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Code of Criminal Procedure
N° 7594

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC

OF COSTA RICA

DECREE: CRIMINAL

PROCEDURE CODE

PART ONE

GENERAL PART

FIRST PART

PRELIMINARY

BOOK

GENERAL PROVISIONS

TITLE I

PROCEDURAL PRINCIPLES AND GUARANTEES

ARTICLE 1.- Principle of legality

No one may be sentenced to a penalty or subjected to a security measure except by virtue of proceedings conducted in accordance with this Code and with strict observance of the guarantees, powers and rights provided for individuals.

The non-observance of a rule of guarantee established in favor of the accused may not be asserted to his detriment.

[Article sheet](#)

ARTICLE 2.

Rule of interpretation Legal provisions that restrict personal freedom or limit the exercise of a power or right conferred on the subjects of the proceeding must be interpreted restrictively. In this matter, extensive interpretation and analogy are prohibited as long as they do not favor the freedom of the accused or the exercise of a power conferred on those who intervene in the proceeding.

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ARTICLE 3.

Natural Judge No one may be judged by judges specially designated for the case. The power of

The criminal law shall be applied only by the ordinary courts, established in accordance with the Constitution and the law.

Article sheet

ARTICLE 4.

Every person shall have the right to a final judicial decision within a reasonable time. In order to achieve this objective, preference shall be given to oral proceedings by means of hearings during the process.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

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ARTICLE 5.

Independence Judges are subject only to the Constitution, the International and Community Law in force in Costa Rica and the law. In their function of judging, judges are independent of all members of the branches of government. For no reason may the other organs of the State arrogate to themselves the adjudication of cases, nor the reopening of those terminated by a final decision; nor may they interfere in the development of the procedure. They must comply with and enforce what has been ordered by the judges, in accordance with what has been resolved. In case of interference in the exercise of their function, the judge must inform the Supreme Court of Justice of the facts that affect their independence. When the interference comes from the plenary of the Court, the report shall be known by the Legislative Assembly.

Article sheet

ARTICLE 6.

Objectivity Judges must resolve the matters submitted to them objectively. From the beginning of the proceeding and throughout its development, the administrative and judicial authorities must record in their actions and assess in their decisions not only the circumstances detrimental to the accused, but also those favorable to him. It shall be the duty of the judges to preserve the principle of procedural equality and to remove obstacles that prevent or weaken its validity.

Article sheet

Article 7- Conflict resolution, reparation and reestablishment of the rights of the victim

The courts shall resolve the conflict arising as a result of the act, in accordance with the principles contained in the laws, in an attempt to contribute to restoring social harmony between the parties and, in particular, the restoration of the rights of the victim. For this purpose, it may also be resolved in accordance with the restorative justice procedure.

For such purposes, they shall always take into account the opinion of the victim, in the manner and under the conditions regulated by this Code.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

ARTICLE 8.

Decisions in collegiate tribunals When the law requires a collegiate integration of the tribunal, its members must actively participate in the deliberation and decision.

Article sheet

ARTICLE 9.

State of innocence The accused shall be considered innocent at all stages of the proceedings, as long as he is not found guilty by a final judgment, in accordance with the rules set forth in this Code. In case of doubt as to the issues of fact, the most favorable to the accused shall apply. Until the declaration of guilt, no public authority may present a person as guilty or provide information about him in that sense. In the cases of absentee and rebel, the publication of the indispensable data for their apprehension by court order shall be admitted.

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ARTICLE 10.

Precautionary measures Precautionary measures may only be established by law. They shall be exceptional in nature and their application, in relation to the accused, must be proportional to the penalty or security measure that may be imposed.

Article sheet

ARTICLE 11.

No one may be criminally prosecuted more than once for the same act.

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ARTICLE 12.

Inviolability of the defense The defense of any of the parties to the proceeding is inviolable. With the exceptions provided for in this Code, the accused shall have the right to intervene in the procedural acts that incorporate elements of evidence and to formulate the petitions and observations that he deems appropriate, without prejudice to the exercise of disciplinary powers by the corresponding authority, when the normal course of the proceedings is prejudiced. When the accused is deprived of his liberty, the person in charge of his custody shall transmit to the court any requests or observations made by the accused within twelve hours of their being submitted to him and shall facilitate communication with the defense counsel. Any authority that intervenes in the initial acts of the investigation must ensure that the accused is immediately aware of the rights that, in this condition, are provided by the Constitution, the International and Community Law in force in Costa Rica and this law.

Article sheet

ARTICLE 13.

Technical defense From the first moment of the criminal prosecution and until the end of the execution of the sentence, the accused shall have the right to legal assistance and technical defense. For such purposes, he may choose a defense counsel of his confidence, but if he does not do so, a public defender will be assigned to him. The right of defense is inalienable. The first act of the proceeding shall be understood to be any judicial or police action that identifies a person as a possible perpetrator or participant in a punishable act.

Article sheet

ARTICLE 14.

Interpreter When the accused does not understand the official language correctly, he shall have the right to have a translator or interpreter appointed for him, without prejudice to the possibility of appointing one of his own confidence. **Article file**

ARTICLE 15.-Correction of formal defects. The court or the prosecutor who finds a sanitizable defect in any action, ordinary appeal or instance of constitution of the subjects of the process, shall communicate it to the interested party and shall grant him a term to correct it, which shall not be longer than five days. If it is not corrected within the term granted, the corresponding decision shall be made.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

TITLE II
PROCEDURAL ACTIONS
CHAPTER I
CRIMINAL ACTION

Section one Exercise

ARTICLE 16.

Criminal action

The criminal action shall be public or private. When it is public, it shall be exercised by the Public Prosecutor's Office, without prejudice to the participation granted by this Code to the victim or citizens.

In crimes against the security of the Nation, public tranquility, public powers, constitutional order, the environment, the maritime-terrestrial zone, public finances, the duties of the public function, tax offenses and those contained in the Customs Law, No. 7557, of October 20, 1995; the Organic Law of the Central Bank of Costa Rica, No. 7558, of November 3, 1995 and the Law against illicit enrichment of public servants, No. 6872, of June 17, 1983, the Attorney General's Office may also directly exercise such action, without being subordinated to the actions and decisions of the Public Prosecutor's Office. In cases initiated by action of the Attorney General's Office, the latter shall be considered as a party and may exercise the same remedies granted to the Public Prosecutor's Office by the present Code.

(Second paragraph thus amended by Article 3 of Law No. 8242 of April 9, 2002, Law Creating the Public Ethics Ombudsman's Office).

Article sheet

ARTICLE 17.

When the exercise of the public criminal action requires a private instance, the Public Prosecutor's Office will only exercise it once a complaint has been filed before a competent authority by the offended party over fifteen years of age or, if under that age, in exclusive order, by his legal representatives, guardian or tutor. However, prior to the instance, urgent acts that prevent the continuation of the act or those essential to preserve the elements of evidence may be carried out, provided that they do not affect the protection of the interest of the victim. The defects related to the complaint may be corrected later, when the victim appears to ratify the instance before the end of the preliminary hearing. The private instance will allow the prosecution of all perpetrators and participants. The victim or his representative may revoke the request at any time before the opening of the trial. The revocation shall include those who have participated in the punishable act. The Public Prosecutor's Office will exercise

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directly the action when the crime has been committed against an incapable person or a minor, who do not have representation, or when it has been committed by one of the relatives up to the third degree of consanguinity or affinity, the legal representative or the guardian.

Article sheet

Article 18.- Crimes of public action prosecutable only at private instance The

crimes of public action shall be prosecutable at private instance:

- a) Contagion of disease and rape of a person of full legal age.
- b) Sexual assaults, neither aggravated nor qualified, against persons of legal age.
- c) Minor injuries and negligent injuries that do not originate in an accident or traffic event, abandonment of persons, concealment of impediments to marriage, simulation of marriage, threats, violation of domicile and usurpation.

(As amended by Article 5 of Law No. 8696 of December 17, 2008)

- d) Failure to comply with the duty of support or the duty of assistance and failure to comply with or abuse of parental authority.

(Sinalevi's Note: By means of Article 2 paragraph XI) of the law that approves the Family Procedural Code, No. 9747 of October 23, 2019, the previous numeral will be amended. Pursuant to transitory III of the aforementioned law said amendment will come into force as of October 1, 2022, therefore, as of that date the new text will be the following: "(d) Failure to comply with the duty to support or the duty to assist, and failure or abuse of parental responsibility.").

- e) Any other crime defined as such by law.

(As amended by Article 2 of the Law for Strengthening the Fight against Sexual Exploitation of Minors, No. 8590 of July 18, 2007).

Article sheet

ARTICLE 19.

Private action crimes Private action crimes are crimes of private action:

- a) Crimes against honor.
- b) Unfair advertising.
- c) Any other crime that the law qualifies as such.

Article sheet

ARTICLE 20.

Conversion of public action into private action Public action may be converted into private action at the request of the victim, provided that the Public Prosecutor's Office so authorizes and there is no serious public interest at stake, when investigating a crime requiring private prosecution or a crime against property committed without serious violence against persons. If there are several offended parties, the consent of all shall be necessary.

Article sheet

ARTICLE 21.

Prejudiciality When what must be resolved in a criminal proceeding depends on the solution of another proceeding according to the law and it is not appropriate to join them, the exercise of the action will be suspended after the preparatory investigation until, in the second proceeding, a final resolution is issued.

Article sheet

Second Section

Opportunity criteria

Article 22.- Principles of legality and timeliness

The Public Prosecutor's Office shall exercise public criminal action, in all cases in which it is appropriate, in accordance with the provisions of the law.

However, with the prior authorization of the hierarchical superior, the representative of the Public Prosecutor's Office may request that the criminal prosecution be dispensed with, in whole or in part, and that it be limited to one or more offenses or to some of the persons who participated in the act, when:

- a) It is an insignificant act, with minimal culpability of the perpetrator or participant or with little contribution of the latter, unless there is violence against persons or force against things, the public interest is affected or the act has been committed by a public official in the exercise of his office or on the occasion thereof.
- b) In cases of organized crime, violent crime, serious or complex crimes and the accused collaborates effectively with the investigation, provides essential information to prevent the continuation of the crime or the perpetration of others, helps to clarify the investigated act or other related acts or provides useful information to prove the participation of other accused, provided that the conduct of the collaborator is less reprehensible than the punishable acts whose prosecution he facilitates or whose continuation he avoids.

Notwithstanding the provisions of Article 300, in the cases provided for in this subsection, the victim shall not be informed of the request to apply the opportunity criterion and, if he has not filed a complaint, he shall not have the right to do so subsequently, unless the court orders the resumption of the proceedings in accordance with the following Article.

c) The accused has suffered, as a consequence of the act, serious physical or moral damages that make the application of a penalty disproportionate, or when the conditions under which the court is authorized to dispense with the penalty are met.

d) The penalty or security measure that may be imposed, for the act or offense whose prosecution is waived, is irrelevant, in consideration of the penalty or security measure imposed, which must await for the remaining acts or offenses that were imposed or that would be imposed in a proceeding processed abroad. In the latter cases, active extradition may be dispensed with and passive extradition may be granted.

The request must be submitted to the court, which will decide on the matter, according to the procedure established for the conclusion of the preparatory proceedings.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 23.

Effects of the opportunity criterion If the court admits the request to apply an opportunity criterion, the criminal action is extinguished with respect to the perpetrator or participant for whose benefit it was decided. If the decision is based on the insignificance of the act, its effects extend to all those who meet the same conditions. However, in the case of paragraphs b) and d) of the preceding article, the exercise of the public criminal action is suspended in relation to the facts or persons in whose favor the opportunity criterion was applied. Such suspension shall be maintained until fifteen days after the finality of the respective sentence, at which time the court shall rule definitively on the dispensation of such prosecution. If the cooperation of the subject or the sentence does not satisfy the expectations for which the prosecution was suspended, the Public Prosecutor's Office shall request the court to order the resumption of the procedure.

Article sheet

ARTICLE 24.

Deadline for requesting opportunity criteria Opportunity criteria may be requested until before the indictment of the Public Prosecutor's Office is formulated.

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Article sheet

Third Section

Suspension of probationary proceedings

Article 25 - Proceeding. When the conditional suspension of the sentence is applicable or in cases of crimes punished exclusively with non-custodial sentences, the accused may request the suspension of the probationary procedure provided that, during the previous five years, he/she has not benefited from this measure or from the extinction of the criminal action due to reparation of the damage or conciliation. For such purposes, the Judicial Registry shall keep a file of the beneficiaries.

The measure will not be applicable in intentional crimes, when the act has been committed by means of force in things or violence against persons. This procedural institute may only be applied in crimes of patrimonial violence contemplated in Law No. 8589, Criminalization of Violence against Women, of April 25, 2007, when there is no violence against persons and provided that they have been processed with the application of the Law of Restorative Justice.

The request must contain a plan for reparation of the damage caused by the crime, to the satisfaction of the victim of known address, and a detail of the conditions that the accused is willing to comply with, in accordance with the following article. The plan may consist of conciliation with the victim, the natural reparation of the damage caused or a symbolic reparation, immediate or to be fulfilled in installments. If the request has been made and there is still no indictment, the Public Prosecutor's Office shall describe the act with which the accused is charged.

In order for the benefit to be granted, it is essential that the accused admits the act attributed to him and that the victim agrees to the suspension of the trial on probation.

At an oral hearing, the court shall hear the prosecutor, the victim of known domicile, as well as the defendant, on the request and shall rule immediately, unless it defers such discussion to the preliminary hearing. The decision shall establish the conditions under which the proceedings are suspended or the request is rejected and shall approve or modify the reparation plan proposed by the accused, according to reasonableness criteria.

The suspension of the proceeding may be requested at any time, even before the opening of the trial, without prejudice to its processing in accordance with the Restorative Justice Law, and shall not prevent the exercise of the civil action before the respective courts.

If the defendant's request is not admitted or the proceedings are subsequently resumed, the admission of the facts by the defendant may not be considered as a confession.

When the reparation plan for the damage caused by the crime incorporates the public utility service, it must observe the regulations of Article 56 bis of the Penal Code.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 26 - Conditions to be fulfilled during the probation period. The court shall set the probation period, which may not be less than two years or more than five years, and shall determine one or more of the rules to be complied with by the defendant, among the following:

- a) Residing in a specific place.
- b) Frequenting certain places or people.
- c) Refrain from consuming drugs or narcotics, or abusing alcoholic beverages.
- d) Participate in special treatment programs in order to abstain from using drugs, alcoholic beverages or committing criminal acts.
- e) Begin or complete primary schooling, if not completed; learn a profession or trade or follow training courses in a place or institution determined by the court.
- f) To render services or work for the State or public welfare institutions.
- g) Undergo medical or psychological treatment, if necessary.
- h) To remain in a job or employment, or to adopt, within a period of time to be determined by the court, a trade, art, industry or profession, if he has no means of subsistence of his own.
- i) To submit to the supervision determined by the court.
- j) Not to possess or carry weapons.
- k) Do not drive vehicles.
- l) Participate in and submit to the conditions of the treatment program under restorative judicial supervision, as set forth in the Restorative Justice Act.
- m) Participate in programs with socio-educational approaches to anger management, masculinity and related issues, for the prevention of domestic violence and violence against women.

The court may impose other similar rules of conduct only at the defendant's request, if it deems them to be reasonable.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 27- Notification and monitoring of probation conditions. The court shall personally explain to the defendant the conditions to be met during the probationary period and the consequences of failing to comply with them.

A specialized office, attached to the Directorate General of Social Adaptation, will be responsible for monitoring compliance with the rules imposed and reporting periodically to the court, within the time limits it determines, without prejudice to other persons or entities, such as the restorative

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headquarters under the Restorative Justice Act, also providing it with reports.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

ARTICLE 28.

Revocation of suspension

If the defendant fails to comply with the reparation plan, deviates significantly and unjustifiably from the conditions imposed or commits a new crime, the court shall give a three-day hearing to the Public Prosecutor's Office and the defendant and shall decide, by a well-founded order, on the resumption of the criminal prosecution. In the first case, instead of the revocation, the court may extend the probation period for up to two more years. This extension of the term may be imposed only once.

(As amended by Article 1, paragraph b) of Law No. 8146 of October 30, 2001)

Article sheet

ARTICLE 29.

Suspension of the probation period The probation period shall be suspended while the accused is deprived of his liberty in another proceeding. When the accused is subject to another proceeding and is at liberty, the term shall run, but the extinction of the criminal action may not be decreed until the resolution exonerating him from responsibility for the new act is final.

Article sheet

Fourth section

Extinction of criminal action

Article 30. Causes of extinction of the criminal action

The criminal action shall be extinguished for the following causes:

- a) Death of the accused.
- b) Dismissal of the complaint, in private action crimes.
- c) The payment of the maximum foreseen for the penalty of fine, made before the oral trial, in the case of crimes punishable only with that kind of penalty, in which case the court will make the corresponding fixing, at the request of the interested party, provided that the victim expresses his conformity.
- d) The application of a criterion of opportunity, in the cases and forms provided for in this Code.

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- e) Prescription.
- f) The expiration of the probationary suspension period, without its revocation.
- g) Pardon or amnesty.
- h) The revocation of the private instance, in crimes of public action whose prosecution depends on it.
- i) The death of the offended party, in cases of crimes of private action, unless the action already initiated by the victim is continued by his heirs, in accordance with the provisions of this Code.
- j) The integral reparation to the full satisfaction of the victim, of the particular or social damage caused, carried out before the oral trial, in crimes of patrimonial content without force in things or violence on persons and in culpable crimes, provided that the victim or the Public Prosecutor's Office admits it, as the case may be.

This ground is applicable provided that, during the previous five years, the accused has not benefited from this measure or from the suspension of probation or conciliation. For such purposes, the Judicial Registry shall keep a file of the beneficiaries.

- k) Conciliation, provided that during the previous five years, the accused has not benefited from this measure, from the suspension of the trial on probation or from the integral reparation of the damage.
- l) Failure to comply with the maximum terms of the preparatory investigation, in the terms established by this Code.
- m) When the investigation has not been reopened within one year after the provisional dismissal.

(Thus amended by Article 16 of the Law on the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009).

Article sheet

ARTICLE 31.- Time limits of prescription of the criminal action. If the criminal prosecution has not been initiated, the action shall prescribe:

- a) After a term equal to the maximum penalty has elapsed, in crimes punishable by imprisonment, it may not exceed ten years nor be less than three, except in crimes committed against minors, in which the statute of limitations shall begin to run from the time the victim has reached the age of majority.

(Thus amended by Article 1 of Law No. 9057 of July 23, 2012, "Reform of several laws on the Statute of Limitations for Damages caused to Minors").

b) Two years for crimes punishable only with non-custodial sentences and for misdemeanors or contraventions, except for crimes committed by legal persons, in which case the statute of limitations will be ten years.

(As amended by Article 41 of the Law on the liability of legal persons for domestic bribery, transnational bribery and other offences, No. 9699 of June 10, 2019)

c) Twenty-five years after the victim reached the age of majority, in the case of sexual crimes committed against minors, and twenty-five years after the consummation of the punishable act, of the last act of execution of the attempt or of the cessation of the continuous crime, as appropriate, when these crimes are committed against persons of legal age without volitional or cognitive capacity. The above rule shall apply indistinctly to any perpetrator, accomplice or participant responsible for the respective punishable act, provided that at the time of the crime they have reached the age of majority.

(Thus added the previous paragraph by the sole article of Law No. 9685 of May 21, 2019, "Law on the Right to Time, reforming the Criminal Code to extend the statute of limitations for criminal action in cases of sexual crimes against minors or persons without volitional or cognitive capacity").

(As amended by the sole article of Law No. 9826 of March 10, 2020)

Article sheet

ARTICLE 32.- Computation of the statute of limitations

The statute of limitations shall be governed by the principal penalty provided by law and shall begin to run, for consummated offenses, from the day of consummation; for attempted offenses, from the day on which the last act of execution was carried out and, for continuing or permanent offenses, from the day on which their continuance ceased.

The statute of limitations shall run, be suspended or interrupted, individually, for each of the subjects who participated in the crime. In the case of joint prosecution of several crimes, the respective criminal actions resulting therefrom shall prescribe separately within the term indicated for each one.

(Thus amended by the sole article of Law No. 9082 of October 12, 2012)

Article sheet

Article 33.- Interruption of statute of limitations periods

Once the proceeding has been initiated, the time periods established in the preceding article shall be reduced by half in order to compute them, for the purpose of suspending or interrupting the statute of limitations. The prescription periods shall be interrupted by the following:

- a) Appearance to render an indagatory statement, in crimes of public action.
- b) The filing of the complaint, in crimes of private action.
- c) The resolution convening the preliminary hearing.
- d) The appointment of the date for the debate.
- e) When the conduct of the debate is suspended for causes attributable to the defense, with the purpose of hindering the normal development of the debate, according to the declaration made by the court in a well-founded resolution.
- f) The issuance of the sentence, even if it is not final.

The interruption of the statute of limitations operates even in the event that the resolutions referred to in the preceding paragraphs are subsequently declared ineffective or null and void.

The judicial authority may not use as grounds for interruption of the statute of limitations other than those set forth in the preceding paragraphs.

(Thus amended by Article 81 of the Law against Trafficking in Persons and Creation of the National Coalition against Smuggling of Migrants and Trafficking in Persons (CONATT), No. 9095 of October 26, 2012).

Article sheet

ARTICLE 34.

Suspension of the computation of the statute of limitations The computation of the statute of limitations shall be suspended:

- a) When by virtue of a constitutional or legal provision, the criminal action cannot be promoted or prosecuted. This provision shall not apply when the fact cannot be prosecuted due to lack of private instance.
- b) In crimes committed by public officials in the exercise of their office or on the occasion thereof, while they continue to perform the public function and the process has not been initiated.
- c) In crimes related to the constitutional system, when the institutional order is broken, until its reestablishment.
- d) During the extradition process abroad.
- e) When the exercise of the criminal action has been suspended by virtue of a criterion of opportunity or by the suspension of the trial on probation and while such suspensions last.
- f) Due to the default of the accused. In this case, the term of the suspension may not exceed a period equal to that of the statute of limitations of the criminal action; once this period has elapsed, it will continue to run.

Once the cause for suspension has ended, the statute of limitations shall continue to run its course.

Article sheet

ARTICLE 35.

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Waiver of the statute of limitations The defendant may waive the statute of limitations.

Article sheet

Article 36- Conciliation. In misdemeanors or contraventions, in crimes of private action, of public action at private request, those that admit the conditional suspension of the penalty, conciliation between the victim and the accused will proceed at any time until the opening of the trial is agreed upon. It will also proceed in cases of crimes punished exclusively with non-custodial sentences, provided that the other requirements of this law are met. It is a requirement for the application of conciliation, in the case of a crime of public action and its application is appropriate, that during the previous five years the accused has not benefited from this measure, from the suspension of the trial on probation or from the integral reparation of the damage.

In such cases, if the parties have not previously proposed it, at the appropriate procedural moment, the court shall endeavor to have them state the conditions under which they agree to conciliate.

To facilitate the agreement of the parties, the court may request the advice and assistance of specialized persons or entities to seek agreements between the parties in conflict, or urge the interested parties to appoint an amiable compositeur. The conciliators shall keep secret what they learn in the deliberations and discussions of the parties. Likewise, conciliation may be agreed upon through the restorative procedure regulated in the Restorative Justice Law.

When the conciliation takes place, the court will homologate the agreements and declare the criminal action extinguished. However, the extinction of the criminal action will take effect from the moment in which the accused complies with all the obligations contracted. For such purpose, a maximum term of one year may be set, during which the statute of limitations of the criminal action is suspended.

If the defendant does not comply, without just cause, with the obligations agreed upon in the conciliation, the proceeding shall continue as if it had not been conciliated.

In the event of non-compliance for just cause, the parties may extend the term for up to six more months. If the victim does not agree to extend the time limit, or if the time limit expires without the defendant complying with the obligation, even for just cause, the process will continue, without the rules on conciliation being applicable again.

The court will not approve the conciliation when it has reasonable grounds to consider that any of the parties involved is not in equal conditions to negotiate or has acted under duress or threat, nor in crimes committed to the detriment of minors.

In crimes of a sexual nature, in domestic assaults and in crimes punishable under Law No. 8589, Criminalization of Violence against Women, the court should not seek conciliation between the parties nor should it convene a hearing for that purpose, except when expressly requested by the victim or her legal representatives.

The five-year term indicated in the first paragraph of Article 25, in paragraphs j) and k) of Article 30 and in this Article, shall be computed as from the finality of the resolution declaring the extinction of the criminal action.

The courts that approve the application of the suspension of probationary proceedings, full

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reparation of damages or conciliation, once the resolution is final, shall inform the Register

Judicial, for their respective registration. The Judicial Registry will keep a file of the beneficiaries with these measures.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

CHAPTER II CIVIL

ACTION

ARTICLE 37.

The civil action for restitution of the object that is the subject matter of the punishable act, as well as the reparation of the damages caused, may be brought by the injured party, his heirs, his legatees, the succession or by the beneficiary in the case of personal claims, against the perpetrators of the punishable act and participants in it and, if applicable, against the civilly liable party.

Article sheet

ARTICLE 38.

Civil action for social damage Civil action may be brought by the Office of the Attorney General of the Republic, in the case of punishable acts affecting collective or diffuse interests.

