, the hour or day on which the time limit begins to run is not included. The last hour or the last day is counted.
5. The time limit for making declarations, filing documents, or performing other acts in court is considered to have expired at the moment when, according to the rules, the offices close to the public.

Article 145
Time Limits that cannot be extended

1. The time limits that cannot be extended are those expressly provided by law for specific cases. Such time limits may be extended only when expressly provided by law.
2. The party in whose favor a time limit has been set may request or permit its shortening by means of a declaration filed with the Clerk's Office of the proceeding authority.

Article 146
Extension of the Time Limit for Appearance

1. When the residence of the defendant, as results from the acts, or the declared or elected residence, is outside the district where the proceeding authority has its seat, the time limit for appearance shall be extended by as many days as are necessary for travel. In any case, the extension may not exceed three days. For a defendant residing abroad, the extension is determined by the proceeding authority, taking into account the distance and the means of communication used.
2. These rules also apply to the time limit set for the appearance of any other person for whom the proceeding authority has issued an order or summons.

Article 147
Restoration of Time Limits
(Amended by Decision of the Constitutional Court no. 31, dated 17.5.2012, which repealed the expression in paragraph 6; amended by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor, the defendant, the victim, the accusing victim, and the private parties may be reinstated within the prescribed time limit when they prove that they were unable to comply with it due to a fortuitous event or force majeure.
2. Restoration of a time limit is not permitted more than once for each party at each instance of the proceedings.
3. The petition for restoration of the time limit must be submitted within ten days from the disappearance of the fact constituting the fortuitous event or force majeure. The authority conducting the proceedings at the time of submission shall decide on the petition.
4. An appeal may be lodged against the decision rejecting the petition for restoration of the time limit within five days. The court shall examine the appeal in chambers within ten days from the date of receipt of the acts.

Article 148
Effects of Restoration of Time Limits
(Paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. The court that has granted restoration of the time limit, at the request of the party and insofar as possible, shall order the repetition of the actions in which the party had the right to participate.
2. Repealed.

TITLE IV
EVIDENCE

CHAPTER I
GENERAL PROVISIONS

Article 149
Meaning of Evidence
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Evidence consists of information regarding facts and circumstances related to the criminal offense, obtained from sources provided in the criminal procedural law, in accordance with the rules established therein, and serving to prove whether or not the criminal offense was committed, the consequences arising from it, the guilt or innocence of the defendant, and the degree of his/her responsibility.
2. When evidence is requested that is not regulated by law, the court may admit it if it is useful for establishing the facts and does not infringe upon the freedom of will of the person. The court shall decide on the admission of such evidence after hearing the parties regarding the manner of its collection.

Article 150
Facts in Issue

1. Facts concerning the accusation, the criminal liability of the defendant, the imposition of precautionary measures, the punishment and the civil liability, as well as the facts on which the application of procedural rules depends are facts in issue.

Article 151

Collection of Evidence
(Amended by Law no. 35/2017, dated 30.3.2017)

1. During the preliminary investigation, evidence is collected by the competent authority, in accordance with the rules established in this Code.
2. At trial, evidence is collected upon the request of the parties. The court shall decide immediately, excluding evidence prohibited by law and that which is manifestly irrelevant.
3. Evidence obtained in violation of the prohibitions set forth by law may not be used. The inadmissibility of evidence may also be raised ex officio at any stage and instance of the proceedings.

Article 152
Evaluation of Evidence
(Paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. No evidence has a value predetermined by law. The court, after examining evidence in its entirety, evaluates its credibility and probative force, providing the reasons upon which the court's assessment is based.
2. The existence of a fact may not be inferred from circumstantial evidence unless such indicia are significant, precise, and consistent with one another.
3. Statements made by a co-defendant charged with the same criminal offense or by a person charged as a defendant in related proceedings shall be assessed in conjunction with other evidence that confirms their veracity.

CHAPTER II
TYPES OF EVIDENCE

SECTION I
TESTIMONY

Article 153
Subject Matter and Limits of Testimony

1. A witness shall be questioned regarding facts that constitute the subject of evidence. The witness may not testify concerning the moral character of the defendant, except where the matter relates to facts relevant to determining the defendant's personality in connection with the criminal offense and the dangerousness posed to society.
2. The questioning of a witness may also extend to matters concerning kinship or interests existing between the witness and the parties or other witnesses, as well as to circumstances necessary to assess the credibility of the witness. Testimony regarding facts that serve to determine the personality of the victim of the criminal offense shall be admitted only when the defendant's charge must be assessed in relation to the conduct of the victim.
3. The witness shall be questioned on specific facts. The witness may not testify to matters of public rumor nor express personal opinions, except in cases where such opinions cannot be separated from testimony on the facts.

Article 154
Indirect Testimony

1. When a witness, in relation to his/her knowledge of the facts, refers to other persons, the court, upon the request of a party or ex officio, shall order that such persons be summoned to testify.
2. Failure to comply with the provision of paragraph 1 renders inadmissible any statements regarding facts which the witness has learned from other persons, except where questioning of such persons is impossible due to their death, serious illness, or inability to be located.
3. A witness may not be questioned about facts learned from persons who are bound to preserve professional or state secrecy, except where such persons have declared the same facts or have otherwise disclosed them.
4. Testimony may not be used from a person who refuses or is unable to indicate the person or source from whom they obtained knowledge of the facts in question.

Article 155
Capacity to Testify

1. Every person has the capacity to testify, except for those who, due to mental or physical impairments, are unable to do so.
2. When the assessment of the statements requires verification of the physical or mental abilities to testify, the court, even ex officio, may order the relevant examinations.

Article 156
Incompatibility with the Role of Witness
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The following persons may not be questioned as witnesses:
a) persons who, due to physical or mental disabilities, are unable to provide proper testimony;
b) defendants co-accused of the same criminal offense or in a related proceeding, when a decision of non-initiation of proceedings, dismissal of the charge or the case, or conviction has been issued against them, including cases of plea bargaining and penal order of conviction, except in cases where the acquittal decision has become final;
c) those who, in the same proceeding, perform or have performed the function of judge or prosecutor;
ç) the respondent and the person civilly liable for the damages caused by the defendant.
2. The rule provided in letter "b" of paragraph 1 does not apply to the collaborator of justice, who shall in any case be questioned as a witness, pursuant to Article 36/a of this Code.

Article 157
Obligations of the Witness

1. The witness is obliged to appear before the court, to comply with its orders, and to answer truthfully the questions posed to him/her.
2. The witness cannot be compelled to testify regarding facts from which his/her own criminal liability may arise.

Article 158
Exemptions from the Obligation to Testify
(Letter "a" amended by Law no. 8813, dated 13.6.2002; paragraph 1/1 added and words in letter "c" of paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The following persons shall not be obliged to testify:
a) relatives by blood or marriage of the defendant, as defined in Article 16, except in cases where they have filed a criminal complaint, or when they or one of their relatives are harmed by the criminal offense;
b) the spouse, regarding facts learned from the defendant during their marital life;
c) the divorced spouse of the defendant, regarding facts learned from the defendant during their marital life;
ç) a person who, even though not the defendant's spouse, cohabits or has cohabited with him or her;
d) a person related to the defendant through adoption.
1/1. The exemption from the obligation to testify shall not apply when the persons mentioned in paragraph 1 of this Article have filed a criminal complaint, or when they or a member of their family is a victim of the criminal offense.
2. The court shall inform the aforementioned persons of their right not to testify and shall ask them whether they wish to exercise this right. Failure to comply with this rule renders the testimony invalid.

Article 159
Preservation of Professional Secrecy

1. The following persons cannot be compelled to testify regarding information they possess by virtue of their profession, except in cases where they are legally obliged to report to the proceeding authorities:
a) representatives of religious entities, whose statutes are not in conflict with the Albanian legal order;
b) lawyers, legal representatives, and notaries public;
c) physicians, surgeons, pharmacists, obstetricians, and any person engaged in a healthcare profession;
ç) persons engaged in other professions to whom the law grants the right not to testify in relation to matters covered by professional secrecy.
2. When the court has grounds to doubt the validity of a claim by such persons to avoid giving testimony, it shall order the necessary verifications. If the claim proves unfounded, the court shall order the witness to testify.
3. The provisions set forth in paragraphs 1 and 2 shall also apply to professional journalists with regard to the names of individuals from whom they have obtained information in the exercise of their profession. However, where such information is indispensable to prove the criminal offense and the truth of such information can be established only through identification of the source, the court shall order the journalist to disclose the source of his or her information.

Article 160
Preservation of State Secrecy
(Paragraph 6 added by Law no. 35/2017, dated 30.3.2017)

1. State officials, public officials, and those entrusted with a public service are obliged not to testify regarding facts that constitute state secrets.
2. When a witness claims that a fact constitutes a state secret, the proceeding authority shall request written confirmation from the competent state authority.

3. If the secrecy is confirmed and the evidence is not essential for the resolution of the case, the witness shall not be questioned. However, if the evidence is essential, the proceeding authority shall order the suspension of the proceedings until the highest state administrative authority provides an answer. After that, the witness is obliged to testify.
4. If, within thirty days from notification of the request, the competent state authority does not provide confirmation of the secrecy, the witness shall be required to testify.
5. Judicial police officers and agents, as well as personnel of the intelligence service, cannot be compelled to disclose the names of their informants. Information provided by them cannot be obtained or used if these officials are not questioned as witnesses in relation to such information.
6. When informants agree to testify, their testimony shall be taken in compliance with the rules on the protection of the confidentiality of their identity. The provisions of Articles 165/a and 361/b of this Code shall apply, insofar as possible.

Article 161
Exemption from Secrecy

1. Data or documents relating to criminal offenses aimed at subverting the constitutional order cannot be subject to state secrecy. The nature of the criminal offense is determined by the proceeding authority.
2. When the exemption from secrecy is not accepted, the competent state authority shall be notified.

Article 162
Taking Testimony from the President of the Republic and Senior State Officials
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 163
Taking Testimony from Diplomatic Officials

1. When a diplomatic official or a chargé d'affaires abroad needs to be questioned while they are outside the territory of the Albanian State, the request for their questioning shall be transmitted, through the Ministry of Justice, to the Albanian diplomatic or consular authority, except in cases where their appearance is deemed indispensable.
2. For the taking of testimonies from diplomatic officials of a foreign state accredited to the Albanian State, international conventions and customs shall be observed.

Article 164
Compelled Testimony
(Amended by Law no. 35/2017, dated 30.3.2017)

1. When a witness, duly summoned, fails to appear at the designated place, date, and time without lawful impediment, the court may order compulsory appearance or impose a fine of up to 30,000 ALL.
2. The court may revoke the decision issued pursuant to paragraph 1 of this Article or reduce the amount of the fine, if it is established that reasonable grounds existed.
3. A person compelled to appear may not be held in custody beyond the time necessary to ensure his or her presence, and in any case, no longer than twenty-four hours.
4. The provisions of paragraphs 1, 2, and 3 of this Article shall also apply to experts and translators/interpreters.

5. The provisions of paragraphs 1, 2, and 3 of this Article shall not apply to minor witnesses.

Article 165
Liability for False Testimony or Refusal to Testify
(Amended by Law no. 35/2017, dated 30.3.2017)

1. When, during examination, a witness makes contradictory, incomplete statements or statements that are inconsistent with the evidence obtained, the court shall draw the witness's attention to this and warn him or her of the criminal liability for false testimony.
2. The court shall give the same warning to a witness who refuses to testify. If the witness persists in refusing to testify, the court shall request the prosecutor to proceed according to the law.
3. When a witness refuses to testify because he or she requests protective measures or to be included in the witness protection program, pursuant to applicable legislation, the prosecutor shall not register criminal proceedings for false testimony until a decision has been made on his/her request.
4. When, by its final decision, the court finds that the witness has given false testimony, it shall forward the acts to the prosecutor to proceed according to the law.

Article 165/a
Witness with Concealed Identity
(Amended by Law no. 35/2017, dated 30.3.2017)

1. When the giving of testimony may place the witness or members of his or her family at serious risk to life or health, and the defendant is accused of the criminal offenses provided for in Articles 230, 230/a, 230/b, 230/c, 230/ç, 231, 232, 232/a, 232/b, 234, 234/a, 234/b, 265/a, 265/b, 265/c, and when the witness protection program is not applied, the court, upon the request of the prosecutor, may order the application of special questioning techniques, pursuant to Article 361/b of this Code.
2. The prosecutor's request shall be submitted to the panel presiding judge in a sealed envelope, marked: "Confidential: witness with concealed identity." In the request, the prosecutor shall present the reasons justifying the need to use one or more of the special questioning techniques.
3. In the envelope bearing the above marking, the prosecutor shall also deposit a sealed envelope containing the full identity of the witness with concealed identity. Only the presiding judge shall be acquainted with the true identity of the witness with concealed identity and shall verify his or her capacity and incompatibility with the duty of witness, pursuant to the provisions of this Code. In any case, on the envelope shall be clearly indicated the date, name, signature, and function of the persons who opened the envelope and those who became acquainted with the information it contains. After the verifications are completed, the envelope containing the true identity of the witness with concealed identity shall be returned to the prosecutor.
4. The court shall review the prosecutor's request in chambers and decide by reasoned decision within forty-eight hours from the submission of the request.
5. The prosecutor may appeal the court's decision within forty-eight hours of notification thereof. The court of appeal shall review the appeal in chambers and decide upon it within forty-eight hours of receipt of the acts. This decision is not subject to further appeal.
6. When it grants the prosecutor's request, the court shall assign a pseudonym to the witness and determine the procedures for concealing his or her identity, notification, appearance, and participation in the proceedings. The questioning of the witness shall be conducted according to the rules provided in Article 361/b of this Code.
7. The witness shall participate in all stages of the trial only under the pseudonym assigned by the court, except in the case provided in paragraph 8 of this Article.

8. The questioning of the witness with concealed identity and the assignment of his or her pseudonym during the investigation phase shall be conducted by the prosecutor. The acts in which the witness participates shall be signed under the assigned pseudonym.

SECTION II
QUESTIONING OF THE DEFENDANT AND PRIVATE PARTIES

Article 166
Request for Questioning

1. The defendant and the civilly liable respondent shall be questioned if they so request, or when requested to do so and they give their consent. The same applies to the civil plaintiff, except in cases where he or she must be questioned as a witness.

Article 167
Questioning of a Person Taken as a Defendant in a Related Proceeding
(Paragraph 4/1 added by Law no. 35/2017, dated 30.3.2017)

1. Persons taken as defendants in a related proceeding, against whom proceedings are or have been conducted separately, shall be questioned at the request of a party or ex officio.
2. They shall be obliged to appear before the court, which, when necessary, may order their compelled appearance. The provisions governing the summons of witnesses shall apply.
3. The persons referred to in paragraph 1 shall be assisted by counsel of their own choosing or, in the absence thereof, by counsel appointed ex officio.
4. Before the questioning begins, the court shall inform the persons referred to in paragraph 1 that they have the right not to answer.
4/1. When a person taken as a defendant in a related proceeding must be questioned and one of the conditions provided under letter "b" of paragraph 1 of Article 156 of this Code exists, the court shall guarantee protection against self-incriminating statements with respect to the facts for which he or she has been prosecuted. When such a person voluntarily makes statements regarding new facts, the court shall inform him or her of the rights provided under Article 37 of this Code.
5. The provisions of the above paragraphs shall also apply during the preliminary investigation with respect to persons taken as defendants for an offense related to that for which proceedings are being conducted.

Article 167/a
Remote Questioning of a Person taken as a Defendant in a Related Proceeding or serving a Sentence abroad
(Added by Law no. 9276, dated 16.9.2004)

A defendant in a related proceeding, prosecuted or serving a sentence abroad for another criminal offense, whose extradition has been refused, may be questioned remotely through audiovisual connection, in accordance with international agreements, provided that the foreign state guarantees the participation of the defendant's counsel in the venue of questioning.

Article 168
Questioning of Private Parties
(Reference amended by Law no. 35/2017, dated 30.3.2017)

1. In the questioning of private parties, the provisions set forth in Articles 153, 154, 157 paragraph 2, and 361 shall apply.
2. When a party refuses to answer a question, a note shall be made in the record of minutes.

SECTION III
CONFRONTATIONS

Article 169
Conditions of Confrontation
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Confrontation is permitted only between persons who have been questioned, when there are discrepancies between their statements regarding certain facts and circumstances.
2. The confrontation of an adult defendant with the victim or a minor witness is prohibited.

Article 170
Rules of Confrontation

1. The proceeding authority, after reminding the persons to be confronted of their previous statements, questions them as to whether they confirm or amend those statements, inviting them, when necessary, to make reciprocal objections.
2. The official record shall note the questions asked by the proceeding authority, the statements made by the persons confronted, and everything else that occurred during the confrontation.

SECTION IV
IDENTIFICATIONS

Article 171
Identification of Persons
(Amended by Law no. 35/2017, dated 30.3.2017)

1. When it becomes necessary to conduct an identification of a person, the proceeding authority shall invite the person required to make the identification to describe the individual, indicating all features they remember, and shall ask whether they have previously been summoned to make such an identification, as well as any other circumstances that might affect the reliability of the identification.
2. The official record shall note the actions provided for in paragraph 1 and the statements made by the person performing the identification. Where possible, the identification procedure shall be photographed or recorded.
3. Where the identification is made by or against a minor, the presence of a psychologist is mandatory. The proceeding authority shall conduct the identification in such a way that the person to be identified cannot see or hear the minor.
4. The identification shall be carried out in the presence of the defense counsel.
5. Failure to comply with the rules provided for in this Article constitutes grounds for the invalidity of the identification.

Article 172

Conduct of Identification

1. After taking away the person required to make the identification, the proceeding authority shall ensure the presence of at least two other persons who closely resemble the one to be identified. The latter is invited to choose his/her position among the others, taking care that he/she is presented, as far as possible, under the same conditions in which he/she would have been seen by the person summoned for identification. Once the person to make the identification is brought in, the court asks whether he or she recognizes any of those presented for identification, and if so, invites him or her to indicate whom they recognize and to specify whether he/she is certain.
2. Where there are reasons to believe that the person summoned for identification may be intimidated or otherwise influenced by the presence of the person to be identified, the proceeding authority shall order that the procedure be carried out without the latter being able to see the former.
3. The official record shall note, under penalty of invalidity, the manner in which the identification was conducted. The proceeding authority may also order that the identification procedure be documented through photographs or video recordings.

Article 172/a
Obligation to Participate in Identification
(Added by Law no. 35/2017, dated 30.3.2017)

1. Persons summoned are obliged to participate in the identification procedure.
2. The proceeding authority may order the compelled appearance of a person duly summoned who fails to appear at the designated place, date, and time for the identification without reasonable cause.
3. The compelled appearance of a minor is prohibited when the procedure is conducted pursuant to paragraph 3 of Article 171 of this Code.

Article 173
Identification of Objects

1. When it is necessary to proceed with the identification of material evidence or other objects related to the criminal offense, the proceeding authority shall act in compliance with the rules governing the identification of persons, insofar as they may be applicable.
2. Once at least two objects similar to the one to be identified are found, where possible, the proceeding authority shall ask the person summoned for identification whether he or she recognizes any of them and, if so, invites the person to declare which one is recognized and to specify whether he or she is certain.
3. The official record shall note, under penalty of invalidity, the manner in which the identification was conducted.

Article 174
Other Identifications

1. When proceeding with the identification of voices, sounds, or anything else that may be the object of sensory perception, the proceeding authority shall act in compliance with the provisions on the identification of persons, insofar as they may be applicable.

Article 175

Identification by Several Persons or of Several Persons
(References in paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. When several persons are summoned to make the identification of the same person or the same object, the proceeding authority shall conduct the actions separately, prohibiting any communication between the one who has already carried out the identification and those who must do so afterwards.
2. When one person must make the identification of several persons or several objects, the proceeding authority shall order that the person or the object to be identified be placed among the different persons or objects.
3. The provisions of Articles 171, 172, 172/a, and 173 shall apply.

SECTION V
THE EXPERIMENT

Article 176
Conditions of the Experiment

1. An experiment is permitted when it is necessary to establish whether a fact has occurred or could have occurred in a certain manner.
2. The experiment consists of the reproduction, insofar as possible, of the circumstances in which the fact occurred or is presumed to have occurred, by repeating the manner in which the fact itself developed.

Article 177
Rules for the Conduct of the Experiment

1. The decision of the proceeding authority to conduct the experiment shall contain a summary notice of its purpose and an indication of the day, hour, and place where the actions will be carried out. In the same decision, or in a subsequent one, a specialist may be appointed to perform specific actions.
2. The proceeding authority shall take appropriate measures for the conduct of the actions, also ordering photographs and video recordings, and for ensuring that the safety of individuals and public security are not endangered.

SECTION VI
EXPERT EXAMINATION

Article 178
Scope of Expert Examination

1. Expert examination is permitted when it is necessary to conduct research or obtain data or evaluations requiring specialized technical, scientific, or cultural knowledge.
2. Expert examinations to determine professionalism in the commission of a criminal offense, criminal tendencies, the character and personality of the defendant, or, in general, psychological traits that do not depend on pathological causes, shall not be permitted.

Article 179

Appointment of Experts

(Amended by Law no. 8813, dated 13.6.2002; amended by Law no. 35/2017, dated 30.3.2017)

1. The appointment of an expert is made by selecting him or her from among persons registered in the designated registers for this purpose or from among those possessing specialized knowledge in the relevant field. When the expert examination is declared invalid or a new expert examination is required, the proceeding authority shall, where possible, ensure that the new assignment is entrusted to another expert.
2. The decision of the proceeding authority appointing the expert shall be notified to the defendant or his/her defense counsel, informing them that they have the right to request the disqualification of the expert, to propose other experts, to participate personally in the expert examination where feasible, and to submit questions to the expert.
3. Where the research and evaluations are highly complex or require knowledge in different fields, the proceeding authority entrusts the expert examination to several experts. In special cases, when the expert examination cannot be conducted by experts registered on the court's list, the proceeding authority, after first consulting the parties, may appoint other experts, whether domestic or foreign, outside of this list.
4. The expert is obliged to perform the entrusted duty, except in cases where grounds exist that disqualify him or her from acting as an expert, or where he or she claims lack of competence or the impossibility of performing the examination and such claim is accepted by the proceeding authority.

Article 180
Incompatibility with the Duty of Expert

1. The following persons may not perform the duty of expert:
a) a minor, a person who is prohibited by law, one who has been deprived of legal capacity to act, or who suffers from a mental illness;
b) a person suspended, even temporarily, from public office or from the exercise of a profession;
c) a person against whom personal precautionary measures have been imposed;
ç) a person who cannot be heard as a witness or appointed as a translator/interpreter, or who has the right to refuse to testify or to translate.

Article 181
Disqualification of Experts

1. The parties may request the disqualification of an expert in the cases provided by this Code for the disqualification of a judge.
2. When a ground for disqualification exists, the expert shall be obliged to declare it.
3. The declaration of grounds for disqualification by the expert himself/herself or the petition for disqualification by the parties may be submitted until the assignment of the task has not yet been carried out, and, when the grounds arise immediately or are discovered later, before the expert has given his/her opinion.
4. The proceeding authority that appointed the expert shall decide, by order, on the expert's declaration of disqualification or on the petition for his/her disqualification.

Article 182
Rulings of the Proceeding Authority

1. The proceeding authority shall order the expert examination by a reasoned decision, which shall contain the appointment of the expert, a summary presentation of the case, and the indication of the day, hour, and place set for the expert's appearance.
2. The proceeding authority shall order the summoning of the expert and take the necessary measures for the appearance of the persons subject to the expert examination.

Article 183
Assignment of the Task

1. The proceeding authority, after verifying the identity of the expert, shall ask whether there are grounds for disqualification from the expert's duty, shall warn the expert of the obligations and responsibilities provided by the criminal law, shall formulate the requests for the expert examination, and shall invite the expert to make the following declaration: "Aware of the moral and legal responsibility for the task I am undertaking, I shall perform it with honesty and fairness and shall preserve secrecy regarding all actions related to the expert examination."
2. The remuneration of the expert shall be determined by order of the authority that has ordered the expert examination.

Article 184
Actions of the Expert
(Paragraph 4 added by Law no. 8813, dated 13.6.2002)

1. To meet the requirements of the expert examination, the expert may be authorized by the proceeding authority to review the files, documents, and everything included in the dossier of the prosecutor or the court.
2. The expert may also be authorized to participate in the questioning of the parties and collection of evidence.
3. When the expert seeks information from the defendant, the victim, or other persons, such information shall be used solely for the purposes of the expert examination.
4. When, for the needs of the expert examination, it is necessary to destroy or alter the substance of an item, the experts are obliged, where possible, to preserve part of it, as well as to document the portion used for the expert examination, notifying the proceeding authority and the parties.

Article 185
Expert Report

1. The opinion of the expert shall be provided in writing.
2. When more than one expert has been appointed and they hold differing opinions, each shall present his/her opinion in a separate report.
3. When the facts are complex and the expert cannot provide an immediate response, the proceeding authority shall grant the expert a period not exceeding sixty days. Where particularly complex verifications are required, this period may be extended more than once for additional periods not exceeding thirty days each, but without exceeding the maximum time limit of six months.

Article 186
Replacement of the Expert

1. The expert may be replaced when he or she fails to submit his or her opinion within the prescribed time limit, when a request for extension has not been granted, or when he or she neglects the performance of his/her duty.
2. The decision of the proceeding authority to replace the expert shall be issued after the expert has been heard. The replaced expert may be fined up to ten thousand ALL.
3. The expert shall also be replaced when a petition for his/her exclusion has been accepted.
4. The replaced expert is obliged to deliver to the proceeding authority all documentation and the results of the actions performed.

SECTION VII
MATERIAL EVIDENCE

Article 187
Definition of Material Evidence
(Amended by Law no. 9085, dated 19.6.2003)

1. Material evidence consists of items that have served as instruments for the commission of the criminal offense, or on which traces are found, or which have been the object of the defendant's actions, the products of the criminal offense and any other asset subject to confiscation under Article 36 of the Criminal Code, as well as any other item that may contribute to the clarification of the circumstances of the case.

Article 188
Collection of Material Evidence

1. Material evidence shall be described in detail in the official record, photographed or video recorded where possible, and, by order of the proceeding authority, attached to the judicial file.

Article 189
Preservation of Material Evidence
(Amended by Law no. 147/2020, dated 17.12.2020)

Material evidence, which due to its nature may deteriorate, if it is not possible to return it to the persons to whom it belongs, shall be preserved and administered in accordance with special legislation by the competent state administrative body, which shall be obliged either to return identical items or to compensate their value.

Article 190
Rulings on Material Evidence

1. In the final decision or in the decision to dismiss the case, the court or the prosecutor shall also rule about what should be done with the material evidence, by ordering:
a) items which have served or were intended to serve as means for the commission of the criminal offense, as well as items constituting the proceeds derived therefrom or the reward given or promised for its commission, shall be confiscated and transferred to the State, except when such items belong to persons who did not participate in the commission of the criminal offense;
b) items whose possession or circulation is prohibited shall be delivered to the competent authorities or destroyed;

c) items of no value shall be destroyed;
ç) all other items shall be returned to the persons to whom they belong, and where there is a dispute over ownership, they shall be preserved until the matter is resolved by the court.
2. Material evidence may also be returned to the persons to whom it belongs before the conclusion of the proceedings, provided that this does not prejudice the resolution of the case.

SECTION VIII
DOCUMENTS

Article 191
Collection of Documents

1. The collection of documents representing facts, persons, or items shall be permitted through photographing, video recording, sound recording, or by any other means.
2. When the original copy of a document has been damaged, lost, or destroyed, a copy may be obtained.
3. Documents constituting material evidence must be obtained regardless of the person who created or holds them.

Article 191/a
Obligation to Produce Computer Data
(Added by Law no. 10 054, dated 29.12.2008)

1. In proceedings concerning criminal offenses in the field of information technology, upon the request of the prosecutor or the accusing victim, the court shall order the holder or controller to produce computer data stored in a computer system or in another storage medium.
2. In such proceedings, the court shall also order the service provider to produce any information concerning registered subscribers and the services provided by the provider.
3. Where there are well-founded reasons to believe that delay may cause serious prejudice to the investigation, the prosecutor, by a reasoned ruling, shall impose the obligation to produce the computer data specified in paragraphs 1 and 2 of this Article and shall immediately notify the court. The court shall review the prosecutor's ruling within 48 hours of notification.

Article 192
Documents on Personality

1. The collection of criminal record certificates and final judicial decisions shall be permitted in order to assess the personality of the defendant and the victim, when the fact under examination must be evaluated in relation to their conduct or moral qualities.
2. Such documents may also be collected for the purpose of assessing the credibility of a witness.

Article 193
Collection of Minutes from other Proceedings
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The minutes of evidence-taking from other criminal proceedings may be collected, if they concern pre-trial admission of evidence or evidence administered during the trial.

2. The minutes of evidence-taking from a civil trial for which a final decision has been rendered may be collected.
3. In the cases provided for in paragraphs 1 and 2, the minutes of statements may be used against the defendant only if his/her defense counsel was present at the time of their taking.
4. Records of unrepeatable actions may be collected, including defendant's statements, when it is proven that there is an objective impossibility of taking them, which was unforeseeable at the time of the action.
5. Except for the cases provided in the preceding paragraphs, minutes of evidence may be used at trial only when the defendant gives consent. Otherwise, they may be used for making the objections provided for in Articles 362 and 365 of this Code.
6. The parties have the right to request the questioning of persons whose statements have been taken pursuant to this Article.
7. Final decisions may be collected as evidence with respect to the existence of a fact, to be evaluated in conjunction with the other evidence.

Article 194
Anonymous Documents

1. Documents constituting anonymous reports shall be neither collected nor used, except when they constitute material evidence or have been created by the defendant.

Article 195
False Documents

1. When the court determines that a collected document is false, upon conclusion of the proceedings it shall notify the prosecutor and submit the document to him/her.

Article 196
Translation of Documents

1. When a document written in a foreign language has been collected, the proceeding authority shall order its translation.
2. The proceeding authority shall order, when necessary, the transcription of an audio tape.

Article 197
Issuance of Copies

1. When the proceeding authority orders the acquisition of a document, upon the request of the interested party, it may authorize the court Clerk's Office to issue certified copies of the document.

CHAPTER III
MEANS OF EVIDENCE GATHERING

SECTION I
INSPECTIONS

Article 198
Cases and Forms of Inspection

1. The inspection of persons, places, and items shall be ordered by the proceeding authority when it is necessary to discover traces and other material consequences of the criminal offense.
2. When the criminal offense has left no traces or material consequences, or when these have been erased, lost, altered, or moved, the proceeding authority shall describe the situation and, where possible, verify how they were prior to the changes, and also take measures to establish the manner, time, and causes of the changes that may have occurred.
3. The proceeding authority may order photographs, video recordings, and any other technical operation.

Article 199
Inspection of Persons
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The inspection shall be conducted in appropriate places, respecting, as far as possible, the dignity and personal integrity of the person being inspected.
2. Before the inspection takes place, the person to be inspected shall be informed of the right to request the presence of a trusted person, provided that such person can be found immediately and is suitable.
3. The inspection may also be carried out by a physician, with the consent of the person. In such a case, the proceeding authority may refrain from attending the inspection. If consent is not given, or if the person is a minor, the inspection shall be conducted following the procedure set forth in Article 201/a of this Code.

Article 200
Inspection of a Corpse

1. The inspection of a corpse shall be carried out by the proceeding authority in the presence of a forensic doctor.
2. For the purpose of conducting the inspection of a corpse, the judge or prosecutor may order exhumation, notifying a family member of the deceased to attend, except in cases where such attendance could compromise the purpose of the inspection.

Article 201
Inspection of Places and Items
(Words added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. When present, the defendant, as well as the person who has possession of the place to be inspected or of the item to be examined, shall first be provided with a copy of the decision ordering the inspection.
2. During the inspection of places, the proceeding authority may, for justified reasons, order that those present shall not leave until the inspection is completed, and may compel the return of those who leave.

Article 201/a
Compulsory Collection of Biological Samples or Performance of Mandatory Medical Procedures
(Added by Law no. 35/2017, dated 30.3.2017)

1. The compulsory collection of biological samples from the defendant or other persons, or the performance of a mandatory medical procedure, may only be carried out in accordance with the provisions of this article.
2. The prosecutor, after obtaining the consent of the defendant or other persons, may request the collection of biological samples for the purpose of determining the DNA profile. The same provision applies to the performance of the medical procedure.
3. Consent must be given in writing. The person from whom the sample is taken or who is to undergo the medical procedure shall sign, before the prosecutor, a statement by which he or she gives consent and confirms having been informed of the reason for the collection of the biological samples or the performance of the medical procedure.
4. For minors, consent shall be given by the parent or legal guardian.
5. On the basis of the prosecutor's request, the court may order that the collection of biological samples or the medical procedure be carried out without the consent of the person, when necessary and by restricting his or her liberty, provided that the person's health is not harmed and it is essential for establishing facts in the proceedings. No medical procedures may be carried out that endanger the person's life, physical integrity, or health, that may harm the unborn child, or that, according to medical protocols, may cause unjustifiable suffering.
6. The court decision ordering the collection of a biological sample or the performance of a medical procedure must contain:
a) the personal data of the person subject to the collection of the biological sample or the medical procedure, or the information necessary for identification;
b) the criminal offense under investigation and a summary description of the relevant facts;
c) a detailed description of the type of biological sample to be collected or the medical procedure to be performed, as well as the reasons why the evidence cannot be obtained otherwise;
ç) the right of the person subject to the collection of the biological sample or medical procedure to be assisted by defense counsel or a trusted person;
d) the exact place, date, time, and manner of the collection of the biological sample or the performance of the medical procedure;
dh) notification that the person subject to the biological sample collection or medical procedure is obliged to appear, and warning of compulsory escort in case of unjustified failure to appear;
e) where the defendant or person has given written consent for the collection of the biological sample or the medical procedure, the prosecutor shall attach such written consent to the case file.
7. At least three days before the collection of the biological sample or the performance of the medical procedure, the decision referred to in paragraph 5 of this article shall be notified to the concerned person.
8. Where the person subject to the biological sample collection or medical procedure is the defendant or the victim, the decision shall be notified to the defendant, defense counsel, and the victim. If the person is neither the defendant nor the victim, the decision shall be notified to the person, the defendant, the victim, and defense counsel. In the case of a minor, the decision shall be notified to the parents or the legal guardian.
9. Where the person subject to the above procedures does not appear at the appointed place without legitimate reasons, the prosecutor may immediately request the court to order his compulsory escort and to order the collection of the sample or the performance of the medical procedure. The judicial police shall execute the court's order.
10. In urgent cases, where there are grounds to believe that delay may cause the loss or compromise of the authenticity of the evidence, the prosecutor may issue the order, which may also include compulsory escort of the person.

11. Within 48 hours of the action being carried out, the prosecutor shall request the court to validate the orders issued under paragraph 9 of this article. The court shall evaluate the prosecutor's actions within 48 hours, notifying both the prosecutor and the defense counsel.
12. Where the biological sample or medical procedure is taken or performed on the suspect or defendant, the presence of defense counsel is mandatory.
13. In the case of the collection of a biological sample or the performance of a medical procedure on a minor, the presence of the parent, legal guardian, or a trusted person is mandatory.
14. The results of tests of biological samples or medical procedures obtained in violation of the provisions of this article shall be inadmissible.

Article 201/b
Destruction of Biological Samples
(Added by Law no. 35/2017, dated 30.3.2017)

1. Biological samples shall be preserved for as long as they serve the purposes of the proceedings. Their destruction shall be carried out in accordance with the rules of this Code.
2. In cases where the defendant is declared not guilty by a final decision, the court shall order the destruction of the biological samples taken from him/her.
3. Within 60 days from the decision of acquittal, the prosecutor, the victim, or the victim's legal representative may request the court to order the preservation of biological samples taken from persons other than the defendant, if the samples are to be used in another criminal proceeding. Otherwise, the court shall order their destruction.
4. When the defendant is declared guilty, the biological samples taken from him/her shall be preserved for 20 years from the date the decision becomes final.
5. The court may order the preservation of the samples for up to 40 years when the defendant is declared guilty of an offense for which the Criminal Code provides a maximum sentence of not less than 10 years of imprisonment.
6. DNA profiles of samples taken from the crime scene that cannot be attributed to a specific person shall be preserved until the expiry of the statute of limitations for criminal prosecution.
7. Where the collection of samples has been carried out in violation of the provisions of this Code, the proceeding authority shall order their destruction.
8. The manner of preservation of the samples, the procedure, and the competent authority for their destruction shall be determined by a joint Directive of the minister responsible for public order and security and the minister responsible for health.