Article sheet

ARTICLE 39.

Delegation The civil action shall be exercised by a lawyer of an office specialized in the civil defense of victims, attached to the Public Prosecutor's Office, when:

- a) The holder of the action lacks resources and delegates its exercise.
- b) The holder of the action is incapable of asserting his rights and has no one to represent him, without prejudice to the intervention of the Patronato Nacional de la Infancia.

Article sheet

ARTICLE 40.

Accessory nature In criminal proceedings, the civil action for damages may only be brought in the

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following cases

while the criminal prosecution is pending. Once the accused has been provisionally acquitted or the proceedings have been suspended, in accordance with the provisions of the law, the exercise of the civil action shall be suspended until the criminal prosecution continues and the right to file suit before the competent courts shall remain unaffected. The judgment of acquittal shall not prevent the court from ruling on the civil action for compensation validly brought, when appropriate.

[Article sheet](#)

ARTICLE 41.

Alternative exercise The civil action may be exercised in the criminal proceeding, in accordance with the rules established by this Code, or it may be brought before the civil courts; but it may not be processed simultaneously in both jurisdictions.

[Article sheet](#)

CHAPTER III

EXCEPTIONS

ARTICLE 42.

Enumeration The Public Prosecutor's Office and the parties may raise defenses on the following grounds:

- a) Lack of jurisdiction or competence.
- b) Lack of action, because it could not be promoted, was not legally initiated or cannot be pursued.
- c) Extinction of the criminal action.

The exceptions shall be submitted to the competent court, which may assume, ex officio, the solution of any of the foregoing questions.

[Article sheet](#)

ARTICLE 43.-Procedure . The exceptions will be deduced orally in the hearings. The proof that justifies the facts on which they are based shall be offered. It will be given transfer of the management to the contrary part.

The court shall admit the relevant evidence and shall decide, without delay, as appropriate.

(Thus amended by Article 1° "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

[Article sheet](#)

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ARTICLE 44.

Effects If the lack of action is declared, the case will be filed, unless the prosecution may continue due to another intervening party; in this case, the decision will only displace from the proceeding the person affected. In the cases in which the extinction of the criminal prosecution or of the civil claim must be declared, the dismissal will be decreed or the lawsuit will be rejected, as the case may be.

[Article sheet](#)

BOOK I

CRIMINAL JUSTICE AND PROCEDURAL SUBJECTS

TITLE I

CRIMINAL

JUSTICE

CHAPTER I

JURISDICTION

ARTICLE 45.

Jurisdiction The jurisdiction of the courts of justice extends to the knowledge of criminal acts committed in the territory of the Republic, as well as those executed in places where the Costa Rican State exercises special jurisdiction. In addition, in the cases provided by law, they shall hear crimes committed outside the national territory.

[Article sheet](#)

ARTICLE 46.

Maintenance of jurisdiction When incompetence is discovered after the date for the oral trial has been set, the court empowered to try more serious crimes may not declare itself incompetent because the case corresponds to a court composed to try lesser punishable acts. The courts with jurisdiction to hear crimes shall also have jurisdiction to hear misdemeanors, when the main fact has been reclassified in the trial or when they are related to a crime. The procedure shall be the one established for the trial of the most serious crime. Once the date for the debate has been set, the territorial jurisdiction of a trial court may not be objected to.

[Article sheet](#)

ARTICLE 47.

Rules of jurisdiction In order to determine the territorial jurisdiction of the courts, the following rules shall be observed:

- a) The court shall have jurisdiction over punishable acts committed within the judicial district where it exercises its functions. If there are several judges in the same district, they shall divide their tasks in an equitable manner, in accordance with the distribution established for this purpose. In the event of doubt, the judge who has ordered the proceedings shall be the one to hear the case. The one who has issued the first order or resolution of the proceeding shall be deemed to have issued the order.
- b) When the crime committed in foreign territory has produced its effects in the Republic, the courts of the judicial district of the capital shall hear the case, even if the accused has been apprehended in any other judicial district of the country.
- c) When the punishable act has been committed on the border of two judicial districts or in several of them, the court that has taken cognizance of the case shall have jurisdiction.
- d) When the place of commission of the punishable act is unknown, the court of the judicial district where the accused resides shall have jurisdiction. If, subsequently, the place of commission of the offense is discovered, the court of the latter place shall continue the case, unless this would cause unnecessary procedural delay or prejudice the defense.
- e) In crimes committed aboard ships or aircraft, when they navigate in jurisdictional waters or national airspace, the judge of the place where the ship or aircraft arrives shall have jurisdiction. When the vessel or aircraft does not arrive in the national territory, a court of the capital of the Republic shall hear the case.

Article sheet

ARTICLE 48.

Incompetence At any stage of the proceedings, except for the exceptions provided for in this Code, the court that recognizes its incompetence shall refer the proceedings to the court it considers competent and shall place the detainees, if any, at its disposal. If the court receiving the proceedings disagrees with this criterion, it shall forward the proceedings to the court competent to resolve the conflict. The non-observance of the rules on competence will only produce the ineffectiveness of the acts carried out after the incompetence has been declared.

Article sheet

ARTICLE 49.

Effects Questions of competence shall not suspend the proceedings. However, if they occur before the hearing for the debate is fixed, they will suspend it until the decision of the conflict.

Article sheet

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ARTICLE 50.

Connection cases The causes are related:

- a) When the same person is charged with two or more offenses.
- b) If the alleged acts have been committed simultaneously by several persons together or even if they are in different places or times, when there has been an agreement between them.
- c) If a punishable act has been committed to perpetrate or facilitate the commission of another, or to procure profit or impunity for the guilty party or others.
- d) When the punishable acts have been committed reciprocally.

Article sheet

ARTICLE 51.

Jurisdiction in related cases When there is a connection, it shall have jurisdiction:

- a) The court empowered to try the most serious crime.
- b) If the offenses are punishable by the same penalty, the court that must intervene to judge the one that was committed first.
- c) If the crimes were committed simultaneously or it is not duly recorded which one was committed first, the court that has prevented.
- d) In the latter case, the court that indicates the competent body to hear the dispute on jurisdiction.

Article sheet

ARTICLE 52.

Material joinder Notwithstanding the joinder of two or more proceedings, the proceedings shall be compiled separately, unless it would be inconvenient for the normal conduct of the proceedings, although the same court must be involved in all of them.

Article sheet

ARTICLE 53.

Joinder of trials If several offenses are charged in the joinder of proceedings, the court may

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provide for the oral trial to be held in successive public hearings, for each of the facts. In this case, the court may decide on guilt at the end of each hearing, and shall fix the sentence for all cases after holding the final hearing. The rules provided for the holding of the debate in two phases shall be applicable.

[Article sheet](#)

ARTICLE 54.

Unification of sentences The court that handed down the last sentence, either ex officio or at the request of one of the parties to the proceedings, shall unify the sentences when several convictions have been handed down against the same person.

[Article sheet](#)

CHAPTER II

EXCUSES AND CHALLENGES

ARTICLE 55.

Grounds for excuse The judge must excuse himself from hearing the case:

- a) When in the same process he/she has pronounced or participated in the pronouncement of the order opening the trial or the sentence, or has intervened as an official of the Public Prosecutor's Office, defender, representative, complainant or plaintiff, or has acted as an expert, technical consultant or has knowledge of the investigated fact as a witness, or has a direct interest in the process.
- b) If he/she is the spouse, cohabitant with more than two years of life in common, relative within the third degree of consanguinity or affinity, of any interested party, or if he/she lives or has lived under his/her charge.
- c) If he/she is or has been a guardian or curator, or has been under guardianship or curatorship of any of the interested parties.
- d) When he, his spouse, cohabitant with more than two years of life in common, parents or children, have a pending lawsuit previously initiated, or a partnership or community with any of the interested parties, except for a corporation.
- e) If he, his wife, cohabitant with more than two years of life in common, parents, children or other persons living under his care, are creditors, debtors or guarantors of any of the interested parties, except in the case of banks of the National Banking System.
- f) When before the beginning of the process he/she had been a complainant or accuser of any of the interested parties, he/she had been denounced or accused by them, unless later circumstances demonstrate harmony between both.
- g) If you have given advice or extra-judicially expressed your opinion on the process.
- h) When he/she has intimate friendship or manifest enmity with any of the interested parties.

i) If he, his wife, cohabitant with more than two years of life in common, parents, children or other persons living under his care, have received or receive significant benefits from any of the interested parties or if, after the initiation of the process, he has received gifts or presents, even if of little value.

j) When a relative within the second degree of consanguinity has intervened or will intervene as judge in the case.

For the purposes of this article, the accused, the injured party, the victim and the civil defendant are considered interested parties, even if the latter are not constituted as parties; also, their representatives, defense counsel or agents.

Article sheet

ARTICLE 56.

The judge who is excused shall send the proceedings, by a well-founded resolution, to the person who must replace him. The latter shall take cognizance of the matter immediately and shall determine the procedure to be followed, without prejudice to submitting the records, in the same manner, to the respective court, if he/she considers that the excuse is unfounded. The incidence shall be resolved without proceeding. When the judge is a member of a collegiate court and recognizes a reason for excusal, he shall request the remaining members to order his removal.

Article sheet

ARTICLE 57.

Recusal The Public Prosecutor's Office and the parties may recuse the judge when they consider that he/she has a cause for which he/she should have been excused.

Article sheet

ARTICLE 58.-Time and form of recusal. When the challenge is formulated, the grounds on which it is based and the pertinent evidence shall be indicated, under penalty of inadmissibility. It shall be formulated within twenty-four hours after the grounds on which it is based are known. During the hearings, the challenge shall be made orally.

(Thus amended by Article 1° "Creation of the Appeal Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 59.

If the judge admits the recusal, he shall apply the procedure foreseen for the excuse. Otherwise, he will send the recusal and its report to the competent court or, if the judge is a member of a collegiate court, he will request the rejection of the recusal to the remaining members. If deemed necessary, a date shall be set for a hearing at which the evidence shall be received and the parties shall be informed. The competent court shall resolve the incident within twenty-four hours, without appeal.

[Article sheet](#)

ARTICLE 60.

Recusal of clerks and collaborators The same rules shall apply with respect to clerks and those who perform any function of judicial assistance in the proceeding. The court before which they act shall summarily investigate the motive invoked and shall rule accordingly. Once the excuse or recusal has been accepted, the official shall be separated from the case.

[Article sheet](#)

ARTICLE 61.

Once the excusal or disqualification has been accepted, the subsequent actions of the separated official shall not be effective. The intervention of the new officials shall be definitive, even if the reasons for the separation subsequently disappear.

[Article sheet](#)

TITLE II

PUBLIC PROSECUTOR'S OFFICE AND JUDICIAL POLICE

CHAPTER I

THE PUBLIC MINISTRY

ARTICLE 62.

Functions The Public Prosecutor's Office will exercise the criminal action in the manner established by law and will practice the pertinent and useful diligences to determine the existence of the criminal act. It will be in charge of the preparatory investigation, under jurisdictional control in the acts that require it.

The representatives of the Public Prosecutor's Office must formulate their requirements and conclusions in a reasoned and specific manner.

[Article sheet](#)

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ARTICLE 63.

Objectivity In the exercise of its function, the Public Prosecutor's Office shall adapt its actions to an objective criterion and shall ensure effective compliance with the guarantees recognized by the Constitution, International and Community Law in force in the country and the law. It shall investigate not only the circumstances that make it possible to prove the accusation, but also those that serve to exonerate the accused from responsibility; likewise, it shall formulate the requirements and requests in accordance with this criterion, even in favor of the accused.

[Article sheet](#)

ARTICLE 64.

Distribution of functions In addition to the functions agreed by law, the representatives of the Public Prosecutor's Office will act, in the criminal process, in accordance with the distribution of tasks established by the Attorney General of the Republic.

[Article sheet](#)

ARTICLE 65.

International cooperation When criminal activities are carried out, in whole or in part, outside the national territory, or are attributed to persons linked to a regional or international organization, in cases where Costa Rican criminal legislation must be applied, the Public Prosecutor's Office may form joint investigation teams with foreign or international institutions. The joint investigation agreements must be approved and supervised by the Attorney General.

[Article sheet](#)

ARTICLE 66.

Excuses and recusals Insofar as they are applicable to them, officials of the Public Prosecutor's Office must excuse themselves and may be recused on the same grounds as those established for judges, except for the fact that they intervene as accusers in the proceedings. The excuse or recusal shall be resolved by the hierarchical superior, after such investigation as he may deem appropriate.

[Article sheet](#)

CHAPTER II

THE JUDICIAL POLICE

ARTICLE 67.

Function As an auxiliary of the Public Prosecutor's Office and under its direction and control, the judicial police shall investigate crimes of public action, prevent their consummation or exhaustion, identify the perpetrators and participants, gather the evidence useful to support the accusation and perform the other functions assigned to it by its organic law and this Code.

[Article sheet](#)

ARTICLE 68.

Direction The Public Prosecutor's Office shall direct the police when it must assist in the work of investigation. The officers and agents of the judicial police shall always comply with the orders of the Public Prosecutor's Office and those that, during the course of the proceedings, are directed to them by the judges. In exceptional cases and with justification, the Prosecutor General may directly designate judicial police officers to assist him in a specific investigation. In this case, the police authorities may not be removed from the investigation without the express approval of that official.

[Article sheet](#)

ARTICLE 69.

Formalities Judicial police officers and agents shall respect the formalities established for the investigation, and shall subordinate their actions to the general or specific instructions issued by the Public Prosecutor's Office.

[Article sheet](#)

TITLE III

THE VICTIM

CHAPTER I

VICTIM'S RIGHTS

Article 70.- Victims

They will be considered victims:

- a) The person directly offended by the crime.
- b) The spouse, the cohabitant with more than two years of life in common, the son or daughter, the adoptive mother and father, the relatives within the third degree of consanguinity or the second degree of consanguinity or the second

of affinity and the judicially declared heir, in crimes whose result is the death of the offended party.

c) The partners, associates or members, with respect to crimes affecting a legal person, committed by those who direct, administer or control it.

d) Associations, foundations and other entities that have a registry character, in crimes that affect collective or diffuse interests, as long as the object of the grouping is directly related to such interests.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009).

Article sheet

Article 71.- Rights and duties of the Article 71.- Rights and duties of the victim. Even if the victim has not been constituted as a plaintiff, he/she shall have the following rights within the process:

1) Rights to information and treatment:

a) To be treated with dignity, respecting their fundamental rights and seeking to reduce or avoid re-victimization as a result of the process.

b) To have their special needs considered, such as physical, sensory or mental limitations, as well as social, cultural or ethnic differences.

c) To be informed, in the first contact she has with the judicial authorities, of all rights and powers, as well as her duties, on the occasion of her intervention in the process, in addition, to have access to the judicial file.

d) To indicate an address, place or means where the decisions adopted can be communicated to her and where she can be located, as well as to have this information channeled through a reserved channel at the discretion of the Office of Attention to the Victim of the Crime of the Public Prosecutor's Office, in case she is subject to protection.

e) To be informed of all final resolutions adopted, as well as of changes or modifications in the precautionary measures that have been adopted due to the existence of a risk to his safety, life or physical integrity, provided that he has indicated an address, place or means where he can be informed.

f) To be informed of her right to request and obtain special protection in case of serious risks or threats to herself or her family, due to her complaint or intervention in the process.

g) To be informed of the need to participate in certain examinations or expert opinions, to have their scope explained to her, and to have a person of her trust present to accompany her during these examinations or expert opinions, provided that this does not jeopardize her safety or put the investigation at risk.

h) To be informed by the prosecutor in charge of the case, of his decision not to appeal the acquittal or the termination or modification of the precautionary measures adopted due to the existence of a risk to his life or physical integrity, within the formal deadline for appealing each of these resolutions and with an indication of the reasons for not doing so, provided that he has indicated an address, place or means to be informed.

i) The right to be informed about the possibility of resolving the case through the restorative justice procedure, as stipulated in the Restorative Justice Act.

(Thus added the above subsection by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

2) Protection and assistance rights:

a) Extraprocedural protection:

The victim shall have the right to request and obtain special protection in the event of serious risks or threats to his or her life or physical integrity or that of his or her family members, due to his or her denunciation or intervention in the process. The Public Prosecutor's Office, the police, the judge or the trial court hearing the case shall take the necessary measures to ensure that this protection is provided. The victim shall be heard in all proceedings in which it is intended to provide protection. The Office of Attention to the Victims of Crime of the Public Prosecutor's Office shall coordinate with all the prosecutors' offices in the country for the protection of victims and shall channel, through them, the necessary information to support the protection measures or requests for precautionary measures, as regulated in the final paragraph of Article 239 of this Code.

b) Procedural protection:

When their knowledge represents a risk to their life or physical integrity or that of their family members, due to their denunciation or intervention in the process, the victim will have the right to reserve their identification data, such as name, identity card and address, telephone numbers or place of work, and that they are not included in the documentation of the process; In addition, in the exceptional cases indicated in article 204 bis of this Code, the victim shall have the right to keep his or her individualizing physical characteristics confidential, when, due to the nature of the act, these are not known by the accused or other persons related to him or her, without prejudice to the right of defense. In order to ensure his testimony and protect his life, the available technological means such as videoconference or any other similar means may be used to make the agreed protection effective, both when the jurisdictional advance of evidence is used and at trial, under the terms and according to the procedure regulated in articles 204 and 204 bis of this Code.

c) Underage victims, female victims of sexual abuse or violence and victims of human trafficking and violent acts shall be entitled to assistance and support measures by the personnel designated for such purpose, both in the Judiciary as well as in the Ministry of Security and other institutions, in order to reduce revictimization due to their intervention in the process and facilitate their participation in the different judicial proceedings, such as expert opinions or hearings.

d) Underage victims shall have the right to have their best interests considered when any diligence or expertise is carried out and, especially, when their testimony is received; to this end, the Public Prosecutor's Office, the judge or the trial court hearing the case, shall adopt the necessary measures to reduce the formalities and receive their testimony, under the special conditions that may be required. An opinion may be requested, if necessary, from the Department of Social Work and Psychiatry and Forensic Psychology or from some other expert or expert, duly appointed, always safeguarding the right of defense, as regulated by Articles 212, 221 and 351 of this Code.

e) The victim shall be entitled to paid leave of absence from his employer, public or private, when he has to attend judicial proceedings, expert opinions or appear before a court summons and for the time necessary to do so. In order to prove attendance to such acts, the office hearing the case or before whom the proceeding is carried out, shall issue the respective voucher, indicating the nature of the act and the effective duration of the proceeding. The Public Prosecutor's Office, the judge or the trial court hearing the case shall adopt the necessary measures to prevent the victim from being subjected to multiple summons or appearances; in addition, whenever possible, the hearings shall be scheduled so that the testimony is given as soon as possible and the leave granted is not abused.

3) Procedural rights:

a) The victim has the right to denounce by himself, by a third party whom he has authorized or by proxy, the acts committed to his detriment.

b) The victim directly offended by the act has the right to be heard at trial, even if the Public Prosecutor's Office does not offer him/her as a witness. In all the steps that this Code authorizes the victim to take, the victim's right to be heard shall prevail. The absence of formalities of interposition may not be alleged as a cause for not resolving her petitions, and she shall have the right to be notified of the correction of the defects under the terms of Article 15 of this Code.

c) To appeal the final dismissal, in the preparatory, intermediate and trial stages, as well as the dismissal.

d) When the Public Prosecutor's Office informs him of its decision not to challenge the acquittal, the cessation or modification of the precautionary measures adopted due to the existence of a risk to his life or physical integrity and the victim does not agree, he shall have the right to appeal such decisions, under the terms set forth in Article 426 of this Code.

e) To be summoned to the preliminary hearing, in all cases, as long as she has indicated an address, place or means where she can be located and to have her criteria considered, when the application of the abbreviated procedure, the suspension of the trial on probation, conciliation or the application of a criterion of opportunity, in the terms and scope defined in this Code, is being considered. In any case in which he is present, he shall be given the floor.

f) To exercise the civil action for compensation, in the terms and scope defined by this Code, to file a complaint in private action crimes, to revoke the instance in public action crimes dependent on private instance, to request the conversion of the action, to request

the conversion of the action, and to request the conversion of the action to a private action.

public in private action, as well as to desist from their complaints or actions, all in the terms and scope defined by this Code.

g) To be informed by the Public Prosecutor's Office of its decision to file charges, request dismissal or the application of an opportunity criterion, so that, under the terms regulated in this Code, it may decide whether to file a complaint and become a plaintiff, or whether to file a civil action for restitution.

h) When preventive detention is requested due to the existence of risks or threats to the life or physical integrity of the victim or his relatives, he will have the right to be heard by the judge, when deciding on the request made by the Public Prosecutor's Office, as long as he has indicated a domicile, place or means to be located. She may make her statement in writing to be presented by the prosecutor together with the request for imprisonment, without prejudice to the judge's decision to hear her. For such purposes, the prosecutor in charge of the case may request information from the Office of Attention to the Victim of the crime of the Public Prosecutor's Office, in order to support his request, in the terms regulated in the final paragraph of article 239 of this Code.

i) To go before the judge of the preparatory stage, to point out the errors, omissions or delays that he deems have occurred in the investigation of the facts to his detriment, in the terms established in the last paragraph of article 298 of this Code. Likewise, he/she may object to the prosecutor's decision to close the case under the terms set forth in the aforementioned numeral 298.

j) To have returned to him as soon as possible, even as a provisional deposit, all property or valuables that have been seized or recovered by the authorities, for the purpose of being used as evidence.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009).

Article sheet

CHAPTER II

THE PLAINTIFF IN PRIVATE ACTION CRIMES

ARTICLE 72.

Complainant in crimes of private action Any person with civil capacity who claims to be the victim of a crime of private action shall have the right to file a complaint and to jointly exercise the civil action for compensation, in accordance with the provisions of this Code.

The legal representative of the minor or the incapacitated person for offenses committed to his detriment shall enjoy the same right.

Article sheet

ARTICLE 73.

Representation The plaintiff must act under the sponsorship of a lawyer. When there are several plaintiffs, they must act under a single representation, which will be ordered ex officio if they do not reach an agreement.

[Article sheet](#)

ARTICLE 74.

Form and content of the complaint The complaint shall be filed in writing, in person or by a representative with special power of attorney, and shall state, under penalty of inadmissibility, that it is inadmissible:

- a) The name, surname and domicile of the plaintiff and, if applicable, also those of the agent.
- b) The name, surname and address of the defendant or, if unknown, any description that serves to identify him/her.
- c) A clear, precise and circumstantial account of the fact, with indication of the place and time when it was executed, if known.
- d) The specific request for the relief sought, if the civil action is brought.
- e) The evidence offered.
 - i) In the case of witnesses and experts, the name, surname, profession, domicile and the facts on which they are to be examined must be indicated.
 - ii) When the complaint is about slander, libel or defamation, the document or recording that, in the plaintiff's opinion, contains them, if it is possible to present them.
- f) The signature of the person acting or, if he/she does not know how or is unable to sign, that of another person at his/her request.

A copy of the pleading and the power of attorney shall be attached for each respondent.

[Article sheet](#)

CHAPTER III

THE PLAINTIFF IN PUBLIC ACTION CRIMES

ARTICLE 75.

Complainant in crimes of public action In crimes of public action, the victim and his

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representative or guardian, in case of minority or incapacity, may provoke the criminal prosecution,

to adhere to the one already initiated by the Public Prosecutor's Office or continue with its exercise, under the terms and conditions established in this Code.

The same right will have any person against public officials who, in the exercise of their functions or on the occasion thereof, have violated human rights; in the case of crimes committed by officials who have abused their office as well as against those who commit crimes that harm diffuse interests.

[Article sheet](#)

ARTICLE 76.

Formalities of the complaint The complaint for a crime of public action must meet, as far as possible, the same requirements as the indictment, and shall be filed before the representative of the Public Prosecutor's Office who carries out or must carry out the investigation. If the plaintiff exercises the civil action, he/she must indicate the character he/she invokes and the damage whose reparation is sought, although he/she does not specify the amount. The plaintiff must act under the sponsorship of a lawyer. The complaint may be initiated and pursued by a representative, with a special power of attorney for the case.

[Article sheet](#)

ARTICLE 77.

Timeliness The complaint may be filed during the preparatory proceedings. The Public Prosecutor's Office shall reject the request for constitution when the interested party does not have standing. Once the complainant has been informed of the rejection, he may, within the third day, go before the court of the preparatory proceeding to resolve the dispute.

[Article sheet](#)

ARTICLE 78.

Express withdrawal The plaintiff may withdraw his claim at any time. In this case, he shall bear his own costs and shall be subject to the general decision of the court, unless otherwise agreed by the parties.

[Article sheet](#)

ARTICLE 79.

Tacit withdrawal The complaint shall be considered withdrawn when the plaintiff, without just cause, does not appear:

- a) To give a testimonial statement or to carry out any means of proof for the practice of which his presence is necessary, after being summoned.
- b) To the preliminary hearing.
- c) At the first hearing of the debate, he/she leaves the hearing or does not present conclusions.

In cases of failure to appear, if possible, just cause must be shown before the hearing begins or, if not, within forty-eight hours of the date set for the hearing.