SECTION II
SEARCHES

Article 202
Conditions for Conducting Searches
(Amendment of the number "299" in paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. When there are reasonable grounds to believe that a person is concealing on his/her person material evidence of the criminal offense or items related to the criminal offense, the court shall issue a personal search warrant. When such items are located in specific premises, the court shall order a search warrant for the location or the house.
2. The court that has issued the warrant may carry out the action itself or order that it be carried out by judicial police officers designated in the search warrant.

3. In cases of flagrante delicto or in the pursuit of a fleeing person, where the circumstances do not allow for the issuance of a search warrant, judicial police officers shall conduct the search of persons or premises, in compliance with the rules provided for in Article 298 of this Code.

Article 202/a

Warrant Authorizing a Search

(Added by Law no. 35/2017, dated 30.3.2017)

1. The warrant authorizing a search must indicate the type of search, the person to be searched and his/her personal details, the premises or residence subject to the search, the material evidence or objects sought, the reasons justifying the search, as well as the authority that will carry it out.
2. When there are reasonable grounds to believe that data, information, software programs or traces thereof are located in an information or telecommunication system, even if protected by precautionary measures, the court shall issue a warrant authorizing the search, ordering appropriate technical measures that ensure the preservation of the original data and prevent their alteration. The search warrant must specify the type of information sought and the method of obtaining it.
3. The court shall render a reasoned decision in chambers within 24 hours of the prosecutor's petition. Against the decision denying the request for a search, a special appeal may be lodged with the court of appeal within 24 hours. The court of appeal shall review the appeal within 48 hours of receiving the acts.
4. The search must be completed within 72 hours from the moment the warrant authorizing it is issued.

Article 203

Request for Surrender

(Amended paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. When a specific item is sought, the proceeding authority may request its surrender. If the item is surrendered, the search shall not be conducted, except in cases where, after the surrender of the item, there are reasonable grounds to believe that the search may reveal traces or other items connected to the criminal offense.
2. To determine the items that may be seized or to verify specific circumstances necessary for the investigation, the proceeding authority, or judicial police officers authorized by it, may inspect transactions, documents, and correspondence held at banks.

Article 204

Search of Persons

(Paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Before conducting the search of the person, the individual to be searched shall be provided with a copy of the search warrant and informed of the right to request the presence of a trusted person, provided that such person can be located promptly and is suitable.
2. The search shall be conducted with due respect for the dignity and personal integrity of the person being searched. The search shall be carried out by a person of the same gender, except in cases where this is not possible due to circumstances.

Article 205

Search of Premises

(Amended by Law no. 35/2017, dated 30.3.2017)

1. The defendant, when present, and the person in possession of the premises shall be provided with a copy of the search warrant and informed of the right to request the presence of a trusted person who is present on site and suitable, pursuant to Article 108 of this Code, or of their defense counsel.
2. When the defendant requests the presence of defense counsel during the conduct of the search, the proceeding authority shall postpone the search until the counsel arrives, but no longer than two hours from the moment the counsel has been notified of the search. During this time, the proceeding authority may restrict the movement of the interested person and of other individuals present at the premises to be searched.
3. The postponement of the search, pursuant to paragraph 2 of this Article, extends the respective time limit provided for in paragraph 4 of Article 202/a of this Code.
4. The proceeding authority may search the persons present upon deeming that they may conceal material evidence or items belonging to the criminal offense. It may also order that those present not leave before the search is completed and forcibly return those who attempt to leave.
5. When the owner or possessor of the item is not known or cannot be found, the proceeding authority shall conduct the search in the mandatory presence of defense counsel appointed ex officio.

Article 206
Time for Conducting a House Search

1. A search of a house or an enclosed area adjacent to it may not begin before 07:00 hours nor after 20:00 hours. In urgent cases, the proceeding authority may issue a written warrant authorizing the search to be conducted outside of these limitations.

Article 207
Seizure during a Search
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Items found during the search shall be seized, provided they are specified in the warrant authorizing the search.
2. Other items found during the search, not included in the relevant warrant but connected to the same criminal offense, may also be seized in compliance with the provisions governing seizures.
3. When, during the search, items are discovered that are unrelated to the offense for which the search warrant was issued, but that are connected to another criminal offense subject to prosecution ex officio, the discovered items shall be seized.
4. For seizures carried out under the conditions of paragraphs 2 and 3 of this Article, the criteria provided in Article 301 of this Code shall apply.

SECTION III
SEIZURES

Article 208
Scope of Seizure
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The judge or prosecutor shall, by a reasoned decision, order the seizure of material evidence and of items connected with the criminal offense when they are necessary for the establishment of facts.
2. The seizure shall be carried out either by the authority that issued the decision or by judicial police officers delegated through the same decision.
3. A copy of the seizure warrant shall be delivered to the interested party.

Article 208/a

Seizure of Computer Data

(Added by Law no. 10 054, dated 29.12.2008; paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. In proceedings concerning crimes related to information technology, the court, upon the petition of the prosecutor, shall order the seizure of computer data or computer systems. In this decision, the court shall determine the right to access, search, and obtain computer data within the computer system, as well as the prohibition of further operations or the securing of the data or the computer system.
2. Where there are reasonable grounds to believe that the requested computer data are stored in another computer system or in a part thereof, and such data are lawfully accessible from or available through the initial computer system being controlled, the court, upon the petition of the prosecutor, shall immediately order the search or access of such other computer system.
3. In execution of the court's decision, the prosecution or the judicial police officer delegated by the prosecutor shall take measures:
a) to prevent further operations or to secure the computer system, a part thereof, or another data storage device;
b) to extract and obtain copies of the computer data;
c) to block access to the computer data, or to remove such data from computer systems to which access is granted;
ç) to ensure the integrity of the relevant stored data.
4. For the execution of these actions, the prosecutor may order the engagement of an expert possessing knowledge of the operation of computer systems or the measures applied for the protection of computer data therein. The summoned expert may not refuse the duty without justified grounds.

Article 209

Seizure of Correspondence

(Words added to paragraph 1 by Law no. 9085, dated 19.6.2003)

1. When the court has reasonable grounds to believe that in post or telegraph offices there are letters, securities, envelopes, parcels, telegrams, and other correspondence items sent by the defendant or addressed to him, even under another name or through another person, it shall order their seizure.
2. When the seizure is carried out by a judicial police officer, he/she must deliver the seized correspondence items to the judicial authority without opening them and without having access to their content in any other way.
3. Seized items that do not fall within the category of correspondence that may be seized shall be returned to their rightful owner and may not be used.

Article 210

Seizure at Banks
(Words added to paragraph 1 by Law no. 9085, dated 19.6.2003)

1. The court may order the seizure, at banks, of documents, securities, amounts deposited in current accounts, and any other items, including those held in safety deposit boxes, when there are reasonable grounds to believe that they are connected with the criminal offense, even if they do not belong to the defendant or are not under his/her name. In urgent cases, this decision may be taken by the prosecutor.

Article 211
Obligation of Delivery and Preservation of Secrecy
(Words added to paragraphs 1 and 2 and words amended in paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. Persons bound by professional or state secrecy are obliged to immediately deliver to the proceeding authority acts and documents, including original copies, and any other items kept by them due to their duty, service, or profession, except where they declare in writing that the material constitutes state secrecy or secrecy related to their duty or profession. In the latter case, the necessary verifications shall be carried out, and where it results that the declaration is groundless, the proceeding authority shall order the seizure.
2. Where state secrecy is confirmed by the competent authority, the proceeding authority shall inform the competent authority, requesting the confirmation, and if the evidence is essential for the resolution of the case, the proceeding authority shall decide to take the evidence.
3. Where, within thirty days from the request, the competent authority does not provide confirmation of the secrecy, the proceeding authority shall order the seizure.

Article 211/a
Seizure in the Offices of Intelligence Services
(Added by Law no. 35/2017, dated 30.3.2017)

1. When the need arises to seize documents, acts, or other items in the offices of intelligence services whose activities are related to national security, the court shall, in the reasoning of the seizure decision, indicate in detail the documents, acts, or items subject to seizure.
2. The court shall authorize the prosecutor to review the documents, acts, and items that must be seized. The prosecutor shall take only those which are indispensable for the purposes of the investigation.
3. Where there are reasonable grounds to believe that the documents, acts, or items have not been made available or are incomplete, the court shall inform the competent authority, which shall proceed to release the documents, acts, or other items, or confirm their absence.
4. Where there is a need to obtain the original or a copy of a document, act, or item created by a foreign intelligence service and provided under the condition of non-disclosure, the review and delivery shall be suspended. In such a case, the competent authority shall be notified immediately, in order to communicate with the foreign authority for deciding on the continued preservation of secrecy. Within 60 days, the competent authority shall either authorize the release of the document, act, or item, or confirm the need to preserve state secrecy.
5. If the competent authority does not respond within the time limit provided in paragraph 4 of this Article, the court shall order the taking of the document, act, or item subject to seizure.

Article 212
Challenge to the Seizure Decision
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The defendant, the person from whom the items have been seized, and any person entitled to claim them, may lodge a complaint before the court, which shall render a reasoned decision within 10 days.
2. An appeal against the court's decision may be filed within 5 days. The court of appeal shall render a reasoned decision within 10 days from the receipt of the case file.
3. The appeal does not suspend the enforcement of the decision.

Article 213
Copies of Seized Documents

1. The proceeding authority may order the reproduction of copies of the seized acts and documents, returning the originals; when the originals must be retained, The proceeding authority shall order the Clerk's Office to issue certified copies.
2. In all cases, the person or office from which the seizure has been made shall have the right to receive a copy of the official record of seizure.
3. When the seized document is part of a book or register which cannot be separated, and the proceeding authority requires the original, the book or register shall remain at the disposal of the proceeding authority. The Clerk's Office of the proceeding authority shall issue to the interested parties, upon their request, copies, extracts, or certificates of the parts of the book or register that have not been subjected to seizure.

Article 214
Custody of Seized Items
(Second sentence of paragraph 1 amended; paragraph 2 amended by Law no. 147/2020, dated 17.12.2020)

1. Seized items shall be kept in custody in the Clerk's Office. When this is not possible or appropriate, the proceeding authority shall order that they be kept in custody by the state administrative body, specifying the manner of custody.
2. The state administrative body is obliged to safeguard and administer the seized items in accordance with the special legislation on the administration of seized assets and material evidence, and to present the items when requested by the proceeding authority.

Article 215
Sealing of Seized Items
(Paragraphs 4, 5 and 6 added by Law no. 35/2017, dated 30.3.2017; paragraph 3 amended by Law no. 147/2020, dated 17.12.2020)

1. Seized items shall be secured with the seal of the proceeding authority or, depending on the nature of the items, with other appropriate means indicating that they are preserved for the needs of justice.
2. The proceeding authority shall extract copies of documents and photographs or other reproductions of the seized items which may deteriorate or are difficult to preserve, attach them to the case file, and order their preservation in the Clerk's Office.

3. For items that may deteriorate, at the request of the state administrative body or ex officio, the proceeding authority shall order, as appropriate, their alteration or destruction.
4. At the request of the proceeding authority, the court may order the destruction of items prohibited from being produced, possessed, held, or traded, when their preservation is difficult, particularly costly, or poses a risk to public security, health, or hygiene. In such cases, the court shall order the taking and preservation of samples for procedural purposes.
5. The proceeding authority shall notify the retained or ex officio appointed defense counsel of the place and date of the sampling, at least 24 hours in advance. Failure of the defense counsel to appear at the sampling shall not prevent the proceeding authority from carrying it out.
6. The procedure for the destruction of seized items, the time limits, as well as the competent authority, shall be determined by joint Directive of the minister responsible for public order and security and the Minister of Justice. Where possible, the actions carried out shall be documented by audiovisual means and, in all cases, a written record shall be kept, a copy of which shall be sent to the prosecution office attached to the court that ordered the destruction.

Article 216
Removal and Reapplication of Seals

1. When the proceeding authority removes seals, it shall verify whether they have been tampered with, and if it finds any alteration, it shall draw up an official record. After the action for which the removal of the seals was necessary has been carried out, the seized items shall be sealed again, with the date of the action placed next to the seal.

Article 217
Return of Seized Items

1. When the seizure is no longer necessary for evidentiary purposes, the seized items shall be returned to their rightful owner, even before a final decision is rendered. When necessary, the proceeding authority shall order the return of such items.
2. The court may order that the seized items not be returned when, upon request of the prosecutor or the civil plaintiff, the seizure must be maintained to secure the civil claim.
3. Once the decision becomes final, the seized items shall be returned to their rightful owner, except in cases where confiscation is ordered.

Article 218
Rules on the Return of Seized Items

1. The court shall order the return of seized items when there is no doubt as to their ownership.
2. When the items have been seized from a third party, their return cannot be ordered in favor of others without the third party being heard by the court.
3. During the preliminary investigations, the return of seized items shall be ordered by the prosecutor. Interested parties may appeal against such order at court.

Article 219
Rulings in Case of Non-Return

1. After one year from the date the decision has become final, if a petition for return has not been submitted or has not been granted, the court that issued the decision shall order that money and

securities be deposited in a bank, in a special account. For other items, their sale shall be ordered; however, when such items have scientific interest or artistic value, they shall be transferred to the relevant institutions.
2. The sale may also be ordered before the time limit indicated in paragraph 1 when the items cannot be preserved without risk of deterioration or without incurring excessive expenses.
3. The proceeds from the sale shall be deposited in a bank, in a special account.

Article 220
Expenses for Seized Items

1. The expenses required for the safekeeping of seized items shall be borne by the State, which shall have priority over any other creditor with respect to the amounts deposited from the non-returned items and values.

SECTION IV
INTERCEPTIONS
(Title amended by Law no. 9187, dated 12.2.2004)

Article 221
Limits of Authorization
(Amended by Law no. 8813, dated 13.6.2002; Law no. 9187, dated 12.2.2004; letter "b" of paragraph 1 and paragraph 2 amended, and letter "c" added to paragraph 1, by Law no. 35/2017, dated 30.3.2017)

1. The interception of a person's communications or of a telephone number by telephone, fax, computer, or other means of any kind, the covert interception by technical means of conversations held in private places, the audio and video interception in private places, and the recording of incoming and outgoing telephone numbers, shall be permitted only when proceedings are conducted:
a) for intentional crimes punishable by imprisonment of not less, at the maximum, than seven years;
b) for any intentional criminal offense committed through telecommunications means or the use of information or telematic technologies;
c) for the criminal offenses provided for under letter "a," paragraph 1, of Article 75/a of this Code.
2. The covert photographic, film, or video recording of persons in public places, and the use of location tracking devices, shall be permitted only when proceedings are conducted for intentional offenses punishable by imprisonment of not less, at the maximum, than three years.
3. An interception may be ordered against:
a) the suspect of committing a criminal offense;
b) a person suspected of receiving or transmitting communications from the suspect;
c) a person participating in transactions with the suspect;
ç) a person whose surveillance may lead to the discovery of the suspect's location or identity.
4. The result of the interception shall be valid with respect to all persons involved in the communication.
5. Preventive interception shall be regulated by a special law. The results of preventive interceptions may not be used as evidence.

Article 222
Warrant authorizing Interception

(Amended by Laws no. 8813, dated 13.6.2002; no. 9187, dated 12.2.2004; and no. 35/2017, dated 30.3.2017)

1. At the request of the prosecutor, in the cases permitted under paragraph 1 of Article 221, the court shall authorize interception by a reasoned decision, when it is indispensable for the continuation of ongoing investigations and when there exists a reasonable suspicion, supported by evidence, that the person has committed a criminal offense.
2. When there are reasonable grounds to believe that delay may cause serious harm to the investigation, and the conditions of paragraph 1 of this Article are met, the prosecutor shall order the interception by a reasoned ruling and shall immediately notify the court, but no later than twenty-four hours from the moment of the decision. If judicial validation is not made within the prescribed time, the interception may not continue and its results may not be used.
3. When one of the two persons whose communications are to be intercepted agrees to perform and record the relevant action, pursuant to an arrangement with a judicial police officer, the action shall be permitted with the prosecutor's authorization.
4. In the cases provided in paragraphs 1, 2, and 3 of this Article, the court shall issue a reasoned decision in chambers within twenty-four hours from the filing of the prosecutor's petition. Against the decision refusing the petition for interception, a special appeal may be filed with the court of appeal within twenty-four hours. The court of appeal shall examine the appeal within forty-eight hours from receipt of the acts. The filing of the petition for validation of the interception shall not result in its suspension.
5. The interception warrant shall indicate the manner of execution and the duration of the measures, which may not exceed fifteen days. This period, upon a reasoned request of the prosecutor, may be extended by the court as often as necessary, for successive periods of fifteen days, when the conditions of paragraph 1 of this Article exist and the results of the interception indicate the necessity of extension.
6. In the court's warrant authorizing covert photographic or video interception, or interception of conversations in private places, the judicial police officer or a qualified specialist may be authorized to enter such premises covertly, acting in accordance with the decision. This authorization must be executed within fifteen days.
7. Any acts ordering, authorizing, validating or extending interceptions, as well as the commencement and conclusion of any interception action, shall be recorded in the register kept at the prosecution office.
8. In the cases provided under Article 221, paragraph 2, the action shall be authorized by the prosecutor.

Article 222/a

Appeal against the Warrant authorizing the Interception

(Added by Law no. 9187, dated 12.2.2004; paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. An appeal against the warrant authorizing interception may be filed within 10 days by the interested party who has become aware of the interception, on grounds of violation of the criteria set forth in Article 221.
2. The appeal is examined in chambers by the court of appeal. If the appeal is found to be well-founded, the court of appeal shall quash the warrant authorizing the interception and shall order the deletion of all material obtained from the interception.

Article 223

Interception Operations

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; paragraph 1/1 added by Law no. 9187, dated 12.2.2004; paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. Interception operations may only be carried out using equipment installed in designated locations, authorized and supervised by the prosecutor. The execution of the interception and the transcription records are performed by judicial police officers, under the direction and supervision of the case prosecutor.

1/1. When one of the conditions for interception no longer exists, the judicial police officer shall immediately notify the prosecutor, who shall order the termination of the interception and shall inform the court, when the warrant was issued by the court.

2. Intercepted communications shall be recorded, and a report shall be drawn up on the actions performed. The report shall include the transcription of the content of the intercepted communications.

3. The reports and recordings shall be delivered immediately to the prosecutor and, within five days from the conclusion of the operations, shall be deposited at the Clerk's Office together with the acts ordering, authorizing, validating, and extending the interception. When depositing may prejudice the investigation, the court may authorize the prosecutor to postpone the deposit until the conclusion of the preliminary investigation.

4. Defense counsels and representatives of the parties shall be immediately notified of the deposit in the Clerk's Office and of their right to review the documents and listen to the recordings. The court, after hearing the prosecutor and the defense counsel, shall decide on the removal of recordings and reports whose use is prohibited.

5. The court shall order the full transcription of the recordings that must be taken. The transcriptions shall be placed in the trial file. Defense counsels may extract copies of the transcriptions.

Article 224

Custody of Documentation

(Paragraph 2 added by Law no. 9187, dated 12.2.2004)

1. The minutes and recordings shall be kept under the custody by the prosecution office that ordered the interception until the decision becomes final, with the exception of those whose use is prohibited. However, when such documentation is no longer necessary, the interested parties may request its destruction. The court that validated the interception shall decide on such a request. Destruction shall be carried out under the supervision of the judge, and a record of the actions shall be drawn up.

2. When the prosecutor decides to dismiss the case, he or she must notify the court in writing. The court shall decide on the destruction of the minutes and recordings within a time limit set by it and shall inform the person who was intercepted. At the request of the prosecutor, such notification may be omitted in cases where there is a risk to the life or health of others, or where an ongoing investigation may be endangered.

Article 225

Use of Interception Results in other Proceedings

(Amended by Law no. 8813, dated 13.6.2002)

1. The results of interceptions may be used in other proceedings only when they are indispensable for the investigation of crimes. In such cases, the minutes and recordings of the interceptions shall be deposited with the authority conducting those proceedings.

Article 226
Prohibition of Use

1. The results of interceptions may not be used when they have been conducted outside the cases permitted by law or when the provisions of this Section have not been observed.
2. Interceptions of conversations or communications of persons bound to maintain secrecy by reason of their profession or duty may not be used, except in cases where such persons have testified on the same facts or have otherwise disclosed them.
3. The court shall order the destruction of interception documentation that is prohibited from being used, except in cases where it constitutes material evidence.

TITLE V
PRECAUTIONARY MEASURES

CHAPTER I
PERSONAL PRECAUTIONARY MEASURES

SECTION I
GENERAL PROVISIONS

Article 227
Classification of Personal Precautionary Measures

1. Personal precautionary measures are divided into coercive and interdictive measures.

Article 228
Conditions for the Imposition of Personal Precautionary Measures
(Conjunctions removed and words added in paragraph 2, and words and punctuation added in letter "a" of paragraph 3, by Law no. 35/2017, dated 30.3.2017)

1. No one may be subjected to personal precautionary measures unless there exists a reasonable suspicion against him/her, based on evidence.
2. No measure may be applied when there exist grounds of impunity, extinguishment of the criminal offense, or extinguishment of the sentence.
3. Personal precautionary measures shall be imposed:
a) when there exist significant grounds that place at risk the collection or the reliability of the evidence, based on factual circumstances that must be expressly stated in the reasoning of the decision;
b) when the defendant has absconded or there exists a risk that he or she may abscond;
c) when, due to the factual circumstances and the personality of the defendant, there is a risk that he/she may commit serious crimes or crimes of the same nature as that for which he/she is being prosecuted.

Article 229

Criteria for the Imposition of Personal Precautionary Measures
(Words added to paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. In imposing precautionary measures, the court shall take into account the suitability of each measure in relation to the degree of precautionary needs required in the specific case.
2. Each measure must be proportionate to the seriousness of the fact and to the sanction provided for the specific criminal offense. Consideration shall also be given to continuity, repetition, as well as the mitigating and aggravating circumstances provided by the Criminal Code.
3. When the defendant is a minor, the court shall take into account his or her best interests and the requirement not to interrupt ongoing educational processes.

Article 230
Special Criteria for the Imposition of Pre-trial Detention
(Words amended in paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. Pre-trial detention may be ordered only when every other measure is inadequate due to the particular dangerousness of the offense and of the defendant.
2. Pre-trial detention may not be ordered against a pregnant woman or a woman with a child under the age of three living with her, against a person in particularly serious health condition, against a person over the age of seventy, or against a person suffering from drug addiction or alcoholism who is undergoing a therapeutic program in a specialized institution.
3. In the cases provided for in paragraph 2, pre-trial detention may be ordered only when there exist reasons of particular importance for crimes punishable by not less than ten years' imprisonment at the maximum.
4. Minors may not be detained when charged with criminal misdemeanors.

Article 231
Substitution or Combination of Personal Precautionary Measures

1. In the event of a breach of obligations concerning a precautionary measure, the court may order the substitution or combination with another, more severe measure, taking into account the seriousness, motives, and circumstances of the breach. For breaches of obligations related to a interdictive measure, the court may order the substitution or combination with a coercive measure.

SECTION II
COERCIVE MEASURES

Article 232
Types of Coercive Measures

1. The coercive measures are:
a) prohibition on leaving the country;
b) obligation to appear at the judicial police;
c) prohibition and obligation to reside in a specific place;
ç) bail;
d) house arrest;
dh) pre-trial detention;
e) temporary commitment to a psychiatric hospital.

Article 233
Prohibition on Leaving the Country

1. By the decision ordering the prohibition on leaving the country, the judge orders the defendant not to leave the territory of the Albanian state without his/her authorization.
2. The court shall establish the necessary obligations to ensure the enforcement of the decision and to prevent the use of the passport and other valid identification documents for leaving the country.

Article 234
Obligation to appear at the Judicial Police

1. By the decision imposing the obligation to appear before the judicial police, the court orders the defendant to appear at a designated office of the judicial police.
2. The court shall determine the days and times of appearance, taking into account the work and residence of the defendant.

Article 235
Prohibition and Obligation to reside in a Specific Place
(Words removed by Law no. 35/2017, dated 30.3.2017)

1. By the decision ordering the prohibition of residence, the court shall order the defendant not to reside in a specific place and not to go there without its authorization.
2. By the decision ordering the obligation of residence, the court shall order the defendant not to leave, without its authorization, the territory of the municipality where he or she usually resides. When, due to the defendant's personality or the landscape conditions, residence in that place does not satisfy the precautionary needs, the obligation of residence may be ordered in the territory of another municipality.
3. When imposing the obligation of residence, the court shall also indicate the police authority before which the defendant must immediately appear and declare the place where he or she will establish residence. The court may order the defendant to declare to the police authorities the times and places where he or she may be found each day.
4. The police authority shall be notified of the court's orders to supervise compliance and to report any violation to the prosecutor.

Article 236
Bail
(Amended by Law no. 8813, dated 13.6.2002; amended by Law no. 35/2017, dated 30.3.2017)

1. When the precautionary measure of pre-trial detention or house arrest has been imposed due to the risk of abscondment, the court may decide to replace it by ordering the release of the person, if a bail is provided by him/her or another person to secure his/her non-abscondment until the conclusion of the trial.
2. The court shall accept a bail under the same conditions as in the above paragraph, even when the person should be subjected to the precautionary measure of pre-trial detention or house arrest due to the risk of abscondment, thereby allowing him/her to remain at liberty.

3. The bail amount shall be determined by the court, after hearing the parties, based on the actual precautionary needs, the personal and family circumstances of the defendant, and his/her financial situation.
4. When accepting the bail request, the court shall determine the amount to be deposited and the time limit within which the deposit must be made, and, if deemed appropriate, the court shall also impose one of the coercive measures provided for in letters "a," "b," and "c" of Article 232 of this Code. The defendant shall be held under the precautionary measure of pre-trial detention or house arrest until the bail amount is deposited. The prosecutor is immediately notified of the deposit.
5. Immediately upon notification of the deposit, and in any case no later than 24 hours from the notification of the deposit of the bail amount, the prosecutor shall verify the relevant documentation and shall order, as appropriate, the immediate release of the defendant or the confirmation of the precautionary measure of pre-trial detention or house arrest.
6. When the defendant violates the bail conditions, the court shall order the confiscation of the amount deposited as bail and the imposition of the precautionary measure of pre-trial detention.

Article 237
House Arrest
(Paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. By the decision imposing house arrest, the court shall order the defendant not to leave his/her residence or another designated place where he/she resides, receives treatment, or is being taken care of.
2. When imposing this measure, the court shall also determine the manner of its execution and supervision.
3. The prosecutor and the judicial police shall supervise compliance with the orders given to the defendant.
4. The rules established for pre-trial detention apply to the duration of house arrest.
5. The time spent under house arrest shall be credited towards the imposition of the sentence.

Article 238
Pre-trial Detention

1. By the decision imposing pre-trial detention, the court shall order the judicial police to apprehend the defendant and immediately transfer him/her to a pre-trial detention facility, to be held at the disposal of the proceeding authority.
2. The period of pre-trial detention shall be credited towards the imposition of the sentence.

Article 239
Temporary Commitment to a Psychiatric Hospital
(Paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. When the person to be arrested is mentally ill and, for this reason, his/her capacity to understand or to exercise will is totally lost or substantially diminished, the court, instead of pre-trial detention, may order his/her temporary commitment to a psychiatric institution, establishing the necessary measures to prevent the risk of abscondment.
2. Commitment may not continue when it is established that the defendant is no longer mentally ill.
3. The provisions of paragraph 2 of Article 238 of this Code shall apply.

SECTION III
INTERDICTIVE MEASURES

Article 240
Types of Interdictive Measures

1. Interdictive measures are:
a) suspension from the exercise of a public duty or service;
b) temporary prohibition from exercising certain professional or business activities.

Article 241
Conditions for the Application of Interdictive Measures

1. Interdictive measures may be applied only when proceedings are conducted for criminal offenses for which the law prescribes a penalty of imprisonment of more than one year, in the maximum term.

Article 242
Suspension from the Exercise of a Public Duty or Service

1. By the decision ordering the suspension from the exercise of a public duty or service, the court shall temporarily prohibit the defendant, in whole or in part, from exercising the activities related thereto.
2. This measure shall not apply to persons elected in accordance with the electoral law.

Article 243
Temporary Prohibition from exercising certain Professional or Business Activities

1. By the decision ordering the prohibition to exercise certain professions or managerial duties in legal entities, the court shall temporarily prohibit the defendant, in whole or in part, from exercising the activities related thereto.

CHAPTER II
IMPOSITION AND ENFORCEMENT OF PRECAUTIONARY MEASURES

Article 244
Petition for the Imposition of Precautionary Measures
(Paragraph 3 added by Law no. 8813, dated 13.6.2002; sentence added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. Precautionary measures shall be imposed upon the petition of the prosecutor, who shall submit to the competent court the reasons on which the petition is based. The decision shall be taken in chambers and must be reasoned.
2. Even when the court declares its lack of jurisdiction for any reason, if the conditions exist and there is urgency for the imposition of the measure, it shall order its imposition and transfer the acts to the competent court.

3. The court may not impose a more severe precautionary measure than the one requested by the prosecutor.

Article 245

Court Decision

(Words amended and punctuation added at letter "ç" of paragraph 1; letter "ç" renamed to letter "d," letter "d" renamed to letter "dh"; paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. The decision imposing a precautionary measure must contain, under penalty of invalidity:
a) the personal details of the person subject to the precautionary measure, or any other identifying information, and, where possible, the indication of the place where he or she is located;
b) a summary presentation of the facts, indicating the legal provisions considered as violated;
c) a statement of the specific reasons and the data legitimating the precautionary measure;
ç) a statement of the reasons why the arguments raised by the defense are not accepted, as well as the reasoning for the inadequacy of other precautionary measures, where coercive precautionary measures under Articles 237, 238, and 239 of this Code are imposed;
d) the determination of the duration of the measure, where it is ordered to guarantee the collection or reliability of the evidence;
dh) the date, the signature of the presiding judge and that of the assisting clerk, and the court stamp.
2. When the criminal offense has been committed by two or more persons, the court shall issue a single decision, providing reasons for the conditions and criteria for each of them.

Article 246

Execution of Precautionary Measures

(Paragraphs 2 and 6 amended by Law no. 8813, dated 13.6.2002; first sentence of paragraph 1 amended and the second sentence added; paragraph 6 amended by Law no. 35/2017, dated 30.3.2017)

1. The police officer or agent charged with the execution of the arrest warrant shall deliver a copy of the warrant to the person against whom the measure has been ordered and shall immediately inform him or her of the letter of rights, pursuant to paragraph 2 of Article 34/b of this Code. The judicial police shall draw up a report of all actions performed. The report shall be submitted to the court that issued the warrant and to the prosecutor.
2. If there is doubt regarding the authenticity of the warrant imposing the precautionary measure, or regarding the identity of the person against whom the measure was ordered, the judicial police officers and agents entrusted with its execution shall execute it.
3. Decisions imposing other precautionary measures shall be notified to the defendant by the court.
4. After their notification or execution, the warrants shall be filed with the Clerk's Office of the court that issued them. The defense counsel is also notified of the filing.
5. A copy of the warrant imposing an interdictive measure is submitted to the authority that is competent to impose such a measure under ordinary circumstances.
6. Every two months from the execution of the arrest warrant, the prosecutor shall inform in writing the court that imposed the measure regarding the investigations carried out and the continuing need for the measure. The information must include data on the status of the proceedings, the questioning of the defendant and other persons, and a description of the evidence obtained, and copies of the relevant case file documents must be attached. Where the prosecutor fails to provide information within the prescribed time limit, the court shall, upon the defendant's petition or ex officio, verify

the continuing necessity of the measure. After hearing the parties, the court shall decide on the continuation, replacement, or revocation of the precautionary measure. The provisions of Articles 248 and 249 of this Code shall apply.

Article 247

Search for a Person who cannot be found

(Paragraphs 3/1 and 3/2 added by Law no. 35/2017, dated 30.3.2017)

1. When the person against whom the measure has been ordered cannot be found, the judicial police officer or agent shall draw up a report indicating the searches carried out and submit it to the court that issued the warrant.
2. When the court deems that the searches have been complete, it shall declare the person to be absconding.
3. By the act declaring absconding, the court shall appoint a defense counsel for the absconding person and order that a copy of the warrant imposing the measure be filed with the court Clerk's Office.
3/1. A person shall be considered absconding when, despite being aware, he or she voluntarily evades the execution of precautionary measures provided for under Articles 233, 235, 237, and 238 of this Code, or the execution of an imprisonment sentence.
3/2. The procedural consequences of absconding shall apply only within the proceeding for which it was declared. The status of absconding shall remain until the precautionary measure is executed, revoked, ceases to have effect, or when the criminal offense or sentence for which the measure was imposed is extinguished.
4. For all purposes, a person who has escaped from the place of detention is equated with the absconding person.
5. To facilitate the search for the absconding person, the court may order the interception of telephone conversations and other forms of communication.

Article 248

Interrogation of the Arrested Person

(One sentence added to paragraph 1, paragraphs 4 and 6 added, paragraph 2 amended, paragraph 4 renumbered as paragraph 5, by Law no. 35/2017, dated 30.3.2017)

1. No later than three days from the execution of the measure, the court shall interrogate the person against whom pre-trial detention or house arrest has been ordered. For other coercive or interdictive precautionary measures, the court shall proceed with the interrogation within five days from the execution of the measure. The defense has the right to review the case files and obtain copies thereof.
2. Through the interrogation, the court shall verify the conditions and criteria for the imposition of the measure and the precautionary needs, as provided under Articles 228, 229, and 230 of this Code. When such conditions do not exist, the court shall order the revocation or replacement of the measure. Otherwise, the court shall order its continuation. The court shall file a reasoned decision within 48 hours.
3. The prosecutor and the defense counsel shall participate in the interrogation of the arrested person, having been notified by the court Clerk's Office.
4. During the course of the judicial trial, the parties have the right to present evidence, with the exception of witness testimony.

5. When the interrogation of the arrested person must take place in the court of another district, the court shall request that the interrogation be conducted by a judge of that court.
6. The prosecutor may not interrogate the arrested person before the court has proceeded in accordance with paragraph 1 of this Article.

Article 249

Appeal Against Precautionary Measures

(Paragraphs 1, 3, 5, and 9 amended by Law no. 8813, dated 13.6.2002; paragraph 1 amended, paragraph 1/1 added, words amended, removed, and added in paragraph 3, words amended and added in paragraphs 5, 9, and 10, second sentence added to paragraph 6 and words added to paragraph 8, by Law no. 35/2017, dated 30.3.2017; phrase added in paragraph 1 by Law no. 41/2021, dated 23.3.2021)

1. An appeal may be lodged within five days against the court decision imposing, rejecting, or dismissing a precautionary measure, pursuant to Article 244 of this Code.
1/1. Against the court decision on the continuation, revocation, or replacement of a precautionary measure, the prosecutor, the defendant, and his/her defense counsel may lodge an appeal within five days, pursuant to Article 248 of this Code.
2. For an absconding defendant, the time limit begins to run from the date of notification made pursuant to Article 141.
3. The appeal shall be filed with the Clerk's Office of the court that issued the decision, which shall be obliged, within three days from completion of the notifications, to forward the case files to the court that shall review the appeal.
4. The date set for the hearing shall be notified to the prosecutor, the defendant, and his/her defense counsel at least three days in advance.
5. The appeal shall be reviewed within ten days from the receipt of the case files.
6. The court shall decide, as appropriate, on the annulment, modification, or confirmation of the decision, even on grounds different from those presented or indicated in the reasoning of the decision. The court shall file the reasoned decision within ten days.
7. When the decision is not pronounced or not enforced within the prescribed time limit, the act on the basis of which the coercive measure was imposed shall lose its effect.
8. Against the decision of the court of appeal, a cassation appeal may be lodged before the Supreme Court on grounds of law violations, within its competence.
9. After six months from the execution of the arrest warrant, the defendant and his/her defense counsel may file an appeal before the court of appeal regarding the duration of pre-trial detention.
10. The court of appeal shall decide within fifteen days from the receipt of the case files.

Article 250

Calculation of the Time Limits for the Duration of Measures

1. The effects of pre-trial detention shall begin to run from the moment of arrest or detention.
2. When the defendant is already in pre-trial detention for another criminal offense, the effects of the measure shall begin to run from the day on which the decision is notified.
3. The effects of other measures begin to run from the moment the decision is notified.
4. When several decisions imposing the same measure for the same fact are issued against a defendant, the time limits begin to run from the day on which the first decision was executed or notified.

CHAPTER III
ARREST IN FLAGRANTE DELICTO AND DETENTION

Article 251
Arrest in Flagrante Delicto

1. Judicial police officers and agents shall be obliged to arrest any person caught in flagrante delicto for an intentional crime, whether completed or attempted, for which the law provides a maximum sentence of not less than five years' imprisonment.
2. Judicial police officers and agents shall be entitled to arrest any person caught in flagrante delicto for an intentional crime, whether completed or attempted, for which the law provides a maximum sentence of not less than two years' imprisonment, or for a criminal offense committed through negligence, for which the law provides a maximum sentence of not less than ten years' imprisonment.
3. In case of necessity, due to the seriousness of the fact or the dangerousness of the subject, and duly motivated in a special act, judicial police officers and agents shall be entitled to arrest any person caught in flagrante delicto, even when the conditions of paragraph 2 are not met.
4. In the cases provided for in paragraph 1, any person is authorized to carry out an arrest in flagrante delicto for crimes prosecutable ex officio. The person who has carried out the arrest must immediately hand over the arrestee to the judicial police, which shall draw up a report of the surrender and shall deliver him/her a copy of it.

Article 252
State of Flagrante Delicto

1. A person is in a state of flagrante delicto when caught in the act of committing a criminal offense, or when immediately after the commission of the offense he/she is pursued by the judicial police, by the victim, or by other persons, or when he/she is caught with items and material evidence that indicate he/she has committed the criminal offense.

Article 253
Detention of a Suspect for a Crime
(Words amended in paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. When there are well-founded reasons to believe that there is a risk of abscondment, the prosecutor shall order the detention of a person suspected of having committed a crime for which the law provides a maximum sentence of not less than four years' imprisonment.
2. The judicial police shall carry out the detention on their own initiative when, due to urgent circumstances, it is not possible to await the prosecutor's order.

Article 254
Prohibition of Arrest and Detention under Certain Circumstances

1. Arrest or detention shall not be permitted when, from the factual circumstances, it appears that the act was committed in the course of carrying out a duty or in the exercise of a lawful right, or when there exists a ground for impunity.

Article 255

Duties of the Judicial Police in Cases of Arrest or Detention

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; sentence added to paragraph 1 and words added to paragraph 4, paragraph 3 added and paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Judicial police officers and agents who have carried out an arrest or detention, or who have taken custody of the arrested person, shall immediately notify the prosecution office of the place where the arrest or detention was carried out. They shall inform the arrested or detained person that he/she is under no obligation to make statements and that, should he/she speak, anything he/she says may be used against him/her at trial. Judicial police officers and agents shall also inform the arrested or detained person of his/her right to choose a defense counsel and shall immediately notify the retained counsel, or, where applicable, the one appointed by the prosecutor. The date, time, and name of the judicial police officer who carried out the arrest or detention shall be recorded in the report.
2. Judicial police officers and agents shall immediately inform the arrested person of the reasons for the arrest or detention and of his/her rights under Article 34/b of this Code, except where this is absolutely impossible due to the circumstances.
3. When the arrested or detained person is ill or a minor, the prosecutor may order that he/she be kept under guard at his/her residence or in another secured place. When the arrested or detained person has not been given the letter of rights, it shall be delivered immediately upon his/her arrival at the pre-trial detention premises. If the arrested or detained person cannot read, the letter of rights shall be read aloud by one of those present. This fact shall be reflected in the report, against signature.
4. With the consent of the arrested or detained person, the judicial police must promptly notify his/her family members. When the arrested or detained person is a minor, the parent or guardian must be notified without delay, and the rules of the Juvenile Justice Code shall apply.

Article 256

Interrogation of the Arrested or Detained Person

(Paragraphs 2 and 3 added by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor shall interrogate the arrested or detained person in the presence of the defense counsel, whether retained or appointed ex officio. The prosecutor shall inform the arrested or detained person of the facts for which proceedings are being conducted and the reasons for the interrogation, indicating the evidence against him/her and, where this does not prejudice the investigation, also the sources thereof.
2. The prosecutor shall first ask the arrested or detained person whether he/she has received the letter of rights and ensure that he/she has understood his/her rights. When the arrested or detained person has not received the letter of rights, the prosecutor shall provide it prior to the first questioning and explain his/her rights.
3. Statements made by the arrested or detained person before he/she has received the letter of rights or before meeting with his/her defense counsel may not be used.

Article 257

Cases of Immediate Release of the Arrested or Detained Person

1. When it becomes evident that the arrest or detention was carried out due to mistaken identity, or when the legal requirements were not respected, or when the measure of arrest or detention has lost

its effect due to the lapse of the time limit for requesting its validation, the prosecutor shall order, by a reasoned decision, the immediate release of the arrested or detained person. In such cases, release may also be ordered by the judicial police officer, who shall immediately notify the prosecutor of the place where the arrest or detention was carried out.

Article 258

Request for Validation of the Arrest or Detention

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002)

1. When immediate release is not ordered, the prosecutor shall, within forty-eight hours from the arrest or detention, request the validation of the measure from the court of the place where the arrest or detention was carried out. Failure to comply with this time limit shall result in the invalidity of the arrest or detention.
2. The court shall schedule the validation hearing as soon as possible, notifying the prosecutor and the defense counsel.

Article 259

Validation Hearing

(One sentence added at the end of paragraph 2, paragraph 3 amended, and words amended in paragraph 5 by Law no. 8813, dated 13.6.2002; one sentence added at the end of paragraph 2, paragraph 3 amended, and the second sentence in paragraph 4 amended by Law no. 35/2017, dated 30.3.2017)

1. The validation hearing shall be conducted with the mandatory participation of the prosecutor and the defense counsel. When the retained chosen or ex officio appointed defense counsel has not been found or has failed to appear, the court shall appoint another defense counsel as substitute.
2. The prosecutor shall state the grounds for the arrest or detention. After this, the court shall hear the arrested or detained person and the defense counsel, or only the latter, when the arrested or detained person has refused to appear. The evidence taken at this hearing shall be considered as evidence taken at trial; however, at the request of the parties, such evidence may be subject to argumentation during the examination of the merits of the case.
3. When it results that the arrest in flagrante delicto or the detention has been carried out lawfully, the court shall issue a decision validating it. Upon the petition of the prosecutor, the court may impose a precautionary measure. An appeal against the court's decision may be lodged in accordance with Article 249 of this Code.
4. When the arrest or detention is found to be unlawful, the court shall order the immediate release of the arrested or detained person. Against such a decision, the prosecutor may lodge an appeal in accordance with Article 249 of this Code.
5. The arrest or detention shall lose its effect if the court's decision on validation is not pronounced within the following forty-eight hours from the moment the prosecutor's petition was submitted to the court.

CHAPTER IV

REVOCATION, REPLACEMENT AND TERMINATION OF PRECAUTIONARY MEASURES

(Title of the Chapter amended by Law no. 35/2017, dated 30.3.2017)

Article 260

Revocation, Replacement, and Aggregation of Precautionary Measures
(Title of the Article and paragraphs 3 and 4 amended by Law no. 35/2017, dated 30.3.2017)

1. Coercive and interdictive measures shall be revoked immediately when it results that the conditions and criteria for their application do not exist.
2. When the precautionary needs are mitigated or when the applied measure no longer corresponds to the seriousness of the fact or the sentence that may be imposed, the court shall replace the measure with a less severe one.
3. When the precautionary needs are aggravated, or the person violates the obligations related to the precautionary measure, the court, upon the petition of the prosecutor, may order its replacement with a more severe measure or the imposition of an additional coercive or interdictive precautionary measure. For the violation of obligations related to an interdictive measure, the court may order the imposition of an additional interdictive measure or its replacement with a coercive measure.
4. The petition of the prosecutor or the defendant for the revocation, replacement, or aggregation of precautionary measures shall be examined by the court where the acts are located, within five days from its submission. When applicable, the court may also order, ex officio, the revocation or replacement of the precautionary measure during the interrogation of the arrested person, pursuant to Article 248 of this Code, in the cases provided for in paragraph 6 of Article 246 thereof, during the procedure for the pre-trial admission of evidence, during the preliminary hearing, or during the trial.

Article 261
Termination of Precautionary Measures
(Letter "ç" of paragraph 1 amended; paragraph 3 renumbered as paragraph 4 and paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. Precautionary measures shall terminate:
a) when, for the same fact and against the same person, the case has been dismissed or an acquittal decision has been rendered;
b) when the imposed sentence is declared extinguished or conditionally suspended;
c) when the duration of pre-trial detention served exceeds the length of the imposed sentence;
ç) when, after the expiry of the time limit provided for in letter "d", paragraph 1, of Article 245 of this Code, a renewal has not been ordered within the limits established by Articles 264 and 267.
2. Pre-trial detention ordered during preliminary investigations loses its validity if the court does not proceed with the interrogation within the time limit provided for in Article 248.
3. The petition for termination of the precautionary measure shall be submitted together with the supporting evidence to the court where the acts are located at the time of submission. The court shall decide within 48 hours, after notifying the parties. The absence of the parties, without reasonable grounds, does not prevent the court from ruling in their absence. For the reasoning of the decision and the time limits for appeal, the rules provided for in Articles 248 and 249 of this Code shall apply.
4. The termination of precautionary measures shall not preclude the exercise of rights that the law grants to the court or any other authority in the enforcement of supplementary punishments or other interdictive measures.

Article 262
Consequences of the Termination of Precautionary Measures

1. When detention loses its validity, the court shall order the immediate release of the person against whom the measure has been imposed.
2. In cases where other precautionary measures lose their validity, the court shall order their immediate removal.

Article 263

Time Limits of Pre-trial Detention

(Amended by Law no. 8570, dated 20.1.2000; paragraphs 7 and 8 added by Law no. 8813, dated 13.6.2002; words in letters "c" of paragraphs 1, 2, 3 and in letter "b" of paragraph 6 amended by Law no. 35/2017, dated 30.3.2017)

1. Pre-trial detention shall lose its validity if, from the beginning of its enforcement, the following time limits have elapsed without the case file being submitted to the court:
a) three months, when proceedings concern criminal misdemeanors;
b) six months, when proceedings concern crimes punishable by a maximum of up to ten years' imprisonment;
c) twelve months, when proceedings concern crimes punishable by a maximum of not less than ten years' imprisonment or by life imprisonment.
2. Pre-trial detention shall lose its validity if, from the date of submission of the case file to the court, the following time limits have elapsed without a first-instance conviction being rendered:
a) two months, when proceedings concern criminal misdemeanors;
b) nine months, when proceedings concern crimes punishable by a maximum of up to ten years' imprisonment;
c) twelve months, when proceedings concern crimes punishable by a maximum of not less than ten years' imprisonment or by life imprisonment.
3. Pre-trial detention shall lose its validity if, from the date of the first-instance conviction, the following time limits have elapsed without a conviction being rendered by the court of appeal:
a) two months, when proceedings concern criminal misdemeanors;
b) six months, when proceedings concern crimes punishable by a maximum of up to ten years' imprisonment;
c) nine months, when proceedings concern crimes punishable by a maximum of not less than ten years' imprisonment or by life imprisonment.
4. When a decision is quashed by the Supreme Court and the case is remanded to the first instance or appellate court, or when a decision is quashed by the appellate court and remanded to the first instance court, the time limits provided for each instance of the proceedings begin to run anew from the date of the decision of the Supreme Court or the appellate court.
5. In the event of the escape of a defendant in pre-trial detention, the time limits begin to run anew from the moment he/she is re-detained.
6. The overall duration of pre-trial detention, taking into account also the extension provided for in Article 264, paragraph 2, may not exceed the following limits:
a) ten months, when proceedings concern criminal misdemeanors;
b) two years, when proceedings concern crimes punishable by a maximum of up to ten years' imprisonment;
c) three years, when proceedings concern crimes punishable by a maximum of not less than ten years' imprisonment or by life imprisonment.
7. When, upon the expiry of the pre-trial detention period, the prosecutor communicates to the defendant a new charge for which longer pre-trial detention limits are foreseen than those of the

initial charge, he/she shall request the court to set a new time limit for pre-trial detention. The court shall decide in judicial hearing, after hearing the parties.
8. When the new charge relates to a new fact that was unknown at the commencement of the proceedings, the court shall set a new time limit, which begins to run anew; whereas when only the legal qualification of the criminal offense changes, the court shall impose the precautionary measure, but the calculation of the time limit shall begin from the imposition of the previous precautionary measure.

Article 264
Extension of Pre-trial Detention
(Paragraph 2 amended by Law no. 8570, dated 20.1.2000; last sentence of paragraph 1 amended by Law no. 41/2021, dated 23.3.2021)

1. At any state and instance of the proceedings, when an examination of the defendant's mental condition has been ordered, the time limits of pre-trial detention shall be extended for the period necessary to conduct the examination. The extension shall be ordered by the court, upon the prosecutor's petition, after hearing the defense counsel. An appeal against the decision may be lodged with the court of appeal.
2. During the preliminary investigation, the prosecutor may request an extension of the expiring time limits of pre-trial detention when there are significant precautionary needs and when particularly complex verifications make such extension indispensable. The court, after hearing the prosecutor and the defense counsel, shall render a decision. The extension may be granted only once and may not exceed three months.
3. The duration of pre-trial detention may not exceed one-half of the maximum penalty prescribed for the criminal offense under prosecution.

Article 265
Suspension of Pre-trial Detention Time Limits
(Amended by Law no. 8570, dated 20.1.2000)

1. The time limits provided under Article 263 shall be suspended by an appealable court decision:
a) for the period during which the trial is suspended or adjourned due to improper actions or requests made by the defendant or his/her defense counsel, except in cases where the request concerns the taking of evidence;
b) for the period during which the trial is suspended or adjourned due to the non-appearance or withdrawal of one or more defense counsels, leaving one or more defendants without legal assistance.

Article 266
Rulings in Cases of Release from Prison

1. When the defendant has been released from prison due to the expiration of the time limits, the court, where the reasons for which pre-trial detention was ordered still exist, shall impose other precautionary measures, if the required conditions are met.
2. Pre-trial detention, when necessary, shall be reinstated:
a) when the defendant has willfully violated the orders given in connection with a precautionary measure imposed under paragraph 1, provided that the precautionary needs still exist;

b) by the sentencing decision, where the precautionary necessity provided for in Article 228, paragraph 3, exists.
3. Upon the reinstatement of pre-trial detention, the time limits begin to run anew; however, for the purpose of calculating the overall duration of pre-trial detention, the period of detention previously served shall also be taken into account.
4. Judicial police officers and agents may detain a defendant who, in violation of the orders related to a precautionary measure imposed under paragraph 1, has absconded. Insofar as they are compatible, the provisions concerning the detention of a person suspected of committing a criminal offense shall apply.

Article 267
Maximum Duration of other Precautionary Measures

1. Coercive measures, other than pre-trial detention, shall cease to have effect when a period equal to twice the time limits provided for in Article 263 has elapsed since the beginning of their execution.
2. Interdictive measures shall cease to have effect when three months have elapsed from the beginning of their execution. When such measures have been imposed to prevent the destruction of evidence, the court may order their renewal, within the limits set forth in paragraph 1.

CHAPTER V
COMPENSATION FOR UNLAWFUL IMPRISONMENT

Article 268
Requirements of Application

1. A person who has been declared innocent by a final decision shall be entitled to compensation for the pre-trial detention served, except in cases where it has been proven that the wrongful decision or the failure to timely discover an unknown fact was caused wholly or partly by the person himself/herself.
2. The same right shall belong to the convicted person who was held in pre-trial detention, when it is established by a final decision that the act by which the measure was imposed was issued without meeting the conditions provided under Articles 228 and 229.
3. The provisions of paragraphs 1 and 2 shall also apply in favor of the person for whom the case has been dismissed by the court or the prosecutor.
4. When the court has established that the act is not provided by law as a criminal offense, due to the repeal of the relevant provision, the right to compensation is not recognized for that part of the pre-trial detention served prior to the repeal.

Article 269
Request for Compensation

1. The request for compensation must be submitted, under penalty of inadmissibility, within three years from the date on which the acquittal decision or the dismissal of the case has become final.
2. The amount of compensation and the method of its calculation, as well as the cases of compensation for house arrest, shall be determined by a special law.

CHAPTER VI

PROPERTY PRECAUTIONARY MEASURES

SECTION I
CONSERVATORY SEIZURE

Article 270
Conditions and Effects of the Measure

1. When there are reasonable grounds to believe that there is no guarantee for the payment of a fine, procedural expenses, and any obligation owed to the State's property, the prosecutor shall request the conservatory seizure of the movable or immovable property of the defendant, or of sums or items owed to him/her by third parties, within the limits permitted by law for their seizure.
2. The civil plaintiff may request the conservatory seizure of the property of the defendant or the civil respondent, when the grounds provided for in paragraph 1 exist.
3. The seizure imposed at the request of the prosecutor shall also be valid in favor of the civil plaintiff.

Article 271
Court Decision on Seizure

1. Conservatory seizure shall be imposed by decision of the competent court.
2. When a decision has been issued at first instance, the seizure shall be imposed before the case files are transmitted to the court of appeal.
3. The seizure shall be executed by the judicial bailiff in the manner prescribed by the Civil Procedure Code.
4. The effects of the seizure shall cease when the acquittal or dismissal of the case has become final.

Article 272
Offer to Secure the Obligation

1. When the defendant or the civil respondent offers an appropriate legal instrument to guarantee the obligation (pledge, surety, deposit, mortgage), the court shall not impose the conservatory seizure, or shall revoke it, and shall determine the method of execution of the obligation.
2. When the offer is submitted together with the appeal, the court shall revoke the seizure if it deems that the guarantee offered is proportionate to the value of the seized assets.

Article 273
Execution of the Seizure Measure

1. The conservatory seizure is converted into an enforceable seizure once the decision imposing a fine or the decision obligating the defendant and the civil respondent to compensate for the damage has become final.
2. The compulsory execution of the seized property shall be carried out in accordance with the rules provided for by the Civil Procedure Code. The proceeds of sale of the seized property and of the instruments offered to guarantee the obligation shall be used to pay off, in order, the amounts owed to the civil plaintiff for compensation of damages and court expenses, the fine sentences, the procedural costs, and any other amounts owed to the State.

SECTION II
PREVENTIVE SEIZURE

Article 274
Scope of Preventive Seizure
(Paragraph 2 amended by Law no. 9085, dated 19.6.2003)

1. Where there is a risk that the free possession of an item related to the the criminal offense may aggravate or prolong its consequences, or facilitate the commission of other criminal offenses, upon the petition of the prosecutor, the competent court shall order its seizure by a reasoned decision.
2. Seizure may also be ordered over items, proceeds of the criminal offense, and any other assets that are subject to confiscation, pursuant to Article 36 of the Criminal Code.
3. Where the conditions for its application change, the court, upon the petition of the prosecutor or the interested party, shall lift the seizure.

Article 275
Termination of the Validity of Seizure

1. Upon a decision of acquittal or dismissal of the case, the court or the prosecutor shall order that the seized items be returned to their rightful owner, unless confiscation must be ordered because the items were used or intended to be used for the commission of a criminal offense, or because they were the product or proceeds of the criminal offense.
2. Where a conviction has been rendered, the validity of the seizure shall continue in cases where confiscation of the seized items has been ordered.
3. Seized items shall not be returned where the court decides that the seizure must be maintained for the purpose of securing claims.

Article 276
Appeal Against the Decision

1. An appeal may be lodged by any interested party against the decision ordering or rejecting the imposition of seizure.
2. The appeal must be filed within ten days from the date of issuance of the decision, or from the day the interested party receives notice of the imposed seizure.
3. The appeal shall be submitted to the Clerk’s Office of the court that rendered the decision.
4. The appeal shall not suspend the execution of the measure.
5. The court of appeal shall decide on the appeal within fifteen days from the receipt of the case files.
6. The court shall decide, as appropriate, on the annulment, modification, or confirmation of the appealed decision.
7. Where the decision is not declared or not executed within the prescribed time limit, the decision imposing the seizure shall lose its validity.

PART TWO

TITLE VI
PRELIMINARY INVESTIGATIONS

CHAPTER I
GENERAL PROVISIONS

Article 277
Authorities Responsible for Preliminary Investigations

(Paragraph 3 added by Law no. 8813, dated 13.6.2002, and repealed by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor and the judicial police shall conduct, within their defined competences, the necessary investigations related to the exercise of criminal prosecution.
2. The prosecutor shall lead the investigations and shall have authority over the judicial police.
3. Repealed.

Article 278
Competence of the Court of First Instance during Preliminary Investigations

(Paragraph 2 added by Law no. 8813, dated 13.6.2002; words added in the title and paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. During preliminary investigations, in the cases provided by law, the Court shall rule on the petitions of the prosecutor, the defendant, the victim, or the private parties.
2. Petitions of the parties during preliminary investigations, under paragraph 1 of this Article, shall be reviewed by the same judge.

Article 279
Obligation to Maintain Secrecy

(Words amended in paragraph 1 and paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. Investigative documents shall remain secret until the defendant has received notice of them. Where necessary for the continuation of the investigation, the prosecutor may order the preservation of secrecy regarding particular documents until the conclusion of the investigation.
2. The prosecutor may authorize, by a reasoned decision, the publication of particular documents or parts thereof. The published documents shall be filed with the prosecution Clerk's Office.
3. Even when the documents are no longer protected by secrecy under paragraph 1 of this Article, where necessary for the continuation of the investigation, the prosecutor may order, by a reasoned decision:
a) the obligation to preserve secrecy over specific documents, when the defendant gives consent or when disclosure of the document's content may hinder investigations against other persons;
b) the prohibition of publication of the content of specific documents or of particular data related to certain investigative actions.

Article 279/a
Victim's Right to Information

(Added by Law no. 35/2017, dated 30.3.2017)

1. For legitimate reasons, the victim, his/her legal representative, or his/her counsel shall have the right to request information on the status of the proceedings, as well as to have access to and obtain copies of the acts and evidence contained in the prosecutor's file.

2. The prosecutor may refuse the request where:
a) the interest in maintaining the secrecy of the investigation outweighs the interest of the victim;
b) the interest of the defendant outweighs the interest of the victim;
c) the victim has not yet been questioned as a witness.
2. The victim, his/her legal representative, or his/her counsel shall have the right to request information regarding the imposition, continuation, replacement, or revocation of precautionary measures against the defendant, except where notification of such facts may endanger the life or health of the defendant.

CHAPTER II
RECEIVING NOTICE OF THE CRIMINAL OFFENSE

Article 280
Receiving Notice of the Criminal Offense

1. The prosecutor and the police receive notice of criminal offenses on their own initiative or through notification made by others.

Article 281
Criminal Complaints by Public Officials

1. Public officials, who in the course of performing their duties or by reason of their functions or service, receive notice of a criminal offense prosecutable ex officio, shall be obliged to lodge a written criminal complaint, even when the person to whom the criminal offense is attributed has not been identified.
2. The criminal complaint shall be submitted to the prosecutor or the judicial police officer.
3. When, in the course of civil or administrative proceedings, a fact emerges that constitutes a criminal offense prosecutable ex officio, the competent authority shall file a criminal complaint to the prosecutor.
4. The criminal complaint shall contain the essential elements of the fact, the sources of evidence, the personal details, residence, and any other information useful for the identification of the person to whom the fact is attributed, the victim, and those able to clarify the circumstances of the fact.

Article 282
Criminal Complaints by Medical Personnel

1. Medical personnel who are legally obliged to lodge a criminal complaint must submit it within forty-eight hours and deliver it to the prosecutor or to any judicial police officer in the district where the intervention was carried out or the assistance was provided, and, where delay poses a risk, to the nearest judicial police officer.
2. The criminal complaint by medical personnel shall indicate the person to whom assistance was given and, where possible, their personal details, residence, and any other information useful for identification, as well as the circumstances of the fact, the means by which it was committed, and the consequences it caused.
3. When several persons have provided their medical assistance in the same case, all shall be obliged to lodge the criminal complaint, with the right to draft and sign a single report.

Article 283

Criminal Complaints by Citizens

(Number amended and sentence added in paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. Any person who has received notice of a criminal offense prosecutable ex officio must report it. In cases specified by law, such report is compulsory.
2. The criminal complaint shall be lodged to the prosecutor or to a judicial police officer, orally or in writing, personally or through a representative.
3. Anonymous criminal complaints may not be used, except in cases provided for under Article 194. The contents of an anonymous criminal complaint may, however, be verified by the prosecutor or the judicial police in order to secure elements of evidence confirming their veracity.

Article 284

Complaints

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; numbers and words added and numbers removed in paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. For the criminal offenses provided for under Articles 84, 89, 102 paragraph one, 105, 106, 130, 148, 149, 243, 254, 264, 275, 290 paragraph one, and 318 of the Criminal Code, criminal prosecution may be initiated only upon the complaint of the victim, who may withdraw it at any stage of the proceedings.
2. The complaint shall be lodged by the victim to the prosecutor or the judicial police through a statement expressing, either personally or through a special representative, the will to proceed in relation to a fact defined by law as a criminal offense.
3. When the complaint is made orally, the record prepared for this purpose shall be signed by the complainant or his/her representative.
4. The person receiving the complaint shall verify the identity of the complainant and submit the documents to the prosecutor.
5. In the cases provided for under Article 59, the complaint shall be filed in court by the accusing victim.

Article 285

Waiver of the Right to Complain

1. The waiver of the right to complain shall be made personally or through a representative, by means of a signed or oral statement, before the prosecutor or a judicial police officer, who shall draw up a report, which must be signed by the person making the statement.
2. A waiver subject to a time limit or condition shall be invalid.
3. In the same statement, the waiver may also extend to the civil claim.

Article 286

Withdrawal of the Complaint

1. The withdrawal of the complaint shall be made personally or through a representative by means of a statement submitted to the proceeding authority.
2. The withdrawal of the complaint may be made at any stage of the proceedings, until the court's decision has become final.

3. The costs of the proceedings shall be borne by the person withdrawing the complaint, unless it has been agreed in the act of withdrawal that such costs shall be borne, in whole or in part, by the person against whom the complaint was lodged.

Article 287

Recording of the Criminal Offense Notices

(Paragraph 2 amended and numbering amended by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor shall record in the register every notice of a criminal offense brought to him/her or received upon his/her own initiative, and at the same time, or from the moment it becomes known, the name of the person to whom the criminal offense is attributed.
2. Where, during the preliminary investigation, the legal qualification or any circumstance of the commission of the criminal offense changes, the prosecutor shall order their registration in the entries made pursuant to paragraph 1 of this Article.
3. The publication of the recorded entries shall be prohibited until the person to whom the criminal offense is attributed has been taken as a defendant.

CHAPTER III
PROCEEDING REQUIREMENTS

Article 288

(Amended by Law no. 21/2014, dated 10.3.2014, and Law no. 35/2017, dated 30.3.2017)

1. The prosecutor shall file a petition for authorization with the Parliament if any precautionary measure of pre-trial detention or house arrest, any deprivation of personal freedom in any form, or a personal or house search, must be imposed against a member of Parliament.
2. The petition for authorization shall be submitted when the legal requirements provided in this Code for carrying out the actions referred to in paragraph 1 of this Article are met. A reasoned report shall be attached to the petition, together with the supporting evidence.
3. When the Member of Parliament has been arrested in flagrante delicto, the Chairperson of the Special Prosecution Office shall immediately notify the Parliament. When the Parliament decides to revoke the measure of arrest in flagrante delicto, the Member of Parliament shall be released immediately.

Article 289

Authorization to Perform Actions

(Paragraph 1 amended by Law no. 21, dated 10.3.2014; amended by Law no. 35/2017, dated 30.3.2017)

1. The refusal to grant authorization under Article 288 of this Code shall not prevent the prosecutor from requesting another precautionary measure, under Article 244, nor from proceeding against him/her or other persons under investigation for the same fact.
2. When the needs for precautionary measures are aggravated or when new facts or circumstances result from the investigation, the prosecutor may request authorization from the Parliament, in accordance with paragraph 1 of Article 288 of this Code.
3. The revocation of the measure of arrest in flagrante delicto, pursuant to paragraph 3 of Article 288 of this Code, shall not prevent the prosecutor from requesting authorization from the Parliament, in accordance with paragraph 1 of Article 288.

Article 290

Circumstances Preventing the Initiation of Proceedings

(Words deleted and amended in letter "c" of paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. Criminal proceedings may not be initiated when:
a) the person has died;
b) the person is legally irresponsible or has not reached the age of criminal responsibility;
c) the complaint of the victim is missing or the victim has withdrawn the complaint;
ç) the act is not provided by law as a criminal offense, or when it is evident that the act does not exist;
d) the criminal offense has been extinguished;
dh) an amnesty has been granted;
e) in all other cases provided by law.

Article 291

Decision Not to Initiate Proceedings

(Paragraphs 3, 4, and 5 added, and words added to paragraph 1; paragraph 2 amended by Law no. 35/2017, dated 30.3.2017; paragraph 2/1 added, paragraphs 3 and 5 amended by Law no. 41/2021, dated 23.3.2021)

1. When circumstances exist that do not allow the initiation of proceedings, the prosecutor shall issue a reasoned decision not to initiate proceedings within 15 days from the registration of the criminal complaint.
2. The decision shall be immediately notified to those who filed the criminal complaint, to the victim or to his/her heirs, who shall have the right to appeal to the court within 10 days from the notification of the decision.
2/1. The appeal shall be immediately notified to the prosecutor and the other parties.
3. The judge who adjudicates on the requests of the parties during preliminary investigations shall examine the appeal in chambers, within 30 days from the filing in the court Clerk's Office of the copy of the documents contained in the file of the decision not to initiate proceedings. The prosecutor, no later than 15 days from the filing of the appeal, shall submit to the court a copy of the documents contained in the file of the decision not to initiate proceedings, and shall have the right to submit written observations regarding the merits of the appeal.
4. When the appeal is found to be well-founded, the court shall order the prosecutor to register the proceedings and to conduct the necessary investigations, also indicating their direction.
5. Against the decision, the parties may lodge an appeal to the court of appeal within 10 days from the day following the notification of the decision. The court of appeal shall examine the appeal in chambers within 30 days from the date of receipt of the acts.

Article 292

Resumption of Investigations

(Amended by Law no. 35/2017, dated 30.3.2017)

The decision not to initiate proceedings or to dismiss them, issued due to the absence of a complaint, shall not preclude the conduct of investigations concerning the same fact and the same person, if a complaint is subsequently filed.

CHAPTER IV
EX OFFICIO ACTIVITIES OF THE JUDICIAL POLICE

Article 293
Referral of the Criminal Offense to the Prosecutor

(First sentence of paragraph 1 amended and sentences added to paragraphs 1 and 3 by Law no. 35/2017, dated 30.3.2017)

1. Upon receiving notice of a criminal offense, the judicial police shall, without delay and no later than seventy-two hours, refer to the prosecutor in writing the essential elements of the fact and any other elements gathered up to that moment, indicating the sources of evidence and the actions carried out, and shall place at the prosecutor's disposal, for assessment, all acts and evidence obtained. Where possible, the judicial police shall also provide the identity, residence, and any other information relevant to the identification of the person under investigation, the victim, and those capable of clarifying the circumstances of the fact.
2. In urgent cases and in cases of serious crimes, notification shall be made immediately, also orally, without excluding the obligation of a written referral.
3. Together with the notification, the judicial police shall also indicate the date and time at which they received notice of the criminal offense.

Article 294
Securing Sources of Evidence

(Paragraph 2 amended by Law no. 9276, dated 16.9.2004; paragraphs 2 and 3 amended by Law no. 35/2017, dated 30.3.2017)

1. Even after the referral of the criminal offense, the judicial police shall continue to perform the functions indicated in Article 30, by collecting and securing every element useful for reconstructing the fact and for identifying the perpetrator. In particular, it shall proceed:
a) to search for and secure objects and traces of the criminal offense, as well as to preserve them and the crime scene for as long as necessary;
b) to search for and question persons who are in a position to provide information on the circumstances of the fact;
c) to carry out the actions provided for in the following articles.
2. After the intervention of the prosecutor, the judicial police shall perform any action specifically ordered or delegated by the prosecutor, as well as, on its own initiative, any investigative act necessary to secure new sources of evidence.
3. When performing actions that require specialized technical knowledge, either on its own initiative or as delegated by the prosecutor, the judicial police may appoint experts, who may not refuse the duty assigned without lawful reasons.

Article 294/a
Simulated Actions

(Added by Law no. 9187, dated 12.2.2004; paragraph 1 amended and words added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The judicial police officer, or an authorized person, may be assigned to carry out simulated purchases or sales of items that are prohibited from being produced, possessed, kept, or traded, or items derived from a crime, or the simulation of a corrupt act, or to perform other simulated actions,

for the purpose of detecting and gathering evidence against persons suspected of committing a crime, while concealing their cooperation with the police or their function as police officers.
2. Such actions shall be carried out with the authorization and under the supervision of the prosecutor directing the investigation, or of the prosecutor having jurisdiction over the territory where the action shall take place. After the completion of these actions, the judicial police must deliver to the prosecutor all the evidence collected along with a summary report.
3. No criminal act may be provoked by inducing a person to commit a crime which they would not have committed without the intervention of the police. Where provocation is established, the result cannot be used.

Article 294/b
Infiltration in Criminal Groups
(Added by Law no. 9187, dated 12.2.2004; title amended and words added to paragraphs 1 and 2, words and sentence added to paragraph 4, words amended in paragraph 3, by Law no. 35/2017, dated 30.3.2017)

1. For the purpose of detecting serious crimes, the judicial police officer or agent, with the authorization and under the supervision of the prosecutor, may infiltrate into the structure of a criminal group in order to identify its members and to gather the necessary information for the investigation, while concealing his/her cooperation with the police or his/her function as a police officer.
2. The infiltrated judicial police officer must not provoke a criminal act which, without his/her intervention, would not have been committed. Where provocation is established, the result cannot be used.
3. The prosecutor's authorization must specify the duration of the infiltration, which may be extended by the prosecutor up to six months, and the scope of permissible actions by the infiltrated officer, indicating, as the case may be, the unlawful acts he/she may carry out, provided that they do not endanger the lives of others.
4. The infiltrated judicial police officer may be questioned as a witness. If the testimony of the infiltrated persons is essential for resolving the case, such testimony shall be taken in compliance with the rules on the protection of the informant's identity. Where such persons are not called as witnesses, the information provided by them cannot be used.

Article 294/c
Controlled Delivery
(Added by Law no. 35/2017, dated 30.3.2017)

1. Controlled delivery shall be authorized by the prosecutor directing the preliminary investigations, upon request of foreign authorities.
2. Controlled delivery may be authorized in the following cases:
a) when the persons suspected of being involved in the unlawful transport of narcotic substances, weapons, stolen property, explosive or nuclear materials, radioactive materials, sums of money, and other proceeds of crime, or items used as instruments in the commission of criminal offenses, cannot be identified or arrested by other means, and when their identification or arrest would prejudice the investigation or endanger the safety of persons, or the protection from damage or loss of the transported items;
b) when the detection of criminal offenses and the collection of evidence cannot be achieved or would be difficult to achieve by other means.

3. Controlled delivery shall be carried out under the conditions determined by the prosecutor, who shall order its execution by a reasoned act, after ensuring that the foreign authorities:
a) have consented to the entry, transit, or exit from their territory of the illicit or suspicious items;
b) guarantee the continuous supervision of the entry, transit, or exit of the items from their territory.
4. The order of the prosecutor authorizing the controlled delivery must contain:
a) the name of the suspect or defendant, if known;
b) the evidence proving the unlawful nature of the items to be entered, transited, or exited from the territory of the State, and the methods by which their control or supervision will be carried out.
5. Where applicable, the act authorizing the full or partial replacement of the illicit items and indicating the place where the samples taken are to be deposited shall be attached to the prosecutor's order.
6. Controlled delivery shall be executed by the judicial police, under the supervision and control of the prosecutor.