The discontinuance shall be declared by the court ex officio or at the request of any of the intervening parties. Only an appeal for revocation shall be admitted against this decision.

Article sheet

ARTICLE 80.

Powers The complaint will not alter the powers granted to the Public Prosecutor's Office with respect to the exercise of the criteria of opportunity and the suspension of the trial on probation. The complainant may file the appeals authorized to the Public Prosecutor's Office by this Code. The intervention as plaintiff shall not exempt from the duty to testify as a witness.

Article sheet

TITLE IV

THE ACCUSED

CHAPTER I

GENERAL RULES

ARTICLE 81.

Denomination A person who, through any act of the investigation or proceeding, is indicated as a possible perpetrator of a punishable act or participant in it, shall be called a defendant.

Article sheet

ARTICLE 82.

Rights of the accused The judicial police, the Public Prosecutor's Office and the judges, as appropriate, shall inform the accused, in an immediate and understandable manner, that he/she has the following rights:

- a) To know the cause or reason for his deprivation of liberty and the official who ordered it,

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showing him, as appropriate, the order issued against him.

- b) To have an immediate and effective communication with the person, association, group or entity to which you wish to communicate your capture.
- c) To be assisted, from the first act of the proceeding, by the defense counsel appointed by him, his relatives or the group to which his capture was communicated and, failing this, by a public defender.
- d) To appear or be presented to the Public Prosecutor's Office or to the court, to be informed and to learn of the facts with which he is charged.
- e) To refrain from testifying and, if he/she agrees to do so, to have his/her defense counsel present at the time of giving his/her statement and in other proceedings in which his/her presence is required.
- f) Not to be subjected to techniques or methods that induce or alter their free will or violate their dignity.
- g) No means may be used against them that prevent their free movement in the place and during the performance of a procedural act, without prejudice to the surveillance measures that, in special cases, may be ordered by the court or the Public Prosecutor's Office.

Article sheet

ARTICLE 83.

Identification The accused must provide personal identification data and show his identity document. If he does not provide them or it is deemed necessary, a record will be requested from the Civil Registry, without prejudice that a technical office performs his physical identification using his personal data, fingerprints and particular signs. The identification by witnesses in the manner prescribed for examinations, or other means deemed useful, may also be used. Doubts about the data obtained shall not alter the course of the proceeding and errors concerning them may be corrected at any time, even during the penal execution.

These measures may be applied even against the defendant's will.

Article sheet

ARTICLE 84.

Domicile In his first intervention, the defendant must indicate his domicile and indicate the place or manner to receive notifications. This information must be kept up to date.

Article sheet

ARTICLE 85.

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Supervening incapacity If during the proceedings a mental disorder of the accused occurs, which excludes his capacity to want or understand the acts of the proceeding, or to act in accordance with that knowledge and will, the proceeding shall be suspended until such incapacity disappears. However, it shall not prevent the investigation of the fact or the continuation of the proceedings with respect to other defendants. The incapacity shall be declared by the court, after expert examination.

[Article sheet](#)

ARTICLE 86.

Internment for observation If the internment of the accused is necessary to prepare the expert report on his capacity, the measure may be ordered by the court, at the request of the experts, only when there is a probability that the accused has committed the act and this measure is not disproportionate to the importance of the penalty or security measure that could be imposed. The internment may not be prolonged for more than one month and will only be ordered if it is not possible to carry it out with the use of another less drastic measure.

[Article sheet](#)

ARTICLE 87.

Mandatory mental examination The defendant shall undergo a psychiatric or psychological examination when:

- a) The commission of crimes of a sexual nature against minors or domestic aggression is attributed to him/her.
- b) The person is over seventy years of age.
- c) Prima facie, it can be estimated that, in case of conviction, he will be sentenced to more than fifteen years of imprisonment.
- d) The court considers that it is indispensable to establish the capacity of guilt in the fact.

[Article sheet](#)

ARTICLE 88.

The accused as an object of evidence A bodily investigation of the accused may be ordered in order to ascertain circumstances important to discover the truth. For this purpose and by order of the court, bodily interventions will be admissible, which will be carried out according to the rules of medical knowledge, even without the consent of the accused, as long as these measures do not affect his health or physical integrity, nor seriously contradict his beliefs. Taking of blood and skin samples,

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Nail or hair cutting, taking photographs and fingerprints, voice recording, tattooing and deformations, alterations or defects, body palpations and, in general, those that do not cause any harm to health or physical integrity, according to common experience, nor degrade the person, may be ordered directly by the Public Prosecutor's Office, during the preparatory proceedings, provided that they are carried out by an expert and are not considered risky. Otherwise, the authorization of the court will be required, which will decide after consultation with an expert if necessary. These rules are also applicable to other persons, when it is absolutely indispensable to discover the truth.

[Article sheet](#)

ARTICLE 89.

The accused shall be declared in absentia if, without serious impediment, he fails to appear at a summons, absconds from the establishment or place where he is detained, or absents himself from his domicile without notice.

[Article sheet](#)

ARTICLE 90.

Effects The declaration of default or incapacity shall suspend the preliminary hearing and the trial, unless, in the latter case, the procedure for the application of a security measure is applicable. Failure of the accused to appear at the preliminary hearing shall not result in his default. The proceeding shall only be paralyzed with respect to the defaulting person and shall continue for the defendants present. When the default of appearance is decreed, the arrest of the accused shall be ordered. During the preparatory proceedings, the order shall be requested from the court. If the accused appears after the declaration of default and justifies his absence by virtue of a serious and legitimate impediment, it shall be revoked and shall not produce any of the effects indicated in this rule.

[Article sheet](#)

CHAPTER II

STATEMENT OF THE ACCUSED

ARTICLE 91.

Opportunities and competent authority When there is sufficient reason to suspect that a person has participated in the commission of a punishable act, the officer of the Public Prosecutor's Office in charge of the investigation shall proceed to receive a statement from that person.

If the accused has been apprehended, he must be heard immediately or, at the latest, within twenty-four hours of his apprehension. The time limit shall be extended for a further period, when it is necessary for the appearance of the defendant's defense counsel.

The accused shall have the right to testify when he deems it indispensable, provided that his statement is relevant and does not constitute a dilatory measure of the proceeding.

Article sheet

ARTICLE 92.

Preliminary warnings At the beginning of the reception of the statement, the officer receiving the statement shall inform the accused, in detail, of the fact attributed to him, its legal qualification and a summary of the content of the existing evidence. Also, the proceedings gathered up to that moment will be made available to the accused. Before beginning the statement, he shall be warned that he may refrain from testifying on the facts, without his silence being prejudicial to him or affecting him in any way and that, if he testifies, his statement may be taken into consideration even against him. He will be warned to indicate the place or manner of receiving notifications. In addition, he will be instructed that he may request the taking of evidence, make his statement and, in general, he will be informed of his procedural rights.

Article sheet

ARTICLE 93.

Appointment of defense counsel Before the accused testifies about the facts, he shall be required to appoint an attorney, if he does not have one, to assist him and shall be informed that he may demand his presence and consult with him on all matters relating to his defense. In that case, if the defense counsel is not present, he shall be given immediate notice, by any means, to appear. If he is not found, a new hearing will be set for the following day, and he will be formally summoned. If the defense counsel does not appear or the accused does not designate one, a public defender shall be provided immediately.

Article sheet

ARTICLE 94.

Identification questioning The accused will then be asked to indicate his name, surname, nickname or nickname, age, marital status, profession or trade, nationality, date and place of birth, address, place of work and living conditions, telephone numbers of his home, place of work or any other place where he can be reached; he will also be asked to show his identity document and indicate the name, status, profession or trade and address of his parents.

Article sheet

ARTICLE 95.

Statement of the fact When the accused states that he wishes to make a statement, he shall be invited to express whatever he deems appropriate, in exoneration or clarification of the facts, and to indicate the

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evidence he deems appropriate. His statement shall be recorded faithfully and, as far as possible, in his own words.

The authority receiving the statement and the parties may direct questions to him/her, provided they are pertinent. The statement of fact may only be received in the presence of the defense counsel.

[Article sheet](#)

ARTICLE 96.

Prohibitions In no case shall the accused be required to take an oath or promise to tell the truth, nor shall he be subjected to any kind of coercion or threat, nor shall any means be used to force, induce or determine him to testify against his will, nor shall charges or counterclaims be made against him to obtain his confession. Measures that impair the accused's freedom of decision, his memory or his capacity to understand and direct his actions, in particular, ill-treatment, threats, exhaustion, physical violence, torture, the administration of psychotropic drugs and hypnosis, are prohibited. The promise of an advantage shall only be admitted when it is specifically provided for by law. If for the duration of the act signs of fatigue or lack of serenity are noticed, the statement will be suspended, until they disappear. The questions will be clear and precise; captious or suggestive questions will not be allowed and the answers will not be peremptorily urged.

[Article sheet](#)

ARTICLE 97.

Treatment during the statement The accused will always testify with freedom of movement, without the use of security instruments, except when it is absolutely indispensable to avoid his escape or harm to other persons. This circumstance shall be recorded in the record. Likewise, the accused will declare only with the presence of the persons authorized to attend the act or in public when the law allows it. [Article sheet](#)

Article 98.- Police powers

During the first six hours after his apprehension or detention, and in the presence of his trusted defense counsel and/or public defender assigned to him, the OIJ agents, in compliance with their functions, and respecting the constitutional guarantees and procedural rights of the detainees, may verify his identity and interrogate him for investigative purposes.

If at a later time, as indicated in the first paragraph of this article, the detainee expresses his desire to testify or expand his statements, the Public Prosecutor's Office shall be informed of this fact so that these may also be received with the formalities provided by law.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009).

[Article sheet](#)

ARTICLE 99.

The non-observance of the precepts relating to the statement of the accused will prevent it from being used against him, even if he has given his consent to violate a rule or to use his statement. The purely formal non-compliances will be corrected during or after the act. When assessing the act, the judge shall evaluate the quality of such non-compliances in order to determine whether to proceed in accordance with the preceding paragraph.

[Article sheet](#)

TITLE V

ADVOCATES AND LEADERS

ARTICLE 100.

Right of choice The accused shall have the right to choose as defense counsel a lawyer of his confidence.

The intervention of the defense counsel shall not prejudice the right of the accused to make requests and observations.

When it does not impair the effectiveness of the technical defense, he may defend himself.

[Article sheet](#)

ARTICLE 101.

Intervention The designated defense counsel shall be admitted to the proceedings immediately and without any formality, both by the police and by the Public Prosecutor's Office and the court, as the case may be. The practice as defense counsel shall be mandatory for the lawyer who accepts to intervene in the proceedings, unless there is a well-founded excuse.

[Article sheet](#)

ARTICLE 102.

Subsequent appointment During the course of the proceeding, the accused may appoint a new defense counsel; however, the former counsel may not withdraw from the defense until the appointed counsel takes part in the proceeding.

[Article sheet](#)

ARTICLE 103.

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In proceedings for private action crimes or crimes not punishable by deprivation of liberty, the accused may be represented by a defense counsel with special power of attorney for the case, who may replace him in all acts, except in the statement. However, the court may require the presence of the accused when it deems it indispensable.

[Article sheet](#)

ARTICLE 104.

Resignation and abandonment The defense counsel may resign from the exercise of the defense. In this case, the court or the Public Prosecutor's Office will set a deadline for the defendant to appoint another. If he does not appoint one, he shall be replaced by a public defender. The resigning defendant may not abandon the defense as long as his replacement does not intervene. The defendant may not resign during the hearings or once he has been notified that they have been scheduled. If the defense counsel, without just cause, abandons the defense or leaves the accused without technical assistance, a public defender shall be appointed and he may not be appointed again. The decision shall be communicated to the accused, and he shall be informed of his right to choose another defense counsel. When the abandonment occurs before the trial begins, its commencement may be postponed for a period not exceeding five days, if the new defense counsel so requests.

[Article sheet](#)

ARTICLE 105.

Sanctions Abandonment of the defense shall constitute a serious misconduct. The court shall bring the matter to the attention of the Bar Association, so that the latter, in accordance with the established procedure, may fix the corresponding sanction. This offense will be sanctioned with the suspension to practice the profession for a period of one month to one year and with the payment of a sum of money equivalent to the cost of the hearings that had to be repeated due to the abandonment. For this purpose, the salaries of the public officials involved and those of the private individuals shall be taken into account. This pecuniary sanction shall be used for training programs by the Bar Association.

[Article sheet](#)

ARTICLE 106.

Number of counsel The accused may not be defended simultaneously by more than two counsel. When two defense attorneys intervene, the notification made to one of them will be valid for all of them and the substitution of one for the other will not alter procedures or deadlines.

[Article sheet](#)

ARTICLE 107.

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Common defense counsel The common defense of several defendants shall be admissible, provided that there is no incompatibility. However, if such incompatibility is detected, it shall be corrected ex officio and the necessary steps shall be taken to replace the defense counsel.

[Article sheet](#)

ARTICLE 108.

Guarantees for the exercise of the defense The seizure of things related to the defense will not be admissible, nor will the interception of the communications of the accused with his defense attorneys, technical consultants and their assistants, nor those between them and the persons who assist them.

[Article sheet](#)

ARTICLE 109.

Interview with detainees The accused who is in custody, even with the police, shall have the right to a private interview with the defense counsel from the beginning of his arrest.

[Article sheet](#)

ARTICLE 110.

Identification All attorneys who intervene as authenticators, advisors or representatives of the parties in the process must state their Bar Association registration number on the pleadings in which they appear. The proceedings will not be attended as long as this requirement is not complied with.

[Article Sheet](#)

TITLE VI CIVIL

PARTIES

CHAPTER I

CIVIL ACTOR

ARTICLE 111.

To bring an action for damages, the holder of the action must become a plaintiff.
civili
an.

Those who do not have the capacity to act in court must be represented or assisted in the manner prescribed by civil law.

The civil plaintiff must be represented by a lawyer and may be represented by an agent with special power of attorney.

Article sheet

ARTICLE 112.

Requirements of the initial brief The brief in which the civil plaintiff appears shall contain:

- a) The name and domicile of the plaintiff and, if applicable, of its representative. In the case of collective entities, the name, registered office and the name of its directors.
- b) The name and domicile of the civil defendant, if any, and its legal link to the act attributed to the defendant.
- c) The indication of the process to which it refers.
- d) The grounds on which the action is based, with an indication of the nature invoked and the damage whose reparation is sought, even if the amount is not specified.

Article sheet

ARTICLE 113.

Civilly liable defendant The exercise of the civil action shall proceed even when the defendant is not individualized. If in the proceeding there are several defendants and civilly liable, the claim for compensation may be directed against one or more of them. When the plaintiff does not mention any defendant in particular, it shall be understood that it is directed against all of them.

Article sheet

ARTICLE 114.

Opportunity The request must be made to the Public Prosecutor's Office during the preparatory proceedings, before the public prosecutor's request or the criminal complaint is filed, or together with the latter. **Article Sheet**

ARTICLE 115.

Transfer of the civil action The Public Prosecutor's Office shall communicate the content of the action to the accused, the civil defendant, the defense counsel and, if applicable, the plaintiff, at the place they have indicated and, if they have not done so, personally or at their place of residence. When the defendant has not been identified, the communication shall be made as soon as he has been identified. Any intervening party may oppose the participation of the civil plaintiff by raising the appropriate exceptions. In such a case, the opposition shall be brought to the attention of the plaintiff and its resolution shall be reserved for the preliminary hearing. The acceptance of the civil actor may not be contested again on the same grounds.

The inadmissibility of the request shall not preclude the exercise of the action before the civil jurisdiction.

[Article sheet](#)

ARTICLE 116.

Powers The civil plaintiff shall act in the proceeding only by reason of his civil interest. He shall limit his intervention to prove the existence of the act and to determine its authors and participants, the imputation of that act to whom he considers responsible, the link with the civilly liable third party, the existence, extent and quantification of the damages and losses whose reparation he seeks. The civil plaintiff may appeal against the resolutions only with respect to the action brought by him. The intervention by itself, as a civil plaintiff, does not exempt from the duty to testify as a witness.

[Article sheet](#)

ARTICLE 117.

Withdrawal The civil plaintiff may expressly withdraw his claim at any stage of the proceedings.

The action will be considered tacitly withdrawn when the civil plaintiff does not timely specify his claims or when he fails to appear without just cause:

- a) To give a testimonial statement or to the performance of any means of evidence for the practice of which his presence is required, after being summoned.
- b) To the preliminary hearing.
- c) At the first hearing of the debate, he/she leaves the hearing or does not present conclusions.

In cases of non-appearance, just cause must be shown, if possible, before the beginning of the hearing; otherwise, within forty-eight hours following the date set for the hearing.

[Article sheet](#)

ARTICLE 118.

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Effects of withdrawal The tacit withdrawal shall not prejudice the subsequent exercise of the reparatory action before the competent courts, according to the civil procedure. Once the withdrawal has been declared, the civil plaintiff shall be ordered to pay the costs incurred by his action.

[Article sheet](#)

CHAPTER II

THE CIVIL DEFENDANT

ARTICLE 119.

Civil defendant Whoever brings the action for damages may sue the person who, according to the law, is liable for the damage caused by the defendant through the punishable act.

[Article sheet](#)

ARTICLE 120.

Effects of non-appearance The non-appearance of the civil defendant or his non-attendance at the acts shall not suspend the proceedings, which shall continue as if he were present. However, he may appear at any time. If he has been notified by edicts, a public defender shall be appointed as his representative for the duration of his absence.

[Article sheet](#)

ARTICLE 121.

Spontaneous intervention The third party who may be a civil defendant may request his participation in the proceeding, when the civil action for damages is exercised. His request shall comply, as applicable, with the requirements for the writ in which the civil plaintiff appears and shall be admissible before the Public Prosecutor's Office requests the opening of the trial or the dismissal of the case. The intervention will be communicated to the parties and their defense counsel.

[Article sheet](#)

ARTICLE 122.

Opposition The compulsory or spontaneous intervention of the civil defendant may be opposed, as the case may be, by the defendant himself, by the person bringing the civil action, if he has not requested the summons, or by the defendant. When the exclusion of the civil defendant has been requested by the civil plaintiff, the latter may not subsequently bring an action against the former. The rules on opposition to

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the participation of the civil defendant shall be applicable.

civil actor.
[Article sheet](#)

ARTICLE 123.

Exclusion The exclusion of the civil plaintiff or the dismissal of his action shall terminate the intervention of the third party civil defendant.

[Article sheet](#)

ARTICLE 124.

Powers From the time of his intervention in the proceeding, the third party civil defendant shall enjoy all the powers granted to the defendant for his defense, as regards his civil interests. Intervention as a third party shall not exempt him from the duty to testify as a witness. The civil defendant shall act under the sponsorship of a lawyer and may appeal against the judgment declaring his liability.

[Article sheet](#)

TITLE VII

AUXILIARY TO THE PARTIES

ARTICLE 125.

Assistants The parties may appoint assistants to assist them in their task. In such case, they shall assume responsibility for their selection and supervision.

The assistants shall only perform ancillary tasks, but may not replace those they assist. They will be allowed to attend the hearings, without intervening directly in them.

This rule shall also apply to the participation of students in their legal practice.

[Article sheet](#)

ARTICLE 126.

Technical consultants If, due to the particularities of the case, the Public Prosecutor's Office or any of the intervening parties consider that the assistance of a consultant in a science, art or technique is necessary, they shall propose it to the Public Prosecutor's Office or the court, which shall decide on the appointment, according to the rules of the case.

applicable to the experts, without thereby assuming such character. The technical consultant may witness the expert operations, make observations during their course, without issuing an opinion, and his observations shall be recorded. They may accompany, in the hearings, the party with whom they collaborate, assist it in the acts proper to their function or question, directly, experts, translators or interpreters, always under the direction of the party they assist.

[Article sheet](#)

TITLE VIII

DUTIES OF THE PARTIES

ARTICLE 127.

Duty of loyalty The parties must litigate with loyalty, avoiding dilatory, merely formal approaches and any abuse of the powers granted to them by this Code.

[Article sheet](#)

ARTICLE 128.

Surveillance The courts shall ensure the regularity of litigation, the proper exercise of procedural powers and good faith. Under no pretext may they restrict the right of defense or limit the powers of the parties.

[Article sheet](#)

ARTICLE 129.

Disciplinary regime Except as provided in this Code for abandonment of the defense, when it is proven that the parties or their counsel have acted with evident bad faith, have taken steps or have assumed dilatory attitudes or have litigated with recklessness, the court may sanction the offense with a warning or up to fifty days' fine.

When the court considers that there is a possibility of imposing this sanction, it shall transfer the alleged offender, so that he/she may express his/her opinion on the offense and offer evidence in his/her defense, which shall be received immediately. When the fact occurs in an oral hearing, the procedure shall be carried out therein.

Whoever is sanctioned shall be required to pay the fine within three days.

In case of default of payment by any lawyer, the court shall suspend him/her from the practice of law until the respective amount is paid and shall remove him/her from the case for the duration of the suspension.

The Supreme Court of Justice and the Bar Association shall be notified.

Against the decision imposing the disciplinary measure, the sanctioned lawyer may file an appeal for revocation and, in the preparatory and intermediate stages [Sic], also an appeal.

Article sheet

BOOK II
PROCEDURAL ACTS
TITLE I
GENERAL PROVISIONS
CHAPTER I FORMALITIES

ARTICLE 130.

Language The procedural acts must be carried out in Spanish.

When a person does not understand or does not express himself/herself easily in Spanish, he/she will be provided with the necessary assistance so that the event can be carried out in Spanish.

A translator or interpreter, as appropriate, shall be provided for persons who do not speak Spanish, who are allowed to use their own language, as well as for the deaf and dumb, and for those who have some impediment to understanding.

Documents and recordings in a language other than Spanish must be translated when necessary.

Article sheet

ARTICLE 131.

Statements and interrogations with interpreters Persons shall also be interrogated in Spanish or through a translator or interpreter, when appropriate. The court may expressly permit direct questioning in another language or form of communication; but in such case, the translation or interpretation shall precede the answers.

Article sheet

ARTICLE 132.

Place The court may be constituted in any place of the national territory, when it deems indispensable to directly know decisive evidentiary elements in a case under its knowledge and competence. The debate will take place and the judgment will be rendered in the territorial district in which the court has jurisdiction, except if this may cause a serious disturbance of public order, does not guarantee the defense of any of the interests involved in the trial, or seriously obstructs the conduct of the trial.

[Article sheet](#)

ARTICLE 133.

Time Unless otherwise provided by law, procedural acts may be performed any day and at any time. The place and date on which they are performed shall be recorded. The omission of this information shall not render the act ineffective, unless it cannot be determined, according to the information in the record or other related data, the date on which it was performed.

[Article sheet](#)

ARTICLE 134.

Oath When the oath is required, it shall be taken on the belief of the person swearing, after instructing him on the penalties for false testimony under the law. The deponent shall promise to tell the truth in everything he knows and is asked. If the deponent refuses to take the oath by virtue of religious or ideological beliefs, he shall be required to promise to tell the truth, with the same warnings as in the preceding paragraph.

[Article sheet](#)

ARTICLE 135.

Interrogation The persons who are interrogated must answer viva voce and without consulting notes or documents, with the exception of experts and those who are authorized to do so, due to their conditions or the nature of the facts. The declarant shall first be invited to state what he knows about the matter in question and then, if necessary, he shall be questioned. The questions put to him shall not be impertinent, captious or suggestive.

[Article sheet](#)

CHAPTER II

MINUTES

ARTICLE 136.

General rule When one or more acts are to be recorded in a record, the official who performs them shall draw it up, stating the place and date of their performance. The time shall be recorded when the law or the circumstances so require.

The minutes shall be signed by the person performing the act and, if deemed necessary, by those who took part in it, after having been read. If someone does not know how to sign, another person, at his request, or a witness may sign in his place.

Article sheet

ARTICLE 137.

Invalidity of the act If, due to any defect, the act becomes ineffective, the act it was intended to prove may be evidenced by other valid elements of the same or related acts.

Article sheet

ARTICLE 138.

Replacement of the minutes The minutes may be replaced, in whole or in part, by another form of record, unless otherwise expressly provided. In such case, the person presiding over the act shall determine the appropriate safeguards to ensure inalterability and future individualization.

Article sheet

CHAPTER III

JUDICIAL ACTS AND RESOLUTIONS

ARTICLE 139.

Coercive power The court and the Public Prosecutor's Office may request the intervention of the public force and order the necessary measures for the safe and regular performance of the acts ordered by them in the exercise of their functions.

Article sheet

ARTICLE 140.

Special power At any stage of the case and at the request of the offended party, the court may order, as a provisional measure, the reestablishment of things to the state they were in before the act, provided that there are sufficient elements to decide it.

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Article sheet

ARTICLE 141.

Resolutions The courts will issue their resolutions in the form of rulings, orders and judgments. They will issue a sentence to terminate the proceeding; orders, when they order acts of mere formality and orders, in all other cases. Court decisions must indicate the place and date of their issuance.

Article sheet

ARTICLE 142.

Grounds Judgments and orders shall contain clear and precise grounds. The reasoning shall express the factual and legal reasoning on which the decisions are based, as well as the value given to the evidence. The simple list of the evidence or the mention of the requirements of the parties will not replace, in any case, the substantiation. It will be insufficient when forms, dogmatic affirmations, routine phrases, the simple description of the facts or the mere mention of the evidence are used. There is no foundation when the rules of sound criticism have been disregarded, with respect to means or evidentiary elements of decisive value. The orders and sentences without substantiation will be ineffective.