Article 295

Identification of the Person under Investigation and of other Persons

(Title amended, paragraph 1 renumbered as paragraph 2, paragraph 2 renumbered as paragraph 4, paragraph 3 renumbered as paragraph 5, and words and paragraphs 1 and 3 added by Law no. 35/2017, dated 30.3.2017)

1. The judicial police shall identify the person under investigation and the persons who may provide useful information for the reconstruction of the facts.
2. For the identification of the person under investigation, the judicial police shall carry out all necessary actions, including fingerprinting, photographic, and anthropometric records.
3. When the identification involves the collection of biological samples, the judicial police shall proceed in accordance with Article 201/a of this Code.
4. When the person refuses to identify himself/herself or provides personal details or identification documents suspected to be false, the judicial police shall escort him/her to its offices and keep him/her there for as long as is necessary for identification, but not more than twelve hours.
5. The prosecutor shall be immediately informed of the escorting, release, or any action taken pursuant to this Article.

Article 296

Data on the Person under Investigation

(Words added to paragraph 1, words amended and added to paragraph 2, and paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. Judicial police officers shall obtain information from the person under investigation in the mandatory presence of his/her defense counsel, except in cases of a person arrested in flagrante delicto or detained, who shall be questioned in accordance with the rules of Article 256. When the defense counsel has not been located or has failed to appear, the judicial police shall request the prosecutor to appoint another defense counsel. In all cases, before proceeding with the questioning, the person shall be provided with the letter of rights. The rules of Articles 34/a and 38 of this Code shall apply.
2. At the crime scene or immediately after the establishment of the fact, judicial police officers, even in the absence of the defense counsel, may obtain from the person under investigation, including the one arrested in flagrante delicto or detained, information necessary for the

continuation of investigations. Such information shall not be documented, and its use as evidence shall be prohibited.
3. When the person under investigation voluntarily appears and requests to make statements, the judicial police shall proceed with taking them. Such statements may not be used at trial, except in cases where the content of the statement made before the court is challenged.

Article 297
Collection of other Information
(Paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. The judicial police shall obtain information from persons who may provide circumstances useful for the purposes of the investigation.
2. The provisions of Articles 155 through 160 shall apply.
3. If the information must be obtained from a minor, the presence of the parent or guardian, or of an adult person chosen by the minor, as well as the presence of a psychologist, must be ensured.

Article 298
Searches
(Paragraph 3 added, former paragraph 3 renumbered paragraph 4, and words amended by Law no. 35/2017, dated 30.3.2017)

1. In cases of flagrante delicto or in the pursuit of a fugitive, judicial police officers shall conduct a search of the person or premises when there are reasonable grounds to believe that the person conceals items or traces of the criminal offense that may be destroyed or lost, or that such objects or traces are located in a specific place or where the person under investigation or the fugitive is located.
2. When an arrest is to be carried out, or an arrest warrant or a conviction sentence imposing imprisonment is to be executed, judicial police officers may conduct a search of the person or premises when the conditions indicated in paragraph 1 exist and when there are particular urgent reasons that do not allow for the issuance of a search warrant. When delay may prejudice the successful outcome of the investigation, a house search may also be carried out outside the time limits provided in Article 206.
3. In cases of flagrante delicto or in the pursuit of a fugitive, or when an arrest is to be carried out, or an arrest warrant or a conviction sentence imposing imprisonment is to be executed, the judicial police shall take all technical measures to secure and preserve original computer data and protect them from loss, damage, or alteration, and shall carry out further searches of computer data when there are reasonable grounds to believe that they contain information, programs, or traces of the criminal offense.
4. The official report of the actions carried out shall be sent immediately, but no later than forty-eight hours, to the prosecutor of the place where the search was conducted, who, within the following forty-eight hours, shall proceed in accordance with Article 301 of this Code.

Article 299
Seizure of Parcels and Correspondence

1. When it is necessary for the purposes of the proceedings to seize sealed parcels or parcels closed in any other manner, the judicial police officer shall forward them intact to the prosecutor for possible seizure. If there are reasonable grounds to believe that the parcels contain information that

may be lost due to delay, the judicial police officer shall immediately inform the prosecutor by the fastest means, who may authorize their immediate opening.
2. As regards letters, envelopes, packages, monetary or property values, telegrams, or other means of correspondence that may be subject to seizure, judicial police officers, in urgent cases, may order the postal service provider to suspend delivery. If, within forty-eight hours from the order of the judicial police, the prosecutor does not order the seizure, the correspondence items shall be dispatched to their destination.

Article 299/a
Expedited Storage and Maintenance of Computer Data
(Added by Law no. 10 054, dated 29.12.2008)

1. The prosecutor may order the expedited storage of specified computer data, including traffic data, when there are sufficient grounds to believe that such data may be lost, damaged, or altered.
2. Where the computer data are in the possession or under the control of a person, the prosecutor may order that person to store and maintain such computer data for a period of up to ninety (90) days, for the purpose of their identification and retrieval. This time limit may, for reasonable cause, be extended only once.
3. The person charged with the storage and maintenance of the computer data shall be obliged to keep confidential the procedures and actions undertaken, pursuant to paragraph 2 of this Article, until the conclusion of the investigation.

Article 299/b
Expedited Storage and Partial Disclosure of Computer Data
(Added by Law no. 10 054, dated 29.12.2008)

The person charged with the expedited storage of traffic data shall be obliged to take all necessary measures to ensure that the preserved data remain valid, regardless of whether one or more service providers have been involved in the transmission of the communication, and shall provide to the prosecution or to the authorized judicial police officer the disclosure of a sufficient amount of traffic data so as to enable the identification of the service provider and the path through which the communication has been transmitted.

Article 300
Immediate On-Site Verifications

1. Judicial police officers and agents shall take measures to ensure that the traces and items pertaining to the criminal offense are recorded and preserved, and that the condition of the crime scene and of the items is not altered before the intervention of the prosecutor, when he/she has confirmed his/her participation.
2. Where there is a risk that traces and items may be altered or lost and the prosecutor cannot intervene urgently, the judicial police officers shall carry out the necessary investigative actions and, where appropriate, seize the material evidence and items related to the criminal offense.

Article 301
Validation of Seizure
(Second sentence of paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. When the judicial police impose a seizure pursuant to Article 300, they shall record in the minutes the grounds for such measure and deliver a copy of the record to the person from whom the items have been seized. The minutes shall be forwarded without delay, and in any case no later than forty-eight hours, to the prosecutor of the district where the seizure was carried out.
2. Within the following forty-eight hours, the prosecutor, by a reasoned decision, shall validate the seizure if the conditions exist, or shall order the return of the seized items. A copy of the decision shall be immediately notified, and in any case no later than seventy-two hours, to the defendant, his/her defense counsel, and the person from whom the items have been seized. Against such decision, an appeal may be lodged with the court within ten days by the defendant and his/her defense counsel, the person from whom the items were seized, and the person entitled to their return. The appeal shall not suspend the enforcement of the seizure.

Article 302
Assistance of the Counsel

1. The defense counsel of the person under investigation has the right to be present, without being entitled to prior notice, during searches and urgent on-site verifications, except in cases of immediate opening of sealed parcels authorized by the prosecutor.

Article 303
Records of Judicial Police Actions

1. The judicial police shall keep records, even in summary form, of all actions carried out.
2. The judicial police shall keep minutes of the following:
a) criminal complaints and reports submitted 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 the investigation;
ç) inspections, identifications, searches, and seizures;
d) acts concerning the identification and recognition of the person under investigation, the taking of sealed parcels or correspondence, and the imposition of seizure;
e) investigative actions delegated by the prosecutor.
3. The records of the judicial police actions, material evidence, and items related to the criminal offense shall be made available to the prosecutor.

CHAPTER V
ACTIVITIES OF THE PROSECUTOR

Article 304
Investigative Activity of the Prosecutor
(Second sentence of paragraph 1 added by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor directs the investigative activity and personally carries out any investigative action that he/she deems necessary. He/she also conducts investigations for the verification of facts or circumstances in favor of the person under investigation.
2. The prosecutor may request the judicial police to carry out specifically delegated actions, including the interrogation of the defendant and confrontations, in which the defendant and his/her

defense counsel shall participate. In such cases, the judicial police shall comply with the provisions regarding the appointment and participation of the defense counsel in investigative actions.
3. For specific actions to be carried out in another district, when he/she does not intend to proceed personally, the prosecutor may delegate, according to the relevant subject-matter competence, the prosecutor of that other district. When there are urgent reasons or important causes, the delegated prosecutor has the right, on his/her own initiative, to carry out any action necessary for the purposes of the investigation.

Article 305
Assumption of Investigations
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 306
Relations Between Different Prosecution Offices

1. Prosecution offices conducting related investigations shall coordinate their work with each other. For this purpose, they shall exchange documents and information, as well as notifications of the instructions provided to the judicial police. They may also proceed jointly in carrying out specific actions.
2. Investigations conducted by two different prosecution offices shall be considered related when:
a) in cases of joinder of proceedings, or when the matter concerns criminal offenses committed by several persons to the detriment of one another;
b) when the evidence of one criminal offense or of any of its circumstances has an impact on the evidence of another criminal offense or of another circumstance;
c) when the evidence of several criminal offenses derives, even in part, from the same source.

Article 307
Voluntary Appearance to Make Statements
(Paragraph 3 added and existing paragraph 3 renumbered as paragraph 4 by Law no. 35/2017, dated 30.3.2017)

1. A person who has learned that investigations are being conducted against him/her has the right to appear before the prosecutor and make statements.
2. When the person who voluntarily appears contests the fact for which the proceedings are being conducted and is allowed to present his/her exculpatory arguments, such activity shall be considered equivalent to an interrogation.
3. The provisions of Articles 34/a and 38 of this Code shall apply.
4. Voluntary appearance does not preclude the application of precautionary measures.

Article 308
Summons to appear
(Letter "d" added and words amended in paragraph 4 by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor summons the person under investigation to appear when he/she is to be interrogated or when actions requiring his/her presence must be carried out.
2. The summons to appear shall contain:
a) the personal details or other personal data necessary for identification;
b) the date, time, and place of appearance;

c) the type of action for which the person is summoned;
ç) a warning that the prosecutor may order compulsory escort in the event of failure to appear without a lawful excuse;
d) the letter of rights in written form, pursuant to Article 34/a of this Code.
3. The summons shall also contain a summary of the facts as they result from the investigations conducted up to that moment.
4. The summons shall be notified at least three days before the scheduled appearance, except in urgent cases.

Article 309
Appointment and Assistance of Counsel
(Words and punctuation mark "," added in paragraph 1 and words amended in paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The defendant who does not have counsel shall be informed by the prosecutor that he/she will be assisted by counsel appointed ex officio, in the cases provided for by this Code.
2. The retained or ex officio appointed counsel shall be notified at least twenty-four hours in advance when an interrogation, inspection, or confrontation is to be conducted. Where delay may prejudice the investigation, notification of counsel shall be made urgently.
3. The records of actions carried out by the prosecutor and the judicial police, in which counsel has the right to be present, shall be submitted to the Clerk's Office of the prosecution within three days of the action, with counsel having the right to examine them and obtain copies.

Article 310
Notification of the Defendant to participate in Searches and Seizures
(Paragraph 2 added by Law no. 8813, dated 13.6.2002)

1. When the prosecutor intends to carry out a search or seizure, he/she shall notify the defendant to be present together with his/her retained counsel; if the defendant has no counsel, a counsel shall be appointed ex officio.
2. When the defendant and his/her counsel have been duly notified but fail to appear without a justified reason, a counsel shall be appointed ex officio. This circumstance shall be recorded in the relevant minutes.

Article 311
Interrogation of the Defendant in a Connected Proceeding

1. A person charged as a defendant in a connected proceeding shall be interrogated by the prosecutor in the manners prescribed by Article 167.

Article 312
Collection of Information
(Paragraph 4 added by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor shall collect information from the injured party and from those who may provide circumstances useful for the purposes of the investigation, applying the rules established for the taking of testimony.
2. The summons of these persons shall be made by order, which shall contain:

a) the personal details of the person;
b) the date, time, and place of appearance;
c) a warning that the prosecutor may order compulsory escort in case of unjustified failure to appear.
3. The prosecutor shall order in the same manner the summons of the translator/interpreter and expert.
4. The summons shall be served at least three days prior to the date of appearance, except in urgent cases.

Article 313
Identification of Persons and Items

1. When necessary, the prosecutor shall proceed with the identification of persons, items, or anything else that may be subject to sensory perception.
2. Persons, items, and other objects shall be presented or shown in picture form to the individual who must make the identification.
3. When there are well-founded reasons to believe that the person summoned to make the identification may be apprehensive or otherwise influenced by the presence of the individual to be identified, the prosecutor shall take measures for carrying out such activity without being seen by the one under identification.

Article 314
Appointment of the Expert
(Words amended in the first and second sentence of paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor, when conducting actions for which technical knowledge is required, may appoint an expert, in accordance with the provisions of Article 179 of this Code. The expert may not refuse the duty without lawful grounds.
2. The expert may be authorized by the prosecutor to assist in particular investigative actions.
3. When the technical verifications concern persons, items, or places whose condition has changed, the prosecutor shall notify the defendant and his/her defense counsel, as well as the victim and his/her representative, of the day, hour, and venue where the action will be carried out.

Article 315
Records of the Prosecutor's Actions

1. The prosecutor shall keep minutes:
a) of criminal reports and complaints submitted orally;
b) of inspections, searches, and seizures;
c) of interrogations and confrontations with the defendant;
ç) of any information obtained from persons who provide circumstances useful for the purposes of the investigation;
d) of verifications concerning persons, items, or places whose condition has changed.
2. Actions shall be documented during their execution or immediately thereafter, when insurmountable circumstances prevent simultaneous documentation.
3. The document containing the *notitia criminis*, together with the documentation related to the investigation, such as orders and instructions addressed to the judicial police, petitions submitted

to the court, notifications, etc., shall be kept in a special file in the Clerk's Office of the prosecution, together with the acts received from the judicial police.

CHAPTER VI
PRE-TRIAL ADMISSION OF EVIDENCE

Article 316
Cases of Pre-trial Admission of Evidence

1. During the preliminary investigations, the prosecutor and the defendant may request the court to proceed with the pre-trial admission of evidence in the following cases:
a) the taking of testimony from a person, when there are well-founded reasons to believe that he or she may not be able to testify at trial due to illness or another serious impediment;
b) the taking of testimony, when there are well-founded reasons to believe that the person may be subject to violence, threats, or promises of money or other benefits intended to prevent testimony or induce false testimony;
c) the questioning of the defendant on facts relating to the responsibility of others, where one of the circumstances provided for by letters "a" and "b" exists;
ç) the confrontation between persons who have rendered contradictory statements before the prosecutor, where one of the circumstances provided for by letters "a" and "b" exists;
d) an expert examination or judicial experiment, when the evidence relates to a person, an item, or a place, the condition of which may undergo unavoidable changes. Expert examination may also be requested when, if carried out during trial, it would cause a suspension of proceedings for more than sixty days;
dh) an identification procedure, when for specific reasons the act cannot be postponed until trial.

Article 317
Request for Pre-trial Admission of Evidence
(Paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The request for pre-trial admission of evidence shall be submitted within the time limits for the conclusion of the investigations or at the beginning of the preliminary hearing and shall contain:
a) the evidence to be obtained and its importance for the judicial decision;
b) the persons being prosecuted in relation to the facts subject to evidence;
c) the circumstances preventing the postponement of the evidence admission to the trial phase.
2. The request submitted by the prosecutor shall also indicate the counsels of the persons concerned under paragraph 1, letter "b", the victim, and his or her counsel.
3. The provisions of paragraphs 1 and 2 must be observed, under penalty of inadmissibility.
4. The prosecutor may decide to extend the preliminary investigations for the purpose of the pre-trial admission of evidence.

Article 318
Request by the Victim
(Paragraph 2 amended, paragraph 2/1 added by Law no. 41/2021, dated 23.3.2021)

1. The victim may request the prosecutor to seek the pre-trial admission of evidence.

2. When the request is not accepted, the prosecutor shall issue a reasoned decision and notify the victim, who may file an appeal with the court within 5 days from the notification of the decision. The appeal shall be immediately notified to the prosecutor.
2/1. The appeal shall be examined by the judge who hears the parties' requests during the preliminary investigations, in chambers, within 5 days from the filing of the appeal with the court Clerk's Office. The prosecutor, not later than two (2) days from the notification of the appeal, may submit written observations on the merits of the appeal and file evidence in support thereof.
3. The accusing victim may request the court to proceed with the admission of evidence before the start of the trial.

Article 319
Submission of the Request
(Words added to paragraph 2 and paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The request for pre-trial admission of evidence shall be filed with the Clerk's Office of the court together with any items and documents, where applicable. The request shall be notified to the parties and to the interested persons by the party who has filed it.
2. Within two days from the notification of the request, the prosecutor and the defendant may submit arguments concerning the merits of the request, deposit items and documents, and indicate other facts that should be the subject of evidence and other interested persons, in accordance with letter "b", paragraph 1, Article 317 of this Code.
3. The prosecutor may request the court to extend the time limit determined for pre-trial admission of the evidence requested by the defendant when its taking would prejudice the investigation. The court shall decide on the request after hearing the defendant and his/her defense counsel. The extension of the time limit shall not be admitted when this may endanger the taking of the evidence.

Article 320
Rulings on the Request for Pre-trial admission of Evidence
(Paragraph added after paragraph 1 by Law no. 8813, dated 13.6.2002; sentence added in paragraph 1, letter "a" amended in paragraph 2, paragraph 2/1 amended, letter "b" in paragraph 2 repealed, and words added to paragraph 4, by Law no. 35/2017, dated 30.3.2017; phrases added in paragraph 1 by Law no. 41/2021, dated 23.3.2021)

1. Within two days from receipt of confirmation of the notification of the request for pre-trial admission of evidence, the court shall issue a decision in chambers, either granting or rejecting the request.
An appeal may be lodged against this decision before the court of appeal within 5 days. The court of appeal shall examine the appeal in chambers within 10 days from the submission of the acts to that court. No further appeal shall be allowed against this decision.
2. By the decision granting the request, the court shall determine:
a) the object of the evidence and the persons who are interested in obtaining it, pursuant to the provisions of Article 319 of this Code;
b) Repealed.
c) the date of the hearing, which may not exceed 10 days from the date of the decision.
2/1. The court shall notify the prosecutor, the defendant, the victim, and the defense counsels at least two days before the hearing date, and shall inform them of their right to review and obtain copies of the statements to be admitted.

3. When the defendant, whose presence is indispensable for the admission of evidence, fails to appear without a lawful excuse, the court shall order his/her compulsory appearance.
4. When urgent reasons exist and the admission of evidence cannot be carried out within the district of the competent court, the latter may delegate the district court of the place where the evidence must be obtained.

Article 321
Taking of Evidence
(Paragraph 3 amended and words in paragraph 4 amended by Law no. 35/2017, dated 30.3.2017)

1. The hearing for the taking of evidence shall be conducted with the mandatory participation of the prosecutor and the defense counsel of the defendant. The victim's representative shall have the right to participate as well.
2. The defendant and the victim have the right to participate when a witness or another person is to be questioned. In other cases, they may participate with prior authorization of the court.
3. Evidence shall be taken in accordance with the rules established for trial proceedings, by the same court that will adjudicate the case. Except for cases provided in Article 321/1, it shall be prohibited to take evidence concerning facts relating to persons who are not represented by defense counsel at the hearing.
4. The minutes, items and documents obtained to secure evidence shall be delivered to the prosecutor. Defense counsels shall have the right to examine them and to make copies.

Article 321/1
Extension of the Admission of Evidence
(Added by Law no. 35/2017, dated 30.3.2017)

When the prosecutor or the defense counsel of the defendant requests that the taking of evidence be extended to facts relating to persons who are not represented by defense counsel at the hearing, the court, where conditions are met, shall make the necessary notifications and postpone the hearing for as long as necessary, but not more than three days. The request shall not be granted if the postponement of the hearing would prejudice the taking of the evidence.

Article 322
Use of Obtained Evidence
(Words added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. Evidence taken in accordance with the rules of this Chapter may be used at trial only against defendants whose defense counsels have been present during its taking.
2. A judgment rendered on the basis of evidence taken in accordance with the rules of this Chapter, in which the victim was unable to participate, shall not produce effects in civil or administrative proceedings, except when the victim has accepted it, even tacitly.

CHAPTER VII
TIME LIMITS FOR THE COMPLETION OF INVESTIGATIONS

Article 323
Time Limit of Preliminary Investigations

(Paragraphs 1 and 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Within the legal time limit provided for the completion of investigations, the prosecutor shall decide pursuant to paragraph 6, of Article 327, of this Code.
2. The time limit for the completion of investigations shall be three months from the date on which the name of the person to whom the criminal offense is attributed is entered in the register of notification of criminal offenses, and six months for the criminal offenses provided in letters "a" and "b" of Article 75/a of this Code.

Article 324

Extension of the Time Limit

(Sentence added in paragraph 2 by Law no. 8460, dated 11.2.1999; sentence added in paragraph 1, second sentence of paragraph 2 amended, and paragraph 4 amended by Law no. 35/2017, dated 30.3.2017; phrase added in paragraph 3 by Law no. 41/2021, dated 23.3.2021)

1. The prosecutor may extend the time limit of the investigations for a period of up to three months. In the case of the Special Prosecution Office, this period may be up to six months.
2. Further extensions, each for a period not exceeding three months, may be done by the prosecutor in cases of complex investigations or in situations of objective impossibility to complete them within the extended time limit. Beyond the two-year period, in cases of charges for organized crime and for crimes adjudicated by a panel of judges, the investigation time limit may be extended only with the approval of the Prosecutor General or the Chairperson of the Special Prosecution Office, up to one year, with each extension not exceeding three months, without affecting the maximum time limits of pre-trial detention.
Beyond the two-year period, in exceptional cases, the investigation time limit may be extended only with the approval of the Prosecutor General, up to one year, with each extension not exceeding three months, without affecting the maximum time limits of pre-trial detention.
3. The decision to extend the investigation time limit shall be reasoned and shall be notified to the defendant and to the victim.
4. Evidence obtained after the expiry of the time limit may not be used.

Article 325

Appeal against the Extension of the Time Limit of Investigations

(Words added to paragraph 2, paragraph 3 amended, and paragraph 3/1 added by Law no. 35/2017, dated 30.3.2017; sentence added in paragraph 1, paragraph 1/1 added, paragraph 2 amended, and sentence added in paragraph 4 by Law no. 41/2021, dated 23.3.2021)

1. The defendant and the victim shall have the right, within ten days from notification, to lodge an appeal with the district court against the prosecutor's decision extending the time limit of investigations. The appeal shall be immediately notified to the other parties.
1/1. Within five days from notification of the appeal, the prosecutor, the defendant, or the victim, as the case may be, may submit written observations on the merits of the appeal, as well as file evidence in support thereof.
2. The appeal shall be adjudicated by the judge who examines the parties' requests during the preliminary investigation, in chambers, within ten days from the filing of the appeal with the Clerk's Office of the court.
3. Where the appeal is upheld and the investigations are not to continue, the court shall order the prosecutor to conclude them within a period not exceeding fifteen days.

3/1. Where the appeal is upheld but the investigations must continue, the court shall order the prosecutor to conclude them within a period determined by the court. Evidence obtained within such period shall be admissible.
4. An appeal may be lodged against the court's decision, which shall not suspend its enforcement. The court of appeal shall examine the appeal in chambers within ten days from the filing of the appeal with the Clerk's Office of the court.

Article 326
Suspension of Investigations
(Paragraph 3 amended and paragraphs 4 and 5 added by Law no. 35/2017, dated 30.3.2017)

1. Where the perpetrator of the criminal offense is unknown, or where the defendant suffers from a serious illness that prevents the continuation of the investigation, the prosecutor shall decide on the suspension of the investigations.
2. The suspension of the investigations shall be ordered after all possible actions have been carried out.
3. The reasoned decision shall be notified to the victim or to the person who filed the complaint, who may lodge an appeal within ten days from the date of notification before the judge of the preliminary hearing. The appeal shall be examined in chambers within thirty days. No appeal shall be admitted against the decision.
4. Where the appeal is upheld, the court shall order the resumption of the investigations.
5. Except for the case provided in paragraph 4 of this Article, a suspended investigation shall be resumed upon prosecutor's decision.

CHAPTER VIII
CONCLUSION OF INVESTIGATIONS

Article 327
Actions of the Judicial Police and of the Prosecutor
(Paragraph 2 amended and paragraphs 3, 4, 5, and 6 added by Law no. 35/2017, dated 30.3.2017)

1. After carrying out the necessary investigative actions, the judicial police shall submit the case file to the prosecutor, together with an explanatory report on the fact and the evidence, as well as with their suggestions on the manner of concluding the investigations.
2. Within the time limit provided under Article 324 of this Code, the prosecutor shall notify the defendant, his/her counsel, as well as the victim or his/her heirs, when their identities and residences are known from the proceeding files.
3. The notification shall contain a summary description of the criminal fact under investigation, the time and place of its commission, its legal qualification, notice of the filing of the acts with the Clerk's Office, and the right to examine the acts and to obtain copies thereof.
4. The defendant shall also be notified that he/she has the right, within ten days, to submit memoranda and documents, to request the prosecutor to carry out additional investigations, to make statements, or to request to be questioned. Where the defendant requests to be questioned, the prosecutor shall be obliged to proceed with his/her questioning.
5. Where the prosecutor accepts the defendant's request to carry out additional investigations, such investigations must be completed within thirty days from the submission of the petition. This time limit may be extended only once and for no more than two months, and in any case without

exceeding the overall time limit of the investigation. Where the prosecutor does not accept the defendant's request, he/she shall issue a reasoned decision pursuant to paragraph 2 of Article 110 of this Code.
6. Upon conclusion of the preliminary investigations, the prosecutor shall proceed as follows:
a) decide on the dismissal of the charge or of the case, in the instances provided under paragraph 1 of Article 328, or request the court to dismiss the charge or the case, in the instances provided under Article 329/a of this Code;
b) request the court to commit the case for trial, when not proceeding under Articles 400, 406/a, and 406/dh of this Code.

Article 328

Dismissal of the Charge or of the Case

(Words added to paragraph 1 by Law no. 8460, dated 11.2.1999; title and paragraph 1 amended, and paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Upon conclusion of the preliminary investigations, where the proceedings concern a criminal misdemeanor, the prosecutor shall decide on the dismissal of the charge or of the case where:
a) it is clearly established that the fact does not exist;
b) the fact is not provided by law as a criminal offense;
c) the victim has not lodged a criminal complaint or has withdrawn his/her complaint, in cases where the proceedings are initiated upon his/her petition;
ç) the person cannot be taken as a defendant or cannot be convicted;
d) there exists a ground that extinguishes the criminal offense, or on the basis of which the criminal prosecution should not have been initiated or should not continue;
dh) it results that the defendant did not commit the offense or it is not proven that he/she committed it;
e) the defendant has been tried by a final court decision for the same criminal offense;
ë) the defendant dies;
f) in other cases, as provided by law.
2. Within five days from the issuance of the dismissal decision, the prosecutor shall notify the defendant, his/her counsel, the victim or his/her heirs when their identities and residences are known from the proceeding documents, as well as the person who filed the criminal complaint or the appeal, informing them of the right to know the acts, to obtain copies thereof, and to lodge an appeal with the court.

Article 329

Appeal against the Decision of Dismissal of the Charge or of the Case

(Words added to paragraph 1 by Law no. 8460, dated 11.2.1999; words repealed in paragraph 1 by Decision of the Constitutional Court no. 5, dated 6.3.2009; amended by Law no. 35/2017, dated 30.3.2017)

1. An appeal against the decision of dismissal of the charge or of the case may be lodged within ten days from notification before the judge of the preliminary hearing. In cases where the prosecutor has submitted a petition for the committal of the case for trial, but has decided to dismiss one or more of the charges, the appeal against the decision of dismissal shall be examined jointly with the petition for committal of the case for trial.
2. Copies of all acts and evidence contained in the preliminary investigations file shall be deposited with the Clerk's Office of the court, including also the decisions rendered by the judge of the

preliminary investigations, as well as the material evidence, except where these are stored elsewhere.
3. The appeal shall be examined in chambers within fifteen days from receipt of the acts. The court shall decide, as the case may be:
a) to uphold the decision of dismissal, where it deems that the conditions provided under paragraph 1 of Article 328 of this Code are met;
b) to return the acts to the prosecutor and order the continuation of the investigations, where it deems that they are incomplete, specifying the directions of further investigations and, where appropriate, the actions to be performed, and setting the time limit within which the investigations must be completed;
c) to return the acts to the prosecutor, ordering him/her to formulate the charge and submit a petition for the trial of the case, where it deems that the investigations are complete and that sufficient evidence exists to support the charge at trial.
4. The court may not order the prosecutor to formulate a charge against other persons whose names have not been registered pursuant to Article 287 of this Code. Where the acts reveal data concerning other criminal offenses subject to ex officio prosecution, or implicating other persons, the court may request that investigations be carried out, even in cases where it decides pursuant to letter "c" of paragraph 3 of this Article.
5. In the cases provided under paragraph 3, letters "b" and "c," and paragraph 4 of this Article, the decision shall also be notified to the chairperson of the prosecution office.
6. Against the decision of the judge of the preliminary hearing, pursuant to letter "a" of paragraph 3 of this Article, an appeal may be lodged with the court of appeal by the defendant and the victim, whereas pursuant to letters "b" and "c" of paragraph 3 of this Article, an appeal may be lodged by the prosecutor.
7. The court of appeal shall examine the appeal in chambers within fifteen days from the date of receipt of the acts.
8. Where it upholds the defendant's appeal, the court of appeal shall order the modification of the dismissal decision with a more favorable formulation for him/her. Where it upholds the victim's appeal, the court shall order the continuation of the investigations or the committal of the case for trial. Where it upholds the prosecutor's appeal, the court shall order the upholding of the dismissal decision.

Article 329/a

Petition for Dismissal of the Charge or of the Case

(Added by Law no. 35/2017, dated 30.3.2017)

1. Upon conclusion of the preliminary investigations, where the proceedings concern crimes and where one of the cases provided under paragraph 1 of Article 328 of this Code applies, the prosecutor shall request the judge of the preliminary hearing to order the dismissal of the charge or of the case.
2. In cases where the prosecutor has submitted a petition for the committal of the case for trial, the petition for dismissal of the charge or of the case shall be examined jointly with the petition for committal of the case for trial.
3. The prosecutor's petition shall include the acts and the evidence contained in the investigations file, including also the acts carried out before the judge of the preliminary investigations, as well as the material evidence, except where these are stored elsewhere.
4. The petition shall be notified to the defendant, his/her counsel, the victim or his/her heirs, when their identities and residences are known from the proceeding documents, as well as to the person

who filed the criminal complaint or the appeal. They shall have the right to examine the acts and the evidence, as well as to obtain copies thereof.

Article 329/b
Examination of the Petition
(Added by Law no. 35/2017, dated 30.3.2017)

1. Within five days from the filing of the petition, the court shall notify the defendant, his/her counsel, the victim or his/her heirs, when their identities and residences are known from the proceeding documents, as well as the person who filed the criminal complaint or the appeal, of the hearing date and time.
2. The petition shall be examined by the judge of the preliminary hearing in a closed session, in the presence of the parties. Where a party fails to appear, notwithstanding having been duly notified, or refuses to appear without presenting reasonable grounds, the hearing shall proceed in their absence.
3. Where the conditions provided under paragraph 1 of Article 328 are met, the court shall order the dismissal of the charge or of the case. Otherwise, the court shall decide in accordance with letter "b" or "c" of paragraph 3 of Article 329 of this Code.
4. Where the court decides pursuant to letter "b" of paragraph 3 of Article 329 of this Code, it shall set a time limit for the prosecutor to carry out the investigations.
5. Where applicable, the rules provided under paragraph 4 of Article 329 of this Code shall apply.
6. An appeal may be lodged against the decision of the judge of the preliminary hearing before the court of appeal. The rules provided in Article 329 of this Code shall apply insofar as they are compatible.

Article 329/c
Revocation of the Dismissal Decision
(Added by Law no. 35/2017, dated 30.3.2017)

1. Where, after the decision to dismiss the charge or the case, new data or evidence emerges or is discovered which shows that the decision is unfounded, it may be revoked by the judge of the preliminary hearing upon petition of the prosecutor, the victim, or his/her heirs. The petition, together with the acts and the new evidence, shall be filed with the Clerk's Office of the court.
2. The petition shall include the new evidence, under penalty of inadmissibility.
3. The petition shall be examined in chambers. Where the petition is upheld, the court shall revoke the dismissal decision and shall return the acts to the prosecutor, who shall resume the investigations.
4. Upon conclusion of the investigations, where the prosecutor does not proceed under Articles 328, 329/a, 406/a, or 406/dh of this Code, he/she shall submit to the court a petition for the committal of the case for trial.

Article 329/ç
Appeal against the Decision
(Added by Law no. 35/2017, dated 30.3.2017)

Against the decision of inadmissibility or rejection of the petition for revocation of the dismissal decision, the prosecutor, the victim or his/her heirs, shall have the right to lodge an appeal before the court of appeal, which shall examine the appeal in chambers.

Article 330
Liability of the Complainant for Costs and Damages

1. Where the case is dismissed because the fact does not exist, the victim, upon whose complaint the proceedings were initiated, shall be charged with the payment of the procedural costs borne by the State.
2. The complainant shall also be charged with the costs incurred by the defendant and the civil respondent, where they request such, as well as with compensation for the damage.
3. Where the case has been dismissed due to withdrawal of the complaint, the costs shall be borne by the complainant, except where the withdrawal act provides by agreement that such costs shall be entirely or partly borne by the person against whom the complaint was filed.
4. The costs and damages shall be determined by the prosecutor. An appeal against his/her decision may be lodged before the court by the victim, the defendant, and the civil respondent.

Article 331
Request for Committal of the Case for Trial
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Where the prosecutor does not proceed under Articles 328, 329/a, 400, 406/a, or 406/dh of this Code, he/she shall request the committal of the case for trial.
2. The petition for committal of the case for trial shall be invalid where the requirements of paragraphs 2, 3, and 4 of Article 327 of this Code are not respected.
3. The petition for committal of the case for trial shall contain:
a) the particulars of the defendant and of the victim, where possible, as well as any other element serving for their identification;
b) the statement of the criminal fact and its legal qualification;
c) the sources of evidence and the facts to which they refer;
ç) the request that the judge of the preliminary hearing order the committal of the case for trial;
d) the date and the signature of the prosecutor.
4. All acts and evidence contained in the investigations file shall be attached to the prosecutor's petition, including also the acts carried out before the judge of the preliminary investigations, as well as the material evidence, except where these are stored elsewhere.

CHAPTER IX
PRELIMINARY HEARING
(Chapter added by Law no. 35/2017, dated 30.3.2017)

Article 332
Setting of the Preliminary Hearing
(Amended by Law no. 35/2017, dated 30.3.2017; paragraph 1 amended and paragraph 1/1 added by Law no. 41/2021, dated 23.3.2021)

1. The petition for committal of the case for trial shall be examined in a preliminary hearing by a single judge. Petitions for committal of cases severed from the same criminal proceeding shall be examined by the same judge of the preliminary hearing.

1/1. Within five days from the filing of the petition for committal of the case for trial, the judge of the preliminary hearing shall set the date of its holding. In cases where the defendant has not chosen a counsel, the rules of Article 49 of this Code shall apply.
2. From the date of filing of the petition for committal of the case for trial until the date of the hearing, a period of no longer than ten days shall elapse.
3. The court shall decide on the petition for committal of the case for trial within thirty days from the date of its filing.

Article 332/a
Preparatory Actions
(Paragraph 4 added by Law no. 41/2021, dated 23.3.2021)

1. The judge of the preliminary hearing shall notify the defendant and the victim or his/her heirs, when their identities and residences are known from proceeding documents, indicating the day, hour, and place where the hearing will be held, warning the defendant that if he/she fails to appear, the hearing will proceed in his/her absence.
2. The hearing date shall also be notified to the prosecutor and to the defendant's counsel, informing the latter of the right to examine the filed acts, as well as to submit memoranda or documents. The prosecutor shall be invited to file all acts carried out after the submission of the petition for committal of the case for trial.
3. Notifications under paragraphs 1 and 2 shall be made at least ten days prior to the hearing date.
4. Where the defendant, being at liberty, notwithstanding the searches conducted pursuant to Articles 140–142 of this Code, does not appear at the preliminary hearing and it results that he/she has not personally received notice of the trial, the court shall decide in accordance with paragraphs 1, 2, 3, or 4 of Article 352 of this Code.