Article sheet

ARTICLE 143.

In the decision, the court shall include a brief and succinct description of the content of the oral test, before proceeding to its evaluation.

Article sheet

ARTICLE 144.

Signature Without prejudice to special provisions, the resolutions shall be signed by the judges. The lack of any signature shall render the act ineffective, unless the judge was unable to sign due to an invincible impediment arising after having participated in the deliberation and voting. The fact that the judge has not signed it in due time shall not invalidate the resolution, provided that the fault is made up for and there is no doubt as to his participation in the act he should have signed, without prejudice to disciplinary liability.

Article sheet

ARTICLE 145.

Time limits The courts shall issue, ex officio and immediately, the provisions of mere formality. Orders and judgments following an oral hearing shall be deliberated, voted and drawn up immediately after the closing of such hearing. In written proceedings, rulings shall be issued within three days. These provisions shall apply unless another time limit is established by law.

[Article sheet](#)

ARTICLE 146.

Material errors The courts may correct, at any time, purely material errors contained in their proceedings or rulings.

[Article sheet](#)

ARTICLE 147.-Clarification and addition

At any time, the court may clarify the obscure, ambiguous or contradictory terms in which the resolutions are drafted or add to their content, if it has omitted to resolve any controversial point, provided that such acts do not entail a modification of what has been resolved.

The parties and the Public Prosecutor's Office may request the clarification or addition of the pronouncements made orally, which request must be presented orally immediately after the end of the pronouncement of the resolution.

In the resolutions issued in writing, the parties and the Public Prosecutor's Office may request the clarification or addition of the pronouncements, within three days after their notification. The request will interrupt the term to file the appropriate appeals.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

[Article sheet](#)

ARTICLE 148.

Final decision As long as they are not appealed in due time, court decisions shall be final and enforceable, without the need for any declaration whatsoever. A final judgment may only be reviewed in accordance with the provisions of this Code.

[Article sheet](#)

ARTICLE 149.

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Authentic copy When, for any reason, the original of the judgments or of other necessary procedural acts is destroyed, lost or stolen, the authentic copy shall have the value of the original. To this end, the court shall order the person in possession of the copy to deliver it to the clerk's office, without prejudice to the right to obtain another copy free of charge. The replacement may also be made using the computer files of the court.

[Article sheet](#)

ARTICLE 150.

Restitution and renewal If there is no copy of the documents, the court shall order that they be replaced, for which purpose it shall receive the evidence evidencing their pre-existence and content. When this is impossible, it shall order the renewal, prescribing the manner of doing so.

[Article sheet](#)

ARTICLE 151.

Copies, reports or certifications If the state of the proceeding does not prevent it, or hinder the normal substantiation, the court may order the issuance of copies, reports or certifications that have been requested by a public authority or by individuals who demonstrate a legitimate interest in obtaining them. [Article file](#)

Article 152.

New crime. If, during the proceedings, the court learns of another prosecutable offense, it shall, ex officio, forward the records to the Public Prosecutor's Office.

(Thus amended by Article 15 of the Judicial Reorganization Law No. 7728 of December 15, 1997).

[Article sheet](#)

Article 152.- When a complaint is received for sexual crimes or injuries, even in the degree of attempt, and the victim and the accused meet the circumstances of subsection 1) of Article 112 of the Criminal Code, and it is established that the accused is not in custody and lives with the offended party, the corresponding authority shall order the accused to leave the domicile immediately.

At the same time, he will order him to deposit an amount of money that he will prudentially fix and that the defendant must pay within eight days, in order to cover the expenses of room and board for the members of the family group economically dependent on him. This obligation shall be

shall be governed by the rules of alimony; therefore, in case of non-compliance, the obligor shall be ordered to be ordered to pay the alimony to the obligor.

Ex officio, the criminal authority will order the testimony of the pieces and will send it to the corresponding court, so that it may process the matters related to the alimony imposed on the aggressor.

(This second article 152 was added by article 67 of Law No. 7654 of December 19, 1996, Law on Alimony Pensions. However, the norm that made the affectation does not specify that it is a numeral 152 bis).

Article sheet

CHAPTER IV

COMMUNICATION BETWEEN AUTHORITIES

ARTICLE 153.

General rules When a procedural act must be executed through another authority, the court or the Public Prosecutor's Office may entrust its execution to that authority.

Such communications may be made by any means that guarantees their authenticity.

The requested authority shall collaborate with the judges, the Public Prosecutor's Office and the police, and shall process, without delay, the requests received from them. Disobedience to these instructions shall be sanctioned by disciplinary action, without prejudice to the corresponding criminal liability.

Article sheet

ARTICLE 154.

Letters Rogatory to foreign authorities Requests addressed to foreign judges or authorities shall be made by letters rogatory and shall be processed in the manner established by the Constitution, International and Community Law in force in the country. Through the Secretariat of the Supreme Court of Justice, communications shall be channeled to the Ministry of Foreign Affairs, which shall process them through diplomatic channels. However, in cases of urgency, communications may be addressed to any foreign judicial or administrative authority, anticipating the letter rogatory or the response to a request, without prejudice to the subsequent formalization of the procedure, as provided in the preceding paragraph.

Article sheet

CHAPTER V

NOTIFICATIONS AND SUMMONS

ARTICLE 155.

General rule Decisions must be notified to the person concerned within twenty-four hours of being rendered, unless the court provides for a shorter period of time. They shall bind only the persons duly notified.

[Article sheet](#)

ARTICLE 156.

Notifier Notifications shall be made by the clerk, the notifier or whoever is specially appointed by the court. When a notification is to be made outside the seat of the court, the assistance of the respective authority shall be requested, without prejudice to the possibility that the notifier of the office may travel if so ordered by the court. Where appropriate, specialized offices may be entrusted with the service of judgments of several judicial offices.

[Article sheet](#)

ARTICLE 157.

Place for notifications When appearing in the proceeding, the parties must indicate, within the judicial perimeter, a place to be notified. Any of the intervening parties may be notified at the clerk's office of the court. Defenders, prosecutors and public officials who intervene in the proceedings will be notified at their respective offices, provided that these are located within the judicial perimeter.

[Article sheet](#)

ARTICLE 158.

Notifications to counsel or agents If the parties have counsel or agents, notifications shall be addressed only to them, unless the law or the nature of the act requires that they also be notified.

[Article sheet](#)

ARTICLE 159.

Forms of notification When the notification is to be made by reading, the notice shall be read out by the

content of the resolution and if the interested party requests a copy, it will be delivered to him/her. In other cases, the notification will be made by delivering a copy of the resolution to the interested party, indicating the name of the court and the process to which it refers. The official shall record the act, shall indicate the place, day and hour of the service and shall sign together with the person receiving the copy or shall indicate that he refused to do so or was unable to sign. When the service is not carried out by reading and the person notified refuses to receive the copy, the copy shall be posted on the door of the place where the act is carried out, in the presence of a witness who shall sign the corresponding record.

Article sheet

ARTICLE 160.

Special form of notification When the interested party expressly accepts it, it may be notified by registered letter, facsimile or any other electronic means. In this case, the term shall run from the date of sending of the communication, as evidenced by the post office or the transmitting office. Notification may also be made by means of other systems authorized by the Supreme Court of Justice, provided that they do not cause defencelessness.

Article sheet

ARTICLE 161.

Notification to absent person When the person to be notified is not found at the place, the copy will be delivered to a person of legal age who is there or to one of his or her closest neighbors, who will have the obligation to identify themselves and deliver the copy to the interested party.

Article sheet

ARTICLE 162.

Notification by edicts When the place where the person to be notified is not known, the resolution shall be notified by edict published in the Judicial Gazette, without prejudice to the convenient measures to locate him. The Superior Council of the Judiciary may order the publication, in the mass media, of lists of persons required by the criminal courts.

Article sheet

ARTICLE 163.

Notification in case of urgency In case of urgency, notification may be made by telephone or any other similar means of communication. A brief record shall be made of the conversation and the person who said he/she received the message.

Article sheet

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ARTICLE 164.

Defect of the notification Whenever it causes defencelessness, the notification will not be effective when:

- a) There has been an error as to the identity of the person notified.
- b) The resolution has been notified incompletely.
- c) The date or, when applicable, the date of delivery of the copy is not stated in the diligence.
- d) Any of the required signatures is missing.
- e) There is a discrepancy between the original and the copy received by the interested party.

Article sheet

ARTICLE 165.

Summons When, for any procedural act, the presence of a person is necessary, the authority hearing the matter must order his summons, by registered letter, telegram with notice of delivery, telephone or any means of communication that guarantees the authenticity of the message. In such a case, the purpose of the summons and the procedure in which it was ordered must be made known; in addition, it must be warned that if the order is not obeyed, without prejudice to the corresponding criminal liability, the person may be taken away by public force and pay the costs incurred, unless just cause is shown.

Article file

ARTICLE 166.

Communication of actions of the Public Prosecutor's Office When, in the course of an investigation, a prosecutor must communicate any action to a person, he may do so by any means that guarantees the reception of the message. The provisions of this Chapter shall be applicable as appropriate.

Article sheet

CHAPTER VI

DEADLINES

ARTICLE 167.

General rule Individual time periods shall run from the day following the day on which the interested party was notified; common time periods shall run from the day following the last notification

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to be made.

Non-business days shall not be counted in the daily deadlines. The remaining deadlines that expire on a non-business day shall be deemed to be extended until the following business day.

Article sheet

ARTICLE 168.

Notwithstanding the provisions of the preceding article, the time limits established for the protection of the liberty of the accused shall be counted in calendar days and may not be extended.

Article sheet

ARTICLE 169.

Waiver or abbreviation The parties in whose favor a term has been established may waive it or consent to its abbreviation by express manifestation.

Article sheet

ARTICLE 170.

Reinstatement of the time limit Whoever has not been able to observe a time limit for a cause not attributable to him or due to an insurmountable event, may request its reinstatement, in order to perform the omitted act or exercise the power granted by law.

Article sheet

CHAPTER VII

PROCESS DURATION CONTROL

ARTICLE 171.

Duration of preparatory proceedings The Public Prosecutor's Office must conclude the preparatory investigation within a reasonable period of time.

When the accused considers that the time limit has been unduly extended, he shall request the court of preparatory proceedings to set a time limit for the end of the investigation.

The court shall request a report from the prosecutor and, if it deems that there has been an undue prolongation according to the complexity and difficulty of the investigation, shall set a time limit for its conclusion, which may not exceed six months.

[Article sheet](#)

ARTICLE 172.

When the Public Prosecutor's Office has not concluded the preparatory investigation by the date set by the court, the latter will inform the Attorney General of the fact, so that he may issue the respective requisition within ten days.

Once this period has elapsed without the requisition being filed, the court shall declare the criminal action extinguished, unless the proceeding may continue because a complaint has been filed, without prejudice to the personal liability of the representatives of the Public Prosecutor's Office.

[Article sheet](#)

ARTICLE 173.

Oral hearings The courts shall hold oral hearings without delay and shall fix the time absolutely necessary to conduct them.

[Article sheet](#)

ARTICLE 174.

Complaint for delay of justice If the representatives of the Public Prosecutor's Office or the judges do not comply with the deadlines established for carrying out their actions and, as the case may be, issuing resolutions, the interested party may urge prompt dispatch before the defaulting official and if he does not obtain it within five calendar days, he may file a complaint for delay of justice before the Attorney General, the Supreme Court of Justice or the Judicial Inspection, as the case may be. When the processing of a commission addressed to another court, a representative of the Public Prosecutor's Office or an administrative authority is delayed or refused, the requesting official may address the President of the Supreme Court of Justice or the Attorney General of the Republic, as the case may be, who, if appropriate, will manage or order the processing. Judicial officers may be disciplinarily sanctioned with suspension or dismissal, depending on the magnitude of the offense, when justice has been delayed due to causes attributable to them.

[Article sheet](#)

TITLE II

DEFECTIVE PROCEDURAL ACTIVITY

ARTICLE 175.

General principle Acts carried out in disregard of the forms and conditions set forth in the Constitution, in the International or Community Law in force in Costa Rica and in this Code may not be considered as grounds for a judicial decision or be used as a basis for such decision, unless the defect has been remedied, in accordance with the rules governing the correctness of judicial actions.

[Article sheet](#)

ARTICLE 176.

Protest Except in cases of absolute defects, the interested party shall protest against the defect, when known. The protest shall describe the defect and propose the corresponding solution.

[Article sheet](#)

ARTICLE 177.

Validation Except in cases of absolute defects, defects will be validated in the following cases:

- a) When the parties or the Public Prosecutor's Office have not requested its reorganization in a timely manner.
- b) When those who have the right to challenge it have accepted, expressly or tacitly, the effects of the act.
- c) If, notwithstanding its irregularity, the act has achieved its purpose with respect to the interested parties or if the defect has not affected the rights and powers of the intervening parties.

The reorganization shall not proceed when the irregular act does not modify, in any way, the development of the process or prejudice the intervention of the interested parties.

[Article sheet](#)

ARTICLE 178.

Absolute defects No prior protest shall be necessary and the defects may be noticed even ex officio:

- a) To the intervention, assistance and representation of the accused in the cases and forms established by law or those that imply non-observance of rights and guarantees provided by the Political Constitution, the International or Community Law in force in the country and the law.
- b) To the appointment, capacity and constitution of judges or courts.

c) The initiative of the Public Prosecutor's Office in the exercise of the criminal action and its participation in the procedure.

Article sheet

ARTICLE 179.

Correction Defects must be corrected, whenever possible, by renewing the act, rectifying the error or complying with the omitted act, ex officio or at the request of the interested party. Under the pretext of renewing the act, rectifying the error or complying with the omitted act, the process may not be taken back to periods that have already expired, except in the cases expressly provided for in this Code.

Article sheet

BOOK III

MEANS OF EVIDENCE

TITLE I

GENERAL PROVISIONS

ARTICLE 180.

Objectivity The Public Prosecutor's Office and the courts have the duty to seek to ascertain the truth through the means of evidence permitted, in strict compliance with the purposes of criminal prosecution and the objectives of the investigation.

Article sheet

Article 181-Legality of evidence

The elements of evidence shall only have value if they have been obtained by lawful means and incorporated into the procedure, in accordance with the provisions of this Code.

Information obtained through torture, mistreatment, coercion, threat, deception, undue intrusion into the privacy of the home, correspondence, communications, private papers and files, or information obtained by any other means that undermines the will or violates the fundamental rights of individuals may not be used.

However, in the event of such unlawful conduct and without prejudice to the penalties applicable to the persons responsible, the information obtained through such conduct may only be used for the following purposes

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only and exclusively for the benefit of the victim of such conduct as a defendant or in criminal proceedings brought against the perpetrators of such unlawful conduct solely as evidence of the commission of the punishable act. For these purposes, the express consent of the victim shall be obtained and the necessary measures shall be adopted to safeguard his or her right to privacy and non-revictimization.

(As amended by the sole article of Law No. 10011 of August 24, 2021)

Article sheet

ARTICLE 182.

Freedom of proof The facts and circumstances of interest for the correct solution of the case may be proved by any permitted means of proof, unless expressly prohibited by law. **Article file**

ARTICLE 183.

Admissibility of evidence To be admissible, the evidence must relate, directly or indirectly, to the object of the inquiry and must be useful to discover the truth. The courts may limit the means of evidence offered to prove a fact or circumstance when they are manifestly superabundant. The court may dispense with the evidence when it is offered to prove a notorious fact.

Article sheet

ARTICLE 184.

Valuation The court will assign the corresponding value to each of the elements of evidence, with strict application of the rules of sound criticism. It must adequately justify and substantiate the reasons for which it grants them a certain value, based on the joint and harmonic appreciation of all the essential evidence.

Article sheet

TITLE II

IMMEDIATE CHECKING AND AUXILIARY MEANS

ARTICLE 185.

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Inspection and search of the place of the crime When it is necessary to inspect places or things because there are sufficient grounds to suspect that traces of the crime will be found or because it is presumed that the accused or an escaped person is hiding in a certain place, the place shall be searched.

The inspection will verify the condition of persons, places, things, traces and other material effects that may be useful to determine the fact or individualize the perpetrators or participants.

The representative of the Public Prosecutor's Office shall be in charge of conducting the proceedings, unless otherwise provided.

The person who lives in the place or is there when the inspection is carried out or, in his absence, the person in charge or any person of legal age, shall be invited to attend the inspection. Preference shall be given to relatives of the former.

[Article sheet](#)

ARTICLE 186.

Minutes A detailed description of the state of things and persons shall be drawn up of the inspection and search, and, when possible, the useful evidentiary elements shall be collected or preserved. If the fact left no traces, nor produced material effects or if these disappeared or were altered, the person in charge of the diligence will describe the existing state and, as far as possible, will verify the previous one. In case of disappearance or alteration, he/she shall ascertain and record the manner, time and cause of such disappearance or alteration.

[Article sheet](#)

ARTICLE 187.

Coercive Powers In order to carry out the inspection and search, it may be ordered that, during the diligence, those who are on the premises shall not be absent or that any other person shall appear immediately.

[Article sheet](#)

ARTICLE 188.

Corporal inspection When necessary, the judge or prosecutor in charge of the investigation may order the corporal inspection of the accused and, in such case, shall ensure that his modesty is respected. With the same limitation, he may order the same measure with respect to another person, in cases of serious and well-founded suspicion or absolute necessity. If necessary, the inspection may be carried out with the assistance of experts. The act may only be attended by a person of confidence of the examinee, who shall be previously warned of such right.

Article sheet

ARTICLE 189.

Search The judge, the prosecutor or the police may carry out a personal search, whenever there are sufficient grounds to presume that someone is hiding belongings among his clothes or that he has objects related to the crime attached to his body. Before proceeding with the search, the person shall be warned about the suspicion and the object sought, inviting him to exhibit it. The warning and inspection shall be carried out in the presence of a witness, who shall have no connection with the police. The searches will be carried out separately, respecting the modesty of the persons. Searches of women shall be carried out by other women. A record shall be drawn up, which may be incorporated into the trial by reading.

Article sheet

ARTICLE 190.

Search of vehicles The judge, the prosecutor or the police may search a vehicle, whenever there are sufficient grounds to presume that a person is hiding in it objects related to the crime. Insofar as applicable, the same procedure shall be followed and the same formalities provided for the search of persons shall be complied with.

Article sheet

ARTICLE 191.

In cases of violent death or when it is suspected that a person died as a result of a crime, the judge must conduct an inspection at the scene of the crime, order the removal of the body and the corresponding expert examination to establish the cause and manner of death. The identification of the corpse shall be carried out by any technical means and, if not possible, by witnesses. If, by the indicated means, the identification is not obtained and its state allows it, the corpse will be exposed to the public for a prudential time, in the morgue of the Department of Legal Medicine, so that whoever has data that can contribute to the recognition, communicates them to the judge.

Article sheet

ARTICLE 192.

Reconstruction of the act The reconstruction of the act shall be ordered in order to verify whether it was or could have been carried out in a certain way. The accused shall never be obliged to take part in the act, which shall be carried out with the greatest possible reserve.

Article sheet

ARTICLE 193.

Search and search of a dwelling When the search is to be carried out in an inhabited place, in its premises, business house or office, the search and search shall be carried out personally by the judge and shall be initiated between six and eighteen o'clock. It may proceed at any hour when the inhabitant or his representative consents or in extremely serious and urgent cases. The urgency of the situation must be recorded in the resolution that agrees to the search.

[Article sheet](#)

ARTICLE 194.

Search of other premises The search of public premises, meeting or recreational establishments while they are open to the public and are not intended for habitation, will be agreed by the judge, who may delegate the execution of the diligence to officials of the Public Prosecutor's Office or the judicial police. The time limitations established in the previous article shall not apply. In these cases, the persons in charge of the premises must be notified, unless it is detrimental to the investigation.

[Article sheet](#)

ARTICLE 195.

Contents of the resolution ordering the search The resolution ordering the search shall contain:

- a) The name and position of the official authorizing the search and the identification of the procedure in which it is ordered.
- b) The specific determination of the place or places to be registered.
- c) The name of the authority that is to carry out the search, in the event that the search is delegated to the Public Prosecutor's Office or the police, in accordance with the provisions of this Title.
- d) The reason for the raid.
- e) The time and date on which the proceeding is to be carried out.

[Article sheet](#)

ARTICLE 196.

Formalities for the search A copy of the resolution authorizing the search shall be delivered to the person who inhabits or possesses the place where the search takes place or, when absent, to the person in charge thereof, and, in the absence of such person, to any person of legal age who is on the premises. Relatives shall be preferred. If no one is found, this shall be recorded in the record. Once the search has been carried out, the result shall be recorded in the record, with an expression of the circumstances useful for the investigation. The diligence will be practiced trying to affect as little as possible the intimacy of the persons. The minutes shall be signed by those present; however, if anyone does not sign it, it shall be so recorded.

Article sheet

ARTICLE 197.

Search without warrant A search may be carried out without a warrant when:

- a) By fire, flood or other similar cause, the life of the inhabitants or the property is threatened.
- b) It is reported that strangers have been seen entering a premises, with clear indications that they intend to commit a crime.
- c) Any person charged with a felony who is being pursued for apprehension is brought onto the premises.
- d) Voices coming from an inhabited place, its premises or place of business, announcing that a crime is being committed there or calling for help.

Article sheet

ARTICLE 198.

The judge, the Public Prosecutor's Office and the police may order the collection and preservation of objects related to the crime, those subject to confiscation and those that may serve as evidence; to this end, when necessary, they shall order their seizure. In urgent cases, this measure may be delegated to a judicial police officer.

Article sheet

ARTICLE 199.

Procedure for seizure The provisions prescribed for search shall apply to the seizure. The seized effects shall be inventoried and placed in safe custody.

The obtaining of copies or reproductions of the seized objects may be ordered, when they may disappear or be altered, when they are difficult to keep or when it is convenient for the investigation.

Article sheet

ARTICLE 200.

Return of objects It shall be the obligation of the authorities to return, to the person entitled to possess them, the seized objects that are not subject to confiscation, restitution or seizure, immediately after the proceedings for which they were obtained have been carried out. This return may be ordered provisionally, as a judicial deposit and the possessor may be imposed the obligation to exhibit them.

Article sheet

ARTICLE 201.

Interception and seizure of communications and correspondence In relation to the interception and seizure of communications and correspondence, the provisions of the special law referred to in Article 24 of the Constitution shall apply.

Article sheet

ARTICLE 202.

When, in order to investigate a punishable act, it is indispensable to close premises or mobilize movable things that, due to their nature or dimensions, cannot be kept in deposit, they shall be secured, according to the rules of the registry.

Article sheet

ARTICLE 203.

Control The parties may object, before the court, to the measures taken by the police or the Public Prosecutor's Office, based on the powers referred to in this section. The court shall make the final decision as appropriate, without appeal.

Article sheet

TITLE III

TESTIMONIALS

Article 204.-Duty to testify

Unless otherwise provided, every person shall have the obligation to attend the court summons and to declare the truth of what he knows and is asked; likewise, he shall not conceal facts, circumstances or elements, without prejudice to the judge's power to assess the testimony, in accordance with the rules of sound criticism. The witness shall not be under the obligation to testify about facts that may lead to criminal liability. For the purposes of complying with this obligation, the witness shall be entitled to paid leave of absence from his employer, public or private, when he has to attend judicial proceedings, expert opinions or appear before a court summons and for the time necessary for such purpose. In order to prove the attendance to such acts, the office that hears the case or before whom the diligence is carried out, shall issue the respective voucher indicating the nature of the act and the effective duration of the proceeding. The Public Prosecutor's Office, the judge or the trial court hearing the case shall adopt the necessary measures to prevent the witness from being subjected to multiple summons or appearances; furthermore, whenever possible, the hearings shall be scheduled so that the testimony is given as soon as possible and the leave granted is not abused.

Extraprocedural protection:

If, by reason of the knowledge of the facts under investigation and his obligation to testify, the life or physical integrity of the witness is at risk, he shall have the right to request and obtain special protection. The Public Prosecutor's Office, the police, the judge or the court hearing the case shall adopt the necessary measures to provide the protection required. The Office of Attention to the Victims of Crime of the Public Prosecutor's Office will be in charge of processing the requests and providing the required protection.

Procedural protection:

When, due to the characteristics of the act, the identification data of the witness, such as name, identity card, address, work or telephone numbers, are not known by the accused or by the parties, and their effective knowledge represents a risk to the life or physical integrity of the declarant, the Public Prosecutor's Office, the defense or the plaintiff, may request the judge, during the investigation phase, to order the confidentiality of this data.

The judge will authorize such reservation in a duly motivated resolution. Once agreed, this information will be contained in a special and private file, which will be handled by the judge of the preparatory and intermediate stage, according to the phase in which the reservation is appropriate and has been agreed upon, and in which the correct data for its identification and location will be contained. In order to identify the protected witness within the process, pseudonyms or fictitious names may be used. Any relevant data that may affect the scope of his testimony, such as physical limitations or health problems, shall be recorded in said file and shall be made known to the parties, provided that this does not endanger the declarant.

When the risk to the life or physical integrity of the witness cannot be avoided or reduced with the sole reservation of the identification data and the investigation of serious crimes or organized crime is involved, the judge or court hearing the case may order, by means of a duly grounded resolution, the reservation of their individualizing physical characteristics, so that, during the investigation stage, these cannot be known by the parties. When so declared, the judge, in the same resolution, shall order the execution of the jurisdictional advance of evidence, in accordance with the provisions of article 293 of this Code.

The participation of the protected witness in the procedural acts shall be carried out adopting the necessary measures to keep his identity and physical characteristics confidential, when so agreed.

The confidentiality of the identity of the protected witness applies only to the preliminary and intermediate phases.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 204 bis.-Protective measures

1) Procedure:

To achieve the protection referred to in Article 204 of this Code, the Public Prosecutor's Office, the complainant or the defense shall request the measures of identity confidentiality or protection of the individualizing physical characteristics of the witness, to the judge of the preparatory or intermediate stage, depending on the phase in which the risk arises. The request shall be accompanied by the evidence supporting the existence of the risk and its importance, as well as the need for protection. For this purpose, they may require a brief report from the Office of Attention to the Victims of Crime of the Public Prosecutor's Office, in which the type of risk and the need for protection are documented.

The judge will summon the Public Prosecutor's Office, the complainant and the defense, to an oral hearing, in which the petition and objections will be presented; once said hearing is concluded, the judge must immediately decide, being able to defer the resolution for up to forty-eight hours, in order to request the reports and data he deems necessary to decide. Neither the identity nor the personal data of the person whose protection is requested may be revealed while this procedure is being carried out.

In urgent cases, the confidentiality of the witness's data may be ordered on a provisional basis and for a period that may not exceed seventy-two hours, within which time the hearing shall be convened and the pertinent decision shall be made. In order to assess the protection, the importance and entity of the risk shall be taken into account, as well as the relevance of the testimony for the discovery of the truth in the investigated fact.

2) Contents of the resolution:

The resolution granting procedural protection to the witness shall be duly grounded and shall contain the nature and importance of the risk, the type of protection, as well as its scope, the grounds for the decision and the duration of the measure.

In the cases in which the confidentiality of identity is agreed, the judge shall record a brief summary of the knowledge of the facts that the witness has, in order to allow the right of defense of the parties. The entire procedure shall be carried out in a separate file, the custody of which shall correspond to the judge or court hearing the case. If, in addition, the reservation of the individualizing physical characteristics is granted, in the same resolution the jurisdictional advance of this testimony will be ordered and the parties will be summoned for its realization, in the terms indicated in article 293 of this Code.

The agreed protection measures may be prolonged for the time necessary according to the type of risk, with the exception of the trial stage. In no case shall the protection of the witness impede his interrogation, which may be carried out through the use of the technological means indicated and which allow the physical characteristics of the declarant to be concealed or disguised, when this has been provided for when the protection was agreed upon.

3) Resources:

The decision granting or denying protection may be appealed by the Public Prosecutor's Office, the complainant, the victim and the defense. The appeal shall not suspend the agreed measures. Once the decision is final, the parties will be obliged to respect the reservation, without prejudice to reiterate their claim in the trial venue. If the appellate court rejects the protection or reduces it, the judge shall inform the defense of the data whose protection has not been authorized.

If the protection of the individualizing physical characteristics is denied and the identity of the witness is kept confidential, the witness shall appear until the debate, unless his presence is deemed indispensable in some procedural proceeding or act of the investigation stage, in which case the necessary measures shall be taken to respect the confidentiality granted.

4) Measurement lifting:

When a party considers it absolutely necessary for the proper exercise of the right of defense to know the identity of the witness or the victim, it shall request the judge or the court hearing the case to lift the agreed measures. The parties shall be given a twenty-four hour hearing on the request. An appeal may be filed against the decision.

The judge or court may order, ex officio or at the request of a party, the lifting of the measures, after hearing the parties for twenty-four hours, if new evidence shows that the procedural protection is not necessary, by demonstrating that the parties know the identity of the witness, without prejudice to the extra-procedural protection that may be given.

(Thus added by Article 17 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 205.

The spouse or cohabitant, with more than two years of life in common, of the accused and their ascendants, descendants or collateral relatives, up to the third degree of consanguinity or affinity, may abstain from testifying. The aforementioned persons must be informed of the power of abstention before they give testimony. They may exercise this power even during their testimony, including at the time of answering certain questions.

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ARTICLE 206.

Duty of abstention Religious ministers, lawyers and notaries, physicians, psychologists, pharmacists, pharmacists, nurses and other assistants in the medical sciences, as well as public officials, shall refrain from testifying on secret facts that have come to their knowledge by reason of their status, office or profession, as well as public officials on State secrets. However, these persons, with the exception of religious ministers, may not deny their testimony when they are released by the interested party from the duty of secrecy. If summoned, these persons must appear and explain the reasons for their abstention. If the court considers that the witness erroneously invokes the power to abstain or the reservation of secrecy, it shall order his statement by means of a well-founded resolution.

[Article sheet](#)

ARTICLE 207.

Subpoena For the examination of witnesses, a subpoena shall be issued. In urgent cases, they may be summoned verbally or by telephone, which shall be recorded. In addition, the witness may appear to testify spontaneously. If the witness resides in a place far from the seat of the judicial office and lacks the financial means to travel, the necessary arrangements shall be made to ensure the appearance.

[Article sheet](#)

ARTICLE 208.

Compulsion If the witness does not appear at the first summons, he shall be summoned by means of public force. If, after appearing, he refuses to testify without the right to do so, this fact shall be communicated to the Public Prosecutor's Office.

[Article sheet](#)

ARTICLE 209.

Residents abroad If the witness is abroad, the procedure shall be in accordance with national rules or international law for judicial assistance. However, the authorization of the State in which the witness is located may be required for the witness to be questioned by the consular representative, by a judge or by a representative of the Public Prosecutor's Office, depending on the stage of the proceedings and the nature of the act in question.

[Article sheet](#)

ARTICLE 210.

Immediate apprehension The court may order the apprehension of a witness when there is a well-founded fear that he is hiding or absconding. This measure shall last for the time necessary to receive the statement and may not exceed twenty-four hours. The Public Prosecutor's Office may order the apprehension of the witness for a maximum period of six hours, in order to obtain a court order.

[Article sheet](#)

ARTICLE 211.

Form of the deposition Before beginning the deposition, the witness shall be instructed about his obligations and the responsibilities for his non-compliance, shall take the oath and shall be interrogated about his name, surname, marital status, profession, domicile, relationship and interest with the parties, and about any other circumstance useful to assess his veracity. If the witness fears for his physical integrity or that of another person, he may be authorized not to indicate his domicile publicly and a confidential note shall be taken of it, but the witness may not conceal his identity and shall not be exempted from appearing in court. The witness shall then be questioned about the fact.

[Article sheet](#)

Article 212.-Special testimonies

When the testimony of minor victims or witnesses must be received, their best interests must be considered at the time of its reception; for this purpose the Public Prosecutor's Office, the judge or trial court hearing the case and according to the procedural stage in which it is, shall adopt the necessary measures so that the formalities are reduced and the testimony is received under the special conditions required, arranging its reception in private or through the use of special cameras to avoid contact of the minor with the parties, and allowing the assistance of family members or specialized experts. An opinion may be required from the Department of Social Work and Psychiatry and Forensic Psychology or from some other duly appointed expert or expert witness, in accordance with Title IV of this Law, on the conditions under which the statement must be received. The right of defense shall always be safeguarded. The same rules shall apply when the testimony of victims of sexual abuse, trafficking in persons or domestic violence is to be received.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

[Article sheet](#)

TITLE IV

EXPERTS

ARTICLE 213.

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An expert opinion may be ordered when, in order to discover or evaluate an element of evidence, it is necessary to possess special knowledge in any science, art or technique.

Article sheet

ARTICLE 214.

Qualifying qualification Experts must have a qualifying qualification in the subject matter on which they are to give their opinion, provided that the science, art or technique is regulated. Otherwise, a person of manifest suitability must be appointed. The rules of expert evidence shall not apply to a person who testifies on facts or circumstances of which he has spontaneous knowledge, even if he uses his special aptitudes in a science, art or technique to inform. In this case, the rules of testimonial evidence shall apply.

Article sheet

ARTICLE 215.

Appointment of experts The Public Prosecutor's Office, during the preparatory investigation, and the competent court shall select the experts and determine how many should intervene, according to the importance of the case and the complexity of the issues to be raised, taking into account the suggestions of the intervening parties. At the same time, they shall fix precisely the subjects of the expertise and shall agree with the appointed experts on the time limit within which they shall submit their reports. The grounds for excusing and disqualifying the experts shall be those established for judges. In all matters relating to translators and interpreters, the provisions of this section shall apply analogously.

Article sheet

ARTICLE 216.

Power of the parties Before beginning the expert operations, the Public Prosecutor's Office and the parties shall be notified, as the case may be, of the order to perform them, unless they are extremely urgent or extremely simple. Within the term established by the authority that ordered the expert opinion, any of the parties may propose, at their own expense, another expert to replace the one already appointed or to give an opinion jointly with him, when in the circumstances of the case, his participation is convenient due to his experience or special suitability. The parties may propose, with good grounds, topics for the expert opinion and object to those admitted or proposed by another of the parties.

Article sheet

ARTICLE 217.

Execution of the expertise The director of the proceeding shall resolve the questions that arise during the expert operations. The experts shall conduct the examination jointly, whenever possible. Whenever appropriate, the parties and their technical consultants may be present during the performance of the expert's report and request any clarifications they deem appropriate; they must leave when the experts begin their deliberations. If any expert does not fulfill his function, he shall be replaced.

[Article sheet](#)

ARTICLE 218.

Expert opinion The expert opinion shall be well founded and shall contain, in a clear and precise manner, a detailed account of the operations carried out and their results, the observations of the parties or those of their technical consultants and the conclusions formulated with respect to each subject studied. The experts may give separate opinions when there is a difference of opinion among them. The report shall be submitted in writing, signed and dated, without prejudice to the oral report at the hearings.

[Article sheet](#)

ARTICLE 219.

New experts When the reports are doubtful, insufficient or contradictory or when the court or the Public Prosecutor's Office deems it necessary, it may, ex officio or at the request of a party, appoint one or more new experts, according to the importance of the case, to examine, expand or repeat the expertise. [Article Sheet](#)

ARTICLE 220.

The production or seizure of things or documents, and the appearance of persons, may be ordered if this is necessary to carry out the expert operations.

[Article sheet](#)

Article 221.-Special expert opinions

When different expert tests, such as psychological and medico-legal tests, must be performed on minor victims or persons who have been sexually assaulted or victims of aggression or domestic violence, within a maximum period of eight days, an interdisciplinary team must be formed, in order to concentrate, in the same session, the interviews that the victim requires, when this does not affect the performance of the expertise. In the case of minors, the best interest of the victim should be taken into account and, in any case, the victim should always try to reduce or avoid re-victimization. Before the interview, the team of professionals should draw up an interview protocol and designate, when deemed appropriate, one of its members to be in charge of asking the questions.

Unless there is an insurmountable impediment, a physical examination of the victim should be performed at the same session.

The Public Prosecutor's Office, the defense of the accused and the complainant may participate in the psychological and psychiatric interview, as long as the safety, life or physical integrity of the victim is not put at risk or the result of the evidence is not affected. For such purposes, special cameras may be used to avoid contact between the minor or the victim and the parties. In no case shall this intervention allow the parties to interrupt the course of the expertise. The parties may intervene only when instructed to do so and shall channel their observations through the respective expert, who shall decide how to deal with them. In any case, he shall leave a record of the requests made to him and shall note them in his conclusions when rendering the expert opinion. For his intervention, the parties may be assisted by a technical consultant, duly authorized to participate, in accordance with Article 126 of this Code.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 222.

Notification When no prior notice has been given of the expert's report, its results must be made known to the Public Prosecutor's Office and the parties for three days, unless a different period is established by law.

Article sheet

ARTICLE 223.

Duty of confidentiality The expert shall keep confidential all that he/she may learn in the course of his/her work.

Article sheet

ARTICLE 224.

Prudential regulation The court or the prosecutor in charge of the investigation may make a prudential regulation only when the value of the stolen or damaged goods or the amount of the defrauded amount cannot be established by means of experts. The decision of the prosecutor may be challenged before the court, which shall decide without any proceedings. The prudential regulation may be varied in the course of the procedure, if new and better elements of conviction appear that justify it.

Article sheet

TITLE V

OTHER MEANS OF EVIDENCE

ARTICLE 225.

Exhibit of evidence Documents, objects and other elements of conviction incorporated into the proceedings may be exhibited to the accused, witnesses and experts, so that they may recognize them or report on them.

The elements of a reserved nature shall be examined privately by the court; if they are useful for the ascertainment of the truth, the court shall incorporate them into the proceedings, maintaining their confidentiality.

[Article sheet](#)

ARTICLE 226.

Reports The court and the Public Prosecutor's Office may request reports from any person or public or private entity. The reports shall be requested, orally or in writing, with an indication of the procedure, in which they are required, the name of the accused, the place where the report must be delivered, the deadline for its submission and the consequences foreseen for failure to comply with the duty to report.

[Article sheet](#)

ARTICLE 227.

Recognition of persons The Public Prosecutor's Office or the court may order, with prior notice to the parties, the recognition of a person in order to identify him or her or to establish that the person who mentions him or her actually knows him or her or has seen him or her.

[Article sheet](#)

ARTICLE 228.

Procedure for the recognition of persons Before the recognition, the person who is to be recognized will be asked to describe the person in question, to say if he/she knows the person or if he/she has previously seen him/her personally or in an image. In addition, he/she must state whether he/she has seen the person again after the event, in what place and for what reason. With the exception of the accused, the declarant will be instructed about his or her obligations and the responsibilities for non-compliance and will take an oath to tell the truth, according to his or her beliefs. Subsequently, the person to be examined shall be invited to choose his or her position among others of similar physical appearance and the person conducting the examination shall be asked to state whether the person he or

she mentioned is among those present.

and, in the affirmative case, he/she will point it out with precision. When he has recognized the person, he shall express the differences and similarities observed between the state of the person indicated and that which he had at the time referred to in his previous statement. This diligence shall be recorded in a record, where the useful circumstances shall be recorded, including the name and domicile of those who have formed the line of persons. The examination shall proceed even without the consent of the accused.

[Article sheet](#)

ARTICLE 229.

Plurality of examinations When several persons must examine a single person, each examination shall be carried out separately, without communicating with each other. If a person must recognize several persons, the recognition of all of them may be carried out in a single act, provided that it does not prejudice the investigation or the defense.

[Article sheet](#)

ARTICLE 230.

Recognition by photograph When it is necessary to recognize a person who is not present and cannot be seen, his or her photograph may be shown to the person who must carry out the recognition, together with other similar photographs of different persons, observing as far as possible the preceding rules.

[Article sheet](#)

ARTICLE 231.

Recognition of an object Prior to the recognition of an object, the person who is to recognize it shall be asked to describe it. In all other respects, the above rules shall apply.

[Article sheet](#)

ARTICLE 232.

Other examinations When it is decided to examine voices, sounds and anything that may be subject to sensory perception, the provisions for the examination of persons shall be observed, as applicable. This procedure shall be recorded in the minutes and the authority may order that it be documented by means of photographic or video evidence or by other instruments or procedures.

[Article sheet](#)

ARTICLE 233.

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Face-to-face confrontation may be ordered between persons who, in their statements, have disagreed on important facts or circumstances; but the accused shall not be obliged to intervene. In the confrontation of the accused, his defense counsel shall be present. The rules of testimony, expert testimony and the statement of the accused shall apply respectively.

[Article sheet](#)

ARTICLE 234.

Other means of evidence In addition to the means of evidence provided for in this Code, other means of evidence may be used, provided that they do not suppress the guarantees and faculties of individuals or affect the institutional system. The form of their incorporation into the procedure shall be adapted to the most analogous means of proof of those provided for.

[Article sheet](#)

BOOK IV

PRECAUTIONARY MEASURES

TITLE I

PERSONAL PRECAUTIONARY MEASURES

ARTICLE 235.

Apprehension of persons The police authorities may apprehend any person, even without a warrant, when:

- a) Has been caught in flagrante delicto or contravention or is pursued immediately after attempting or committing it.
- b) Has escaped from a penal establishment or any other place of detention.
- c) There are proven indications of their participation in a punishable act and it is a case in which preventive detention is appropriate.

Likewise, in case of flagrante delicto, any person may practice the apprehension and prevent the fact from producing consequences. The apprehended person will be immediately handed over to the nearest authority.

The police authority that has apprehended a person shall promptly place him/her at the order of the Public Prosecutor's Office, so that the latter, if it deems it necessary, may request the judge to remand him/her in custody. The request must be formulated after the indispensable diligences have been carried out and, in any case, within twenty-four hours of the arrest.

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In the case of a crime requiring private prosecution, the person who can file a complaint shall be informed immediately and, if he does not file a complaint immediately, the person apprehended shall be released.

Article sheet

ARTICLE 236.

Flagrancy There shall be flagrancy when the perpetrator of the punishable act is caught at the moment of committing it or immediately after, or while being pursued, or when he has objects or presents traces that make it vehemently presumed that he has just participated in a crime.

Article sheet

ARTICLE 237.

Detention The Public Prosecutor's Office may order a person to be detained when:

- a) The presence of the accused is necessary and there are proven indications to reasonably sustain that he is the author of a crime or a participant in it, and that he may hide, flee or absent himself from the place.
- b) At the first moment of the investigation it is impossible to identify the accused and the witnesses and it is necessary to proceed urgently so as not to prejudice the investigation, in order to prevent those present from leaving the place, communicating with each other and changing the state of things and places.
- c) For the investigation of a crime, the concurrence of any person is necessary.

The detention may not exceed twenty-four hours. If the Public Prosecutor's Office considers that the person should be detained for a longer period of time, it shall immediately place him/her before the court of preparatory proceedings and request it to order preventive detention or apply any other alternative measure. Otherwise, it shall order his release.

Article sheet

Article 238.-Application of pretrial detention

Pretrial detention may only be granted in accordance with the provisions of this Code, by means of a well-founded judicial resolution, within the limits necessary to ensure the discovery of the truth and the enforcement of the law. When the Public Prosecutor's Office considers that preventive detention is appropriate, it shall request the corresponding judge to convene an oral hearing, in which the appropriateness or not of such measure shall be discussed. If the person is in custody, the request for a hearing must be requested within twenty-four hours from the time the accused is brought before the judge; the hearing must be held within forty-eight hours and the resolution must be issued within that

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period.

It is up to the Public Prosecutor's Office and the defense of the accused to provide the evidence on which their petitions are based.

At the end of the hearing, the judge shall rule on the request. If there are recording media, the support of them will be sufficient to prove the existence of the hearing and of what has been resolved.

It shall be carried out in a manner that is least detrimental to those affected.

Deprivation of liberty, during the proceedings, shall be proportional to the penalty that may be imposed in the case.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 239.-Procedence of preventive detention. The court shall order the preventive detention of the accused, whenever the following circumstances concur:

- a) There are sufficient elements of conviction to reasonably sustain that the accused is, with probability, the author or participant in a punishable act.
- b) There is a reasonable presumption, based on an assessment of the circumstances of the particular case, that the person will not submit to the proceedings (danger of absconding); will obstruct the investigation of the truth (danger of obstruction); or will continue the criminal activity.
- c) The crime attributed to him/her is punishable by deprivation of liberty.
- d) There is danger to the victim, the complainant or the witness. When the victim is at risk, the judge will take into account the need to order this measure, especially in the context of the investigation of crimes under Law 8589, Criminalization of Violence against Women, of April 25, 2007, as well as other crimes where the person under investigation maintains or has maintained with the victim a relationship or partner relationship, whether marital, de facto union, courtship, cohabitation, non-cohabitation, casual or other analogous, even when there is divorce, separation or breakup, as well as when there is any of the assumptions contemplated in Article 2:1 bis of Law 8589, Criminalization of Violence against Women, of April 25, 2007.

(The above paragraph was added by Article 45 of the Law on the Penalization of Violence against Women, No. 8589 of April 25, 2007).

(Thus amended by Article 2 of the Law to establish expanded femicide, No. 10022 of August 23, 2021).

Article sheet

Article 239 bis.- Other grounds for pretrial detention

After a well-founded assessment and decision, the court may also order the accused to be remanded in custody when any of the following grounds are present, the crime is punishable by imprisonment and the conditions set forth in Article 37 of the Constitution are met:

- a) When there is flagrante delicto in crimes against life, sexual crimes and crimes against property involving violence against persons or force against things, and in crimes related to narcotics, psychotropic substances, drugs of unauthorized use, money laundering and related activities.
- b) The punishable act is presumably committed by a person who has been subjected on at least two occasions to criminal proceedings involving violence against persons or force against things, in which an indictment and request for trial have been filed by the Public Prosecutor's Office, even if such proceedings have not been concluded.
- c) In the case of repeat offenders in the commission of criminal acts involving violence against persons or force against things.
- d) Organized crime is involved.

(Thus added by Article 17 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 240.

Danger of absconding The following circumstances in particular shall be taken into account when deciding on the danger of absconding:

- a) Rooting in the country, determined by the domicile, habitual residence, seat of the family, of his business or work and the facilities to leave the country definitively or to remain hidden. Falsehood, lack of information or failure to update the domicile of the accused shall constitute a presumption of flight.
- b) The penalty that could be imposed in the case.
- c) The magnitude of the damage caused.
- d) The defendant's behavior during the proceeding or in a previous proceeding, to the extent that it indicates his or her willingness to submit to criminal prosecution.

Article sheet

ARTICLE 241.

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Danger of hindrance In deciding on the danger of hindrance to ascertaining the truth, particular account shall be taken of the serious suspicion that the defendant:

- a) Destroy, modify, conceal or falsify evidence.
- b) Influence co-defendants, witnesses or experts to give false information or behave in a disloyal or reticent manner, or induce others to engage in such behavior.

The motive may only be used as grounds for imprisonment until the conclusion of the debate.

Article sheet

ARTICLE 242.

Evidence for the application of precautionary measures The prosecutor or, as the case may be, the Court, may receive evidence, ex officio or at the request of a party, in order to support the application, revision, substitution, modification or cancellation of a precautionary measure. Such evidence shall be added to a special file when it is not possible to incorporate it into the debate. The court shall evaluate these elements of evidence in accordance with the general rules established in this Code and exclusively to support the decision on the precautionary measure. If the court deems it necessary, before rendering its decision, it may convene an oral hearing to hear the parties or to receive the evidence directly. Minutes shall be taken of such hearing.

Article sheet

ARTICLE 243.

The preventive detention may only be decreed by a duly grounded resolution, in which each one of the premises that motivate it is expressed. The order must contain:

- a) The personal data of the accused or those that serve to identify him/her.
- b) A succinct statement of the fact or facts attributed to him/her.
- c) An indication of the reasons for which the court considers that the conditions that motivate the measure are met in the case.
- d) The citation of the applicable penal provisions.
- e) The date on which the maximum term of imprisonment expires.

Article sheet

ARTICLE 244.-Other precautionary measures. Whenever the presumptions that motivate the preventive detention can be reasonably avoided with the application of another less burdensome measure for the accused, the competent court, ex officio or at the request of the interested party, shall impose in its place, in a reasoned resolution, any of the following alternatives:

- a) House arrest, in his own home or in the custody of another person, without any surveillance or with such surveillance as the court may order.
- b) The obligation to submit to the care or supervision of a specific person or institution, which shall report regularly to the court.
- c) The obligation to appear periodically before the court or the authority designated by the court.
- d) The prohibition to leave without authorization the country, the locality in which he/she resides or the territorial area established by the court.
- e) Prohibition to attend certain meetings or visit certain places.
- f) The prohibition of cohabitation or communication with certain persons, provided that the right of defense is not affected.
- g) In the case of assaults on women and children or sexual offenses, when the victim lives with the accused, the corresponding authority may order the latter to leave the home immediately.
- h) The provision of an adequate surety bond.
- i) Suspension from office when a functional offense is attributed to him/her.
- j) The imposition of the measure of permanent localization with electronic device. To this effect, one day under permanent localization with electronic device is equivalent to one day of preventive detention.

(Thus added the previous paragraph by Article 5 of Law No. 9271 of September 30, 2014, "Electronic monitoring mechanisms in criminal matters").

If the legal qualification of the act admits the application of a disqualification penalty, the court may impose on him, preventively, to refrain from performing the conduct or activity for which he could be disqualified.

Article sheet

ARTICLE 245.- Imposition of the measures. The court may impose only one of the alternatives provided for in the preceding article or combine several of them, as appropriate to the case, and shall order the necessary measures and communications to ensure compliance.

The judge may agree that the control of compliance with the measures applied to persons be carried out by means of those electronic means that allow it.

In no case shall these measures be used in such a way as to distort their purpose or impose other measures that are impossible to comply with.

(Thus amended by Article 6 of Law No. 9271 of September 30, 2014, "Electronic monitoring mechanisms in criminal matters").

Article sheet

ARTICLE 246.