Article 332/b
Verification of the Appearance of the Parties

1. The hearing shall be held in closed session, with the mandatory participation of the prosecutor and of the defendant's counsel.
2. The court shall verify the appearance of the parties, ordering the repetition of the notifications where they have not received notice, or where the notice is doubtful or has been declared invalid.
3. Where the defendant's counsel is not present, the court shall decide in accordance with paragraph 5 of Article 49 of this Code.
4. Where the defendant, whether at liberty or in pre-trial detention, fails to appear without reasonable grounds, notwithstanding having been duly notified, or refuses to appear, the court shall declare his/her absence by decision. In such cases, the defendant shall be deemed present, provided that he/she is represented by counsel. The defendant shall also be deemed present where, after having appeared, he/she leaves the hearing, or where, having appeared in one hearing, he/she does not appear in subsequent hearings.
5. The decision declaring the absence shall be revoked, even ex officio, where the defendant appears.
6. Where the defendant does not appear at the hearing and it results that the absence was caused by a legitimate impediment, the court shall, even ex officio, adjourn the hearing and order the repetition of the notifications.
7. The rules provided under Article 265 of this Code shall apply.

Article 332/c
Conduct of the Hearing

1. After verifying the appearance of the parties, the court shall declare the judicial examination open.
2. The prosecutor shall present in summary form the results of the preliminary investigations and the evidence on which the petition for committal of the case for trial is based.
3. The defendant may submit requests for the invalidity of acts of the preliminary investigations, the inadmissibility of evidence, the need to obtain additional evidence, or petition for abbreviated trial, as well as make any statements he/she deems necessary or request to be questioned, in accordance with the rules provided in Articles 38 and 39 of this Code.
4. After the defendant, the victim and the other private parties, where present, may present their claims.
5. The parties may submit agreements on the conditions of plea bargain and determination of the sentence, as well as petitions for pre-trial admission of evidence or the filing of a civil action in the criminal proceedings.
6. Where the parties submit a petition for pre-trial admission of evidence, the judge of the preliminary hearing shall decide on its admissibility and, if the petition is upheld, shall transmit it to the competent court and set the date of the new hearing.
7. Where the parties have no requests or claim for further evidence, the court shall declare the judicial examination closed.
8. The parties shall present their arguments on the probative value of the evidence and on the prosecutor's petition for committal of the case for trial.

Article 332/ç
Decision on the Completion of Investigations

1. Where it deems that the preliminary investigations are incomplete, the court shall order their completion, specifying the direction and, where appropriate, the acts that must be conducted. Where it finds acts to be invalid or evidence inadmissible, the court shall declare them as such by decision and, where possible, shall order their repetition. The court shall set the time limit within which the investigations must be completed and the date of the new hearing.
2. The decision shall be notified to the chairperson of the prosecution office.

Article 332/d
Amendment of the Charge in the Preliminary Hearing

1. Where, during the preliminary hearing, the fact appears different from that described in the petition for committal of the case for trial, another criminal offense emerges pursuant to letter "b" of paragraph 1 of Article 79, or an aggravating circumstance not previously mentioned emerges, the prosecutor shall amend the charge and communicate it to the defendant present. Where the defendant is not present, the new charge shall be communicated to his/her counsel, who shall be given no more than ten days to communicate with the defendant.
2. Where, during the preliminary hearing, a new criminal fact emerges against the defendant, not mentioned in the petition for committal of the case for trial, and which must be prosecuted ex officio, the court shall allow the communication of the charge for the new fact, where the prosecutor submits a petition and the defendant consents. Otherwise, the court shall return to the prosecutor the acts relating to the new charge and shall notify the chairperson of the prosecution office.

3. Where, during the preliminary hearing, it appears that the legal qualification of the fact is incorrect, or where the charge has not been formulated clearly and precisely, the court shall invite the prosecutor to make the necessary corrections or clarifications. Where the prosecutor fails to act, the court shall decide to return the acts. This decision shall be notified to the chairperson of the prosecution office.

Article 332/dh

Decision of the Judge of the Preliminary Hearing

(Letter "b" and "c" of paragraph 1 amended, and letter "d" added, by Law no. 41/2021, dated 23.3.2021)

1. After hearing the arguments of the parties, the court shall decide:
a) to uphold the prosecutor's petition and commit the case for trial, where it deems that sufficient evidence exists in support of the charge;
b) to continue the trial before the same court where the parties submit an agreement on the conditions of plea bargain and the determination of the sentence;
c) to invite the parties to submit their final arguments where the defendant has requested abbreviated trial, after verifying the state of the acts pursuant to the provisions of Article 332/c of this Code. The parties shall have the right to request a period of time for preparation, not exceeding fifteen days.
Where the defendant is charged with committing a criminal offense punishable by a maximum sentence of more than ten years of imprisonment, the court shall set the date of the hearing and notify the chairperson of the court to complete the trial panel in accordance with the law;
ç) to dismiss the charge or the case where the cases of paragraph 1 of Article 328 of this Code apply;
d) to declare lack of jurisdiction and commit the case to the competent court in cases provided by law.
2. The decision shall be filed with the Clerk's Office within ten days from its pronouncement. The parties shall have the right to obtain copies thereof.
3. The procedure of the preliminary hearing does not replace the judgment on the merits of the case, nor does it prejudice its final decision.

Article 332/e

Elements of the Decision

1. The decision on the committal of the case for trial shall contain:
a) the particulars of the defendant and other personal data relevant for his/her identification, as well as the particulars of the private parties and of their counsels;
b) the particulars of the victim, where he/she has been identified;
c) the statement of the criminal fact and of its circumstances, indicating the relevant provisions of the law;
ç) the sources of evidence and the facts to which they refer;
d) the operative part, also indicating the competent court to adjudicate the case;
dh) the determination of the address of the defendant, the victim or his/her heirs, and the other parties to the proceedings, for the purpose of further notifications;
e) the date and the signatures of the judge and of the clerk of the judicial hearing.
2. The decision shall be invalid where the defendant is not accurately identified, or where the requirements provided under letter "c" of paragraph 1 of this Article are missing or insufficient.

Article 332/ë
Case File for Trial

1. Where the court decides the committal of the case for trial, after hearing the parties, it shall determine the acts to be included in the case file for trial.
2. The case file for trial shall contain:
a) the acts relating to the conditions for the exercise of the criminal prosecution and to the petitions for admission of the civil action;
b) the minutes of the unrepeatable acts carried out by the judicial police and the prosecutor;
c) the minutes of the acts carried out for the pre-trial admission of evidence and those performed abroad in execution of a letter rogatory;
ç) the criminal record certificate and other documents relating to the personality and identification of the defendant;
d) the material evidence and the items pertaining to the criminal offense, unless they must be stored elsewhere;
dh) the minutes of the acts of inspection, identification, and investigative experiment;
e) the expert reports;
ë) the minutes of the evidence from other related proceedings;
f) the minutes and recordings of the interception of conversations and communications;
g) any other act relevant for the trial.
3. Copies of these acts and the other evidence obtained during the preliminary investigations shall remain in the prosecutor's file.
4. In the cases provided under letters "b" and "c" of paragraph 1 of Article 332/dh, the case file shall contain all the acts carried out during the preliminary investigation and those carried out during the preliminary hearing.

Article 332/f
Filing of the Case File for Trial

The decision on the committal of the case for trial, together with the case file for trial and the acts concerning precautionary measures, shall be filed without delay with the Clerk's Office of the competent court, and in any case not later than ten days.

Article 332/g
Prosecutor's File

The acts not included in the case file for trial, together with the acts and the minutes of the preliminary hearing, shall be submitted to the prosecutor.

Article 332/gj
Appeal

1. No appeal shall be admitted against the decision on the committal of the case for trial.
2. The prosecutor, the defendant, and the victim or his/her heirs may lodge an appeal with the court of appeal against the decision for the dismissal of the charge or case.

TITLE VII

TRIAL

CHAPTER I
PRE-TRIAL ACTIONS

Article 333
Setting of the Hearing

1. Within ten days from the filing of the petition of the prosecutor or of the accusing victim, the presiding judge of the judicial panel assigned to adjudicate the case shall set the hearing date.
2. The hearing date shall be notified to the prosecutor, the defendant, his/her counsel, the victim, the private parties, and their representatives, at least ten days prior to the date set for trial.

Article 334
Request for Expedited Trial

1. Where the requirements provided by law are met, the prosecutor may request expedited trial, whereas the defendant may request abbreviated trial.
2. In such cases, the rules provided in this Code for special trials shall apply.

Article 335
Rights of the Parties

1. Until the date set for trial, the parties, their counsels, and their representatives shall have the right to view the seized items, to examine in the Clerk's Office the acts and documents collected in the case file for trial, as well as to obtain copies thereof.

Article 336
Urgent Actions

1. In cases where the securing of evidence is required, the presiding judge, upon request of the parties, shall order the taking of evidence, the collection of which might be compromised at a later moment, respecting the rules provided for the judicial examination.
2. The prosecutor, the defendant, the victim, and the counsel shall be notified of the day, hour, and place set for the taking of the evidence at least twenty-four hours in advance.
3. The minutes of the actions carried out shall be included in the case file for trial.

Article 337
Summoning of Witnesses and Experts

1. The parties requesting the examination of witnesses and experts shall file with the Clerk's Office of the court, at least five days before the date set for trial, their list of witnesses and experts.
2. The presiding judge shall also order, even ex officio, the summoning of the expert appointed during the preliminary investigation for the pre-trial admission of evidence.

Article 338
Attempt at Conciliation

1. In cases of offenses prosecuted upon the request of the accusing victim, the court shall summon the victim and the person against whom the request for trial has been made and shall propose the settlement of the case through conciliation. Where the victim withdraws the request and the accused accepts the withdrawal, the court shall decide to dismiss the case. Otherwise, the court shall set the date of the hearing and inform them that they may be assisted by counsel.

CHAPTER II
COURT TRIAL

SECTION I
GENERAL PROVISIONS

Article 339
Publicity of the Hearing

1. The judicial hearing shall be public; otherwise, it shall be deemed invalid.
2. Minors under the age of sixteen, and persons who are in a state of drunkenness, intoxication, or mental disorder, shall not be admitted to the hearing.
3. Armed persons shall be prohibited from attending the hearing, except for members of the law enforcement forces.

Article 340
Cases of Hearing in Camera
(Words added in letter "ç" and letter "d" of paragraph 1, paragraph 2 added, numbering amended by Law no. 35/2017, dated 30.3.2017)

1. The court may order that the judicial examination, or certain acts thereof, be conducted in camera:
a) where publicity may harm public morality or may cause the dissemination of information that must be kept secret in the interest of the State, if such is requested by the competent authority;
b) where there are manifestations from the public that disrupt the proper conduct of the hearing;
c) where it is necessary to protect the safety of witnesses or of defendants;
ç) where it is deemed necessary when questioning minors as witnesses;
d) where the victim referred to in Article 58/b of this Code requests that the hearing be conducted in camera.
2. The judicial examination shall always be conducted in camera where:
a) juvenile defendants are being tried;
b) adult defendants are being tried who are accused of criminal offenses against minors as victims, regardless of the victim's age at the time of trial.
3. The decision of the court to conduct the hearing in camera shall be revoked when the reasons that caused it cease to exist.
4. The presiding judge of the judicial panel shall inform the persons participating in a hearing held in camera of their obligation to maintain confidentiality regarding the information learned during the hearing.

Article 341
Presiding over of the Hearing
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The hearing shall be presided by the presiding judge of the judicial panel. His/her orders to maintain order and decorum during the hearing are binding for the parties and all participants in the trial.
2. The presiding judge is obliged to take measures to ensure respect for the authority of the court, the solemnity of the trial, and security in the courtroom, as well as to prevent any insult, threat, or other attack by the parties and other participants in the trial.
3. Where the defendant, counsel, victim, witness, expert, or interpreter does not comply with the orders of the court to maintain order and decorum, insults the authority of the court, or performs acts undermining the solemnity of the trial, the presiding judge shall warn him/her of the consequences. Where the person continues to disturb order and decorum and to disobey, the court may impose a fine of up to 30,000 ALL. Repetition of the violation shall constitute grounds for removal from the courtroom.
4. An appeal in writing may be lodged against the above order within three days. The appeal shall be examined in chambers by the same court. Where it deems reasonable, the court shall order the revocation of the fine. No appeal shall be admitted against the decision revoking the fine.
5. The decision imposing the fine shall constitute an executive title.
6. The court shall notify the bar association, or the relevant institution or entity for experts and interpreters, regarding their inappropriate conduct.
7. Where the prosecutor, by his/her actions, violates the rules of the judicial hearing, the court shall warn him, and in case of repetition, shall notify the chairperson of the prosecution office.
8. As to the other participants in the trial who do not comply with the presiding judge's orders to preserve order and decorum or who insult the authority of the court, the presiding judge shall warn them and, where they do not comply with the order of the court, shall order their removal from the hearing and, where deemed necessary, impose on them a fine of up to 30,000 ALL.

Article 342

Uninterrupted Trial

(Paragraph 4 added by Law no. 8813, dated 13.6.2002; words at the end of paragraph 4 amended by Law no. 35/2017, dated 30.3.2017)

1. Where the judicial examination cannot be concluded in a single hearing, the court shall order its continuation on the following working day.
2. The court may interrupt the judicial examination only for exceptional reasons, for a period of up to fifteen days.
3. The adjournment or interruption of the judicial examination shall be declared by the presiding judge in the hearing. The announcement shall replace notification for those who are present or deemed to be present.
4. Where, for justified reasons, the composition of the judicial panel changes, the new member must acquaint himself/herself with the content of the judicial proceedings, except where he/she requests that the case be tried from the beginning. Where more than one member changes in a three-judge panel, or more than three members change in a five-judge panel, the trial shall recommence from the beginning.

Article 343

Suspension of the Trial

1. Where the conclusion of the criminal case depends on the resolution of a civil or administrative dispute which is subject to a pending trial, the court may order the suspension of the judicial examination until the case is resolved by a final decision.
2. An appeal may be lodged against the decision of suspension.
3. Where the civil or administrative trial is not concluded within six months, the court may revoke the decision of suspension, even ex officio.

Article 344
Presence of the Defendant at the Hearing
(Paragraph 4 added by Law no. 8813, dated 13.6.2002; paragraphs 2, 3, and 4 amended, and paragraph 5 added, by Law no. 35/2017, dated 30.3.2017)

1. The defendant shall participate in the hearing as a free person even when in pre-trial detention, except in cases where necessary measures must be taken to prevent the risk of escape or violence.
2. Where the defendant, with his/her behavior, obstructs the proper conduct of the hearing, notwithstanding the measures taken pursuant to paragraph 3 of Article 341 of this Code, the court may order his/her removal from the courtroom for a specified period of time. Where the defendant continues to obstruct the regular conduct of the trial even after returning, the court may order his/her removal until the pronouncement of the decision.
3. Where possible, the defendant removed pursuant to paragraph 2 of this Article shall follow the hearing through audio and/or video link.
4. The defendant removed from the hearing pursuant to paragraph 2 of this Article shall be deemed present and shall be represented by his/her counsel. He/she may be readmitted to the courtroom at any time.
5. The absence of the defendant who leaves the courtroom and who has not accepted to have a counsel shall not prevent the conduct of the trial. In this case, a counsel shall be appointed ex officio and the trial shall continue. The defendant or his/her retained counsel may be readmitted to the courtroom at any time.

Article 345
Minutes of the Hearing
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 346
Content of the Minutes
(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 347
Requests of the Parties concerning the Minutes
(Repealed by Law no. 35/2017, dated 30.3.2017)

SECTION II
PRELIMINARY ACTIONS

Article 348
Verification of the Appearance of the Parties
(Second sentence in paragraph 1, and paragraphs 2 and 3 added, by Law no. 35/2017, dated 30.3.2017)

1. Before the commencement of the judicial examination, the presiding judge shall verify the appearance of the parties. Where the parties have not appeared, the chairman shall verify whether the notifications were duly made and whether the absence is justified.
2. Where the defense counsel appointed ex officio is not present, paragraphs 5 and 6 of Article 49 of this Code shall apply.
3. Where the prosecutor does not appear at trial, the court shall adjourn the hearing and notify the chairperson of the prosecution office.

Article 349
Repetition of the Summons

1. The court shall order, even ex officio, the repetition of the summons for trial where it results that the defendant or the person against whom a request for trial has been filed by the accusing victim has not received notification or where the notification is doubtful.

Article 350
Absence of the Defendant or the Defense Counsel
(Paragraph 3 amended, paragraph 4 renumbered as paragraph 6, and paragraphs 4 and 5 added by Law no. 35/2017, dated 30.3.2017)

1. Where the defendant, whether in pre-trial detention or not, or the person against whom the accusing victim has filed a request for trial, does not appear at the hearing and it results that the absence was caused by force majeure or another impediment excluding liability, the court, even ex officio, shall adjourn or suspend the judicial examination, set the date of the new hearing, and order the repetition of the summons.
2. The reading of the decision setting the new hearing shall be considered as equal to notification for all those who are or must be deemed present.
3. The court shall decide pursuant to paragraph 1 of this Article also where the defense counsel is absent and the absence was caused by force majeure, except where the defendant requests that the proceedings continue in the absence of counsel and his/her presence is not mandatory. Where the defendant is assisted by two counsels and the impediment to appear concerns only one of them, the summons shall be considered valid and the trial shall proceed in the presence of the other counsel.
4. Where the defense counsel, having been duly notified, does not appear at the hearing and there are no impediments excluding his/her liability to appear, or where the counsel leaves the hearing without authorization, the court may impose a fine on him/her from 5,000 to 100,000 ALL and may order him/her to pay the costs of the hearing.
5. An appeal in writing may be lodged against the above order within three days. The appeal shall be examined in chambers by the same court. Where it deems reasonable, the court shall revoke the fine. No appeal shall be admitted against the decision revoking the fine.
6. Where it results that the notification was not duly made, the court shall order the adjournment of the judicial examination and the repetition of the notification.

Article 351
Failure to Appear or Voluntary Departure of the Defendant
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Where the defendant, whether at liberty or in pre-trial detention, does not appear at the hearing, notwithstanding having been duly notified and having had no lawful grounds for non-appearance, the court shall adjourn the hearing and order his/her compulsory escort, except where he/she has declared his/her will not to participate in the trial before a notary public or the competent state authority. In such case, the trial shall proceed in his/her absence.
2. Where the defendant present at the hearing expressly waives his/her right to participate in the trial, the trial shall proceed in his/her absence.
3. In the cases provided under paragraphs 1 and 2 of this Article, the defendant shall be deemed present, provided that the trial is conducted in the presence of his/her defense counsel.
4. The same provision shall apply where the defendant departs at any moment during the judicial examination or during its intervals.

Article 352
Trial in Absentia
(Amended by Law no. 35/2017, dated 30.3.2017)

1. Where the defendant at liberty, notwithstanding the searches conducted pursuant to Articles 140–142 of this Code, does not appear at the hearing and it results that he/she has not personally received notice of the trial, the court shall order its suspension and instruct the judicial police to continue searching for the defendant. After one year from the date of suspension of the trial for this reason, as well as at any moment when information arises regarding the defendant's whereabouts, the court shall resume the trial, ordering the repetition of the notification. Where, even after renewed searches, the defendant is not found, the court shall declare his/her absence. In such case, the trial shall proceed in the presence of the defense counsel.
2. Where it is proven that the defendant is evading justice, the court shall declare his/her absence. In such case, the trial shall proceed in the presence of the defense counsel.
3. The court shall also declare absence where it is proven that the defendant is abroad and his/her extradition is not possible.
4. The decision declaring absence shall be invalid where it is proven that it resulted from absolute impossibility to appear.
5. Where the defendant appears after the declaration of absence, the court shall revoke such decision. Where the defendant appears after the judicial examination has been declared closed, he/she may request to be questioned. All actions performed shall remain valid, but where the defendant so requests, and the court deems it necessary for the rendering of the decision, it may order the reopening of the judicial examination and the taking of evidence requested by the defendant or the repetition of procedural actions.
6. Trial in absentia shall not be conducted against a juvenile defendant. In such case, after conducting the searches pursuant to Articles 140–142 of this Code, the court shall order the suspension of the trial. The rules of paragraph 1 of this Article shall apply insofar as they are compatible.

Article 353
Compulsory Escort of the Defendant

1. The court may order the compulsory escort of the defendant or of the person against whom a request for trial has been filed by the accusing victim, where he/she has failed to appear or has been declared absent, if his/her presence is indispensable for the taking of evidence, but not for his/her questioning.

Article 354
Preliminary Objections
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. Objections concerning jurisdiction, competence, joinder or severance of proceedings, and the legal standing of the civil plaintiff and the civil respondent, may not be raised later if they have not been submitted immediately after the legal standing of the parties, except where the possibility of raising them arises only during the judicial trial.
2. On preliminary objections, the prosecutor, the accusing victim, the defendant or his/her counsel, and one representative for each private party shall have the right to speak. Reply shall not be permitted.
3. On preliminary objections, the court shall decide by ruling immediately after hearing the parties. Where it deems necessary, the court may postpone its decision until the next hearing.

Article 355
Announcement of the Opening of the Judicial Trial

1. After carrying out the actions provided in the preceding Articles, the presiding judge shall declare the judicial trial open and shall state the identity of the defendant and the charge against him/her.

Article 356
Opening Statement and Requests for Evidence

1. The prosecutor or the accusing victim shall present in summary form the facts forming the object of the charge and indicate the evidence they request to be examined.
2. In turn, the defendant's defense counsel, the representatives of the civil plaintiff and the civil respondents shall state the facts they seek to prove and request the taking of evidence.
3. The taking of evidence not previously requested shall be permitted where the party requesting it claims that it was not possible to request it earlier.

Article 357
Court Rulings on Evidence

1. After hearing the parties, the court shall issue a ruling on the taking of evidence.
2. During the judicial trial, the parties may raise claims concerning the taking of evidence. The court may, by ruling, revoke the taking of evidence which is not necessary, or admit the taking of evidence that had previously been refused.

Article 358
Statements of the Defendant

1. The presiding judge shall inform the defendant that he/she has the right, at any stage of the judicial trial, to make such statements as he/she deems appropriate. Where, during his/her statements, the defendant does not confine himself/herself to the subject of the charge, the presiding judge shall warn him/her, and where he/she continues, shall deprive him/her from the right to speak.
2. The clerk shall fully reproduce the defendant's statements, except where the presiding judge orders that the minutes be kept in summary form.

SECTION III
TAKING OF EVIDENCE

Article 359
Order of Taking Evidence

1. The judicial investigation shall commence with the taking of the evidence requested by the prosecutor or the accusing victim and shall continue with the taking of the evidence requested by the defendant, his/her defense counsel, and the other parties.

Article 360
Appearance and Oath of the Witness

1. Before questioning commences, the presiding judge shall warn the witness of his/her legal duty and liability to tell the truth, except in cases where the witness is a minor under the age of fourteen.
2. The court clerk shall read the witness's oath:
"I swear that I will tell the truth, the whole truth and nothing but the truth."
After this, the witness shall declare: "I swear", and shall state his/her particulars.
3. Failure to comply with the provisions of paragraphs 2 and 3 shall render the performed actions null and void.

Article 361
Questioning of Witnesses
(Paragraph 7 added by Law no. 9276, dated 16.9.2004; words in paragraph 3 and paragraph 8 added, paragraph 5 repealed, by Law no. 35/2017, dated 30.3.2017)

1. The questioning of witnesses shall be conducted first by the prosecutor or by the defense counsel or representative who requested the questioning. Thereafter, questioning shall continue by the parties, in turn.
2. The party who requested the questioning may also ask questions after the other parties have finished.
3. The party who requested the questioning shall be prohibited from asking questions that adversely affect the impartiality of the witness or that aim to suggest answers.
4. To help memory, the witness may be allowed by the presiding judge to consult documents prepared by him/her.
5. Repealed.
6. During the questioning of the witness, the presiding judge may also put questions and, where appropriate, intervene to ensure the order of questioning, the truthfulness of the answers, the accuracy of the questions and objections, as well as to guarantee respect for the person.
7. The witness may be questioned remotely, within or outside the country, through audiovisual links, in compliance with the rules of international agreements and the provisions of this Code. The person authorized by the court shall be present at the location of the witness, shall verify his/her identity, and shall ensure the proper conduct of the questioning and the implementation of protective measures. These actions shall be recorded in the minutes.
8. Victims of sexual offenses, trafficking offenses, or offenses committed within the family, where they so request, may be questioned as witnesses through audio or audiovisual means.

Article 361/a

Questioning of the Minor Witness

(Added by Law no. 9276, dated 16.9.2004, and amended by Law no. 35/2017, dated 30.3.2017)

1. The questioning of a minor witness under the age of fourteen shall be conducted without the presence of the judge and the parties, at the premises where the minor is located, where possible through audiovisual means. The questioning shall be carried out by a psychologist, educator, or another expert, and, where not contrary to the interests of the trial or of the child, the parents or custodian may be present during the questioning. The parties may request, and the court may also decide ex officio, that the minor be questioned by the judge in the presence of an expert. The minor may be questioned again only in exceptional cases and in the same manner.
2. The questioning of a minor witness between fourteen and eighteen years of age shall be conducted by the presiding judge of the judicial panel. During the questioning of the minor, special care shall be taken to avoid harmful effects on his/her mental health, especially where he/she is the victim of the criminal offense. According to the circumstances, the questioning may also be conducted in the manner provided in paragraph 1 of this Article.
3. In the questioning of a minor witness under the age of fourteen, the presiding judge of the judicial panel shall not apply the rule of warning as to the duty and legal liability to tell the truth. This exception shall also apply to other minor witnesses, where the presiding judge of the judicial panel deems that they are not capable of understanding the consequences of taking the oath. In such cases, the presiding judge of the judicial panel shall invite the minor to tell the truth, and the court shall proceed with hearing the testimony of the minor.
4. Where the minor has been heard during the investigation and his/her statements have been recorded pursuant to paragraph 4 of Article 58/a of this Code, such statements shall be used as evidence at trial if the defendant and the defense counsel give their consent. The statements of the minor may also be used as evidence where the defense counsel has been allowed to question the minor through professionals and the expert deems that the repetition of questioning may harm the psychological conditions of the minor.

Article 361/b

Special Techniques of Questioning

(Added by Law no. 9276, dated 16.9.2004; numbering and title amended, words added to paragraph 1, and paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. The questioning of collaborators of justice, infiltrated persons or undercover persons, and of protected witnesses and witnesses with concealed identity shall be conducted under special protective measures, which shall be determined by the court, ex officio or upon request of the parties.
Where technical means are available, the court may order that their questioning be conducted remotely through audiovisual link, in accordance with the rules set out in paragraph 7 of Article 361 of this Code.
2. Where a change of identity has been granted to the person to be questioned, the court shall order appropriate measures to ensure that the person's face and voice are not recognizable to the parties. Where recognition of identity or inspection of the person is indispensable, the court shall order his/her summons or compulsory escort for the performance of such action. In such case, the court shall order the necessary measures to avoid the recognizable appearance of the face of the person whose identity has been changed.

3. The court shall not allow questions to be put to the witness, as referred to in paragraph 1 of this Article, which may reveal his/her identity.

Article 362

Rebuttal of Testimony

(Words added to paragraphs 1 and 2, and paragraphs 3 and 4 added, by Law no. 8813, dated 13.6.2002)

1. In order to rebut, in whole or in part, the content of the testimony, or where the witness refuses to testify, the parties may use the statements previously made by the witness before the prosecutor or the judicial police and included in the prosecutor's file, but only after the witness has already testified on the facts and circumstances which are being rebutted.
2. Such statements shall not constitute evidence in themselves for the facts affirmed therein, but may be assessed by the court to determine the credibility of the person questioned, and shall be included in the case file for trial.
3. Statements given before the prosecutor or the judicial police may be assessed as evidence where they are corroborated by other evidence confirming their truthfulness.
4. Previous statements, included in the case file for trial pursuant to paragraph 2 of this Article, shall also be assessed as evidence where it results that the witness, even during questioning at the hearing, has been subjected to violence, threats, promises of money or other benefits, with the purpose of preventing him/her from testifying or inducing him/her to give false testimony, as well as where other circumstances appear that have impaired the sincerity of his/her answers.

Article 363

Questioning of Experts

(Paragraph 3 added by Law no. 9276, dated 16.9.2004)

1. For the questioning of experts, the provisions on the questioning of witnesses shall apply insofar as they are applicable.
2. The expert shall have the right, in any case, to consult documents, notes, and publications, which may also be obtained ex officio.
3. The expert may be questioned remotely, in compliance with the rules provided in paragraph 7 of Article 361 of this Code.

Article 364

Questioning of Witnesses and Experts at Home

(Paragraph 1 amended by Law no. 8813, dated 13.6.2002)

1. In cases of absolute impossibility to appear, upon request of the parties, the court may order that the questioning of the witness or expert be carried out at the premises where they are located, giving notice of the day, hour, and place of questioning. The questioning may also be conducted by only one member of the judicial panel, in the presence of the parties.
2. The questioning shall be carried out in the manner provided in the preceding Articles, without the presence of the public. The defendant and the private parties shall be represented by their defense counsels and representatives. The court may allow the defendant to intervene in the questioning.

Article 365

Questioning of the Private Parties

1. The questioning of the private parties shall begin by the one who requested it and shall continue with the questions of the prosecutor, defense counsel, representatives of the parties, and the defendant. The party who initiated the questioning may also put questions after the other parties.
2. To rebut the content of the testimony, the statements made during the preliminary investigations by the party questioned, and included in the prosecutor's file, may be used, provided that the party has testified on the facts and circumstances being rebutted.

Article 366
Ruling of Expert Opinion during Trial

1. Where the court, ex officio or upon request of the parties, orders an expert opinion, the expert shall be summoned immediately and shall give his/her opinion in the same hearing. Where it is not possible to proceed in this manner, the court shall adjourn the judicial trial and set the date of the new hearing, not later than thirty days.

Article 367
Taking of New Evidence

1. After the taking of the requested evidence, the court, where necessary, may put additional questions and order, even ex officio, the taking of new evidence. Where it is not possible to proceed in the same hearing, the trial shall be adjourned and the date of the new hearing shall be set.

Article 368
Minutes of the Taking of Evidence

1. The minutes of the taking of evidence shall record the particulars of the witnesses, experts, and interpreters, as well as the warning given to them regarding their duty to tell the truth and their liability in case of false testimony, expert opinion, or interpretation.
2. The court clerk shall reproduce the questions put by the parties and by the presiding judge, as well as the answers of the persons questioned.
3. Where the court decides that the minutes be kept in summary form, their accuracy shall be verified by the presiding judge.

Article 369
Permissible Readings
(Words added to paragraph 3 by Law no. 8813, dated 13.6.2002; words amended and sentence added in paragraph 5 by Law no. 35/2017, dated 30.3.2017)

1. The court, even ex officio, may order the reading, in whole or in part, of the documents contained in the case file for trial.
2. Upon request of the parties, the court may order the reading of documents obtained during the preliminary investigations, in cases when, due to unforeseen circumstances, they can no longer be reproduced.
3. The reading of statements made by an Albanian or foreign national residing abroad may be permitted where such person has been summoned and has not appeared or cannot be found, despite

the searches conducted by the judicial police, as well as where he/she refuses to testify. In such case, the act shall be assessed in conjunction with the other evidence.
4. The judicial police officer or agent, when questioned as a witness, may use the documents of the judicial police to refresh his/her memory.
5. In place of reading, the court, even ex officio, may display the documents permitted to be used for rendering the decision. The display of the acts shall be equivalent to their reading.

Article 370
Reading of Statements Made by the Defendant
(Words added to paragraph 2 by Law no. 8813, dated 13.6.2002; words added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. To rebut, in whole or in part, the content of the defendant's statements, the parties may use the statements previously made by him/her and included in the prosecutor's file, provided that he/she has spoken on the facts and circumstances being rebutted.
2. Where the defendant has been declared absent, or does not appear, or refuses to answer regarding the statements he/she made in the presence of his/her defense counsel in accordance with paragraph 3 of Article 38 of this Code, the court shall order the reading of the minutes of the statements made by him/her during the preliminary investigations.
3. Where the statements have been made by persons taken as defendants in a related proceeding, the court shall order their compulsory escort. Where the presence of the declarant cannot be secured, the court, after hearing the parties, shall order the reading of the minutes containing the statements.

Article 371
Inclusion of Acts in the Court's File

1. The minutes and acts that have been read, as well as the documents submitted by the parties and admitted by the court, shall be included together with the minutes of the hearing in the case file of the court.

SECTION IV
NEW CHARGES

Article 372
Amendment of the Charge

1. Where, during the judicial trial, the fact turns out to be different from that described in the request for trial, and its adjudication falls within the jurisdiction of that court, the prosecutor shall amend the charge and proceed with the relevant charge.

Article 373
Charge for another Offense

1. Where, during the judicial trial, another criminal offense that is connected with the one being tried, pursuant to Article 79 letter "b", or an aggravating circumstance not mentioned in the request for trial emerges, the prosecutor shall communicate the criminal offense or the circumstance to the defendant, provided that its adjudication does not fall within the jurisdiction of a higher court.

Article 374
Charge for a New Fact

1. Where, during the judicial trial, a new fact emerges against the defendant that was not mentioned in the request for trial and which must be prosecuted ex officio, the prosecutor shall proceed in the ordinary manner, by withdrawing the file in order to continue the preliminary investigations. Nevertheless, if the prosecutor so requests, the court may permit its examination in the same hearing, where the defendant gives his/her consent and the expeditiousness of the proceedings is not prejudiced.

Article 375
Amendment of the Legal Qualification of the Criminal Offense
(Amended by Law no. 8813, dated 13.6.2002; paragraphs 2 and 3 added by Law no. 35/2017, dated 30.3.2017)

1. By the final decision, the court may assign to the fact a legal definition different from that given by the prosecutor or the accusing victim, whether less or more severe, provided that the criminal offense falls within its jurisdiction.
2. Where, at the conclusion of the judicial trial, the court assesses that the fact for which the defendant is charged may have a more severe legal qualification than that given by the prosecutor or the accusing victim, it shall notify the parties of this possibility and grant them sufficient time to prepare their defense. The parties shall have the right to present new evidence.
3. Where the trial is conducted in the absence of the defendant, pursuant to Article 352 of this Code, the court shall apply the rules provided in paragraphs 1 and 2 of this Article.

Article 376
Rights of the Parties
(Punctuation, conjunction, and number added in paragraph 1, and words added to paragraph 3, by Law no. 35/2017, dated 30.3.2017)

1. In the cases provided under Articles 372, 373, 374, and 375, the presiding judge shall inform the defendant that he/she may request a period of time for his/her defense. Where the defendant requests such a period, the presiding judge shall adjourn the judicial trial for an appropriate period, but not longer than ten days. The other parties may also request the taking of new evidence.
2. The presiding judge shall order the summoning of the victim, respecting a time limit of not less than five days.
3. Where the defendant is tried in absentia pursuant to Articles 351 and 352 of this Code, the prosecutor shall request the court that the new charge be included in the minutes of the judicial trial and that an extract of the minutes be notified to the defendant. In such case, the presiding judge shall adjourn the judicial trial and set a new hearing, respecting the time limits provided in paragraph 1.

Article 377
Return of the Acts to the Prosecutor
(Second sentence of paragraph 1 removed by Law no. 35/2017, dated 30.3.2017)

1. Where the prosecutor withdraws the charge and, in the state of the evidence, it is established that the defendant is not guilty, or it results that one of the cases for dismissal of the case exists, the court shall decide to acquit the defendant or dismiss the case.

SECTION V
FINAL SUBMISSIONS

Article 378
Conduct of the Submissions
(Paragraphs 5 and 6 repealed by Law no. 35/2017, dated 30.3.2017)

1. After the taking of evidence, the prosecutor, the defendant's counsel, and the representatives of the other parties shall formulate and present their respective conclusions.
2. The civil plaintiff shall submit written conclusions, which must also include the determination of the loss of profit, if compensation for damages has been requested.
3. The prosecutor, defense counsel, and representatives of the parties may reply.
4. In any case, the defendant and his/her defense counsel shall present the final submissions, if they so request.
5. Repealed.
6. Repealed.