Sworn guarantee Any coercive measure may also be dispensed with when the promise of the accused to submit to the procedure, not to obstruct the investigation and to refrain from committing new crimes is sufficient to eliminate the danger of flight, obstruction or recidivism. [Article Sheet](#)

ARTICLE 247.

Exemption from imprisonment If the accused is at liberty, he may request the court to exempt him from the possible application of preventive imprisonment, agreeing to the effect some of its alternative measures. [Article file](#)

Article 248.-Abandonment of domicile

The abandonment of the domicile as a precautionary measure shall be established for a minimum term of one month, but may not exceed six months; it may be extended for equal periods, if so requested by the offended party and if the reasons that justified it are maintained.

The measure may be interrupted when there is reconciliation between the offended party and the accused, provided that such circumstance is manifested by the offended party before the jurisdictional authority.

In order to lift the precautionary measure, the accused must provide a sworn guarantee that he/she will not reoffend. Before lifting the measure, the victim's opinion will be heard, if he/she can be located. In the case of a victim who is being protected, the prosecutor in charge of the case must inform the victim of the hearing; to this end, he/she may coordinate with the Office for the Attention of Victims of Crime.

In the case of offended persons who are minors, the cessation of this precautionary measure shall only proceed when it is established that there is no risk to the victim and the representative of the National Child Welfare Agency (PANI) so recommends.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

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Article sheet

ARTICLE 249.

Alimony When the abandonment of the domicile has been ordered, the court, at the request of a party, shall order the deposit of a sum of money for one month, which it shall fix prudentially. The defendant must pay it within eight days, in order to cover the food and lodging expenses of the members of the family group who are economically dependent on him. This obligation shall be governed by the rules of alimony and, therefore, the obligor may be ordered to pay it in case of non-compliance. Once the quota has been fixed, the court will ex officio take testimony that will be sent to the competent judicial authority, so that it may continue to hear the matter in accordance with the Alimony Law.

Article sheet

ARTICLE 250.

Bonds When appropriate, the court shall fix the amount and type of surety as a precautionary measure, and shall also decide on the suitability of the surety, according to a free appraisal of the circumstances of the case. The accused and the guarantor may substitute the surety for an equivalent one, with the prior authorization of the court. To determine the quality and quantity of the surety, the nature of the crime, the economic condition, the personality and the background of the accused shall be taken into account. The court shall make the estimate in such a way as to constitute an effective motive for the accused to abstain from violating his obligations. The real surety shall be constituted with a deposit of money, securities or with the granting of pledges or mortgages, for the amount determined by the court.

Article sheet

ARTICLE 251.

When the amount of the bond exceeds three base salaries, as established in the Penal Code for crimes against property, the solvency of the sureties will be verified by means of a certification issued by the Public Registry. The value of the goods may be verified with the certification of the value declared for tax purposes, or with an expert opinion made for such purpose. When the amount of the guarantee is less than this sum, it is at the discretion of the court to accept the guarantor if he does not have assets registered in his name, as well as to require him to prove his economic situation and possible resources. The court may make the acceptance of the surety conditional upon its prior registration in the Property Registry. In this case, the annotation will be considered as a lien on the property and any acquirer of the annotated property will accept the liability that the bond implies.

Article sheet

ARTICLE 252.

Enforcement of sureties When the default of the accused has been decreed or when the latter evades the enforcement of the penalty, a period of five days shall be granted to the surety to present him; he shall be warned that if he fails to do so or does not justify his non-appearance, the surety shall be executed. Upon expiration of the term, the court shall order, as the case may be, the execution of the surety or the sale at public auction of the mortgaged or pledged property. The proceeds obtained shall be transferred to the Patronato de Construcciones, Instalaciones y Adquisición de Bienes de la Dirección General de Adaptación Social.

[Article sheet](#)

ARTICLE 253.

Review of pretrial detention During the first three months of pretrial detention, its review will only proceed when the court considers that the circumstances for which it was decreed have changed. Once this period has expired, the court will review ex officio, at least every three months, the conditions of the detention or internment and, as the case may be, will order its continuation, modification, substitution by another measure or the release of the accused. Failure to comply with the duty of periodic review will only result in the application of the disciplinary regime when appropriate. After three months have elapsed from the decree of preventive detention, the accused may request its review when he considers that the circumstances for which it was ordered no longer exist. His requests shall interrupt the term indicated in the preceding paragraph. When reviewing the preventive detention, the court shall take into consideration, especially, the dangerousness of the accused and the sufficiency of the evidence to reasonably sustain that he is the author of a punishable act or participant in it.

[Article sheet](#)

ARTICLE 254.

Revision, substitution, modification and cancellation of the measures Except as provided in the preceding article, the court, even ex officio and at any stage of the proceeding, by a founded resolution shall revise, substitute, modify or cancel the origin of the precautionary measures and the circumstances of their imposition, in accordance with the rules established in this Code, when so required due to a change in the conditions that justified their imposition. If the surety rendered is of a real nature and is substituted by another, it shall be cancelled and the affected assets shall be returned.

[Article sheet](#)

ARTICLE 255.

Minutes Prior to the execution of the precautionary measures, when applicable, a record shall be drawn up stating:

- a) Notification to the accused.

- b) The identification and address of the institution or individuals involved in the execution of the measure and the acceptance of the function or obligation assigned to them.
- c) Warnings to individuals of the obligations they assume in the event of non-compliance by the accused.
- d) The indication of the place or manner to receive notifications.
- e) The formal promise of the accused to appear at the summons.

Article sheet

ARTICLE 256.- Appeal. During the preparatory and intermediate proceedings, the resolution that decrees preventive detention for the first time or, after the first three months have elapsed, rejects a substitute measure, shall be taken at a hearing and shall be subject to appeal without suspensive effect.

Appeals shall also be allowed, in the same manner and without suspensive effect, against resolutions imposing any other precautionary measure or rejecting a substitute measure when they are issued during the preparatory and intermediate proceedings, provided that they are not in the cases of the first paragraph. For these purposes, only the documents necessary to resolve the case will be sent to the court and the procedure established for processing the appeal will not apply.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 257.

Cessation of pretrial detention The deprivation of liberty shall end:

- a) When new elements of judgment demonstrate that the reasons that founded it no longer exist or make it advisable to replace it with another measure, even before three months have elapsed since it was decreed.
- b) When its duration exceeds or is equivalent to the amount of the possible penalty to be imposed, the application of penal rules relating to the suspension or remission of the penalty, or early release, will also be considered.
- c) When its duration exceeds twelve months.

Article sheet

ARTICLE 258.-Term extension of pretrial detention. At the request of the Public Prosecutor's Office, the term provided for in the preceding article may be extended by the Court of Sentence Appeal,

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for up to one more year, provided that it fixes the specific time of the extension. In this case, the court shall indicate the measures necessary to expedite the proceedings.

If the trial court issues a conviction that imposes a custodial sentence, the term of pre-trial detention may be extended by means of a well-founded resolution, for six more months. This last extension shall be added to the pre-trial detention terms indicated in the previous article and in the first paragraph of this regulation.

Once these time limits have expired, no further extension of the period of pre-trial detention may be granted, except as provided for in the final paragraph of this Article, in order to ensure the conduct of the debate or of a particular act, to verify the suspicion of flight, or to prevent the obstruction of the investigation of the truth or recidivism. In such cases, the deprivation of liberty may not exceed the time absolutely necessary to fulfill the purpose of the provision.

The Court of Sentence Appeal, exceptionally and ex officio, may authorize an extension of the preventive detention beyond the above terms and for up to six more months, when they order the remand for a new trial.

Exceptionally, the Criminal Cassation Chamber may extend preventive detention for up to six months beyond the terms previously authorized by law.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 259.

Suspension of pretrial detention periods

The deadlines set forth in the preceding article shall be suspended in the following cases:

(*a) *During the time the proceeding is suspended due to the filing of an appeal or action before the Constitutional Chamber.*

(* *(By resolution of the Constitutional Chamber of No. 2004-03901 of 04/21/2004, it interpreted paragraph a) of this article in the following sense: it is declared that this rule does not contravene Article 39 of the Constitution or the principles of legal certainty and security as long as it is interpreted that the suspension of the pre-trial detention period provided for in this rule cannot in any case exceed the maximum periods established in Article 378 paragraph a) of the Code of Criminal Procedure and that, once these periods have expired, the accused must be released).*

b) *During the time in which the debate is suspended or its initiation is postponed due to impediment or non-attendance of the accused or his defense counsel, or at their request, provided that the suspension or postponement has not been ordered due to needs related to the acquisition of evidence or as a consequence of terms for the defense.*

c) When the process must be prolonged due to obviously dilatory steps or incidences formulated by the accused or his defense counsel, according to a reasoned resolution of the court.

Article sheet

ARTICLE 260.

Limitations Pre-trial detention shall not be ordered for persons over seventy years of age or persons with a terminal illness, if the court considers that, in the event of conviction, they will not be sentenced to more than five years imprisonment. Nor will it be decreed in relation to persons affected by a serious and terminal illness. In these cases, if restriction of liberty is indispensable, house arrest or placement in a medical or geriatric center must be ordered. Preventive imprisonment may be substituted by house arrest for women in an advanced state of pregnancy or with a child under three months of age, when the deprivation of liberty endangers the life, health or integrity of the mother, fetus or child.

Article sheet

ARTICLE 261.

Incommunicado detention The court may order the incommunicado detention of the accused in a well-founded resolution, for up to ten consecutive days, when it has previously ordered preventive detention and there are reasons, which shall be stated in the resolution, to believe that he will agree with his accomplices or otherwise obstruct the investigation. Incommunicado detention shall not prevent the accused from communicating with his defense counsel immediately before giving his statement or before performing any act that requires his personal intervention. The Public Prosecutor's Office and the judicial police may order the incommunicado detention of the apprehended person only for the time necessary to process the court order, which may not exceed six hours.

Article sheet

ARTICLE 262.

Internment The court may order the internment of the accused in an assistance establishment, after verifying, by expert opinion, that he suffers a serious alteration or insufficiency of his mental faculties, which makes him dangerous for himself or for third parties, when the following requirements are met:

- a) The existence of sufficient elements of conviction to reasonably sustain that he is the author or participant in a punishable act.
- b) The existence of a sufficient presumption that he/she will not submit to the procedure or will obstruct a specific act of investigation.

Article sheet

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TITLE II

PRECAUTIONARY MEASURE OF A REAL NATURE

ARTICLE 263.

Garnishment The civil plaintiff may formulate the request for garnishment in the writ of incorporation or subsequently, without prejudice to the right to request a preventive garnishment.

The attachment shall be granted by the court, at the request of a party, to guarantee the reparation of damages and the payment of costs.

[Article sheet](#)

ARTICLE 264.

Supplementary application With respect to the attachment and all its incidences, the provisions of the Code of Civil Procedure shall be applicable insofar as they are applicable.

[Article sheet](#)

BOOK V

COSTS AND COMPENSATION

TITLE I

COSTS

ARTICLE 265.

Costs of the defendant In all proceedings, the State shall cover the costs in relation to the defendant and other parties benefiting from the benefit of litigation without recovery thereof.

When the accused has economic solvency, he/she must pay the Judicial Branch for the services of the public defender or any other that he/she has received. For this purpose, the procedure established in the Organic Law of the Judiciary with respect to the public defender shall be followed. The payment of the official translator or interpreter is exempted from this duty.

[Article sheet](#)

ARTICLE 266.

Necessary resolution The criminal court must make a reasoned decision on the payment of procedural and personal costs when issuing the resolution that terminates the case.

[Article sheet](#)

ARTICLE 267.

Fixation of costs Costs shall be borne by the losing party, but the court may exempt it, in whole or in part, when there is a plausible reason for litigation. When several parties are ordered to pay costs, the court shall fix the proportional part corresponding to each one, without prejudice to the solidarity established by law.

[Article sheet](#)

ARTICLE 268.

Exempt persons The representatives of the Public Prosecutor's Office, attorneys and agents who intervene in the process may not be ordered to pay costs, except in those cases in which the contrary is specifically provided for and without prejudice to any civil, criminal or disciplinary liability they may incur.

[Article sheet](#)

ARTICLE 269.

Content The costs will consist of:

- a) The expenses originated by the processing of the procedure.
- b) Payment of the fees of attorneys, other professionals and other persons involved in the proceedings.

[Article sheet](#)

ARTICLE 270.

Civil action If the civil claim is admitted in the judgment, the defendant and the third party defendant shall jointly and severally bear the costs; if the claim is rejected, the civil plaintiff shall bear them. If the action cannot proceed, each of the intervening parties shall bear its own costs, unless the parties have agreed otherwise or the court, due to the circumstances of the case, apportions them otherwise.

[Article sheet](#)

TITLE II

INDEMNIFICATION OF THE DEFENDANT

ARTICLE 271.

Duty to indemnify. The State shall indemnify a person who has been unduly subjected to a precautionary measure by a public official who acted arbitrarily or with gross negligence, under the terms of Article 199 of the General Law of Public Administration. In this case, the official will be jointly and severally liable with the State.

Compensation shall also be payable by the State only when a person has been remanded in custody and is later acquitted or acquitted, with full proof of innocence.

(By resolution of the Constitutional Chamber No. 2992 of March 5, 2013, it was established that the action filed against the second paragraph of this article is dismissed as long as the phrase "with full demonstration of innocence" is interpreted in the sense that the acquittal or dismissal was issued because there is certainty about his innocence).

[Article sheet](#)

ARTICLE 272.

Jurisdiction The contentious-administrative jurisdiction shall be competent to hear the claims for compensation referred to in the preceding article. When the official's actions constitute a crime, compensation may be claimed in the criminal jurisdiction by means of a civil action for compensation.

[Article sheet](#)

ARTICLE 273.

Death of the entitled person If the person entitled to compensation is deceased, his successors shall be entitled to collect or manage the compensation provided for, within the limits of their hereditary quota.

[Article sheet](#)

PART TWO

PROCEDURES

BOOK I

ORDINARY PROCEDURE

TITLE I

PREPARATORY PROCEDURE

CHAPTER I

GENERAL RULES

ARTICLE

274.-

Purpose

The purpose of the preparatory proceeding shall be to determine whether there is a basis for the trial, through the collection of evidence to support the prosecution's or the complainant's accusation and the defense of the accused.

[Article sheet](#)

ARTICLE 275.

Investigation file The Public Prosecutor's Office will form an investigation file, in order to prepare its request, to which it will add the documents that may be incorporated to the debate. [Article file](#)

ARTICLE 276.

Validity of the proceedings The proceedings of the preparatory investigation shall not have evidentiary value to support the conviction of the accused, except for the evidence received in accordance with the rules of final and irreproducible acts and those that this Code authorizes to be introduced in the debate by reading.

[Article sheet](#)

ARTICLE 277.

Jurisdictional proceedings The court in the preparatory proceedings will be responsible for making jurisdictional advances of evidence, resolving exceptions and other requests inherent to this stage, granting authorizations and, in general, controlling compliance with the principles and guarantees established in the Constitution, international and community law in force in Costa Rica and in

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this Code. The foregoing shall not prevent the interested party from raising the matter at the preliminary hearing. Prosecutors may not perform strictly jurisdictional acts and judges, except for the exceptions expressly provided for in this Code, may not perform acts of investigation.

[Article sheet](#)

CHAPTER II

INITIAL EVENTS

Section One

Complaint

ARTICLE 278.

Those who have knowledge of a crime of public action may report it to the Public Prosecutor's Office, to a court with criminal jurisdiction or to the Judicial Police, unless the action depends on a private instance.

In the latter case, only those who have the power to file a complaint in accordance with this Code may do so.

The court receiving a complaint shall immediately bring it to the attention of the Public Prosecutor's Office.

(Note: As a complement, see above Article 152 bis, which deals with the case of receipt of complaints of sexual offenses or attempted sexual offenses, and the obligation of the accused to provide alimony).

[Article sheet](#)

ARTICLE 279.

Form The complaint may be presented in written or oral form, in person or by special representative. In the latter case, it must be accompanied by a power of attorney.

When it is verbal, a record shall be drawn up in accordance with the formalities established in this Code. In both cases the official shall verify the identity of the complainant.

[Article sheet](#)

ARTICLE 280.

Contents The report shall contain, as far as possible, a detailed account of the event, indicating the perpetrators and participants, victims, witnesses and other elements that may be relevant to the case.

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lead to its verification and legal qualification.

Article sheet

ARTICLE 281.

Obligation to report Offenses that can be prosecuted ex officio shall be reported:

- a) Public officials or employees who become aware of them in the performance of their duties.
- b) Physicians, midwives, pharmacists and other persons practicing any branch of the art of healing, who become aware of such facts when rendering the aids of their profession, unless the knowledge acquired by them is protected by law under the protection of professional secrecy.
- c) Persons who by provision of the law, of the authority or by a legal act are in charge of the management, administration, care or control of assets or interests of an institution, entity or person, with respect to crimes committed to their detriment or to the detriment of the mass or patrimony placed under their charge or control and provided that they become aware of the fact in the exercise of their functions.

In all these cases, the denunciation shall not be obligatory if it reasonably risks criminal prosecution for oneself, one's spouse, or relatives up to the third degree by consanguinity or affinity, or a person who cohabits with the denouncer linked to him/her by special ties of affection.

Article sheet

Article 282. Dismissal

When the reported fact does not constitute a crime or it is impossible to proceed, the Public Prosecutor's Office shall request the court of the preparatory proceedings, by means of a well-founded request, to dismiss the complaint, the lawsuit or the police proceedings.

The dismissal shall not prevent the reopening of the proceeding, when new circumstances so require, nor shall it exempt the Public Prosecutor's Office from the duty to carry out the acts of investigation that do not admit of delay.

The decision admitting the dismissal shall be communicated to the victim of known domicile and may be appealed by the victim, the plaintiff, the civil plaintiff and the Public Prosecutor's Office.

If the victim is being protected, the prosecutor in charge of the case must inform the victim immediately.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Second Section

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Intervention of the judicial police

ARTICLE 283.

Preliminary proceedings Judicial police officers and agents who learn of a publicly actionable crime shall, within six hours of their first intervention, inform the Public Prosecutor's Office. Under the direction and control of the prosecutor in charge of the investigation, they shall practice the preliminary proceedings to gather or secure, urgently, the elements of conviction and prevent the escape or concealment of the suspects. The same rule shall apply when the Public Prosecutor's Office entrusts them with a preventive investigation.

[Article sheet](#)

ARTICLE 284.

The administrative police agents shall be considered officers or agents of the judicial police, when they perform the functions that the law and this Code impose on the latter, and the employees of the former shall be auxiliary. The administrative police, insofar as they perform judicial police acts, shall be under the authority of judges and prosecutors, without prejudice to the general administrative authority to which they are subject. It shall act whenever the judicial police cannot do so immediately, but from the moment it intervenes, the administrative police shall be its auxiliary.

[Article sheet](#)

Article 285. Function

The judicial police, on its own initiative, by complaint or order of the competent authority, will proceed to investigate the crimes of public action, to prevent the committed facts from being carried to further consequences; it will also proceed to identify and apprehend, preventively, the presumed guilty parties and to gather, secure and scientifically order the evidence and other background necessary to base the accusation or determine the dismissal of the case.

Likewise, when on the occasion of the investigations, it determines the existence of a risk to the life or safety of the victim or a witness, it will adopt the necessary urgent measures to guarantee their protection and the confidentiality of their identity while it informs the Public Prosecutor's Office or the competent judge of the fact. In addition, it shall communicate the fact to the Office of Attention to the Victim of the Crime of the Public Prosecutor's Office, so that it may initiate the provisions of this Law for the extraprocedural protection of the person, if applicable.

If the crime is of private action, he shall only proceed when he receives an order from the court; but if it is of private instance, he shall act upon the complaint of the person authorized to initiate.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

[Article sheet](#)

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ARTICLE 286.

Powers The judicial police shall have the following powers:

- a) Receive complaints.
- b) Ensure that the body and traces of the crime are preserved.
- c) If there is a danger that any delay may jeopardize the success of the investigation, to record the state of persons, things and places, by means of inspections, plans, photographs, technical examinations and other operations that a proper investigation advises.
- d) Proceed with searches and seizures, with the formalities and limitations established in this Code.
- e) To order, if necessary, the closure of premises where there is evidence that a crime has been committed.
- f) Interview witnesses presumably useful to discover the truth. When, on the occasion of the investigations, it determines the existence of a risk to the life or safety of the victim or a witness, it shall adopt the urgent measures necessary to guarantee their protection and the confidentiality of their identity while it informs the Public Prosecutor's Office or the competent judge of the fact, within a maximum period of twenty-four hours. In these cases, he may not include in the report the data that would allow the identification and location of the victim or witness, without prejudice to the decision of the competent judge.

(As amended by Article 16 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009).

- g) To summon, apprehend and incommunicado the alleged offender in the cases and in the manner authorized by this Code.
- h) Identify the accused and interrogate him in the presence of his defense counsel, during the first six hours of his apprehension or detention, for investigative purposes, respecting the fundamental rights and guarantees established in the Political Constitution and the laws.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009).

In the case of subparagraphs b), c) and d), if he cannot carry out the diligence due to legal impediment, he must take the necessary precautions so that the circumstances to be ascertained are not altered, while the judge or the prosecutor intervenes.

Article sheet

ARTICLE 287.

Precautionary measure When at the first moment of the investigation of an event it is not possible to

If it is necessary to proceed urgently so as not to prejudice the ascertainment of the truth, it may be ordered that those present do not leave the place, nor communicate with each other before reporting, nor modify the state of things or places, providing the measures of the case. The rules of apprehension and incommunicado detention will be applicable. [Article sheet](#)

ARTICLE 288.

Report on preliminary proceedings Police officers and auxiliaries shall submit a report to the Public Prosecutor's Office on the actions they have taken to investigate a criminal act.

[Article sheet](#)

Third Section

Acts of the Public Prosecutor's Office

ARTICLE 289.

Purpose of criminal prosecution When the Public Prosecutor's Office becomes aware of a crime of public action, it must prevent its further consequences and promote its investigation to determine the circumstances of the act and its perpetrators or participants.

[Article sheet](#)

ARTICLE 290.

Powers of the Public Prosecutor's Office The Public Prosecutor's Office will carry out the diligences and actions of the preparatory investigation that do not require judicial authorization nor have jurisdictional content. It may demand information from any public official or employee, who are obliged to collaborate with the investigation, according to their respective competencies and to comply with the requests or requests for reports made in accordance with the law. In addition, it may order reasonable and necessary measures to protect and isolate evidence in the places where a crime is being investigated, in order to avoid the disappearance or destruction of traces, evidence and other material elements.

[Article sheet](#)

ARTICLE 291.

Power of investigation The Public Prosecutor's Office may carry out the proceedings to secure the essential elements of proof of the punishable act and determine its perpetrators and participants, even when the trial has been suspended on probation or a criterion of opportunity has been applied.

[Article sheet](#)

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ARTICLE 292.

Participation in the acts The Public Prosecutor's Office will allow the presence of the parties in the acts it performs; it will also ensure that their participation does not interfere with the normal development of the activities. Any of the parties may propose investigative measures. The Public Prosecutor's Office shall carry them out if it considers them pertinent and useful, and shall record the reasons for its refusal, to the effects that later correspond. In the latter case, the parties may go before the court of the preparatory proceeding, which shall decide, without substantiation, on the appropriateness of the evidence.

[Article sheet](#)

Article 293.-Jurisdictional advance of evidence

When it is necessary to perform a definitive and irreproducible act, which affects fundamental rights, or when a statement must be received that, due to some obstacle difficult to overcome, it is presumed that it cannot be received during the trial, or when, due to the complexity of the matter, there is a probability that the witness will forget essential circumstances about what he/she knows or when it concerns persons who must leave the country, the Public Ministry or any of the parties may request the judge to perform or receive it. In the case of a witness or victim whose safety, life or physical integrity are at risk due to his participation in the process and it is reasonably presumed that his testimony at trial will not be possible, since the risk will not be reduced or could increase, the Public Prosecutor's Office, the complainant or the defense will request the judge to order the anticipated reception of his testimony. In all cases in which the confidentiality of the declarant's physical characteristics has been agreed upon, due to the existence of a risk to his life or physical integrity, his testimony shall be received in advance.

The judge shall perform the act, if he deems it admissible, summoning all the parties, who shall have the right to attend, with all the powers and obligations provided for by this Code.

For the reception of the jurisdictional advance of evidence, the technological means available may be used, such as videoconference, recordings, closed circuit television, filming or any other means, in order to guarantee the purity of the act and the validity of the principles of immediacy and orality of the trial, as well as the right of defense. When the identity of the witness or the victim is protected, the advance will be received, keeping their identification data confidential and with the help of the available technological means or special cameras that allow keeping their physical characteristics hidden or disguised, according to the scope of the protection granted by the judge.

The resolution that accepts or rejects the advance payment may be appealed by the defense, the Public Prosecutor's Office and the plaintiff.

The rejection of a request for a jurisdictional advance of evidence shall not prevent its reconsideration, if new circumstances or evidence so indicate.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 294.

Urgency When it is not known who the accused may be or if any of the acts provided for in the preceding article is of extreme urgency, the Public Prosecutor's Office may verbally request the intervention of the judge and the judge shall perform the act regardless of the citations provided for and, if necessary, shall appoint a public defender to participate in the act. When it has proceeded by urgency, after the act has been practiced, it must be made known to the parties. The prior summons may not be dispensed with in cases where a witness must be heard because of the possibility of forgetting essential circumstances.