Article 378/a
Request for Reopening of the Judicial Investigation
(Added by Law no. 35/2017, dated 30.3.2017)

1. After the judicial trial has been concluded, no further evidence may be taken.
2. The judicial trial may be reopened upon request of the parties, where they request the taking of newly emerged evidence, or evidence that it was impossible for them to obtain earlier.
3. The court shall grant the request where it deems that the evidence is important for the resolution of the case.

CHAPTER III
THE JUDGMENT

SECTION I
RENDERING OF THE JUDGMENT

Article 379
Immediate Rendering of the Judgment
(Words in paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The judgment shall be rendered immediately after the final submissions of the parties.
2. The rendering of the judgment may not be postponed, except in cases of absolute impossibility. Postponement shall be ordered by the presiding judge through a reasoned order.

Article 380
Evidence that may be used for Rendering the Judgment

1. For rendering the judgment, the court may not use evidence other than that which has been taken or verified during the judicial trial.

Article 381
Rendering of the Judgment Collegially
(Paragraph 3 added by Law no. 35/2017, dated 30.3.2017)

1. The judicial panel, led by the presiding judge, shall decide separately on each matter relating to the fact and law, the execution of the precautionary measures, the punishments, and the civil liability.
2. The judges and assistant judges shall present their opinion and vote on each matter. The presiding judge shall collect the votes, beginning with the judge or assistant judge with the least seniority in service, and shall cast his/her vote last.
3. The judgment shall be signed by all members of the judicial panel. A judge who is in the minority shall sign the judgment, adding the notation "against."

Article 382
Drafting of the Judgment
(Paragraphs 2, 3, and 4 added by Law no. 35/2017, dated 30.3.2017)

1. After the judgment is rendered, its reasoning shall be elaborated on the basis of the evidence and the criminal law, and it shall be signed by all members of the judicial panel.
2. Where the judgment is pronounced in summary form, it shall be fully reasoned within thirty days from its pronouncement. This time limit may be extended for another period of 30 days where the case has been adjudicated by the Court against Corruption and Organized Crime.
3. Where the convicted person is subject to a personal precautionary measure, pursuant to Articles 237 and 238 of this Code, the judgment shall be reasoned within 15 days from the date of its pronouncement, or within 30 days where it has been adjudicated by the Court against Corruption and Organized Crime.
4. The time limit provided for drafting the written reasoning of the judgment, pursuant to paragraphs 2 and 3 of this Article, may be extended in exceptional cases, for well-grounded reasons. In such case, the chairperson of the court shall be notified.

Article 383
Elements of the Judgment
(Punctuation amended and words added in paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The judgment shall contain:
a) the court that rendered it;
b) the particulars of the defendant or other personal data necessary for his/her identification, as well as the particulars of the other private parties;
c) the charge;
ç) a summary statement of the factual circumstances and the evidence on which the judgment is based, as well as the reasons for which the court considers the opposing evidence inadmissible;
d) the operative part, indicating the articles of law applied;
dh) the date and the signatures of the members of the judicial panel.

2. The judgment shall be invalid where the operative part or the signatures of the members of the judicial panel are missing, as well as where there is an evident contradiction between its reasoning and its operative part.

Article 384
Pronouncement of the Judgment
(Words added to paragraph 1 and paragraph 3; paragraph 2 amended by Law no. 35/2017, dated 30.3.2017; paragraph 3 repealed by Law no. 41/2021, dated 23.3.2021)

1. The judgment shall be pronounced in the hearing by the presiding judge or by a member of the judicial panel through the reading of the operative part.
2. After the operative part, the presiding judge shall read the reasoned judgment. The reasoning of the judgment may also be provided in writing in summary form, indicating the principal grounds on which the judgment is based. In such case, the court shall deliver to the parties in the hearing the written summary judgment.
3. Repealed.

Article 385
Rectification of the Judgment

1. The court, even ex officio, shall proceed to the rectification of the judgment where a material error must be corrected.

Article 385/a
Completion of the Judgment
(Added by Law no. 35/2017, dated 30.3.2017)

1. Each of the parties, within thirty days from the pronouncement of the judgment where they were present, or from taking notice of it where the judgment was pronounced in their absence, may request its completion in case the court has not ruled on all the requests regarding the admission of evidence.
2. The court shall examine the request with the same judicial panel, after summoning the parties.
3. A special appeal shall be permitted against this decision.

Article 386
Filing of the Judgment
(Words in paragraph 1 amended and paragraph 2 amended by Law no. 35/2017, dated 30.3.2017; phrase in the first sentence of paragraph 2 repealed by Law no. 41/2021, dated 23.3.2021)

1. The judgment shall be filed with the Clerk's Office immediately after its reasoning, within the time limits provided in Article 382 of this Code. The designated officer shall affix his/her signature and note the date of filing.
2. The judgment shall be notified to the parties at the address declared by them. Notification made at the address declared by the parties shall be deemed effected.

SECTION II
JUDGMENT OF DISMISSAL OF THE CASE AND OF ACQUITTAL

Article 387
Judgment of Dismissal of the Case
(Paragraph 1 amended and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. Where the criminal prosecution should not have been initiated or should not continue, in the cases provided under letters "c," "ç," "e," and "ë" of paragraph 1 of Article 328 of this Code, or where the criminal offense has been extinguished and the defendant does not claim acquittal, the court shall decide to dismiss the case, by indicating also the relevant grounds.
2. Repealed.

Article 388
Judgment of Acquittal

1. The court shall render a judgment of acquittal where:
a) the fact does not exist or is not proven to exist;
b) the fact does not constitute a criminal offense;
c) the fact is not provided by law as a criminal offense;
ç) the criminal offense has been committed by a person who cannot be prosecuted or punished;
d) it is not proven that the defendant committed the offense that he or she is accused of;
e) the fact was committed in the presence of a legitimate reason or an exculpatory reason, as well as where doubt exists regarding their existence.

Article 389
Rulings on Precautionary Measures

1. By the judgment of acquittal or dismissal, the court shall order the release of the defendant held in pre-trial detention and shall declare the lifting of the other precautionary measures. It shall be proceeded in the same way also in cases where the judgment is conditionally suspended.

SECTION III
JUDGMENT OF CONVICTION

Article 390
Conviction of the Defendant
(Paragraph 2 amended by Law no. 8813, dated 13.6.2002; words in paragraph 1 amended, paragraph 2 renumbered as paragraph 4, words removed and paragraphs 2 and 3 added by Law no. 35/2017, dated 30.3.2017)

1. Where the guilt of the defendant is proven beyond any reasonable doubt, the court shall render a judgment of conviction, determining the type and measure of the punishment.
2. The court may not base the judgment of guilt solely on the statements made by a person who, of his/her own will, has not accepted to be questioned by the defendant or by his/her defense counsel at any stage of the proceedings.
3. The court may not base the judgment of guilt solely or mainly on the statements of a co-defendant, or on testimonies taken through special techniques for concealing the identity of the witness, pursuant to Article 361/b of this Code.

4. Where the defendant has committed several criminal offenses, the court shall determine the punishment for each of them and shall apply the rules on the concurrence of sentences.

Article 391
Declaration of Falsity of Documents

1. The falsity of an act or document established by court judgment shall be declared in the operative part, wherein it shall be ordered, as the case may be, that the act or document be entirely or partially annulled, reinstated, repeated, or amended, also determining the manner in which this shall be carried out.
2. The declaration of falsity may be appealed together with the final judgment.

Article 392
Obligation to Pay the Fine

1. Where the convicted person has no income or assets that can be seized, the court shall order the person civilly liable for the defendant's obligations to pay an amount equal to the fine.

Article 393
Obligation to Pay for Expenses

1. The convicted person shall be charged with the payment of the procedural expenses related to the criminal offenses for which the conviction was rendered.
2. Persons convicted for the same criminal offense or for related criminal offenses shall be jointly liable for the payment of the expenses. Persons convicted in the same trial for unrelated criminal offenses shall be jointly liable only for the common expenses relating to the offenses for which conviction was rendered.

Article 394
Obligation of the Civil Respondent

1. In the judgment of conviction, the court shall also decide on the request for the return of the item and for compensation of damages, as well as on the manner of payment of the obligation.
2. Where the liability of the civil respondent is admitted, he/she shall be jointly liable with the defendant for the return of the item and for the compensation of damages.

Article 395
Assessment of Damage

1. Where the evidence taken does not allow for the precise assessment of the damage, the court shall rule on the right to compensation for the damage in its entirety and shall transfer the acts to the civil court.
2. Upon petition of the civil plaintiff, the defendant and the civil respondent may be ordered to pay an amount approximating the damage which is deemed to have been proven. This obligation shall be enforceable immediately.

Article 396
Temporary Execution of the Civil Obligation

1. Upon petition of the civil plaintiff, where justified grounds exist, the obligation for the return of the item and for compensation of damages shall be declared temporarily enforceable.

Article 397
Obligation of the Private Parties for Procedural Expenses

1. By the judgment granting the petition for the return of the item or for compensation of damages, the court shall jointly oblige the defendant and the civil respondent for the payment of the procedural expenses in favor of the civil plaintiff, except where it deems that total or partial compensation thereof should be ordered.
2. Where the petition is dismissed or where the defendant is declared acquitted, except where he/she is criminally irresponsible, the court shall order the civil plaintiff to pay the procedural expenses incurred by the defendant and the civil respondent in connection with the civil lawsuit, unless grounds exist for their total or partial compensation. Where gross negligence is proven, the court may also order the civil plaintiff to compensate the damages caused to the defendant or to the civil respondent.

Article 398
Obligation of the Complainant for Expenses and Damages

1. Where the court renders a judgment of acquittal of the defendant for a criminal offense prosecuted upon complaint, because the fact does not exist or because the defendant did not commit it, the complainant shall be ordered to pay the procedural expenses incurred by the State, as well as the expenses and compensation for damage in favor of the defendant and the civil respondent.

Article 399
Publication of the Judgment to Repair Non-Pecuniary Damage

1. Upon petition of the civil plaintiff, the court shall order the publication of the judgment of conviction, as a means of repairing the non-pecuniary damage arising from the criminal offense.
2. The publication of the judgment shall be made in full or in summary form, in the newspapers designated by the court, at the expense of the defendant and of the civil respondent.
3. Where the publication is not made within the prescribed time limit, the civil plaintiff may act personally, with the right to recover the expenses from the convicted person.

CHAPTER IV
SPECIAL TRIALS

SECTION I
DIRECT TRIAL

Article 400
Cases of Direct Trial
(Paragraph 1 amended by Law no. 8813, dated 13.6.2002; paragraphs 1 and 3 amended and words of paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. Where the defendant has been arrested in flagrante delicto and is investigated for the commission of a criminal offense tried by a single judge, the prosecutor shall submit to the court, within forty-eight hours from the arrest, the petition for its validation and for simultaneous trial, where he/she deems that no further investigations are necessary.
2. If the arrest is validated as lawful and no further investigations are required, trial shall proceed immediately, whereas if the arrest is found to be unfounded, the acts shall be returned to the prosecutor. However, even in the latter case, where both the defendant and the prosecutor consent, the court shall proceed with direct trial.
3. Where the defendant has been arrested in flagrante delicto and the arrest is validated as lawful, and where the court imposes one of the precautionary measures provided under Articles 237, 238 or 239 of this Code, the prosecutor shall submit to the court a petition for direct trial no later than thirty days from the date of arrest, except where further investigations are required.
4. Where the criminal offense for which direct trial is requested is connected with other criminal offenses for which the conditions for this type of trial are lacking, proceedings shall be severed for the other offenses and for the other defendants, except where such severance would prejudice the investigations. Where joinder is necessary, the rules of ordinary trial shall apply.

Article 401

Preparation of the Direct Trial

(Paragraphs 1 and 2 amended and paragraph 4 added by Law no. 35/2017, dated 30.3.2017)

1. When proceeding with direct trial, the prosecutor shall order the appearance at the hearing of the defendant arrested in flagrante delicto or under a precautionary measure provided under Articles 237, 238 or 239 of this Code. Where the defendant is at liberty, the time limit for appearance shall not be less than three days.
2. The order shall contain, under penalty of invalidity, the particulars set forth in letters “a”, “b” and “c” of Article 332/e, as well as the designation of the place, date and time for appearance, with the warning that if the defendant does not appear, he/she shall be compelled to do so and escorted, together with the date and the signature of the prosecutor.
3. The defense counsel shall be immediately notified by the prosecutor of the trial date. The counsel shall have the right to inspect and to obtain copies of the documentation relating to the investigations carried out.
4. The order, together with the case file for trial, shall be submitted to the court. In the case provided under paragraph 3 of Article 400, the prosecutor shall be notified at least ten days in advance of the trial date and time, as well as of the court that will hear the case.

Article 402

Conduct of the Direct Trial

(Paragraphs 1/1 and 4 added, words amended in paragraph 2, paragraph 3 amended, and paragraph 4 renumbered as paragraph 5, by Law no. 35/2017, dated 30.3.2017)

1. During direct trial, the provisions of the chapter on judicial trial proceedings shall apply.
1/1. The victim and witnesses may also be summoned orally by the judicial police. In the case provided under paragraph 1 of Article 400, the prosecutor may communicate the charge to the arrested person at the court hearing.
2. The prosecutor, the defendant, and the civil plaintiff may produce witnesses during trial, without the need for prior summons by the court.

3. The court shall inform the defendant of his/her right to request abbreviated trial or to seek the conclusion of a plea agreement. The defendant shall also be notified of his/her right to request a period of up to five days to prepare his/her defense. In such case, the trial shall be adjourned until a new hearing is scheduled after the expiration of this time limit.
4. Where direct trial has been requested outside the cases provided for in Article 400 of this Code, the court shall return the acts to the prosecutor.
5. The defendant may petition for an abbreviated trial. The court, after hearing the opinion of the prosecutor and where the petition is found to be well-grounded, shall order the continuation of the trial proceedings in accordance with the rules governing abbreviated trials. Otherwise, the court shall proceed with the direct trial.

SECTION II
ABBREVIATED TRIAL

Article 403
Petition for Abbreviated Trial
(Amended by Law no. 35/2017, dated 30.3.2017)

1. The petition for abbreviated trial shall be submitted by the defendant or his/her defense counsel, with special authorization, at the preliminary hearing or at trial where proceedings are conducted under Article 400 and paragraph 3 of Article 406/ç of this Code, under penalty of inadmissibility.
2. A petition for abbreviated trial shall not be permitted for criminal offenses punishable by life imprisonment.

Article 404
Court's Rulings on the Petition
(Paragraph 2 repealed by Law no. 8813, dated 13.6.2002; repealed by Law no. 35/2017, dated 30.3.2017)

Article 405
Hearing of Abbreviated Trial
(Paragraphs 1, 5, 6, and 7 amended, words added to paragraph 3, and paragraphs 8 and 9 added by Law no. 35/2017, dated 30.3.2017)

1. Where the defendant or his/her defense counsel, with special authorization, has submitted a petition for abbreviated trial at the preliminary hearing under Article 332/c of this Code, the court hearing shall be held with the participation of the prosecutor, the defendant, his/her defense counsel, the victim or his/her heirs, where their identities and residences are known from the proceeding documents, as well as the private parties.
2. The court shall verify the legal standing of the parties.
3. Where the defendant's defense counsel is not present and defense is mandatory under the criteria set forth in this Code, the court shall appoint another counsel as substitute.
4. Where the defendant fails to appear at the hearing for justified reasons, the court shall set a new hearing date and order that the defendant be notified.
5. After hearing the parties on preliminary objections, the court shall read the petition for abbreviated trial and ask the defendant whether he/she upholds it. Where the defendant declares that he/she upholds the request, the court shall declare the judicial trial open and give the floor to the prosecutor to briefly present the results of the preliminary investigations.

6. After hearing the prosecutor's submissions, in the same hearing the court shall decide to grant the petition for abbreviated trial where it finds that the case may be decided on the basis of the acts as they stand. Otherwise, the court shall reject the petition and proceed with ordinary trial. An appeal may be lodged against such decision together with the final judgment.
7. The petition for abbreviated trial shall not be granted where the defendant or his/her defense counsel raises objections as to the validity of the acts or the usability of the evidence gathered during the preliminary investigations, or where they request the taking of new evidence at trial. The petition shall likewise not be granted where the court ex officio finds absolute invalidity or inadmissibility of evidence, as a result of which it finds that the case cannot be decided under the existing state of the acts. In such case, in its decision rejecting the petition the court shall specify the absolutely invalid acts or the unusable evidence at trial. This rule shall not apply where evidence is requested concerning the defendant's character, or his/her personal, family, or economic condition.
8. Where the court accepts the petition for abbreviated trial, it shall invite the parties to present their final submissions.
9. Where the court accepts the request for abbreviated trial, the civil claim shall not be examined.

Article 406
Decision
(Paragraph 1 amended by Law no. 8813, dated 13.6.2002, and by Law no. 145, dated 2.5.2013; second sentence of paragraph 1 and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. Where it renders a conviction, the court shall reduce the imprisonment term or the fine by one third.
2. Repealed.
3. The prosecutor and the defendant may appeal against the court's decision.
4. The provisions of Chapter III of this Title shall apply insofar as they are compatible.

SECTION III
(Section III and Section IV added by Law no. 35/2017, dated 30.3.2017)

Article 406/a
Petition for Approval of the Penal Order

1. Where the defendant is charged with the commission of a criminal misdemeanor, within three months from the registration of the name of the person to whom the criminal offense is attributed, the prosecutor shall issue a reasoned penal order imposing the penalty and shall request the court to approve it, in cases where he/she deems that a sentence of imprisonment should not be applied.
2. In the penal order the prosecutor shall impose the principal penalty of a fine. As the case may be, one or more accessory penalties may also be imposed. Depending on the economic condition of the defendant, the prosecutor may order that the fine be paid in instalments, setting also the time limits for such payments.
3. The fine may not exceed one half of the maximum provided by the Criminal Code for this type of penalty.
4. Upon conclusion of the investigations, the petition for approval of the penal order shall be filed with the Clerk's Office of the court together with all the acts of the preliminary investigation file. The petition for approval of the penal order shall be notified to the defendant. The provisions of paragraph 2 et seq. of Article 327 of this Code shall not apply.

Article 406/b
Decision on the Approval of the Penal Order

1. The court shall examine the petition without the presence of the parties and shall decide within ten days from its filing. The decision approving the penal order shall be reasoned in a summary form and shall contain:
a) the particulars of the defendant;
b) a statement of the fact and the legal qualification of the criminal offense;
c) the sources of evidence and the facts to which they refer;
ç) the amount of the fine, the modalities of its execution, and the type of accessory penalty imposed;
d) the defendant's right to challenge the court's decision, as well as the time limit within which such decision may be challenged;
dh) provisions concerning the material evidence and the objects pertaining to the criminal offense;
e) the date and the signature of the judge.
2. The court may not alter the penalties imposed by the prosecutor in the penal order; however, taking into account the economic condition of the defendant, at the stage of execution, upon request of the convicted person, it may apply the provisions of paragraph 8 et seq. of Article 34 of the Criminal Code.
3. The decision approving the penal order shall not cause the consequences provided for in Article 70 of this Code. It may not impose upon the convicted person the obligation to pay the procedural expenses.
4. The penalty imposed shall not be recorded in the criminal record certificate, except where the convicted person is a recidivist.

Article 406/c
Decision Refusing the Approval of the Penal Order

1. The court shall refuse to approve the penal order where:
a) one of the grounds for the dismissal of the charge or of the case exists;
b) the defendant is charged with a criminal offense for which the law does not permit the application of a penal order of conviction;
c) the prosecutor has requested a fine or one or more accessory penalties which are inappropriate;
ç) it is convinced that the case cannot be decided on the basis of the preliminary investigation acts attached to the petition for approval.
2. In the instances provided under letter "a" of paragraph 1 of this Article, the court shall order the dismissal of the case, while in the other instances it shall order the return of the acts to the prosecutor. This decision shall be notified to the prosecutor and to the defendant.

Article 406/ç
Challenge to the Court's Decision

1. The court's decision approving the penal order of conviction shall be notified to the defendant and to the person civilly liable for the damage caused by him/her, who shall have the right to challenge it before the same court within ten days from the date of notice.
2. The challenge may not be rejected, except where it is lodged by a person without legal standing or where it is submitted after expiry of the time limits.

3. Where the court proceeds under paragraph 2 of this Article, it shall set the date of trial and notify the parties and their defense counsels. The court shall proceed with ordinary trial, unless the defendant submits a request for abbreviated trial. In such case, the provisions of Articles 333 et seq. of this Code shall apply.

SECTION IV
PLEA AGREEMENT

Article 406/d
Content of the Agreement

1. From the moment of registration of the name of the person to whom the criminal offense is attributed until the commencement of the judicial trial, the prosecutor, the defendant, or his/her special representative may propose the conclusion of an agreement on the conditions for the admission of guilt and the determination of the sentence.
2. The presence of the defendant's defense counsel shall be mandatory during the negotiations for the conclusion of the agreement. The conclusion of the agreement shall be permitted for criminal offenses for which the law provides a maximum punishment of not more than 7 years' imprisonment. This limitation shall not apply in the case of a justice collaborator.
3. The agreement shall be made in writing and, under penalty of invalidity, shall contain:
a) a clear description of the criminal fact for which the defendant is accused and its legal qualification;
b) the defendant's statement admitting guilt;
c) the type and measure of the principal criminal penalty, the accessory penalty, and the manner of their execution, as agreed by the parties;
ç) provisions regarding the material evidence and the items pertaining to the criminal offense, as well as the confiscation of the means and proceeds of the criminal offense, pursuant to Article 36 of the Criminal Code;
d) where a civil plaintiff has legal standing, his/her written consent to the measure of compensation for damage by the defendant;
dh) the amount of procedural expenses;
e) the signatures of the parties and of the defense counsel.
4. After the agreement has been signed, the prosecutor shall notify the victim or his/her heirs, where their identities and residences are known from the proceeding documents, by sending them a copy thereof.
5. An agreement conditional upon the partial admission of charges shall be inadmissible.

Article 406/dh
Court Examination
(Second sentence of paragraph 1 amended by Law no. 41/2021, dated 23.3.2021)

1. Upon conclusion of the agreement, the prosecutor shall submit it for approval to the court, together with all the acts of the preliminary investigation. Where the agreement is submitted at the preliminary hearing, the court shall decide in accordance with the provisions of Article 332/dh, paragraph 1, letter "b", of this Code.
2. The court shall examine the petition in a court hearing within thirty days from its submission. The hearing shall be held with the mandatory presence of the prosecutor, the defendant, and his/her

defense counsel. The victim shall be notified and shall have the right to participate. The absence of the victim shall not preclude the examination of the case.
3. After verifying the appearance of the parties, the court shall declare the trial open and invite the prosecutor to present, in summary form, the outcomes of the agreement reached. The defense counsel shall be heard if he/she so requests.
4. The court shall specifically question the defendant as to the following:
a) whether he/she entered into the agreement of his/her own free will;
b) whether he/she was represented by his/her defense counsel during the negotiations and signing of the agreement;
c) whether he/she understands the agreement and its content;
ç) whether he/she understands the consequences arising from the approval of the agreement;
d) whether he/she gives his/her consent for the agreement to be approved and enforced.
5. Where the victim is present, the court shall invite him/her to express an opinion on the content of the agreement.

Article 406/e
Approval of the Agreement

1. Where it does not order the dismissal of the case or the return of the acts to the prosecutor, the court shall order the approval of the agreement.
2. The decision shall contain in summary form, under penalty of invalidity:
a) the particulars of the defendant and other personal data necessary for his/her identification, as well as the particulars of the victim, if present;
b) the fact that the defendant was represented and the identity of his/her defense counsel;
c) the fact that the defendant understood the content of the agreement and the consequences arising therefrom and that he/she signed it of his/her own free will;
ç) the fact that the legal qualification of the offense and its circumstances, the appropriateness of the penalty imposed, as well as the absence of causes for impunity or extinguishment of the criminal offense, were correctly assessed by the prosecutor;
d) the guilty plea of the defendant, the determination of the sentence, and other provisions, in accordance with the content of the agreement;
dh) the date and the signature of the decision.
3. Where an agreement has been reached concerning civil damages, it shall form part of the content of the court decision.
4. The court may not alter the conditions of the agreement concluded between the parties.

Article 406/ë
Refusal of the Agreement

1. The court shall refuse to approve the agreement where:
a) the defendant withdraws his/her consent;
b) it is proven that the defendant's will was vitiated;
c) the duly summoned defendant does not appear at trial without justified reasons;
ç) one of the grounds for non-initiation of proceedings or dismissal of the charge or case exists;
d) the evidence in the preliminary investigation file contradicts the defendant's admission that he/she committed the criminal offense;
dh) the legal qualification of the criminal offense and its circumstances is incorrect;

e) the sentence determined in the agreement is inappropriate in relation to the offense committed and the personality of the defendant.
2. The decision refusing to approve the agreement shall be reasoned. In the instance provided under letter "ç" of paragraph 1 of this Article, the court shall order the dismissal of the case, whereas in other instances it shall return the acts to the prosecutor. Where the court refuses to approve the agreement, a new petition may not be submitted.
3. The statements made by the defendant during the hearing may not be used against him.

Article 406/f
Appeal against the Court's Decision

1. No appeal shall be permitted against the court's decision.
2. The prosecutor may appeal only against the court's decision dismissing the case.
3. For the appeal, Articles 407 and following of this Code shall apply, insofar as they are compatible.

TITLE VIII
APPEALS

CHAPTER I
GENERAL PROVISIONS

Article 407
Cases and Means of Appeal

1. The law shall determine the cases in which court decisions and orders may be appealed, as well as the means of appeal.
2. An appeal against court orders, unless otherwise provided by law, may be lodged only together with the appeal against the decision.
3. The means for appealing are: appeal, cassation appeal before the Supreme Court, and petition for review.
4. The right of appeal belongs only to the person expressly entitled thereto by law. Where the law does not make a distinction between the parties, such right belongs to each of them.
5. Where the appeal is lodged with a court lacking jurisdiction, it shall forward the acts to the competent court.

Article 408
(Amended by Law no. 35/2017, dated 30.3.2017)

The prosecutor may lodge an appeal with the higher court, in the cases provided for by this Code.

Article 409
Appeal by the Accusing Victim

1. The accusing victim may lodge an appeal, either personally or through his/her representative, both for criminal and civil purposes. He/she may withdraw an appeal lodged by his/her representative.

Article 410

Appeal by the Defendant

(Paragraph 2 amended by Law no. 8813, dated 13.6.2002; paragraph 2 partially repealed by Decision of the Constitutional Court no. 15, dated 17.4.2003; words added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The defendant may lodge an appeal either personally or through his/her defense counsel. The legal guardian of the defendant may lodge any appeal that the defendant is entitled to.
2. Against a judgment rendered in absentia, the defense counsel may lodge an appeal only where he/she is expressly authorized by the defendant, by means of a power of attorney, issued in the forms provided for by the law, or by statement made in the hearing.
3. The defendant may withdraw an appeal lodged by his/her defense counsel, but where he/she lacks legal capacity to act, the consent of the legal guardian shall also be required.
4. The defendant's appeal against conviction or acquittal shall extend its effects also to that part of the judgment which orders the return of property, compensation for damage, and the payment of procedural expenses.

Article 411

Appeal by the Civil Plaintiff and the Civil Respondent

(Words amended in paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. The civil plaintiff may lodge an appeal against those parts of the judgment of conviction relating to the civil claim and, in the case of a judgment of acquittal, only as to the effects of civil liability.
2. The civil respondent may lodge an appeal against those parts of the judgment concerning the civil respondent's liability for the return of property, compensation for damage, and procedural expenses.

Article 412

Form of Appeal

1. The appeal shall be lodged by means of a written act, indicating the judgment appealed, the date thereof, the court which rendered it, as well as the parts of the judgment challenged, the grounds of appeal, and the relief sought.

Article 413

Filing of the Appeal

1. The act of appeal shall be filed with the Clerk's Office of the court that rendered the challenged judgment. The court clerk shall note on it the date of receipt and the person submitting it, attach it to the case file, and, upon request, issue a certificate of receipt.
2. The private parties, defense counsel, and representatives may also file the act of appeal with the Clerk's Office of the court of the place of their residence or with a consular officer abroad. In such cases, the act shall be transmitted immediately to the registry of the court that rendered the judgment.
3. The act of appeal may also be sent by registered mail to the Clerk's Office of the court that rendered the judgment. The court clerk shall note on the envelope the date of receipt and attach it to the case file. The appeal shall be deemed filed on the date of posting by registered mail.

Article 414
Notification of the Appeal

1. The act of appeal shall be notified to the prosecutor, the defendant, and the private parties by the Clerk's Office of the court that rendered the judgment.

Article 415
Time Limits for Appeal
(First sentence of paragraph 1 amended by Law no. 35/2017, dated 30.3.2017; words repealed in the second sentence of paragraph 1 and words replaced in paragraph 2 by Law no. 41/2021, dated 23.3.2021)

1. Except where otherwise provided in this Code, the time limit for filing an appeal shall be fifteen days. This period shall begin to run from the day following the notification of the judgment.
2. The appellant shall have the right, up to five days before the hearing, to submit to the Clerk's Office of the court that will examine the case written submissions concerning the grounds raised in the appeal.
3. The time limits provided for in this Article may not be extended for any reason, except in cases provided for by law.

Article 416
Scope of Appeal
(Words amended in paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. An appeal lodged by one defendant, where it is not based solely on personal grounds, shall also be valid for the other defendants.
2. An appeal lodged by the defendant shall also be valid for the civil respondent.
3. An appeal lodged by the civil respondent shall also be valid for the defendant, including the criminal aspects.

Article 417
Suspension of Execution
(Words added to the first sentence and second sentence of paragraph 1 repealed by Law no. 35/2017, dated 30.3.2017; sentence added after the first sentence in paragraph 1 by Law no. 41/2021, dated 23.3.2021)

1. The execution of the appealed judgment shall be suspended until the conclusion of the proceedings before the court of appeal, except in cases where the law provides otherwise. In cases of cassation appeal, the judgment may be suspended by the Criminal Chamber of the Supreme Court only in the cases provided for in paragraph 1 of Article 476 of this Code.
2. Appeals against judgments relating to personal liberty shall have no suspensive effect.

Article 418
Withdrawal of the Appeal

1. The prosecutor who has lodged the appeal may withdraw it up to the commencement of the trial, whereas withdrawal by the prosecutor before the court examining the appeal may be made until before the beginning of the final submissions.

2. The defendant and the private parties may withdraw the appeal also through their defense counsel or representative.
3. The statement of withdrawal shall be submitted in the form and manner prescribed for the lodging of the appeal, as the case may be, either to the court that rendered the judgment or to the court examining the appeal.

Article 419
Transmission of the Acts
(Words amended and added by Law no. 35/2017, dated 30.3.2017)

1. The court that rendered the judgment shall transmit, within five days from the completion of the notifications, the procedural acts and the appeal to the court that will examine the case, provided that the appeal has not been withdrawn.

Article 420
Inadmissibility of the Appeal
(First sentence of paragraph 1 amended, words added in letter "ç", letter "d" and paragraph 4 added by Law no. 35/2017, dated 30.3.2017)

1. Except where ascertained at the hearing, the appeal shall be declared inadmissible in chambers:
a) where it has been lodged by a person lacking legal standing;
b) where the judgment is not subject to appeal;
c) where the provisions concerning the form, filing, transmission, notification, and time limit of the appeal have not been observed;
ç) where the appeal has been withdrawn during trial;
d) where the appeal no longer has a subject matter.
2. Inadmissibility may be declared, even ex officio, at any stage and instance of the proceedings.
3. The decision declaring inadmissibility shall be notified to the appellant, and may be challenged by cassation appeal before the Supreme Court, within its jurisdiction.
4. Where the court declares the appeal inadmissible, the judgment shall be deemed as not appealed for the purpose of execution.

Article 420/1
Reinstatement within the Time Limit for Appeal
(Added by Law no. 35/2017, dated 30.3.2017)

1. The parties shall be reinstated within the time limit for appeal where they prove that they were unable to comply with the time limit due to an accidental event or force majeure. The petition shall be filed together with the appeal, under penalty of inadmissibility.
2. Where the trial has been conducted in accordance with the provisions of Article 351 of this Code, the defendant may request reinstatement within the time limit for appeal where he/she proves that he/she had no knowledge of the judgment.
3. The petition for reinstatement within the time limit shall be filed within ten days from the disappearance of the fact constituting the accidental event or force majeure, and in the cases provided for in paragraph 2 of this Article, from the day the defendant effectively became aware of the judgment. Reinstatement within the time limit shall not be permitted more than once for each party and for each instance of proceedings.

4. Where the appellant fails to appear at the hearing without justified reasons, despite having been duly notified of its date and time, or withdraws the petition, the court shall declare the petition inadmissible.
5. Where the petition is granted and the judgment for which reinstatement is allowed is a conviction imposing an imprisonment sentence that has been enforced, the execution of the sentence shall be suspended. The court shall order the immediate release of the defendant where he/she is not being held under a precautionary measure of detention.
6. The court shall reason its decision within 5 days from its pronouncement.
7. An appeal may be lodged against the decision granting reinstatement within the time limit, together with the final judgment.
8. An appeal may be lodged within 5 days against the decision refusing the petition for reinstatement within the time limit. The court of appeal shall examine the appeal in chambers within 15 days from the date of receipt of the acts.

Article 421
Obligation for Expenses

1. By the decision rejecting or declaring the appeal inadmissible, the private party who lodged it shall be ordered to pay the procedural expenses.
2. Co-defendants who participated in the trial shall be jointly liable for the expenses with the defendant who lodged the appeal.
3. In appellate proceedings concerning only civil interests, the unsuccessful private party shall be ordered to pay the expenses.

CHAPTER II
APPEAL

Article 422
Right of Appeal
(Words amended in paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor, the defendant, and the civil plaintiff and civil respondent shall have the right to appeal against the decisions of the court of first instance.

Article 423
Cross-Appeal

1. A party who has not lodged an appeal within the time limit may file a cross-appeal within five days from the date of notification of the other party's appeal.
2. The cross-appeal shall be filed and notified in accordance with the general rules on appeals.
3. A cross-appeal by the prosecutor shall not have effect in relation to a non-appealing co-defendant who has not lodged an appeal.
4. The cross-appeal shall lapse where the principal appeal of the other party is declared inadmissible for examination or is withdrawn.

Article 424
Competent Court

(Paragraph 3 added by Law no. 8813, dated 13.6.2002; paragraph 3 amended by Law no. 9085, dated 19.6.2003; paragraph 2 repealed by Law no. 9911, dated 5.5.2008; and paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The court of appeal shall decide on appeals against decisions of the district court.
2. Repealed.
3. The Court of Appeal against Corruption and Organized Crime shall decide on appeals against decisions of the Court against Corruption and Organized Crime.

Article 425

Limits of Case Review

(Paragraph 1 amended, words amended in letter "c" of paragraph 2, letter "ç" and words added to paragraphs 2 and 3, by Law no. 35/2017, dated 30.3.2017)

1. The court of appeal shall review the case within the grounds raised in the appeal. On issues of law that must be examined ex officio, as well as on grounds raised in the appeal that are not based on personal motives, the court of appeal shall also review the part relating to co-defendants who have not appealed.
2. Where the appellant is the prosecutor or the accusing victim, the court of appeal:
a) may assign the fact a more serious legal classification, alter the type or increase the measure of punishment, modify the precautionary measures, and impose any other measure provided for or permitted by law;
b) may convict a person who has been acquitted, acquit for a different reason than that accepted in the appealed decision, and impose the measures indicated in letter "a";
c) may apply, amend, or exclude supplementary or alternative sentences;
ç) may assign the fact a more serious legal classification than that requested by the prosecutor where the matter falls within its subject-matter jurisdiction. In such case, the court shall reopen the trial proceedings and apply the provisions of paragraph 2 of Article 375 of this Code.
3. Where the appellant is only the defendant, the court may not impose a harsher sentence, apply a more severe precautionary measure, assign to the acquittal a less favorable ground than that in the appealed decision, nor assign the fact a more serious legal classification.

Article 426

Review of the Case on Appeal

(Amended by Law no. 41/2021, dated 23.3.2021)

1. The judge rapporteur of the case in the court of appeal shall be appointed by lot.
2. The judge rapporteur shall set the date and time of the hearing in accordance with the calendar for the examination of cases, taking into account the order of arrival of the file at the court of appeal. Priority shall be given to cases relating to extradition abroad, cases in which the defendant is in pre-trial detention, and cases in which the Supreme Court has quashed the decision of the court of appeal and remanded the case for re-examination in this court.
3. The judge rapporteur of the case shall order the summons of the defendant, the civil plaintiff, and the civil respondent, as well as their defense counsels and representatives. The time limit for appearance shall not be less than ten days.
4. The summons order shall be invalid where the defendant has not been reliably identified or where the place, date, and time of appearance have not been specified.

Article 426/a

Court Hearing

(Added by Law no. 35/2017, dated 30.3.2017; title amended, and phrase repealed in paragraph 1, by Law no. 41/2021, dated 23.3.2021)

1. Initially, the presiding judge of the judicial panel shall verify the appearance of the parties. If the parties have not appeared, the presiding judge shall ascertain whether the notifications were duly served and whether the absence is justified.
2. After verifying the presence and legal standing of the parties, the court shall announce the judicial panel and declare the discussion open.
3. The presiding judge or a member of the judicial panel shall present a summary report of the case file and the grounds raised in the appeal.
4. Where the appeal has been lodged by only one of the parties, that party shall speak first. Where both the prosecutor and the defendant have appealed, the prosecutor shall speak first.
5. In the examination of the case on appeal, the provisions on the procedure of trial at first instance shall apply, insofar as they are applicable.
6. The court may order the parties to present their arguments in summary form, setting a time considered sufficient. The parties may not present grounds at the hearing other than those raised in the appeal.

Article 427

Retrial

(Words added and amended in paragraph 1, and paragraph 4 amended by Law no. 35/2017, dated 30.3.2017; phrase repealed in paragraph 1 by Law no. 41/2021, dated 23.3.2021)

1. Where a party, in the act of appeal, requests the re-taking of the evidence admitted in the first instance trial or the taking of new evidence, the court, if it considers that it cannot decide on the basis of the existing acts, shall order the repetition of the judicial trial.
2. For evidence that emerges after the first instance trial or that arises incidentally, the court shall decide, as appropriate, whether or not to admit such evidence.
3. The repetition of the trial may also be ordered ex officio where the court deems it necessary.
4. Where the defendant has been declared not guilty, the court of appeal may not declare him/her guilty solely on the basis of a different assessment of the evidence taken in the first instance trial. In such case, the court of appeal shall repeat the trial.
5. For the repetition of the trial ordered pursuant to the above paragraphs, proceedings shall be conducted immediately, and where this is not possible, the trial shall be adjourned for a period not exceeding ten days.

Article 427/a

Appeal Judgment in Chambers

(Added by Law no. 41/2021, dated 23.3.2021)

1. In cases where this Code provides for the appeal judgment in chambers, the review shall be conducted on the basis of the acts and/or documents.
2. The judge rapporteur shall order the notification of the parties in accordance with Article 426 of this Code. The parties shall have the right, up to 5 days before the chamber hearing of the case, to submit written submissions concerning the grounds raised in the appeal and in the cross-appeal.

3. For cases reviewed by a judicial panel composed of three judges, the judge rapporteur shall prepare in advance and deliver to the members a summary report of the case file and the grounds raised in the appeal.
4. The review of the case in chambers shall proceed if the parties have been duly notified.
5. The court clerk shall keep the minutes for the review of the case in chambers.

Article 428
Decision of the Court of Appeal
(Words removed in letters "c" and "ç", words amended in letter "ç" of paragraph 1, and paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. After reviewing the case, the Court of Appeal shall decide to:
a) uphold the decision;
b) amend the decision;
c) quash the decision and dismiss the case where there are grounds not permitting the initiation and continuation of the proceedings;
ç) quash the decision and return the acts to the court of first instance where the provisions relating to the conditions for serving as a judge in the specific case, the number of judges required for constituting the judicial panel as provided for in this Code, the exercise of criminal prosecution by the prosecutor and his/her participation in the proceedings, the participation of the defendant, his/her defense counsel, or the representative of the accusing victim, the rules concerning the filing of new charges, have not been respected, as well as in any instance where special provisions provide for the nullity of the decision.
2. A copy of the decision shall be immediately notified to the court of first instance.

Article 429
Return of the Acts to the Court of First Instance
(Words removed in paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. When a decision is rendered pursuant to letter "ç" of Article 428, the Court of Appeal shall order the transmission of the acts to another chamber of the same court.
2. Where no cassation appeal has been lodged with the Supreme Court, the case file with the acts shall be sent to the court that rendered the decision.

Article 430
Rulings concerning the Execution of the Civil Obligation

Upon request of the civil plaintiff, the Court of Appeal may order the provisional execution of the obligation where the court of first instance has not ruled or has refused the request. It may also order the suspension of the execution of the obligation where there is a risk of serious and irreparable damage.

Article 430/1
Pronouncement and Filing of the Decision
(Added by Law no. 35/2017, dated 30.3.2017)

1. The decision shall be pronounced in hearing by the presiding judge or a member of the judicial panel through the reading of the operative part.

2. After the operative part, the presiding judge shall read the reasoned decision. The reasoning of the decision may also be provided in writing in a summarized form, indicating the main grounds on which the decision is based. In such case, the court shall provide the parties in the hearing with the summarized written decision.
3. The decision shall be filed with the Clerk's Office immediately after its pronouncement. The designated clerk shall sign and record the date of filing.
4. Where the decision is pronounced in summarized form, it shall be reasoned within 30 days from its pronouncement. This time limit may be extended for another 30-day period if the case has been tried before the Court of Appeal against Corruption and Organized Crime.
5. The time limit for reasoning the decision in writing, pursuant to paragraph 4 of this Article, may be extended in exceptional cases, for justified reasons. In such case, the chairperson of the court shall be notified.

CHAPTER III
CASSATION APPEAL TO THE SUPREME COURT

SECTION I
GENERAL PROVISIONS

Article 431
Direct Cassation Appeal to the Supreme Court
(Amended by Law no. 8813, dated 13.6.2002 and repealed by Law no. 35/2017, dated 30.3.2017)

Article 432
Cassation Appeal against the Decisions of the Court of Appeal
(Amended by Law no. 8813, dated 13.6.2002 and by Law no. 35/2017, dated 30.3.2017)

1. A cassation appeal to the Supreme Court against the decisions of the Court of Appeal may be filed on the following grounds:
a) for failure to respect or incorrect application of substantive or procedural law, of importance for the unification or development of judicial practice;
b) for failure to respect or incorrect application of procedural law, resulting in the invalidity of the decision, absolute invalidity of acts, or inadmissibility of evidence;
c) where the appealed decision contradicts the practice of the Criminal Chamber or the Joint Chambers of the Supreme Court.
2. Where it deems necessary, the court may request the parties to submit written memoranda.

Article 432/a
Cassation Appeal in the Interest of the Law
(Added by Law no. 8180, dated 23.12.1996 and repealed by Decision of the Constitutional Court no. 55, dated 21.11.1997)

Article 433
Inadmissibility of the Cassation Appeal
(Punctuation and sentence added in paragraph 1, words amended and removed in paragraph 2, by Law no. 35/2017, dated 30.3.2017)

1. A cassation appeal shall not be admitted if it is filed on grounds other than those permitted by law, as well as when the Supreme Court deems that the case should not be reviewed by it, pursuant to the provisions of paragraph 1 of Article 432 of this Code.
2. The inadmissibility of the appeal shall be decided by a judicial panel of three judges in chambers.

Article 434
Scope of Review by the Supreme Court
(Paragraph 1 amended and paragraph 2 added by Law no. 35/2017, dated 30.3.2017; paragraph 3 added by Law no. 41/2021, dated 23.3.2021)

1. The Supreme Court shall review the case within the limits of the grounds raised in the casation appeal.
2. If the cassation appeal is admitted for review, the Supreme Court shall also be entitled to decide on issues of law that are identified ex officio.
3. In cases where the Supreme Court ex officio raises issues of law on which the parties have not previously expressed their opinion, before proceeding with the review it orders the notification of the parties and sets a deadline for the filing of their submissions on those legal issues. Notification in such cases is carried out according to the general provisions.

Article 434/a
Contents of the Cassation Appeal
(Added by Law no. 41/2021, dated 23.3.2021)

1. The cassation appeal shall contain:
a) the litigating parties;
b) the decision being challenged;
c) a summary presentation of the facts of the case;
ç) the grounds on which the annulment of the decision is sought, as well as the arguments supporting the claim that grounds for cassation appeal exist pursuant to the provisions of Article 432 of this Code;
d) the power of attorney of the defense counsel in cases where the appeal is submitted by the defendant or the private parties.
2. The cassation appeal may be submitted in accordance with the format approved by decision of the Council of the Supreme Court.

Article 435
Filing of the Cassation Appeal
(Paragraph 1 amended by Law no. 35/2017, dated 30.3.2017; paragraph 1 amended by Law no. 41/2021, dated 23.3.2021)

1. The cassation appeal shall be filed in writing within 45 days from the day following notification of the decision of the court of appeal. The time limit for filing a cassation appeal against a decision of the court of appeal whereby the judgment has been annulled and the acts have been returned to the court of first instance is 20 days. The cassation appeal shall be examined by the Supreme Court no later than two months from the moment it is filed with the Clerk's Office.
2. The cassation appeal and the memoranda must be signed, under penalty of inadmissibility, by the defense counsel. Where the defendant has no retained defense counsel, the presiding judge of the chamber shall appoint an ex officio counsel and notify the defendant thereof.

Article 435/a
Cross-Cassation Appeal
(Added by Law no. 41/2021, dated 23.3.2021)

1. The party against whom the cassation appeal has been filed may contest it by lodging a cross-cassation appeal within 20 days from the date on which it received notification of the other party's cassation appeal. In cases where the cassation appeal has been filed against a decision of the court of appeal whereby the judgment has been annulled and the acts have been returned to the court of first instance, the time limit for filing a cross-cassation appeal shall be 10 days.
2. The cross-cassation appeal shall be notified to the party that filed the cassation appeal within 20 days from the communication of the cassation appeal.
3. The rules set forth in Article 423 of this Code shall apply to the cross-cassation appeal.

SECTION II
REVIEW IN THE SUPREME COURT

Article 436
Preliminary Actions
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017; paragraph 2 amended by Law no. 41/2021, dated 23.3.2021)

1. The Chairperson of the Supreme Court shall designate the respective chambers for the review of cassation appeals.
2. The judge rapporteur, designated by lot, shall set the date and time for the review of the case in chambers, in accordance with the rules on trial scheduling provided by law.
3. The Clerk's Office of the court shall notify the parties by posting the hearing date on the notice board and on the official electronic website at least 30 days in advance. Where the parties have declared or known electronic addresses, the Clerk's Office shall also carry out notification to such addresses.

Article 436/a
Case Review
(Added by Law no. 41/2021, dated 23.3.2021)

1. The review of the cassation appeal in the Criminal Chamber of the Supreme Court shall, as a rule, be conducted on the basis of documents in chambers.
2. The judge rapporteur shall present a report, which shall reflect, inter alia, the content of the challenged decision, the claims and grounds raised in the cassation appeal, the objections filed in the cross-cassation appeal, the examination of the facts relevant for the decision, and his/her proposal for the legal resolution of the case.
3. The judicial clerk shall keep minutes for the review of the case in chambers.

Article 437
Judicial Review
(Words amended in paragraph 1 by Law no. 8813, dated 13.6.2002; words amended in paragraph 1 by Law no. 35/2017, dated 30.3.2017; paragraph 1 amended by Law no. 41/2021, dated 23.3.2021)

1. The court, in chambers, shall order the examination of the case in a judicial hearing with the presence of the parties where:
a) the case presents significance from the perspective of law, for the unification or development of judicial practice;
b) the Criminal Chamber deems it necessary to summon and hear the parties due to the issues or complexity of the case, in the instances provided for in letters "b" and "c" of paragraph 1 of Article 432 of this Code.
2. The provisions concerning publicity, rules of the hearing, and the conduct of arguments applicable in trials before the first and second instance courts shall be observed before the Supreme Court, insofar as they are applicable.
3. The defendant and private parties shall be represented by defense counsels.
4. The presiding judge of the chamber shall verify the legal standing of the parties and the regularity of the notifications.
5. The judge rapporteur shall present the case. After the pleading of the prosecutor, the defense counsels and representatives of the private parties shall plead. Reply is not permitted.

Article 438
Unification and Amendment of Judicial Practice
(Amended by Law no. 8813, dated 13.6.2002; title, paragraph 1 and 3 amended, and words added to paragraph 4 by Law no. 35/2017, dated 30.3.2017; amended by Law no. 41/2021, dated 23.3.2021)

1. The Criminal Chamber, ex officio or at the request of the parties, may decide to initiate proceedings for the unification or amendment of judicial practice. The initiation of proceedings for the amendment of judicial practice may also be ordered by the Chairperson of the Supreme Court.
2. The interlocutory decision of the Criminal Chamber or of the Chairperson of the Supreme Court, referring the case to a judicial hearing, shall determine the issues submitted for unification or the unified judicial practice that is to be amended. The decision shall be published on the official website of the Supreme Court immediately after its reasoning.
3. The judgment for the unification of judicial practice shall be conducted by the Criminal Chamber with a judicial panel of five judges, in which the panel hearing the cassation appeal shall participate, together with two other judges of the Chamber selected by lot.
4. The judgment for the amendment of unified judicial practice shall be conducted by the Joint Chambers of the Supreme Court. The Chairperson of the Supreme Court, as presiding judge of the Joint Chambers, shall set the date and time of the hearing for the amendment of judicial practice. The Joint Chambers shall deliberate in accordance with the rules established for the chamber, provided that no fewer than two-thirds of all members of the Supreme Court are present.
5. The date and time of the hearing shall be notified to the parties by the court Clerk's Office, in accordance with the general rules of notification, at least 15 days prior to the scheduled hearing date.
6. The Criminal Chamber or the Joint Chambers, ex officio or at the request of the parties, may decide to amend the issues submitted for unification or amendment of judicial practice. This interlocutory decision shall be published on the official website of the Supreme Court.
7. Given the importance of unification or amendment of judicial practice, in such proceedings, where appropriate, the Supreme Court may seek written opinions from the State Advocacy Office, as well as from public or private legal entities deemed to possess special knowledge of the legal issues submitted for unification or amendment of judicial practice. In its request for a written

opinion, the Supreme Court shall set a deadline for submission, which in any case shall not be less than 14 days. Such written opinions are not binding and shall be published on the official website of the Supreme Court.
8. The decision of the Criminal Chamber and of the Joint Chambers shall be binding upon the courts in the adjudication of similar cases.

Article 438/a
Pre-trial Proceedings
(Added by Law no. 41/2021, dated 23.3.2021)

1. If the Criminal Chamber or the Joint Chambers of the Supreme Court, during the review of the case in chambers or in judicial session, decide to refer the matter to the European Court of Human Rights or to other international courts, pursuant to the obligations arising from international treaties ratified by the Republic of Albania, they shall order the suspension of the review of the case.
2. The suspension shall remain in force until a decision is rendered by the international court. The decision of the international court shall be notified to the parties together with the date of the hearing.

SECTION III
DECISION

Article 439
Rendering of the Decision

1. The decision shall be rendered immediately after the conclusion of the hearing, except in cases where, due to the complex nature or importance of the case, the presiding judge of the chamber deems it necessary to postpone the rendering of the decision for as many days as required.
2. The decision shall be signed by all members of the chamber and pronounced in the hearing by being read aloud by the presiding judge or by one of the judges.

Article 440
Binding Effect of the Decision's Directives

1. The directives and conclusions contained in the decision of the Supreme Court shall be binding upon the court that re-examines the case.

Article 441
Decisions of the Supreme Court
(Amended by Law no. 8813, dated 13.6.2002; amended by Law no. 35/2017, dated 30.3.2017; amended by Law no. 41/2021, dated 23.3.2021)

1. After reviewing the case, the Criminal Chamber or the Joint Chambers of the Supreme Court shall decide:
a) the inadmissibility of the cassation appeal in cases where it has been filed on grounds other than those provided for in Article 432 of this Code;
b) the quashing of the decision of the Court of Appeal and the upholding of the decision of the court of first instance;

c) the quashing of the decision of the Court of Appeal and the remittal of the case for re-examination to that court with a different judicial panel;
ç) the quashing of the decisions of both the Court of Appeal and the court of first instance and the remittal of the case for retrial at first instance, where the provisions relating to the conditions for serving as a judge in the specific case, the number of judges required for constituting the judicial panel as provided for in this Code, the exercise of criminal prosecution by the prosecutor and his/her participation in the proceedings, the participation of the defendant, his/her defense counsel, or the representative of the accusing victim, the rules concerning the presentation of new charges, have not been respected, as well as in any instance where special provisions provide for the nullity of the decision.
d) the quashing of the decisions of the court of first instance and the court of appeal and the termination of the proceedings without remittal for re-examination;
dh) the modification of the decisions of court of appeal and the court of first instance and the final resolution of the case, where the application of procedural or substantive law is not dictated by the need for a reassessment of the facts or the evidence in the case;
e) the upholding of the decision of the court of appeal.
2. In cases where the Criminal Chamber or the Joint Chambers of the Supreme Court decide on the unification or modification of judicial practice, the decision shall also formulate the rule of law for each issue raised for resolution in the interlocutory decision rendered during the judgment of the case. In such instances, the decision shall be published in the Official Gazette.

Article 442

Quashing of the Decision and Resolution of the Case without Remittal for Re-examination

(Paragraphs "b" and "c" repealed, paragraph 2 amended by Law no. 35/2017, dated 30.3.2017)

1. The Supreme Court shall quash the decision and resolve the case without remittal for re-examination where:
a) the fact is not provided by law as a criminal offense, the criminal offense has been extinguished, or the criminal prosecution should not have been initiated or continued;
b) repealed;
c) repealed;
ç) there are contradictions between the appealed decision and another previous decision concerning the same person and the same criminal offense, issued either by the same or by another criminal court.
2. In the case provided for under letter "a", the court shall order the dismissal of the case, whereas in the case provided for under letter "ç", it shall order that the decision imposing the less severe punishment be applied.

Article 443

Quashing of the Decision and Remittal for Re-examination

1. With the exception of the cases provided for under Article 442, when the Supreme Court quashes a decision, it remits the case file to the court that issued the quashed decision.
2. Where the quashing does not concern all of the provisions of the decision, the Supreme Court shall specify in the operative part which parts of the decision are quashed.

Article 444

Quashing of the Decision Solely for Civil Consequences

1. Where the quashing concerns only those provisions or sections that relate to the civil claim, or where the cassation appeal of the civil plaintiff against the acquittal of the defendant is upheld, the Supreme Court remits the relevant acts to the competent civil court.

Article 445
Correction of Errors

1. Legal errors in the reasoning of the decision or the incorrect citation of the text of the law shall not result in the quashing of the appealed decision, provided they have not had a decisive impact on the operative part. However, the court shall specify in its decision the errors and the necessary corrections.

Article 446
Consequences of the Decision on Precautionary Measures

1. Where, on the basis of the decision of the Supreme Court, the continuation of a detention, or of an additional sentence, or of a precautionary measure must cease, the Clerk's Office shall immediately notify the operative part of the decision to the prosecutor attached to the competent court.

Article 447
Retrial following Quashing

1. In the retrial, discussion of jurisdiction already determined by the quashing decision shall not be permitted.
2. The court conducting the retrial is bound by the decision of the Supreme Court regarding every issue of law resolved therein.
3. In the retrial, nullities established in prior proceedings or during preliminary investigations may not be raised again.
4. The quashing of the decision also applies to the defendant who did not lodge an appeal, except where the ground for quashing is of a personal nature.

Article 448
Appeal Against the Decision of the Retrial Court

1. The decision of the retrial court may be appealed by cassation appeal to the Supreme Court where it has been rendered by the court of appeal, and by appeal where it has been rendered by the court of first instance.
2. The decision of the retrial court may be challenged only on grounds not related to those points already decided by the Supreme Court, or for failure to comply with paragraph 2 of Article 447.

Article 448/1
Pronouncement and Filing of the Decision
(Added by Law no. 35/2017, dated 30.3.2017)

1. The decision shall be pronounced in hearing by the presiding judge or a member of the judicial panel through the reading of the operative part.

2. After the operative part, the presiding judge shall read the reasoned decision. The reasoning may also be provided in writing in a summarized form, indicating the principal grounds upon which the decision is based.
3. The decision shall be filed with the Clerk's Office immediately after its pronouncement. The designated court clerk shall sign and note the date of filing.
4. Where the decision is pronounced in summarized form, the full reasoning must be provided within 60 days from its pronouncement. This time limit may be extended for an additional 30-day period if the case has been adjudicated by the Joint Chambers.
5. The time limit for providing the written reasoning, as set forth in paragraph 4 of this Article, may be extended in exceptional cases for justified reasons. In such case, the chairperson of the court shall be notified.

CHAPTER IV
REVISION

Article 449
(Amended by Law no. 35/2017, dated 30.3.2017)

1. In the cases and under the conditions provided by this Code, the revision of final decisions is permitted at any time, even when the sentence has been executed or extinguished.
2. Revision is not permitted against an acquittal decision, nor against a conviction decision when the purpose is to aggravate the position of the convicted person.

Article 450
Revision Cases
(Words added in letter "b" and letters "d", "dh", and "e" added to paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. The revision may be requested:
a) where the facts stated in the merits of the decision are inconsistent with those of another final decision;
b) where the decision is based on a civil or administrative court decision which has subsequently been revoked;
c) where, after the decision, new evidence has emerged or has been discovered, which, either alone or together with evidence previously assessed, demonstrates that the decision is incorrect;
ç) where it is established that the decision was rendered as a consequence of the falsification of trial acts or of another fact defined by law as a criminal offense;
d) where the ground for revision of the final decision arises from a judgment of the European Court of Human Rights which makes the re-adjudication of the case indispensable. The petition must be submitted within 6 months from notification of the judgment;
dh) where the extradition of a convicted person tried in absentia is granted on the express condition that the case be retried. The petition for revision may be submitted within thirty days from the date the person is extradited. A petition submitted within this time limit may not be refused;
e) where the person has been tried in absentia pursuant to Article 352 of this Code and requests the retrial of the case. The petition must be submitted within thirty days from the date of notification. A petition submitted within this time limit may not be refused.

Article 451

Petition for Revision

(Words added in letter "a" of paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. A petition for revision may be lodged by:
a) the convicted person, his/her defense counsel specifically authorized by him/her, or his/her legal guardian, and, if the convicted person has died, by his/her heir or a relative;
b) the prosecutor attached to the court that rendered the judgment.

Article 452

Form of the Petition

(Paragraphs 1 and 3 amended by Law no. 8813, dated 13.6.2002; words in paragraphs 1 and 3 amended, and letters "d" and "dh" added to paragraph 2, by Law no. 35/2017, dated 30.3.2017)

1. The petition for revision shall be filed personally or through a representative. It must contain the evidence substantiating it and shall be submitted, together with any supporting documents, to the Clerk's Office of the court of first instance that rendered the judgment.
2. In the cases provided for by Article 450, paragraph 1, letters "a", "b", "ç", "d", and "dh", the petition must include certified copies of the acts referred to therein.
3. In the event of death of the convicted person after the filing of the petition for review, the court shall appoint a legal guardian, who shall exercise the rights that would have belonged to the convicted person in the revision proceedings.

Article 453

Examination of the Petition

(Amended by Law no. 8813, dated 13.6.2002; words removed from the title and from paragraph 3, words in paragraphs 2 and 3 amended, paragraph 4 added by Law no. 35/2017, dated 30.3.2017)

1. The petition for revision shall be examined by the court of first instance that rendered the judgment, in chambers, without the presence of the parties.
2. Where the petition has been lodged based on grounds other than those provided for by article 450, or has been filed by persons lacking legal standing to do so, or is manifestly unfounded, the court shall order its inadmissibility.
3. Where the petition is admitted, the court shall order the case to be retried either by another judicial panel of the same court or by the court of appeal, where the petition has been filed solely against its judgment. This decision is not subject to appeal.
4. Until a decision is rendered by the court in the revision proceedings, pursuant to Article 456 of this Code, the convicted person shall retain the same procedural status.

Article 454

(Amended by Law no. 8813, dated 13.6.2002; amended by Law no. 35/2017, dated 30.3.2017)

1. The court admitting the petition may order the suspension of the execution of the sentence.
2. Against such decision the parties may appeal to the court of appeal, whose decision shall be final and not subject to further appeal.
3. Upon petition of the civil respondent, the court in charge of the retrial of the case may order the suspension of the execution of civil obligations for the duration of the trial.

Article 455
Revision Trial
(Paragraph 1 amended by Law no. 8813, dated 13.6.2002)

1. The court designated for the retrial of the case shall set the date of the hearing and order the summoning of the parties.
2. The provisions governing trial at first instance shall apply, within the limits of the grounds set forth in the petition for review.

Article 456
Decision

1. The decision shall be rendered in accordance with the provisions governing the rendering of decisions by the court of first instance.
2. Where the petition for review is granted, the court shall quash the decision. The decision may not be rendered solely by reassessing the evidence taken in the previous trial.
3. Where the petition is rejected, the court shall order the petitioner to bear the procedural costs, and, where suspension has been ordered, shall decide the reinstatement of the execution of the sentence or of the precautionary measure.
4. At the request of the interested party, the judgment of acquittal shall be posted in summary form in the district where the judgment was rendered and in the last residence of the convicted person. The chairperson of the court may order that the judgment be published in a designated newspaper.

Article 457
Rulings in Case of Acceptance of the Petition
(Words removed from paragraph 1 by Law no. 8813, dated 13.6.2002)

1. Where the court renders a judgment of acquittal, it shall order the restitution of the amounts paid for the execution of the fine and for procedural costs, the lifting of property precautionary measures, and the compensation for damages in favor of the civil plaintiff who has participated in the revision proceedings. The court shall also order the return of confiscated items, with the exception of those whose production, use, transportation, or possession constitutes a criminal offense.

Article 458
Appeal against the Decision
(Amended by Law no. 8813, dated 13.6.2002)

1. The decision rendered in the revision trial may be appealed.

Article 459
Compensation for Unlawful Conviction
(Words removed from paragraph 5 by Law no. 8813, dated 13.6.2002)

1. A person acquitted upon revision, who has not intentionally or through gross negligence caused the judicial error, shall be entitled to compensation proportionate to the duration of the sentence and to the personal and family consequences arising from the conviction.
2. Compensation shall be made by payment of an amount of money or by providing living means.

3. The petition for compensation shall be filed, under penalty of inadmissibility, within two years from the date on which the revision judgment became final, and shall be submitted to the Clerk's Office of the court that rendered the judgment.
4. The petition shall be notified to the prosecutor and to all interested parties.
5. An appeal may be lodged against the decision on compensation.

Article 460
Compensation in Case of Death

1. If the convicted person dies, even prior to the revision proceedings, the right to compensation shall pass to his/her heirs. Unworthy heirs shall not have this right.

Article 461
Consequences of Inadmissibility or Rejection of the Petition for Review

1. The decision of inadmissibility or rejection of the petition shall not prejudice the right to submit a new petition based on other evidence.

TITLE IX
EXECUTION OF JUDGMENTS

CHAPTER I
ENFORCEMENT OF JUDGMENTS

Article 462
Enforceable Judgments
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. A criminal judgment of the court shall be enforced immediately after becoming final.
2. A judgment of acquittal, of exemption of the defendant from punishment, and that of dismissal of the case shall be enforced immediately upon pronouncement.
3. The following are final judgments:
a) the judgment of the court of first instance where it is not appealed by the parties within the statutory time limit, where it is not subject to appeal, or where the appeal is not admitted for the reasons provided for under Article 420 of this Code. In cases involving co-defendants, the judgment shall become final for the defendant who has not filed an appeal, irrespective of the appeal lodged by the other co-defendants, provided that the prosecutor has not filed an appeal. Where the prosecutor has not lodged an appeal and the case is reviewed on the basis of the appeal filed by the other co-defendants, the judgment shall become final for the defendant who has not appealed, notwithstanding the appeal lodged by the other co-defendants;
b) the judgment of the court of appeal when it definitively resolves the case, pursuant to letters "a", "b", and "c" of paragraph 1 of Article 428 of this Code;
c) the judgment of the Supreme Court in cases of extradition and transfer of convicted persons.
4. The manner of execution of criminal judgments shall be regulated by a special law.

Article 462/a
Enforcement of Judgments against Minors
(Added by Law no. 35/2017, dated 30.3.2017)

1. The prosecutor and the court section for juveniles attached to the district court shall be competent to take measures and examine petitions related to the enforcement of judgments rendered against minors.
2. The manner of enforcement of measures and of any judgment rendered against minors, except as provided in this Code, shall be regulated by a special law.

Article 463
Actions of the Prosecutor

1. The prosecutor attached to the court of first instance that rendered the judgment shall take measures for its enforcement. He/she shall make petitions to the competent court and shall intervene in all enforcement proceedings.
2. The prosecutor's decisions shall be notified, within thirty days, to the defense counsel appointed by the interested party or, where none has been appointed, to the one designated by the prosecutor.
3. Where necessary, the prosecutor may request the performance of specific actions by the prosecutor of another district.
4. Upon commencement of enforcement, the prosecutor shall notify in writing the court that rendered the judgment.

Article 464
Enforcement of Imprisonment Sentences

1. For the enforcement of an imprisonment sentence, the prosecutor shall issue an enforcement order.
2. The enforcement order shall contain the particulars of the convicted person, the operative part of the judgment, and the provisions necessary for its enforcement.
3. Where the convicted person is in pre-trial detention, the order shall be submitted to the state authority administering prisons and notified to the interested party, whereas where the convicted person is not in pre-trial detention, his/her imprisonment shall be ordered.
4. The same procedure shall apply in cases of enforcement of judgments imposing compulsory confinement in medical or educational institutions.

Article 465
Calculation of Pre-Trial Detention and Served Sentences

1. In determining the duration of an imprisonment sentence, the prosecutor shall calculate the period of pre-trial detention served for the same offense or for another criminal offense, as well as the period of imprisonment served for another criminal offense, where the respective conviction has been revoked or where an amnesty or pardon has been granted for the offense.
2. In any case, the calculation shall comprise only the period of pre-trial detention or the sentence served after the commission of the criminal offense for which the sentence to be enforced has been imposed.
3. After making the calculations, the prosecutor shall issue an order, which shall be notified to the convicted person and to his/her defense counsel.

Article 466
Enforcement of Precautionary Measures Ordered by the Court

1. Precautionary measures ordered by the court shall be enforced by the prosecutor attached to the court that rendered the judgment.

Article 467
Enforcement of Judgments imposing Fines

1. Judgments imposing a fine shall be enforced by the Bailiff's Office.
2. Where it is established that recovery of the fine, in whole or in part, is impossible, the prosecutor shall request the court that rendered the judgment to make the conversion. Upon petition of the convicted person, the court may postpone the conversion for up to six months. This period shall not be included in the limitation periods.
3. An appeal may be lodged against the decision on conversion, which shall suspend its enforcement.

Article 468
Enforcement of Accessory Penalties

1. For the enforcement of accessory penalties, the prosecutor shall submit an extract of the judgment to the judicial police authorities and to other relevant competent authorities.

Article 469
Enforcement of Multiple Sentences

1. Where the same person has been convicted by several judgments for different criminal offenses, the prosecutor attached to the court that rendered the most recent judgment shall request the court to determine the sentence to be enforced, in accordance with the provisions on aggregation of sentences.
2. The prosecutor's petition shall be notified to the convicted person and to his/her defense counsel.

CHAPTER II
JUDICIAL REVIEW OF MATTERS RELATING TO THE EXECUTION OF JUDGMENTS

Article 470
Court Competent for Enforcement
(Words in paragraph 1 amended and paragraph 2 repealed by Law no. 35/2017, dated 30.3.2017)

1. The court of the place of enforcement shall be competent for the examination of petitions and claims relating to its execution.
2. Repealed.

Article 471
Court Procedure
(Paragraph 5 renumbered as paragraph 6, paragraph 5 added by Law no. 35/2017, dated 30.3.2017)

1. The court shall proceed upon the petition of the prosecutor, the interested party, or the defense counsel.
2. Where the petition is manifestly unfounded or is a repetition of a petition previously rejected on the same grounds, the court, after hearing the prosecutor, shall declare it inadmissible by decision, which shall be notified to the interested party within five days. An appeal may be lodged against this decision.
3. Except for cases provided in paragraph 2, the court shall set the date of the hearing and notify the parties and defense counsel at least ten days prior to the hearing.
4. The hearing shall take place with the mandatory participation of the prosecutor and defense counsel. The interested party, upon request, shall be heard personally or by letter rogatory.
5. Where the petitioner fails to appear at the hearing without reasonable cause, despite having been duly informed of the date and time, or withdraws the petition, or alters its subject matter, the court shall declare it inadmissible.
6. The court shall render a decision, which shall be notified to the parties and to their defense counsels. An appeal may be lodged against the decision, but it shall not suspend enforcement unless the court that rendered it decides otherwise.

Article 472
Doubt as to the Physical Identity of the Imprisoned Person

1. Where there are grounds to doubt the identity of the person arrested for the execution of the sentence, the court shall question him/her, carry out the necessary investigations for identification, and render a decision, which shall be notified to the interested party.
2. Where it establishes that he or she is not the person against whom the enforcement must be carried out, the court shall immediately order his/her release. If the identity remains unclear, it shall order the suspension of enforcement, the release of the imprisoned person, and shall notify the prosecutor to carry out further investigations.
3. Where the error in the person's identity is evident, the prosecutor shall order his/her release and shall immediately submit the acts to the court.

Article 473
Erroneous Name

1. Where a person has been convicted in place of another due to an error related to the name, the court shall order correction only where the person against whom the proceedings should have been conducted was also summoned as a defendant under another name during the trial. Otherwise, the court shall order a revision of the case pursuant to Article 450, paragraph 1, letter "c." In any case, enforcement against the person erroneously convicted shall be suspended.

Article 474
Several Judgments on the Same Fact

1. Where several judgments have been rendered against the same person for the same fact, the court shall order the enforcement of the judgment imposing the lightest sentence, declaring the others unenforceable. Where the principal punishments are equal, account shall be taken of the accessory penalty.

2. Where there are several judgments of dismissal or acquittal, the interested party shall indicate the judgment to be enforced, and where he/she fails to do so, the prosecutor, in case of dismissal, and the court, in case of acquittal, shall order the enforcement of the most favorable judgment.
3. Where there is both a judgment of acquittal and a judgment of conviction, the court shall order the enforcement of the judgment of acquittal, revoking the judgment of conviction, whereas where there is a decision of non-initiation issued by the prosecutor and a judgment rendered at trial, the court shall order the enforcement of the judgment rendered at trial.

Article 475
Aggregation of Sentences

1. In the case of several judgments rendered in separate proceedings against the same person, the convicted person or the prosecutor may request the court to apply the rules on aggregation of sentences.

Article 476
Postponement of Enforcement of the Judgment
(Paragraph 3 amended by Law no. 35/2017, dated 30.3.2017)

1. The court that rendered the judgment of conviction, upon petition of the convicted person, his/her defense counsel, or the prosecutor, may order the postponement of the enforcement of the judgment in the following cases:
a) where the convicted person suffers from an illness preventing the enforcement of the judgment. Enforcement shall be postponed until the recovery of the convicted person;
b) where the convicted person is a woman who is pregnant or has a child under one year of age. Enforcement shall be postponed until the child reaches the age of one year;
c) where the immediate serving of the sentence may cause serious consequences for the convicted person or for his/her family. In such cases, postponement may not be extended for more than six months;
ç) in any other case deemed exceptional by the court, enforcement may be postponed for up to three months.
2. Upon the filing of the petition, the court shall have the power to suspend enforcement of the judgment until its review.
3. The court shall provide reasons for its decision within 5 days. An appeal may be lodged against the decision within 5 days. The court of appeal shall decide on the appeal within 10 days from receipt of the acts.

Article 477
Conditional Release

1. The court of the place of enforcement shall decide on conditional release and on the revocation of the decision granting conditional release, in accordance with the criteria set forth in the Criminal Code.
2. The petition may not be repeated before the lapse of six months from the date on which the decision rejecting the petition became final.