Article sheet

ARTICLE 295.

Privacy of the proceedings The preparatory proceedings shall not be public to third parties. The proceedings may only be examined by the parties, directly or through their representatives. Lawyers claiming a legitimate interest will be informed by the Public Prosecutor's Office about the fact under investigation and about the accused or detainees that exist, in order for them to decide whether they agree to participate in the case. The parties, the officials participating in the investigation and other persons who, for any reason, have knowledge of the proceedings shall be under the obligation of secrecy. Failure to comply with this obligation shall be considered serious misconduct.

Article sheet

ARTICLE 296.

Secrecy of the proceedings If the accused is not deprived of his liberty, the Public Prosecutor's Office may order, only once and by means of a founded resolution, the total or partial secrecy of the proceedings, for a term that may not exceed ten consecutive days, provided that the publicity hinders the discovery of the truth. The term may be extended for up to a further period, but, in this case, any of the named parties, their defense counsel or representatives may request the court of the preparatory proceedings to examine the grounds for the provision and to terminate the secrecy. Notwithstanding the expiration of the established time limits, when the effectiveness of a particular act depends on the partial reservation of the proceedings, the Public Prosecutor's Office may request the judge to order it to be carried out without prior communication to the parties, who will be informed of the result of the proceeding.

Article sheet

ARTICLE 297.

Initial assessment Upon receipt of the first proceedings, the prosecutor will assess them in order to examine whether to continue with the investigation or to request the following:

- a) The dismissal of the complaint, the complaint or the police proceedings.
- b) Dismissal.
- c) Lack of jurisdiction by reason of subject matter or territory.
- d) The application of an opportunity criterion e) Suspension of the trial on probation.
- f) The application of the abbreviated procedure.
- g) Reconciliation.
- h) Any other measure tending to finalize the process.

Article sheet

Article 298.-Fiscal archive

If it has not been possible to identify the accused, the Public Prosecutor's Office may, on its own, order, with good grounds, that the proceedings be closed. The decision shall be communicated to the victim of known domicile, who may object to the closure before the court of the preparatory proceedings and shall indicate the evidence that allows the individualization of the accused. If the judge admits the objection, he shall order the investigation to continue.

The prosecutor's decision to close the case does not prevent the investigation from being reopened if, at a later date, information is found that allows the accused to be identified.

The victim may also object before the court of the preparatory proceeding, the errors, omissions or delays that he considers have occurred in the investigation of the facts to his detriment. The judge will give a hearing to both the Public Prosecutor's Office and the defense, for a period of five days, and will rule accordingly. If the protest is related to the non-evacuation of evidence, the judge shall rule accordingly, according to the procedure regulated in article 292 of this Code. The victim may appeal the decision.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

CHAPTER III

CONCLUSION OF THE PREPARATORY PROCEDURE

Article 299- Conclusive acts. When the Public Prosecutor's Office or the plaintiff deems that the evidence is insufficient to support the accusation, they may request the dismissal or the definitive or provisional dismissal of the case.

They may also request the suspension of the trial on probation, the application of opportunity criteria, the abbreviated procedure, the application of the restorative justice procedure or the promotion of conciliation. Together with the request, they shall submit to the judge the proceedings, evidence and other material means of proof in their possession.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 300.- Intervention of the victim

When the Public Prosecutor's Office decides to request the application of an opportunity criterion or the dismissal of the case, it must inform the victim of known domicile so that he/she may state whether he/she intends to become a plaintiff. In this case, the victim must indicate it in writing within the following three days. The complaint must be filed with the Public Prosecutor's Office within ten days after the expiration of the above term. Once the complaint has been received, the Public Prosecutor's Office shall transfer it to the court of the intermediate proceeding, if the accused has already had the opportunity to give his statement; otherwise, it shall give him that opportunity beforehand. It shall also transfer the proceedings and attach its request.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 301.

If the victim does not make a statement within three days or does not file a complaint within ten days, the Public Prosecutor's Office shall transfer the case to the intermediate proceeding court so that it may decide, without substantiation, what is appropriate. If the victim files the complaint in time, the intermediate proceeding court shall notify the parties and make available to them the proceedings and evidence gathered in the investigation, so that they may examine them within a common period of five days. In the same resolution it shall convene the preliminary hearing.

Article sheet

ARTICLE 302.

Disagreement When the court considers it appropriate to open the case for trial and the Public Prosecutor's Office has requested the dismissal or dismissal of the case, without the victim having filed

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a complaint, the Public Prosecutor's Office may request the dismissal or dismissal of the case, without the victim having filed a complaint.

shall again send the proceedings to the prosecutor, by a well-founded order, so that he may modify his request within a maximum period of five days. If the prosecutor ratifies his request and the court maintains its position, the proceedings shall be sent to the Attorney General or the superior prosecutor he has appointed, so that he may request again or ratify what was raised by the inferior prosecutor. When the Public Prosecutor's Office reiterates its request, the judge shall rule in accordance with the request, without prejudice to the challenge of the decision by the victim.

Article sheet

ARTICLE 303.

Indictment and request for trial When the Public Prosecutor's Office considers that the investigation provides grounds to subject the accused to public trial, it will file the indictment requesting the opening of the trial.

The indictment shall contain:

- a) The data used to identify the accused.
- b) The precise and circumstantial relation of the punishable act attributed.
- c) The basis of the accusation, with the expression of the elements of conviction that motivate it.
- d) Citation of the applicable legal precepts.
- e) The offer of evidence to be presented at trial.

With the indictment, the Public Prosecutor's Office will submit to the judge the proceedings and evidence in its possession that can be incorporated into the debate.

Article sheet

Offering of evidence for trial.

When the evidence is offered, the list of witnesses and experts shall be submitted, indicating their names, profession and domicile. The documents shall also be presented or the place where they are found shall be indicated, so that the court may require them. The means of proof shall be offered with an indication of the facts or circumstances they are intended to prove, under penalty of inadmissibility.

On the same occasion, the Public Prosecutor's Office or the plaintiff will request the judge to adopt the necessary measures for the procedural protection of the witness or the victim, as the case may be, or to continue with the protection already granted, until a final judgment is issued. In the case of the first request for protection, the report mentioned in article 204 bis of this Code shall be accompanied and, in the preliminary hearing, the parties shall be heard on the subject. The decision shall be adopted and kept in a separate file.

The prosecutor in charge of the case will be in charge of summoning the witness or victim subject to procedural protection; for this purpose, he/she may coordinate with the Office of Attention to Crime Victims of the Public Prosecutor's Office.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

(See resolution of the Constitutional Chamber No. 01-6677 of July eleventh, two thousand one, in the sense that article ()304 of the Code of Criminal Procedure does not violate the right of abstention recognized in article 36 of the Political Constitution).*

()(Sinalevi's Note: The text referred to in the vote of the Constitutional Chamber No. 01-6677, is included in the first paragraph of this article, in accordance with the amendment made by Law No. 8720).*

(The Constitutional Chamber, by resolution No. 17907-10 of October 27, 2010, considered that this article is not unconstitutional, "as long as it is interpreted that from the debate phase onwards, only the extra-procedural protection of the victim or witness is applicable, so as not to harm the right of defense and that such protection must be maintained, even after the final judgment, as long as it is necessary for the safety of the witness, expert witness, deponent or their family members").

Article sheet

ARTICLE 305.

Alternative or subsidiary accusation In the accusation, the Public Prosecutor's Office or the plaintiff may indicate, alternatively or subsidiarily, the circumstances of the act that allow the defendant's behavior to be classified as a different crime, in order to enable the defendant's proper defense.

[Article sheet](#)

ARTICLE 306.

Transfer of the accusation The Public Prosecutor's Office shall bring the accusation to the attention of the victim of known address who has requested to be informed of the results of the procedure, so that he/she may state whether he/she intends to become a complainant, in which case he/she must indicate so in writing within the following three days. The complaint must be filed with the Public Prosecutor's Office within ten days after the expiration of the above term.

[Article sheet](#)

ARTICLE 307.

Extension of the complaint When the victim has filed a complaint, the Public Prosecutor's Office shall also inform him/her of the accusation, so that he/she may, in view of the accusation and within the following ten days, extend or clarify the list of facts contained in the complaint and the legal grounds, and offer new evidence. Silence on the part of the plaintiff shall not constitute withdrawal.

[Article sheet](#)

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ARTICLE 308.

Claims of the civil plaintiff When the civil action for compensation has been exercised, the Public Prosecutor's Office must also bring the accusation to the attention of the civil plaintiff, so that within a period of five days he may specify his claims, indicate the type and form of reparation he demands and settle the amount of the damages he deems to have suffered up to that moment, without prejudice to expanding the items for future consequences. In this same opportunity, it must offer the evidence for the oral trial in accordance with the requirements indicated for the accusation.

[Article sheet](#)

ARTICLE 309.

Statement of the accused The accusation or complaint shall not be transferred to the court of the intermediate proceeding if the accused has not first been given an opportunity to make a statement.

[Article sheet](#)

TITLE II

INTERMEDIATE PROCEDURE

CHAPTER I

CONCLUSIVE RESOLUTIONS

ARTICLE 310.

Procedure When only requests or petitions other than the indictment or complaint are filed, the court of the intermediate proceeding shall decide without substantiation what is appropriate, unless otherwise provided or it deems it indispensable to hold a preliminary hearing, in which case it shall summon the parties.

[Article sheet](#)

ARTICLE 311.

Definitive dismissal Definitive dismissal shall proceed when:

- a) The alleged act did not take place or was not committed by the accused.

- b) The fact does not fit a criminal offense.
- c) There is a cause of justification or inculpability.
- d) The criminal action has been extinguished.
- e) Despite the lack of certainty, there is no reasonable possibility of incorporating new evidence and there is no basis for a well-founded request to open the case for trial.

Article sheet

ARTICLE 312.

Contents of the resolution The resolution that agrees the definitive dismissal must contain:

- a) The identity of the accused.
- b) The statement of the facts of the accusation.
- c) The description of the proven facts.
- d) The factual and legal basis.
- e) The operative part, citing the applicable legal precepts.

Article sheet

ARTICLE 313.

Effects of the definitive dismissal Once the definitive dismissal is final, it will irrevocably close the proceeding in relation to the accused in whose favor it is issued, it will prevent a new criminal prosecution for the same act and the precautionary measures imposed will cease.

Article sheet

ARTICLE 314.

Provisional dismissal If a definitive dismissal is not appropriate and the evidence is insufficient to conduct the trial, a provisional dismissal will be ordered by a well-founded order that specifically mentions the specific evidence that is expected to be incorporated. The precautionary measures imposed on the accused will cease. If new evidence allows the continuation of the proceedings, the court, at the request of any of the parties, will admit the continuation of the investigation. If, within one year of the provisional dismissal, no new evidence is found, the court, at the request of any of the parties, shall admit the continuation of the investigation.

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If the court requests the reopening, it will declare, ex officio, the extinction of the criminal action.
[Article sheet](#)

ARTICLE 315.

Appeal The Public Prosecutor's Office, the plaintiff, the civil plaintiff and the victim may file an appeal, with suspensive effect, against the final dismissal of the case, issued in the preparatory and intermediate stages.

[Article sheet](#)

CHAPTER II

EXAMINATION OF THE INDICTMENT AND THE COMPLAINT

ARTICLE 316.

Preliminary hearing When the indictment or complaint is filed, even if there are also other requests or requirements, the court of the intermediate proceeding shall notify the parties and make available to them the proceedings and the evidence gathered during the investigation, so that they may examine them within a common period of five days.

In the same resolution, it shall summon the parties to an oral and private hearing, which shall be held within a period of not less than ten days, nor more than twenty.

[Article sheet](#)

ARTICLE 317.

Powers and duties of the parties Within the period provided for in the first paragraph of the preceding article, the parties may:

- a) To object to the request formulated by the Public Prosecutor's Office or the plaintiff, due to formal or substantial defects.
- b) To object to exceptions.
- c) To request the definitive or provisional dismissal, the suspension of the trial on probation, the imposition or revocation of a precautionary measure or the anticipation of evidence.
- d) Request the application of the abbreviated procedure, an opportunity criterion or conciliation.
- e) To offer evidence for the oral and public trial, in accordance with the requirements indicated for the indictment.
- f) To raise any other issue that will allow a better preparation of the trial.

Within the same period of time, the parties shall offer the evidence necessary to resolve the issues of the preliminary hearing.

Article sheet

Article 318.-Development of the hearing

The hearing must be attended by the prosecutor and the defense counsel; however, if the latter does not appear, he shall be replaced by a public defender. If applicable, the plaintiff and the civil plaintiff must also attend, but their non-attendance does not suspend the proceedings. The accused and the civil defendants may also intervene.

The victim of known address must be summoned to participate in the hearing; however, his or her failure to appear will not suspend the proceedings. In the case of a victim who is under protection, the summons to the hearing must be communicated to the Office of Attention to the Victim of the Crime of the Public Prosecutor's Office. The court will try to conciliate the parties, when this solution is appropriate. If this does not occur or does not proceed, the preliminary hearing will continue.

The floor shall be given, in order, to the plaintiff, the representative of the Public Prosecutor's Office, the civil plaintiff, the defense counsel and the representative of the civil defendant. The prosecutor and the complainant shall summarize the factual and legal grounds supporting their petitions; the civil plaintiff, the defense and the other parties shall state what they deem pertinent in defense of their interests. In the course of the hearing, the accused may give his statement, in accordance with the provisions of this Code. When the victim is present, he shall be given the floor.

When the court considers it strictly necessary for its decision, it shall order the production of evidence, unless such evidence is to be received at the oral trial.

The court will avoid discussing at the hearing issues that are proper to the oral trial.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 319.- Resolution. At the end of the hearing, the court shall immediately and orally resolve the issues raised, except that due to the lateness of the hour or in the case of a complex matter, the judge may defer the resolution for up to twenty-four hours.

The court will analyze the merits of the accusation or complaint, in order to determine whether there is a basis for the trial or, if applicable, whether the case should be totally or partially dismissed or the accused should be acquitted.

The court may also examine, in accordance with the established procedure, whether it is appropriate to apply a criterion of opportunity, the abbreviated procedure, suspend the procedure on probation or authorize the application of the rules for complex cases.

In addition, the court will resolve the exceptions raised, will order the corresponding advances of evidence and will rule on the separation or joinder of trials.

He shall decide on the admissibility of the evidence offered for the trial. If the parties have reached an agreement on the civil action, he shall order what is necessary to execute what has been agreed upon.

On the same occasion, the court shall examine the appropriateness, ratification, revocation or substitution of the precautionary measures. At the same time, it will rule on requests for protection of victims or witnesses or on the maintenance, modification or termination of measures already granted.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Previously this paragraph had been amended by Article 1° "Creation of the Appeal Appeal of the Judgment, other reforms to the Appeals Regime and Implementation of new Rules of Oral Proceedings in the Criminal Procedure", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 320.

Admission of evidence for the trial The court of the intermediate proceeding shall admit the relevant evidence for the correct solution of the case, and shall order ex officio that which is essential. It shall reject that which it considers evidently abundant or unnecessary. Ex officio it may order that evidence be received in the debate, only when the negligence of any of the parties is manifest and its source lies in the proceedings already carried out. Only an appeal for revocation may be lodged against the decision, without prejudice to reiterating the request for the receipt of inadmissible evidence, as evidence for a better resolution, before the trial court.

Article sheet

ARTICLE 321.

The order to open the trial may be issued based on the accusation of the Public Prosecutor's Office or the accusation of the plaintiff. If the trial is opened based solely on the private accusation, the plaintiff will continue exclusively the exercise of the action, without prejudice that the representative of the Public Prosecutor's Office may opt to continue to intervene in the procedure, but will not be obliged to maintain the claim of the plaintiff.

Article sheet

ARTICLE 322.

The order to open the case for trial The order to open the case for trial shall indicate the part of the

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indictment or complaint that is admitted, the order to send the case for trial and the summons to the parties for

that, within a common period of five days, they appear before the sentencing court and indicate the place or manner of receiving notifications.

[Article sheet](#)

ARTICLE 323.

Within the time limit provided for in the preceding article, the defendant may request that the debate be held in two phases, so that in the first phase the issues concerning the existence of guilt be discussed and in the second phase, if there is one, the issues concerning the individualization of the penalty and the civil consequences. Within the same period, the civil parties may make the same request, but with regard to the civil consequences. Before remitting the proceedings, the court shall rule on the request. After the above matters have been resolved, the proceedings, documents and seized objects shall be forwarded to the trial court and the detainees shall be placed at its order.

[Article sheet](#)

TITLE III

ORAL AND PUBLIC TRIAL

CHAPTER I

GENERAL RULES

Article 324.-Preparation of the trial

Within forty-eight hours after the receipt of the proceedings, the date and time of the trial shall be fixed, which shall not be held before five days nor after one month.

When a two-phase hearing has been ordered, the court shall set the date for the first phase. When pronouncing on guilt, it shall fix, if necessary, the date for the second hearing, which shall be held within the following five days.

The court shall be composed in accordance with the legal provisions regulating the jurisdiction and competence of the criminal courts, with one or three judges, as appropriate.

The clerk of the court shall summon the witnesses and experts; shall request the objects and documents and shall arrange the necessary measures to organize and develop the public trial. It shall be the obligation of the parties and the Public Prosecutor's Office to assist in the location and appearance of the witnesses proposed for the trial; the court clerk's office shall provide them with the necessary assistance by issuing the appointments, without prejudice to the use of the Public Force, if necessary.

When witnesses who are procedurally protected have been admitted for trial, the court shall adopt the necessary measures to guarantee the reception of their testimony in the manner agreed upon when the protection was ordered; to this end, it may order that the hearing be held privately, or that the necessary technological means be used, all without prejudice to what may be resolved on the subject in the course of the debate, without prejudice to dispensing with their reception and incorporating the jurisdictional advance of evidence, when the risk to the life or physical integrity of the witness is such that the court may order the hearing to be held privately, or that the necessary technological means be

used.

The declarant has not been diminished or increased by reason of the trial, in the terms of paragraph a) of Article 334 of this Code.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 325.

Exceptions Exceptions based on new facts may be filed within five days of notification of the summons. The trial may not be postponed due to the processing or resolution of these proceedings.

Article sheet

ARTICLE 326.

Principles The trial is the essential phase of the process. It shall be conducted on the basis of the accusation, in oral, public, contradictory and continuous form.

Article sheet

ARTICLE 327.

Advancement of evidence The court may order the receipt of any evidence that is urgent or that, because of some obstacle difficult to overcome, it is presumed that it cannot be received in the debate. The acts shall be carried out in the manner provided for the jurisdictional anticipation of evidence.

Article sheet

ARTICLE 328.

Immediacy The trial shall be conducted with the uninterrupted presence of the judges and the parties. The accused may not leave the hearing without the permission of the court. If after his statement he refuses to remain, he will be guarded in a nearby courtroom and for all purposes may be represented by the defense counsel. Only in the event that the accusation is extended, the person presiding over the hearing shall summon him to appear for the purposes of the corresponding summons. If his presence is necessary to perform some act or recognition, he may be compelled to appear at the hearing by public force. If the defense counsel does not appear at the hearing or leaves the hearing, the defense shall be considered abandoned and shall be replaced. If the third party defendant does not appear at the debate or leaves the hearing, the trial shall continue as if he were present.

Article sheet

ARTICLE 329.

Limitations on the defendant's freedom If the defendant is at liberty, the court may, in order to ensure the conduct of the hearing, order him to be taken away by the police and remanded in custody; it may also vary the conditions under which he is at liberty or impose any of the other precautionary measures provided for in this Code.

Article sheet

Article 330.-Advertising

The trial shall be public. However, the court may decide, by a well-founded order and even ex officio, that it shall be held, in whole or in part, in private, when:

- a) The modesty, private life or physical integrity of any of the participants is directly affected.
- b) Seriously affects the security of the State or the interests of justice.
- c) Endangers an official, private, commercial or industrial secret, the improper disclosure of which is punishable.
- d) Is provided for in a specific standard.
- e) A statement is received from a minor and the court deems it inconvenient to make it public, in view of the minor's best interests.
- f) The testimony of victims and witnesses of human trafficking is received.
- g) The testimony of victims or witnesses under procedural protection is received.

Once the case has been disposed of, the public shall be admitted again and the person presiding over the hearing shall briefly relate what happened, if the court so decides. The court may impose on the parties who intervene in the proceedings the duty to keep secret the facts they witnessed or learned. What happened shall be recorded in the minutes of the hearing.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 331- Participation of the media. In order to inform the public of what happens in the courtroom, the radio, television or press companies may install, in the courtroom, recording, photographic, radio, filming or other apparatus. The court shall indicate, in each case, the conditions under which these powers shall be exercised. However, it may, by a well-founded decision

prohibit such installation, when it prejudices the development of the debate or affects any of the interests indicated in the preceding article of this Code.

Such devices may not be installed nor may any filming or recording be carried out in the case of acts committed to the detriment of minors. Likewise, they may not be used in the hearing when the testimony of witnesses or victims who are being protected due to the existence of risks to their life or physical integrity or that of their family members, or in cases processed through the restorative justice procedure. In such cases, the hearing for the reception of such testimony shall be declared private.

If the accused, the victim or any person who is to testify expressly requests that the companies do not record his or her voice or image, the court shall enforce his or her rights.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

ARTICLE 332.

Prohibitions on access Minors under twelve years of age may not enter the courtroom, except when accompanied by an adult who is responsible for their conduct. For reasons of discipline and capacity of the courtroom, the court may also order the removal of persons whose presence is not necessary, or limit admission to a certain number.

Article sheet

ARTICLE 333.

Orality The hearing shall be oral; the accused and the other persons participating in the hearing shall testify in this manner. Those who cannot speak or cannot speak intelligibly in Spanish shall formulate their questions or answers in writing or through interpreters, reading or translating the questions or answers. The decisions of the tribunal during the hearing shall be rendered orally; everyone shall be notified by its pronouncement and a record shall be made in the minutes.

Article sheet

Article 334.-Exceptions to oral proceedings

They can only be incorporated into the trial by reading them:

a) The evidence received in accordance with the rules of jurisdictional anticipation of evidence, without prejudice to the parties or the court requiring the reproduction, when possible. The advance that has been made due to the existence of a risk to the life or physical integrity of the victim or witness shall be incorporated, if such risk has not diminished or if it has increased on the occasion of the holding of the trial and there are no conditions to guarantee the reception of the testimony in the debate.

- b) The complaint, documentary evidence and expert reports, reports, certifications and records of recognition, search, inspection, seizure, requisition, carried out in accordance with the provisions of this Code.
- c) Statements made by co-defendants who are rebels or acquitted.
- d) The minutes of the evidence ordered to be received during the trial, outside the courtroom.

Any other element of proof that is incorporated to the trial by reading, will have no value, unless the parties and the court expressly express their consent.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 335.

The presiding judge shall direct the hearing, order the necessary readings, issue legal warnings, receive oaths and statements, exercise the power of discipline and moderate the discussion, preventing impertinent interventions or those that do not lead to the clarification of the truth, without thereby restricting the exercise of the prosecution or the breadth of the defense. The full court shall decide when a decision of the presiding judge is challenged. Those in attendance shall remain respectful and silent, as long as they are not authorized to present or answer the questions put to them. They may not carry weapons or other objects likely to cause discomfort or offence, nor may they behave in an intimidating or provocative manner or cause a disturbance.

Article sheet

ARTICLE 336.

Continuity and suspension The hearing will be held without interruption, during the consecutive sessions that may be necessary until its termination; but, it may be suspended for a maximum period of ten days, in the following cases:

- a) When a transaction must be resolved which, due to its nature, cannot be decided immediately.
- b) When it is necessary to perform some act outside the place of the hearing and it cannot be performed in the interval between one session and another.
- c) When witnesses, experts or interpreters whose intervention is indispensable do not appear, unless the reception of other evidence can be continued until the absent person is taken away by the public force.
- d) If any judge, prosecutor or defense counsel becomes ill to the point of being unable to continue acting in the trial, unless the latter two can be replaced immediately or the court

has been constituted, from the beginning of the hearing, with a greater number of judges than the number required for its integration, so that the substitutes integrate the court and allow the continuation of the hearing.

e) When it is proven, with a forensic medical report, that the accused is in the situation provided for in the preceding paragraph. In this case, the separation of trials may be ordered and the proceedings may continue with the other accused.

f) If any unexpected disclosure or retraction produces substantial alterations in the case, which makes extraordinary evidence indispensable.

g) When the accused or his defense counsel request it after the accusation or complaint has been extended, provided that, due to the characteristics of the case, it cannot be continued immediately.

Article sheet

ARTICLE 337.

Effects of the suspension The court will decide the suspension and will announce the day and time of the new hearing, this will be valid as a summons for all the participants. The trial will continue after the last act performed when the suspension was ordered. Judges, prosecutors and defense counsel may intervene in other trials during the period of the suspension.

Article sheet

ARTICLE 338.

Impossibility of attendance Persons who are unable to attend the hearing due to a justified impediment shall be examined at the place where they are, by one of the judges of the court or by means of a commission to another judge, as the case may be, with the assistance of the parties when so requested. A record shall be made of such statement to be read at the hearing.