Article 478
Release of the Prisoner

(Repealed by Law no. 35/2017, dated 30.3.2017)

Article 479
Revocation of the Judgment due to Abrogation of the Criminal Offense
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. In the event of the abrogation or declaration of unconstitutionality of the criminal provision, the court shall revoke the conviction, declaring that the act is not provided for as a criminal offense. The same shall apply where a decision of non-initiation or acquittal has been rendered due to the extinguishment of the criminal offense.
2. The petition shall be examined immediately and, in any case, no later than 24 hours from the moment it is filed with the court, even where the latter has no territorial jurisdiction.

Article 480
Other Competences

1. At the stage of enforcement, the court shall be competent to decide on the extinguishment of the criminal offense after conviction, on the extinguishment of the sentence, on accessory penalties, on the confiscation or restitution of seized items, as well as on any other case provided by law.
2. Where the extinguishment of the criminal offense or of the sentence is established, the court shall declare it, even ex officio, and take the relevant measures.

CHAPTER III
CRIMINAL RECORDS

Article 481
Office of Criminal Records
(Paragraph 2 added by Law no. 35/2017, dated 30.3.2017)

1. Extracts of judgments concerning persons criminally convicted shall be deposited with the Criminal Records Office at the Ministry of Justice.
2. The court of first instance shall submit to the Criminal Records Office the extract of the judgment of conviction within 10 days from the date on which the judgment becomes final, where no appeal has been lodged against it, and within 10 days from the date of receipt of the acts, where an appeal has been lodged against the judgment.

Article 482
Entries in the Criminal Records Register

1. The following shall be recorded in the criminal records register in extract form:
a) judgments of conviction once they have become final;
b) decisions rendered by the court at the enforcement stage;
c) decisions relating to the enforcement of accessory penalties;
ç) judicial decisions of acquittal and of dismissal of the case.

Article 483
Cancellation of Entries
(Letter "ç" added by Law no. 35/2017, dated 30.3.2017)

1. Entries in the register shall be cancelled upon receipt of the official notification of the death of the person to whom they refer, or when that person reaches the age of eighty.
2. Entries shall also be cancelled in relation to:
a) judgments revoked as a result of revision or abrogation of the criminal offense;
b) judgments of acquittal or dismissal, once ten years have elapsed from the date on which the judgment became final;
c) judgments of conviction for misdemeanors where the sentence imposed was a fine, once ten years have elapsed from the date on which the judgment was enforced;
ç) measures and judgments of conviction for criminal misdemeanors committed by minors, once they have reached 21 years of age.

Article 484
Criminal Record Certificates

1. Judicial authorities, state administration bodies, and entities entrusted with public services shall have the right to obtain a certificate of the entries concerning a specific person, where such certificate is necessary for the performance of their functions.
2. The prosecutor may request the above-mentioned certificate for the defendant or the convicted person and, with authorization of the court, both the prosecutor and the defense counsel may request such certificate also for the victim and the witnesses.
3. The person to whom the entry in the register refers shall have the right to obtain the respective certificate without being obliged to state the reasons in the request.

CHAPTER IV
PROCEDURAL EXPENSES

Article 485
Expenses incurred by the State

1. Criminal procedural expenses shall be paid in advance by the State, except for those relating to acts requested by private parties.
2. Procedural costs shall include the expenses incurred at all stages of the proceedings for inspections, experiments, expert examinations, notifications, defense counsels appointed ex officio, and any other duly documented expense.
3. In the final judgment, the court shall determine the obligation for the expenses paid in advance by the State.

Article 486
Payment of Procedural Expenses

1. The obligation to pay procedural expenses shall be enforced by the Bailiff's Office.
2. In cases of insolvency, the Bailiff's Office shall notify the financial police, which shall obtain data on the actual financial situation of the debtor and on any changes thereto.

Article 487
Settlement of Complaints on Expenses

1. Complaints concerning procedural expenses shall be decided by the court that rendered the judgment, which shall proceed in accordance with the rules provided for 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 State for the enforcement of an imprisonment sentence or of an act establishing the prosecution of that person for a criminal offense may take place only through extradition.

Article 489
Request for Extradition

1. Extradition shall be permitted only upon request submitted to the Ministry of Justice.
2. The following shall be attached to the request for extradition:
a) a copy of the judgment imposing an imprisonment sentence or of the act of prosecution;
b) a report on the criminal offense imputed to the person whose extradition is requested, indicating the time and place of its commission and its legal qualification classification;
c) the text of the legal provisions to be applied, indicating whether the law of the requesting State provides for the death penalty for the offense for which extradition is sought;
ç) the personal details and any other possible information serving to establish the identity and nationality of the person whose extradition is requested.
3. Where several requests for extradition concur, the Ministry of Justice shall determine the order of examination. For this purpose, it shall take into account all the circumstances of the case, and in particular the date of receipt of the request, the seriousness and place of commission of the criminal offense, or the nationality and residence of the wanted person, as well as the possibility of re-extradition from the requesting State.
4. Where, for a single offense, extradition is requested simultaneously by several States, it shall be granted to the State against which the criminal offense was directed or to the State on the territory of which the offense was committed.

Article 490
Conditions of Extradition
(Words added to paragraph 3 by Law no. 99, dated 31.7.2014)

1. Extradition shall be granted under the express condition that the extradited person shall not be prosecuted, convicted, or surrendered to another State for a criminal offense committed prior to the request for surrender and different from that for which extradition has been granted.
2. The conditions referred to in paragraph 1 shall not apply:

a) where the surrendering party gives its express consent for the extradited person to be prosecuted also for another criminal offense, and the extradited person does not object;
b) where the extradited person, although having had the possibility to do so, has not left the territory of the State to which he or she was surrendered after forty-five days from release, or, having left it, has voluntarily returned.
3. The Ministry of Justice may impose other conditions as it deems appropriate, without exceeding the provisions of international instruments to which the Republic of Albania is a party, as well as any reservations and legal declarations.

Article 491
Inadmissibility of the Request for Extradition
(Amended by Law no. 35/2017, dated 30.3.2017; letter "c" repealed by Law no. 41/2021, dated 23.3.2021)

Extradition may not be granted:
a) for an offense of a political character or where it appears that the request has been made for political purposes;
b) where there are grounds to believe that the wanted person would be subjected to persecution or discrimination on account of race, religion, sex, nationality, language, political convictions, personal or social condition, or to cruel, inhuman, or degrading punishment or treatment, or to acts constituting violations of a fundamental human right;
c) repealed;
ç) where proceedings have been initiated or judgment has been rendered in Albania, even if the offense was committed abroad;
d) where the criminal offense is not provided as such by the Albanian legislation;
dh) where amnesty has been granted by the Albanian State for the criminal offense;
e) where the wanted person is an Albanian national and no agreement provides otherwise;
ë) where criminal prosecution or punishment has become time-barred under the law of the requesting State;
f) where the wanted person has been convicted in absentia, except where the requesting State provides guarantees for the revision of the decision.

Article 492
Actions of the Prosecutor
(Paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. 1. Unless the Ministry of Justice refuses a request for extradition sent by a foreign State, it shall, within 10 days, forward the acts to the prosecutor attached to the competent court, through the Prosecutor General.
2. Upon receipt of the request, the prosecutor shall order the appearance of the person concerned to identify him/her and to obtain his/her eventual consent for the extradition. The person concerned shall be informed of his/her right to be assisted by defense counsel.
3. The prosecutor shall request from the foreign authorities, through the Ministry of Justice, the documentation and information deemed necessary.
4. Within three months from the date of receipt of the request for extradition, the prosecutor shall submit the request for examination to the court.
5. The prosecutor's request shall be filed with the Clerk's Office of the court together with the acts and the seized items. The Clerk's Office shall ensure notification of the person whose extradition

is sought, of his/her defense counsel, and of any representative of the requesting State, who shall have the right, within ten days, to view and obtain copies of the acts, to inspect the seized items, and to submit memoranda.

Article 493

Coercive Measures and Seizures

(Sentence added to paragraph 4, and paragraph 6 added, by Law no. 35/2017, dated 30.3.2017)

1. At the request of the Ministry of Justice, submitted through the prosecutor, coercive measures may be imposed against the person whose extradition is sought, and the seizure of material evidence and items related to the criminal offense for which extradition is requested may be ordered.
2. In the imposition of coercive measures, the provisions of Title V of this Code shall apply insofar as they may be applicable, taking into account the requirements to ensure that the person whose extradition is sought does not evade surrender.
3. Coercive measures and seizure shall not be ordered where there are grounds to consider that the conditions for issuing a decision in favor of extradition do not exist.
4. Coercive measures shall be revoked where, within three months from the commencement of their execution, the proceedings before the court have not been concluded. Upon the request of the prosecutor, the term may be extended, but not beyond one month, where it is necessary to carry out particularly complex verifications. Where an appeal is lodged before the court of appeal or the Supreme Court, the coercive measure shall be revoked if the proceedings are not concluded within three months from receipt of the acts respectively by each court.
5. Jurisdiction to decide pursuant to the above paragraphs shall lie with the district court or, during proceedings before the court of appeal, with the latter.
6. The court examining the request for the imposition of a coercive measure shall also examine the request for extradition. In any case, where requested by the Ministry of Justice, the court shall revoke the precautionary measure it has imposed.

Article 494

Provisional Execution of Coercive Measures

(Words in paragraph 6 amended by Law no. 35/2017, dated 30.3.2017)

1. At the request of the foreign State, submitted by the Ministry of Justice through the prosecutor attached to the competent court, the court may provisionally impose a coercive measure before the request for extradition is received.
2. The measure may be imposed where:
a) the foreign State has declared that a measure restricting personal liberty or a judgment imposing imprisonment has been issued against the person and that it intends to submit a request for extradition;
b) the foreign State has provided detailed information on the criminal offense and sufficient elements for identifying the person;
c) there is a risk of abscondment.
3. Jurisdiction to impose the measure shall lie, in order of precedence, with the district court in whose territory the person has residence, domicile, or dwelling, or with the district court where the person is found. Where jurisdiction cannot be determined in the aforementioned ways, competence shall lie with the Judicial District Court of Tirana.

4. The court may also order the seizure of material evidence and of items related to the criminal offense.
5. The Ministry of Justice shall notify the foreign State of the provisional application of the coercive measure and of any seizure imposed.
6. Coercive measures shall be revoked if, within eighteen days and in any case no later than forty days from the arrest, the request for extradition and the documents enclosed thereto have not been received by the Ministry of Justice.

Article 495

Arrest by the Judicial Police

(Words in paragraphs 2 and 3 amended by Law no. 8813, dated 13.6.2002; first sentence of paragraph 1 amended, words amended and second sentence added in paragraph 3 by Law no. 35/2017, dated 30.3.2017)

1. Where there is an international arrest warrant, the judicial police shall carry out the provisional arrest of the person. It shall also seize the material evidence of the criminal offense and the items connected therewith.
2. The authority that carried out the arrest shall immediately notify the prosecutor and the Minister of Justice. Within forty-eight hours, the prosecutor shall bring the arrested person before the court in whose territory the arrest was made, submitting also the relevant documentation.
3. The court, within forty-eight hours from the submission of the request, shall validate the arrest and impose a coercive precautionary measure where the conditions exist, or shall order the release of the arrested person. Where the arrested person is an Albanian national and there is no bilateral agreement on the extradition of nationals with the State issuing the arrest warrant, the court shall order his or her immediate release. The court shall notify the Minister of Justice of the decision it has rendered.
4. The measure of arrest shall be revoked if the Ministry of Justice does not, within ten days from its validation, request its continuation.
5. A copy of the decision rendered by the court concerning coercive measures and seizures under these articles shall be notified to the prosecutor, the person concerned, and his/her defense counsel, who may lodge an appeal before the court of appeal.

Article 496

Hearing of the Person Subject to Coercive Measure

(Words amended and removed in paragraph 1 by Law no. 35/2017, dated 30.3.2017)

1. Where a coercive measure has been imposed, the court, as soon as possible and in any case no later than three days from the execution of the measure, shall verify the identity of the person and ascertain any possible consent to extradition, recording this in the minutes.
2. The court shall inform the person concerned of the right to have defense counsel and, in the absence thereof, shall appoint one ex officio. The defense counsel must be notified at least twenty-four hours in advance of the above proceedings and shall have the right to participate in them.

Article 497

Examination of the Request for Extradition

1. After receiving the prosecutor's request, the court shall set the hearing and notify, at least ten days in advance, the prosecutor, the person whose extradition is sought, his/her defense counsel, and any representative of the requesting State.
2. The court shall gather information and carry out the verifications it deems necessary, and shall also hear the persons summoned to the proceedings.

Article 498
Court Decision
(Paragraphs 1 and 5 amended by Law no. 35/2017, dated 30.3.2017)

1. The court shall render a decision in favor of extradition where a coercive measure has been imposed against the wanted person, where there are significant elements of culpability, or where there is a final conviction. In such case, upon request of the Ministry of Justice submitted through the prosecutor, the court shall order the pre-trial detention of the person to be extradited who is at liberty, as well as the seizure of material evidence and of items relate to the criminal offense.
2. The court shall render a decision against extradition where the grounds for refusal of extradition are present.
3. Where the court renders a decision against extradition, extradition may not take place.
4. A decision against extradition shall preclude the rendering of a subsequent decision in favor of extradition as a result of a new request submitted for the same facts by the same State, except where the request is based on elements not previously assessed by the court.
5. An appeal against the court's decision on the request for extradition may be lodged before the court of appeal by the person concerned, his/her defense counsel, or the prosecutor within 10 days.

Article 499
Rulings on Extradition

1. The Ministry of Justice shall decide on extradition within thirty days from the date on which the court's decision has become final. Upon expiry of this term, even where no ruling has been made by the Minister, the person whose extradition is sought shall be released if in detention.
2. The person shall also be released in case of refusal of the request for extradition.
3. The Ministry of Justice shall notify the requesting State of the decision and, where it is favorable, of the place of surrender and the date from which surrender may take place. The time limit for surrender shall be fifteen days from the date set, and upon a reasoned request of the requesting State, may be extended for an additional fifteen days. Where there are causes beyond the control of the parties, another date of surrender may be fixed, always subject to compliance with the time limits established in this paragraph.
4. The decision on extradition shall cease to have effect and the extradited person shall be released where the requesting State fails to act within the prescribed time limit to take custody of the extradited person.

Article 500
Postponement of Surrender

1. The execution of extradition shall be postponed where the extradited person must be tried in the territory of the Albanian State or must serve a sentence for criminal offenses committed before or after the one for which extradition has been granted. However, the Ministry of Justice, after hearing the competent prosecuting authority of the Albanian State or the authority responsible for the

execution of the sentence, may order the temporary surrender of the person to be extradited to the requesting State, determining the time limits and the manner of execution.
2. The Ministry may agree that the remaining sentence be served in the requesting State.

Article 501
Extension of Granted Extradition and Re-Extradition

1. In the case of a new request for extradition, submitted after the surrender of the extradited person and concerning a criminal offense committed prior to surrender, different from that for which extradition was granted, the provisions of this Chapter shall apply insofar as they are applicable. The statements of the extradited person, made before a judge of the requesting State concerning the extension of extradition, must be attached to the request.
2. The court shall proceed in the absence of the extradited person.
3. No trial shall take place where the extradited person, by the statements provided for in paragraph 1, has accepted the extension of extradition.
4. The above provisions shall also apply where the State to which the person has been surrendered requests consent for the re-extradition of that person to another State.

Article 502
Transit Transfer

1. The transit transfer through the territory of the Albanian State of a person extradited from one State to another shall be authorized, upon request of the latter, by the Ministry of Justice, provided that such transit does not affect sovereignty, security, or other State interests.
2. Transit transfer shall not be authorized:
a) where extradition has been granted for facts not provided as criminal offenses under Albanian law;
b) where the circumstances provided for under Article 491, paragraph 1, are present;
c) where it concerns an Albanian national, for whom extradition to the State requesting the transit would not be granted.
3. Authorization shall not be required where the transit transfer takes place by air and no landing is foreseen on Albanian territory. However, where a landing occurs, the provisions on precautionary measures shall apply insofar as they are compatible.

Article 503
Extradition Expenses

1. Expenses incurred in Albanian territory shall be borne by the Albanian party, unless otherwise agreed.

SECTION II
EXTRADITION FROM ABROAD

Article 504
Request for Extradition
(Paragraph 4 amended by Law no. 35/2017, dated 30.3.2017)

1. The Ministry of Justice shall be competent to request from a foreign State the extradition of a person under prosecution or criminally convicted, against whom a measure restricting personal liberty must be enforced. To this end, the prosecutor attached to the court in whose territory the proceedings are being conducted or where the judgment of conviction has been rendered shall submit a request to the Ministry of Justice, submitting the necessary acts and documents. Where the Ministry does not accept the request, it shall notify the authority that made it.
2. The Ministry of Justice shall be competent to decide on the conditions possibly imposed by the foreign State for granting extradition, provided that they do not conflict with the fundamental principles of the Albanian legal order. The prosecuting authority shall be obliged to comply with the accepted conditions.
3. The Ministry of Justice may order, for purposes of extradition, the search abroad for the prosecuted or convicted person and his/her provisional arrest.
4. Detention abroad, as a consequence of an extradition request submitted by the Albanian State, shall be credited towards the sentence, in accordance with the rules set forth in Article 57 of the Criminal Code.

CHAPTER II
INTERNATIONAL LETTERS ROGATORY

SECTION I
LETTERS ROGATORY FROM ABROAD

Article 505
Competences of the Ministry of Justice

1. The Ministry of Justice shall decide to proceed with a letter rogatory from a foreign authority concerning communications, notifications, and the taking of evidence, except where it deems that the requested actions would endanger the sovereignty, security, or other important interests of the State.
2. The Ministry shall not proceed with a letter rogatory where it is evident that the requested actions are expressly prohibited by law or are in conflict with the fundamental principles of the Albanian legal order. The Ministry shall also not proceed with a letter rogatory where there are reasonable grounds to believe that considerations relating to race, religion, sex, nationality, language, political convictions, or social status may negatively affect the proceedings, as well as where it does not appear that the defendant has freely given his/her consent to the letter rogatory.
3. Where the letter rogatory concerns the summoning of a witness, an expert, or a defendant before the foreign judicial authority, the Ministry of Justice shall not proceed with it where the requesting State does not provide sufficient guarantees for the inviolability of the summoned person.
4. The Ministry shall have the right not to proceed with a letter rogatory where the requesting State does not provide the appropriate guarantee of reciprocity.

Article 506
Judicial Proceedings
(Amended by Law no. 99, dated 31.7.2014)

1. A foreign letter rogatory may not be executed without a prior decision in its favor by the court of the place where it must be carried out.

2. The district prosecutor, after receiving the acts from the Ministry of Justice, shall submit the request to the court within 5 days from the submission of the acts by the Ministry of Justice.
3. The court shall rule on the execution of the letter rogatory by decision within ten days from the submission of the request.
4. Execution of the letter rogatory shall not be admitted:
a) in the cases when the Ministry of Justice does not proceed with the letter rogatory, in accordance also with the provisions of international instruments to which the Republic of Albania is a party, including relevant reservations and legal declarations;
b) where the fact for which the foreign authority is proceeding is not provided as a criminal offense under Albanian law.

Article 507
Execution of Letters Rogatory
(Paragraph 1 amended by Law no. 35/2017, dated 30.3.2017)

1. The court that admits the request for the execution of the letter rogatory shall perform the requested action itself or authorize the prosecutor for this purpose, in cases permitted by law.
2. For the performance of the requested actions, the provisions of this Code shall apply, except where specific rules requested by the foreign judicial authority must be observed, provided that they do not conflict with the principles of the legal order of the Albanian state.

Article 508
Summoning of Witnesses Requested by the Foreign Authority

1. The summons of witnesses who have residence or domicile in the territory of the Albanian State, in order to appear before the foreign judicial authority, shall be submitted to the competent district prosecutor, who shall take measures for the notification, acting as in the case of notification of a defendant at liberty.

SECTION II
LETTERS ROGATORY ABROAD

Article 509
Transmission of Letters Rogatory to Foreign Authorities

1. Letters rogatory of the courts and prosecution offices, addressed to foreign authorities for notifications and the taking of evidence, shall be transmitted to the Ministry of Justice, which shall take measures for their transmission.
2. Where it deems that security or other important State interests may be endangered, the Ministry shall, within thirty days from receipt of the letter rogatory, decide not to proceed.
3. The Ministry shall notify the proceeding authority that made the request of the date of its receipt and of the transmission of the letter rogatory, or of the order not to proceed with the letter rogatory.
4. In urgent cases, the proceeding authority may decide to deliver the letter rogatory directly, informing the Minister of Justice.

Article 510
Inviolability of the Summoned Person

1. A person summoned on the basis of a letter rogatory, when appearing, may not be subjected to any restriction of personal liberty for facts occurred prior to the notification to appear.
2. The inviolability provided for in paragraph 1 shall cease where the witness, expert, or defendant, although having the possibility, has not left the territory of the Albanian State within fifteen days from the moment when his/her presence is no longer required by the judicial authority, or where, having left, he/she has voluntarily returned.

Article 511
Value of Acts obtained by Letter Rogatory

1. Where the foreign State has set conditions for the usability of the requested acts, the Albanian proceeding authority shall be obliged to respect them, provided that they are not in conflict with prohibitions provided by law.

CHAPTER III
ENFORCEMENT OF CRIMINAL JUDGMENTS

SECTION I
ENFORCEMENT OF FOREIGN CRIMINAL JUDGMENTS

Article 512
Recognition of Foreign Criminal Judgments

1. Where a criminal judgment rendered abroad concerns Albanian citizens, foreign citizens, or stateless persons residing in the Albanian State, or persons under criminal prosecution in the Albanian State, the Ministry of Justice shall transmit to the prosecutor attached to the district court of the person's residence or domicile a copy of the judgment and the relevant documentation, together with the translation into the Albanian language.
2. The Ministry of Justice shall also request the recognition of a foreign criminal judgment where it deems that, on the basis of an international agreement, such judgment must be enforced or recognized for other effects in the Albanian State.
3. The prosecutor shall submit a request to the district court for the recognition of the foreign judgment. Through the Ministry of Justice, the prosecutor may request from the foreign authorities any information deemed necessary.

Article 513
Recognition of Foreign Criminal Court Judgments for Civil Effects

1. At the request of the interested party, in the same proceedings and by the same decision, the civil provisions of the foreign criminal judgment concerning the obligation to return property or to compensate for damage may be declared valid.
2. In other cases, the request shall be submitted by the person having an interest to the court in which the civil provisions of the foreign criminal judgment would be enforced.

Article 514
Conditions for Recognition
(Letter "e" repealed by Law no. 8813, dated 13.6.2002)

1. A judgment of a foreign court may not be recognized where:
a) the judgment has not become final under the laws of the State in which it was rendered;
b) the judgment contains provisions contrary to the principles of the legal order of the Albanian State;
c) the judgment was not rendered by an independent and impartial court, or the defendant was not summoned to appear at trial, or was not afforded the right to be questioned in a language he or she understands and to be assisted by defense counsel;
ç) there are reasonable grounds to believe that considerations relating to race, religion, sex, language, or political convictions influenced the outcome of the proceedings;
d) the fact for which the judgment was rendered does not constitute a criminal offense under Albanian law;
dh) for the same fact and against the same person, a final judgment has been rendered or criminal proceedings are ongoing in the Albanian State;
e) repealed.

Article 515
Coercive Measures
(Sentence added to paragraphs 1 and 3 and words amended in paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. Upon the request of the prosecutor, the court competent for the recognition of a foreign judgment may impose a coercive measure on the convicted person present in Albanian territory. In the imposition of coercive measures, the provisions of Title V of this Code shall apply insofar as they may be applicable.
2. Within three days from the execution of the coercive measure, the court shall take steps to identify the person and shall immediately inform him or her of the right to defense counsel.
3. A coercive measure imposed pursuant to this article shall be revoked where, from the commencement of its execution, three months have elapsed without the district court having rendered a decision on recognition, or six months without the decision having become final. Where an appeal is lodged before the court of appeal or the Supreme Court, the coercive measure shall be revoked if the proceedings are not concluded within three months from receipt of the acts respectively by each court.
4. The revocation and replacement of the coercive measure shall be decided by the district court.
5. A copy of the decision rendered by the court shall, after execution, be notified to the prosecutor, to the person convicted by the foreign court, and to his/her defense counsel, who may appeal before the court of appeal.

Article 516
Determination of the Sentence
(Sentence added to paragraph 2 by Law no. 35/2017, dated 30.3.2017)

1. When recognizing a foreign judgment, the court shall determine the sentence to be served in the Albanian State. It shall convert the sentence imposed in the foreign judgment into one of the sentences provided for the same fact by Albanian law. Such sentence must correspond in nature to that imposed by the foreign judgment. The measure of the sentence may not exceed the maximum limit prescribed for the same act by Albanian law.

2. Where the foreign judgment has not determined the measure of the sentence, the court shall determine it on the basis of the criteria set forth in the Criminal Code. In no case may the sentence imposed be higher than that determined by the recognized criminal judgment.
3. Where the enforcement of the sentence imposed abroad has been conditionally suspended, the court shall also order, in the recognition judgment, the conditional suspension of the sentence. The same shall apply where the defendant has been conditionally released in the foreign State.
4. For the determination of a fine, the amount imposed in the foreign judgment shall be converted into an equivalent value in ALL, applying the exchange rate of the date of recognition.
5. In the recognition judgment for the execution of confiscation, the enforcement of confiscation shall also be ordered.

Article 517
Seizure

1. Upon request of the prosecutor, the competent court may order the seizure of items subject to confiscation.
2. An appeal may be lodged against the decision.
3. The provisions governing preventive seizure shall apply insofar as they are applicable.

Article 518
Enforcement of the Foreign Judgment

1. Once recognized, criminal judgments of foreign courts shall be enforced according to Albanian law.
2. The prosecutor attached to the court that recognized the judgment shall take measures for its enforcement.
3. Imprisonment sentences served in the foreign State shall be credited for enforcement purposes.
4. The amount collected from the enforcement of a fine shall be deposited in the Bank of Albania. It may be deposited in the State in which the judgment was rendered, at its request, where that State, in the same circumstances, would decide to deposit it in favor of the Albanian State.
5. Confiscated items shall be handed over to the Albanian State. At its request, they shall be handed over to the State in which the recognized judgment was rendered, where that State, in the same circumstances, would decide to hand them over to the Albanian State.

SECTION II
ENFORCEMENT ABROAD OF ALBANIAN CRIMINAL JUDGMENTS

Article 519
Conditions for Enforcement Abroad

1. In the cases provided for by international agreements or by Article 501, paragraph 2, the Ministry of Justice shall request the enforcement abroad of criminal judgments or shall give consent where this is requested by the foreign state.
2. Enforcement abroad of a criminal judgment imposing a sentence restricting personal liberty may be requested or allowed only where the convicted person, having been informed of the consequences, has freely declared his/her consent, and where enforcement in the foreign State is suitable for his/her social reintegration.

3. Enforcement abroad shall also be permitted where the conditions provided by paragraph 2 are not present, if the convicted person is located in the territory of the State to which the request is addressed and extradition has been rejected or is otherwise not possible.

Article 520
Court Decision

1. Before requesting the enforcement abroad of a judgment, the Ministry of Justice shall transmit the acts to the prosecutor, who shall submit a request with the court.
2. The consent of the convicted person must be given before the Albanian court. Where the convicted person is abroad, consent may be given before the Albanian consular authority or before the court of the foreign State.

Article 521
Cases of Non-Authorization of Enforcement Abroad

1. The Ministry of Justice may not request the enforcement abroad of a criminal judgment imposing a sentence restricting personal liberty where there are grounds to consider that the convicted person would be subjected to acts of persecution or discrimination on account of race, religion, sex, nationality, language, or convictions, or to cruel, inhuman, or degrading punishments or treatments.

Article 522
Request for Pre-Trial Detention Abroad

1. Where enforcement of a sentence restricting personal liberty is requested and the convicted person is abroad, the Ministry of Justice shall request his/her pre-trial detention.
2. In a request for the enforcement of confiscation, the Ministry of Justice shall have the right to request the seizure of items which can be confiscated.

Article 523
Suspension of Enforcement in the Albanian State

1. Enforcement of the sentence in the Albanian State shall be suspended from the moment enforcement begins in the foreign State.
2. The sentence may no longer be enforced in the Albanian State where, under the laws of the foreign State, it has been fully served.

Article 524
Final Provisions

The Criminal Procedure Code of the People's Socialist Republic of Albania, adopted by Law no. 6069, dated 25.12.1979, together with subsequent additions and amendments, as well as any other provision in conflict with this Code, is repealed.

Article 525
(Second paragraph added by Law no. 7977, dated 26.7.1995 and amended by Law no. 8027, dated 15.11.1995)

This Code shall enter into force on August 1, 1995.
For criminal cases which, on the date of entry into force of this Code, are in the stage of investigation or trial at first instance or on appeal, the provisions of the previous Criminal Procedure Code shall apply, but in no event later than March 1, 1996.

Transitional Provision
(Provided by Law no. 8570, dated 20.1.2000)

The time limits for the duration of pre-trial detention under this law shall apply to persons detained after its entry into force.

Transitional Provision
(Provided by Law no. 8602, dated 10.4.2000)

Criminal misdemeanors pending trial on the date of entry into force of this law, which under it must be tried by a single judge, shall continue to be tried by the presiding judge of the judicial panel, with the procedural acts performed up to that point remaining valid.
Criminal offenses pending trial on the date of entry into force of this law, for which a sentence of a fine or imprisonment not exceeding five years is prescribed, shall continue to be tried by a judicial panel composed of three judges.

Transitional Provision
(Provided by Law no. 8813, dated 13.6.2002)

Procedural provisions pertaining to courts for serious crimes shall apply after the entry into force of the law determining the date of commencement of their activity.

Transitional Provision
(Provided by Law no. 145/2013, dated 2.5.2013)

Notwithstanding the amendments, pursuant to Article 1 of this Law, criminal proceedings initiated prior to the entry into force of this Law shall be adjudicated by the court having subject-matter jurisdiction, in accordance with the legislation in force at the time of the commission of the criminal offense.

Transitional Provision
(Provided by Law no. 21, dated 10.3.2014)

Criminal cases for which trial has commenced or has been requested prior to the entry into force of this Law shall continue to be adjudicated by the district court or the court of appeal.

Transitional Provision
(Provided by Law no. 35/2017, dated 30.3.2017)

1. Until the establishment of the Court against Corruption and Organized Crime, criminal cases falling within its subject-matter jurisdiction, under Article 75/a of the Code as amended by this Law, shall be adjudicated, as appropriate, by the Court for Serious Crimes and the district courts.

2. After the establishment of the Court against Corruption and Organized Crime, cases pending before the courts of general jurisdiction, as well as cases for which retrial may be ordered, shall be concluded by the latter.
3. Acts and evidence obtained prior to the entry into force of this Law shall remain valid and usable, even where this Law provides otherwise.
4. Until the establishment of the Special Prosecution Office, investigations for criminal offenses or subjects provided for under Article 75/a of the Code as amended by this Law shall be conducted, as appropriate, by the Prosecution Office attached to the Court of First Instance for Serious Crimes and by the prosecution offices attached to the district courts, in accordance with the jurisdiction determined prior to the entry into force of this Law.
5. After the establishment of the Special Prosecution Office, cases under investigation by the prosecution office attached to the Court of First Instance for Serious Crimes shall be transferred, according to jurisdiction, to the Special Prosecution Office, pursuant to Article 75/a of the Code as amended by this Law, and to the prosecution offices attached to the district courts. The same rule shall apply to cases under investigation by the prosecution offices attached to the district courts which fall within the jurisdiction of the Special Prosecution Office.
6. Paragraphs 6, 7, and 8 of Article 57 of Law no. 95/2016, "On the organization and functioning of institutions for combating corruption and organized crime", are repealed.
7. The composition of judicial panels shall be regulated in accordance with the provisions of this Law, notwithstanding any different provisions contained in other laws.

Transitional Provision
(Provided by Law no. 147/2020, dated 17.12.2020)

1. Material evidence in respect of which the final decision of the proceeding authority has not ruled pursuant to paragraph 1 of Article 190 of the Criminal Procedure Code, prior to the entry into force of this Law, shall pass into the possession of the state administrative authority and be administered in accordance with the special legislation on the administration of seized assets and material evidence.
2. Material evidence referred to in paragraph 1 of this article, in respect of which five years have elapsed since the final decision, shall be destroyed by order of the court, upon request of the proceeding authority, in accordance with paragraph 6 of Article 215 of the Criminal Procedure Code, while preserving the respective samples.

Transitional Provision
(Provided by Law no. 41/2021, dated 23.3.2021)

1. The composition of judicial panels, as well as the adjudication procedure before the Supreme Court, shall be regulated in accordance with the provisions of this Law, notwithstanding different provisions in other laws.
2. Cassation appeals filed but not yet examined shall be considered admissible if they comply with the provisions of the law in force at the time of their submission.
3. Cases within the jurisdiction of the Prosecution Office against Corruption and Organized Crime and the Courts against Corruption and Organized Crime, pursuant to Article 75/a prior to the entry into force of this Law, and registered before June 1, 2021, shall be investigated and adjudicated by the Prosecution Office against Corruption and Organized Crime and the Courts against Corruption and Organized Crime, notwithstanding the amendment of subject-matter jurisdiction under Article 7 of this Law.

Promulgated by Decree no. 1059, dated 5.4.1995, of the President of the Republic of Albania, Sali Berisha

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Law no. 9705, dated 21.3.1995, published in the Official Gazette no. 5, dated 28.4.1995, p. 159.
Law no. 7977, dated 26.5.1995, published in the Official Gazette no. 17, dated 14.8.1995, p. 739.
Law no. 8027, dated 15.11.1995, published in the Official Gazette no. 24, dated 5.12.1995, p. 1081.
Law no. 8180, dated 23.12.1996, published in the Official Gazette no. 29, dated 31.12.1996, p. 980.
Law no. 8460, dated 11.2.1999, published in the Official Gazette no. 7, dated 12.3.1999, p. 232.
Law no. 8570, dated 21.1.2000, published in the Official Gazette no. 2, dated 2.2.2000, p. 11.
Law no. 8602, dated 10.4.2000, published in the Official Gazette no. 9, dated 28.4.2000, p. 425.
Law no. 8813, dated 13.6.2002, published in the Official Gazette no. 29, dated 26.6.2002, p. 916.
Law no. 9085, dated 19.6.2003, published in the Official Gazette no. 57, dated 14.7.2003, p. 2431.
Law no. 9187, dated 12.2.2004, published in the Official Gazette no. 13, dated 16.3.2004, p. 538.
Law no. 9276, dated 16.9.2004, published in the Official Gazette no. 69, dated 7.10.2004, p. 4599.
Law no. 9911, dated 5.5.2008, published in the Official Gazette no. 67, dated 21.5.2008, p. 2955.
Law no. 10 054, dated 29.12.2008, published in the Official Gazette no. 205, dated 31.12.2008, p. 11076.
Law no. 145/2013, dated 2.5.2013, published in the Official Gazette no. 83, dated 20.5.2013, p. 3537.
Law no. 21/2014, dated 10.3.2014, published in the Official Gazette no. 44, dated 7.4.2014, p. 1061.
Law no. 99/2014, dated 31.7.2014, published in the Official Gazette no. 132, dated 19.8.2014, p. 6022.
Law no. 35/2017, dated 30.3.2017, published in the Official Gazette no. 97, dated 5.5.2017, p. 5433.
(corrected by the erratum published in the Official Gazette no. 151, dated 27.7.2017, p. 7247.)
Law no. 147/2020, dated 17.12.2020, published in the Official Gazette no. 728, dated 13.1.2021, p. 728.
Law no. 41/2021, dated 13.3.2021, published in the Official Gazette no. 71, dated 14.5.2021, p. 6969.
Decision of the Constitutional Court no. 15, dated 17.4.2003, published in the Official Gazette no. 26, dated 16.4.2003, p. 844.
Decision of the Constitutional Court no. 5, dated 6.3.2009, published in the Official Gazette no. 27, dated 19.3.2009, p. 1571.
Decision of the Constitutional Court no. 31, dated 17.5.2012, published in the Official Gazette no. 58, dated 25.4.2012, p. 2906.

I, DORIAN DELTINA, official translator of the English language, certified by the Ministry of Justice with certificate no. 321, dated July 31, 2024, hereby declare that I have translated the text submitted to me from the source language Albanian into the target language English faithfully, with due care, and under legal responsibility.
Date: September 17, 2025