Article sheet

ARTICLE 339.

Cultural diversity When the trial of the case or the individualization of the sentence requires special treatment, because the facts committed within a social group with particular cultural norms or when the personality or life of the accused requires a more detailed knowledge of their cultural norms of reference, the court may order a special expert opinion, divide the trial into two phases and, if necessary, move the hearing to the community where the act occurred, to allow for a better defense and facilitate the evaluation of the evidence.

Article sheet

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Article 340.-Dismissal at the trial stage.If a cause for extinction of the criminal action occurs and in order to prove it it is not necessary to hold a debate, the court may issue a definitive dismissal.

The Public Prosecutor's Office, the victim, the plaintiff and the civil plaintiff may file an appeal against the sentence.

(Thus amended by Article 1° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

CHAPTER II

TRIAL PROCEEDINGS

ARTICLE 341.

Opening On the day and at the time set, the court will be constituted in the courtroom. The presiding judge will verify the presence of the parties, witnesses, experts and interpreters, and will declare the trial open, warning the accused of the importance and significance of what is about to take place, and instructing him to be attentive to what he is about to hear.

He will immediately order the Public Prosecutor's Office and the complainant, if any, to read the indictment and the complaint; they may briefly explain the contents. The floor will then be given to the defense, so that if it wishes, it may synthetically indicate its position with respect to the accusation.

Article sheet

ARTICLE 342.

The incidental questions will be dealt with in a single act, unless the court resolves to do so successively or to defer any of them to the time of the judgment, as is convenient to the order of the trial. In the discussion of incidental questions, the parties will be granted the floor only once, for the time established by the presiding judge.

Article sheet

ARTICLE 343.

Statement of the accused After the opening of the hearing or after the resolution of the incidents, the

will receive the statement of the accused, explaining to him, if necessary, in clear and simple words, the fact that he is accused, with the warning that he may abstain from testifying, without his silence prejudicing or affecting him in any way, and that the trial will continue even if he does not testify. He may state whatever he deems convenient, and will then be questioned by the prosecutor, the complainant, the civil parties, the defense and the members of the court, in that order. If he incurs in contradictions with respect to previous statements, which shall be brought to his attention, the presiding judge may order the reading of those statements, provided that the rules provided for in this Code have been observed in their reception. The statement at trial prevails over the previous ones, unless no reasonable explanation is given as to the existence of such contradictions. During the course of the trial, the parties and the court may ask him questions aimed at clarifying his statements.

[Article sheet](#)

ARTICLE 344.

Statement of several defendants If there are several defendants, the presiding judge may remove from the courtroom those who are not testifying at that moment; but, after the statements have been received, he shall report in summary form what happened during the absence.

[Article sheet](#)

ARTICLE 345.

Power of the accused During the hearing, the accused may make any statements he deems appropriate, provided that they relate to his defense. The accused may at any time speak with his defense counsel, without the hearing being suspended for that reason.

[Article sheet](#)

ARTICLE 346.

New legal qualification If during the course of the hearing the court observes the possibility of a legal qualification that has not been considered by any of the parties, it may warn the accused of this possibility, so that he may prepare his defense.

[Article sheet](#)

ARTICLE 347.

Expansion of the accusation During the trial, the prosecutor or the plaintiff may expand the accusation by including a new fact or a new circumstance that has not been mentioned in the accusation or the complaint, which modifies the legal qualification or integrates a continuing offense. In such case, they must also warn of the variation of the legal qualification contained in the indictment. In relation to the new facts or circumstances attributed in the amplification, a new statement will be received from the

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The parties shall be informed that they shall have the right to request the suspension of the trial in order to offer new evidence or prepare the defense. The facts or circumstances on which the extension is based shall be included in the indictment.

[Article sheet](#)

ARTICLE 348.

Correction of errors The correction of simple material errors or the inclusion of some circumstance that does not essentially modify the accusation or cause defencelessness, may be made during the hearing, without it being considered an extension of the accusation or the complaint.

[Article sheet](#)

ARTICLE 349.

Receipt of evidence After the statement of the accused, the court shall receive the evidence in the order indicated in the following articles, unless it deems it necessary to alter it.

[Article sheet](#)

ARTICLE 350.

Expert opinion The experts who have been summoned shall be called and shall answer the questions put to them. If possible, the court shall order the expert operations to be carried out at the hearing. The experts shall have the right to consult documents, written notes and publications during their testimony. If necessary, the presiding judge shall order the reading of expert opinions.

[Article sheet](#)

Article 351.-Witnesses

The presiding judge shall then call the witnesses, beginning with those offered by the Public Prosecutor's Office, continuing with those proposed by the complainant and the civil parties, and concluding with those of the accused. Before testifying, the witnesses shall not communicate with each other, nor shall they see, hear or be informed of what is happening in the courtroom. After testifying, the presiding judge may order them to remain incommunicado in the anteroom, to witness the hearing, or to leave.

However, failure to comply with the incommunicado detention shall not prevent the witness from testifying; but the court shall appreciate this circumstance when assessing the evidence.

For the reception of the testimony of minors, the court shall take the necessary measures in attention to their best interests and in order to avoid or reduce re-victimization. It may be assisted by experts or experts on the subject, who accompany the minor in his or her account or assist him or her if necessary. In order to guarantee the rights of the minor, the court may order that his or her testimony be

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received.

in a special room, or with the use of special cameras or available technological means, which facilitate the minor person's account, without contact with the parties, when recommended.

Likewise, for the reception of the testimony of a victim or a protected witness, the court shall provide that it be made under the conditions and by the technological means that guarantee the agreed protection, especially when it is necessary to maintain the confidentiality of the individualizing physical characteristics of the declarant, such as his face or voice, always guaranteeing the interrogation of the parties.

(As amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

ARTICLE 352.

Questioning After swearing in and questioning the expert or witness about his personal identity and the general circumstances to assess his report or statement, the presiding officer shall give him the floor to indicate what he knows about the fact proposed as an object of evidence. At the end of the account, he/she will allow the direct interrogation. The person who proposed it will begin, the other parties will continue, in the order that the court considers convenient and the defense will interrogate last. The prosecutor may question on the statements made by the witness during the investigation. The members of the tribunal may then question the expert or the witness. The presiding judge shall moderate the interrogation and prevent the declarant from answering leading, suggestive or impertinent questions, and shall ensure that the interrogation is conducted without undue pressure and without offending the dignity of persons. The parties may request the revocation of the presiding judge's decisions, when they limit the interrogation, or object to the questions asked. The experts and witnesses shall express the reason for their information and the origin of their knowledge.

Article sheet

ARTICLE 353.

Failure to appear When the expert or witness, duly summoned, has not appeared, the presiding judge shall order that he be taken by means of the public force and shall request the person who proposed him to cooperate with the proceedings. If the witness cannot be located for his conduction by public force, the trial shall continue regardless of such evidence.

Article sheet

ARTICLE 354.

Other means of evidence Documents shall be read and exhibited at the hearing, with indication of their origin. The seized objects and other elements of conviction will be exhibited for their

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recognition by witnesses, experts or the accused. The recordings and audiovisual evidence shall be reproduced. The parties and the court may unanimously agree to the reading, exhibition or partial reproduction of such evidence, when such reading or reproduction is sufficient for the purposes of the debate. In such a case, one of the members of the court shall orally present a summary of the content of such evidence. Failure to comply with this obligation makes it impossible to consider such evidence in the judgment. A confrontation or reconstruction may be carried out or a judicial inspection may be ordered.

[Article sheet](#)

ARTICLE 355.

Exceptionally, the court may order, ex officio or at the request of a party, the taking of any evidence, if in the course of the hearing new facts or circumstances arise that require clarification.

[Article sheet](#)

ARTICLE 356.

Once the evidence has been received, the presiding judge shall give the floor to the prosecutor, the complainant, the civil plaintiff, the civil plaintiff, the civil defendant and the defense counsel, in that order, so that they may express their final arguments. No memorials may be read, without prejudice to the partial reading of notes to aid the memory. If two or more prosecutors, plaintiffs or defense counsel intervene, all may speak, distributing their tasks to avoid repetitions or delays. The parties may reply, with the exception of the civil parties, but the defense counsel will have the last word. The reply will be limited to the refutation of the adverse arguments that have not been previously discussed. The presiding judge shall prevent any digression, repetition or interruption. In case of manifest abuse of the floor, he shall call the attention of the speaker and, if the latter persists, he may limit the time of the argument, taking into account the nature of the facts under examination, the evidence received and the issues to be resolved. At the end of the argument, the speaker shall express his conclusions in a concrete manner.

[Article sheet](#)

ARTICLE 357.

If the division of the trial into two phases has not been ordered, the prosecutor and the plaintiff must request the penalty they deem appropriate, when they require a conviction. The civil plaintiff must specify the amount of the damages that he/she considers to have suffered subsequent to the determination made in the preparatory proceeding. When the division has been ordered, such requests shall be formulated at the second hearing.

[Article sheet](#)

ARTICLE 358.

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Closure of the debate If the victim is present and wishes to make a statement, he/she shall be given the floor, even if he/she has not intervened in the proceedings. Finally, the presiding judge will ask the defendant if he/she has anything else to say. Immediately thereafter, he/she shall declare the debate closed.

[Article sheet](#)

ARTICLE 359.

Trial on criminal and civil consequences The trial on the penalty or civil consequences will begin with the reading of the first part of the sentence. The court will then seek conciliation with respect to the civil claims. It will then receive the evidence that has been offered to individualize the civil penalty or consequences, and will proceed thereafter according to the common rules. At the end of the debate, the court will issue the decision on the penalty and civil liability and will form the complete sentence, according to the rules foreseen for that decision. The time limit for appealing the sentence shall commence from the integral notification. If a remand trial has been ordered only to determine the penalty or civil consequences, the same rules shall apply.

[Article sheet](#)

CHAPTER III

DELIBERATION AND SENTENCING

ARTICLE 360.

Deliberation Once the debate is closed, the judges shall immediately and without interruption deliberate in secret session.

Except as provided for complex proceedings, deliberation may not be extended beyond two days. Once this period has elapsed without a ruling, the trial must be repeated before another court, without prejudice to the corresponding disciplinary actions.

Deliberation may not be suspended except in the case of serious illness of one of the judges. In this case, the suspension may not be extended for more than three days, after which the judge must be replaced and the trial conducted again.

[Article sheet](#)

ARTICLE 361.

Rules for deliberation and voting The court shall assess the evidence produced during the trial, in a comprehensive manner and with strict application of the rules of sound criticism.

The judges will deliberate and vote on the issues, and will follow the following as far as possible order:

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- a) Those relating to its competence, to the origin of the criminal action and any other incidental issue that has been deferred for this moment.
- b) Those relating to the existence of the fact, its legal qualification and culpability.
- c) The individualization of the applicable penalty.
- d) Restitution and costs.
- e) Where applicable, the reparation of damages.

Decisions shall be adopted by majority vote. If this does not occur in relation to the amounts of the penalty and civil reparation, the middle ground shall be applied.

Article sheet

ARTICLE 362.

Reopening of the debate If the court deems, during the deliberation, that it is absolutely necessary to receive new evidence or to expand on the evidence already introduced, it may order the reopening of the debate for this purpose. The discussion will then be limited to the examination of the new elements of appreciation provided. [Article file](#)

ARTICLE 363.

Requirements of the judgment The judgment shall contain:

- a) The mention of the court, the place and date on which it was issued, the names of the judges and the parties, the personal data of the accused and the enunciation of the fact that has been the subject of the trial.
- b) The vote of the judges on each of the issues raised in the deliberation, with a statement of the reasons of fact and law on which they are based, without prejudice to their adherence to the considerations and conclusions formulated by the person who voted in the first term.
- c) The precise and circumstantial determination of the fact that the court considers accredited.
- d) The operative part with mention of the applicable rules.
- e) The signature of the judges.

Article sheet

ARTICLE 364.

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Drafting and reading The sentence shall be drafted and signed immediately after deliberation.

The court shall then reconvene in the courtroom, after the parties have been verbally summoned. The document shall be read aloud by the clerk before those who appear.

If the sentence is a conviction and the defendant is at liberty, the court may order preventive detention when there are reasonable grounds to believe that the defendant will not be subject to execution once the sentence is final.

When due to the complexity of the matter or the lateness of the hour it is necessary to defer the drafting of the sentence, only the operative part will be read on that occasion and one of the judges will synthetically relate to the public the grounds for the decision; he will also announce the date and time for the complete reading, which will be carried out within a maximum period of five days after the pronouncement of the operative part.

The judgment will be notified with the integral reading and the parties will receive a copy of it.

Article sheet

ARTICLE 365.

Correlation between the accusation and the sentence The sentence may not consider other facts or circumstances to be accredited other than those described in the accusation and the complaint and, if applicable, in the amplification of the accusation, except when they favor the accused. In the sentence, the court may give the fact a legal qualification different from that of the accusation or complaint, or apply penalties more serious or different from those requested.

Article sheet

ARTICLE 366.

Acquittal The judgment of acquittal shall order the release of the accused, the cessation of the precautionary measures, the restitution of the objects affected by the proceeding that are not subject to confiscation, the necessary registrations and shall fix the costs. The release of the accused shall be granted even if the judgment of acquittal is not final and shall be carried out directly from the courtroom, for which purpose the court shall issue a written order.

Article sheet

ARTICLE 367.

The sentence of conviction shall establish, with precision, the corresponding penalties and, if applicable, determine the conditional suspension of the sentence and the obligations to be fulfilled by the convicted person. The sentences or penalties shall be unified when appropriate. The sentence shall also decide on the costs and on the delivery of the seized objects to whoever has the best right to possess them, without prejudice to the corresponding claims before the civil courts. It shall decide on the confiscation and destruction provided for by law.

Article sheet

ARTICLE 368.

When the civil action has been brought, the condemnatory judgment will also fix the reparation of the damages and losses caused and the manner in which the respective obligations must be met. When the evidentiary elements do not allow to establish with certainty the amounts of some of the items claimed by the civil plaintiff and it is not in the cases in which it can be prudentially valued, the court may accept them in abstract to be settled in execution of the sentence before the civil or contentious-administrative courts, as the case may be, provided that the existence of the damage and the duty of the defendant to repair it have been proven.

Article sheet

(Repealed by Article 10 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(By resolution of the Constitutional Chamber No. 13820 of August 20, 2014, numeral 10 of Law No. 8837 of May 3, 2010, "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings" was annulled, which repealed this article, restoring Article 466 bis of the Criminal Procedure Code. Subsequently by vote 2014- 017411 of October 22, 2014, resolution number 2014-013820 of August 20, 2014 was added, to the effect that the following is understood: 1) The unconstitutionality of article 10 of the Law creating the appeal of the sentence is only with respect to the repeal of article 466 bis of the Code of Criminal Procedure, not so with respect to the rest of the norms that said article 10 repealed. 2) The effects of the judgment on the merits are sized so that Article 466 bis of the Code of Criminal Procedure (originally Article 451 bis) becomes effective again as of the date on which this action was resolved, i.e., as of August 20, 2014. In such a way that, the cassation appeals raised under the assumption of the rule, which had already been resolved as of August 20, 2014 remain intact, but the cassation appeals raised under the assumption of the rule, which were not resolved as of August 20, 2014 (i.e., were pending resolution), would be without effect by virtue of the prohibition that revives (with the new entry into force of Article 466 bis of the Code of Criminal Procedure) by being declared unconstitutional the rule that repealed it).

Article sheet

CHAPTER IV

HEARING RECORD

ARTICLE 370.

Ways of recording the hearing A record of the hearing shall be made, which shall contain:

- a) The place and date of the hearing, with an indication of the start and end time, as well as suspensions and resumptions.
- b) The names of the judges, parties, defense counsel and representatives.
- c) The defendant's personal data.
- d) A brief summary of the development of the hearing, indicating the names of the witnesses, experts and interpreters, the reference of the documents read and of the other evidentiary elements reproduced, with mention of the conclusions of the parties.
- e) The requests and decisions produced in the course of the trial and the objections of the parties.
- f) The observance of the essential formalities; a record shall be made of the publicity or if it was totally or partially excluded.
- g) The other mentions prescribed by law that the court orders to be made; those requested by the parties, when it is in their interest to immediately record some event or the content of some essential element of the evidence and the revocations or protests to appeal.
- h) The record of the reading of the sentence.
- i) The signature of the secretary.

In cases of complex evidence, the court may order a verbatim transcript of the hearing, by shorthand or other similar method.

The court shall make a recording of the debate, at least phonographically, which shall be kept until the sentence becomes final.

Article sheet

ARTICLE 371.-Value of the records

The minutes and the recording will show, in principle, the way in which the trial was conducted, the observance of the formalities provided for it, the persons involved and the acts that took place.

The lack or insufficiency of the recording shall not, by itself, produce a ground for challenging the judgment. In such a case, other means of evidence may be used to prove a defect that invalidates the decision.

When the judgment is challenged, the alleged omission or misrepresentation shall be indicated.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

Article sheet

ARTICLE 372.

Supplementary application to special proceedings In the special proceedings provided for in the following Book, the rules of ordinary proceedings established in this Book shall apply, insofar as they are compatible and in the absence of a specific rule therein.

Article sheet

BOOK II SPECIAL
PROCEDURES
TITLE I
ABBREVIATED PROCEDURE

Article 373- Admissibility. At any time, even before the opening of the trial, the application of the abbreviated procedure may be proposed when:

- a) The accused admits the act attributed to him/her and consents to the application of this procedure.
- b) The Public Prosecutor's Office, the plaintiff and the civil plaintiff express their agreement.

In those cases in which it is appropriate according to the legal regulations in force, it may be requested that the abbreviated procedure be processed through the restorative justice procedure.

The existence of co-defendants does not prevent the application of these rules to any of them.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 374- Initial procedure. The Public Prosecutor's Office, the complainant and the accused, jointly or separately, shall express their desire to apply the abbreviated procedure and shall prove compliance with the requirements of the law.

The Public Prosecutor's Office and the complainant, if applicable, shall formulate the accusation if they have not done so, which shall contain a description of the conduct attributed and its legal qualification and shall request the penalty to be imposed. For such purposes, the minimum penalty foreseen in the criminal type may be reduced by up to one third.

The victim with a known address will be heard, but his or her opinion will not be binding. However, in cases processed with the application of the procedure established in the Restorative Justice Law, the consent of the victim to participate in the restorative approach will be a viability requirement.

If the court deems the request to be admissible, it shall so decide and send the matter to the sentencing court.

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

ARTICLE 375.-Procedure **in the trial court**. Received the diligences, the court will dictate sentence unless, of previous, it considers pertinent to hear the parts and the victim of known domicile in an oral hearing.

In its decision, the court may reject the abbreviated procedure and, in this case, resubmit the case for ordinary proceedings or issue the corresponding sentence. If it orders the resubmission, the previous request on the penalty does not bind the Public Prosecutor's Office during the trial, nor can the admission of the facts by the accused be considered as a confession.

If convicted, the sentence imposed may not exceed that requested by the accusers.

The sentence shall contain the requirements set forth in this Code, in a succinct manner, and may be challenged by means of the appeals and provisions regulated in this Code for appealing the sentence issued in ordinary criminal proceedings.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

Article sheet

TITLE II

PROCEDURE FOR COMPLEX CASES

ARTICLE 376.

Source

When the proceedings are complex due to the multiplicity of the facts, the large number of defendants or victims or when the cases are related to the investigation of any form of organized crime, the court, ex officio or at the request of the Public Prosecutor's Office, may authorize, by a well-founded resolution, the application of the special rules provided for in this Title.

At the trial stage, the decision may only be made at the time the case is called for debate.

When the application of the complex procedure is ordered during the preparatory or intermediate phases, the reduction of the statute of limitations by half, as provided for in Article 33 of this Code, shall not apply.

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(The preceding paragraph was added by Article 2 of Law No. 8146 of October 30, 2001)

Article sheet

ARTICLE 377.

Procedure The request shall be founded and the court shall decide within three days. The authorization may be revoked at any time, ex officio or at the request of whoever considers his rights affected by the procedure. The decision that the case is of complex processing may be appealed by the accused, during the preparatory and intermediate stages.

Article sheet

ARTICLE 378.

Deadlines Once this procedure has been authorized, it will produce the following effects:

- a) The ordinary term of pretrial detention will be extended for a maximum of eighteen months, the extension for another eighteen months and, in case of conviction, for up to eight more months.
- b) The term agreed by the court to conclude the preparatory investigation shall be one year.
- c) In the intermediate and trial stage, the time limits established in favor of the parties to carry out any action and those that establish a certain time to hold hearings will be duplicated.
- d) When the duration of the debate is less than thirty days, the maximum time limit for deliberation shall be extended to five days and the time for rendering the judgment to ten days. When the duration of the debate is longer, these periods shall be ten and twenty days respectively.
- e) The time periods for filing and processing appeals shall be doubled.

In any case, the rules on delay of justice shall apply.

Article sheet

ARTICLE 379.

Common rules In all other matters, the rules of ordinary procedure shall apply. The courts shall take special care that the application of the special rules does not distort the principles and guarantees provided in the Constitution, in the International or Community Law in force in Costa Rica and the law.

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Article sheet

TITLE III

PROCEEDING FOR PRIVATE ACTION CRIME

ARTICLE 380.

Complaint and transfer The complaint shall be filed before the trial court, which shall give a hearing to the defendant so that, within five days, he may state what he deems appropriate in his defense, offer evidence in accordance with the common rules and oppose the exceptions and challenges he deems appropriate. When the civil action has been brought, the defendant shall be notified at the same time.

(The Constitutional Chamber by resolution No. 3594-12 of March 14, 2012, established that this rule "is not unconstitutional as long as it is interpreted broadly and favorably to the guarantees and rights of the defendant").

Article sheet

ARTICLE 381.

Prior judicial assistance When it has not been possible to identify, individualize the accused or determine his domicile, or when in order to clearly, precisely and circumstantially describe the fact, it is essential to carry out diligences that the plaintiff cannot carry out by himself, he will request judicial assistance in the indictment, and will indicate the pertinent measures. The court shall provide the assistance, if appropriate.

The accuser will then complete its accusation within five days of obtaining the missing information.

Article sheet

ARTICLE 382.

Accumulation of cases The accumulation of cases for crimes of private action shall be governed by the common provisions, but they shall not be accumulated with those initiated for crimes of public action.

Article file

ARTICLE 383.

Withdrawal The plaintiff may expressly withdraw at any stage of the trial, but shall be subject to liability for his previous acts.

The private action shall be deemed dismissed:

a) If the proceeding is paralyzed for one month due to inactivity of the complainant or his representative, and they do not activate it within the third day of being notified of the decision, which shall be issued even ex officio, urging them to continue the proceeding.

b) When the plaintiff or his representative does not attend, without just cause, the conciliation hearing.

c) When the plaintiff or his representative does not attend, without just cause, the first hearing of the debate, or does not attend the hearing or does not present conclusions.

d) When the plaintiff is dead or incapacitated and none of his heirs or legal representatives appear to continue the action, three months after the death or incapacity has occurred.

In cases of failure to appear, just cause must be shown prior to the commencement of the hearing, if possible, or, if not, within forty-eight hours of the date set for the hearing.

Article sheet

ARTICLE 384.

Effects of withdrawal The express withdrawal shall only cover the participants specifically indicated. If no person is mentioned, it shall be understood as extending to all. Tacit withdrawal shall include the defendants who have participated in the proceedings. When the court declares the criminal claim extinguished by withdrawal, it shall dismiss the case and impose the costs on the plaintiff, unless the parties have agreed otherwise.

Article sheet

ARTICLE 385.

Conciliation hearing Once the time limit for hearing the complaint has expired, a conciliation hearing shall be convened within the following ten days. In all other matters, the common rules of conciliation shall apply.

Article sheet

ARTICLE 386.

Conciliation and retraction When the parties conciliate at the hearing or at any stage of the trial, the case shall be dismissed and the respective costs shall be borne by each of them, unless they agree otherwise. In the case of offenses against honor, if the defendant withdraws at the hearing, the case shall be dismissed and the respective costs shall be borne by each of them, unless they agree otherwise.

hearing or when answering the complaint, the case shall be dismissed and the costs shall be borne by him. The retraction will be published at the request of the complainant, in the form that the court deems appropriate. [Article sheet](#)

ARTICLE 387.

If the defendant does not attend the conciliation hearing, or if the conciliation or retraction does not take place, the court shall convene a trial in accordance with the provisions of this Code and shall apply the rules of ordinary procedure.

[Article sheet](#)

TITLE IV

PROCEDURE FOR THE APPLICATION OF SECURITY MEASURES

ARTICLE 388.

This procedure shall be followed when there is evidence from which it can be reasonably inferred that a security measure should be applied, by virtue of the defendant's unimputability.

[Article sheet](#)

ARTICLE 389.

Special rules The procedure shall be governed by the ordinary rules, except for those set forth below:

- a) When the accused is incapable, he shall be represented for all purposes by his defense counsel in the proceedings, except for acts of a personal nature.
- b) In the case provided for in the preceding paragraph, the prior statement of the accused shall not be required in order to file an indictment; but his defense counsel may state whatever he deems convenient for the defense of his client.
- c) The procedure provided for herein shall not be processed together with an ordinary procedure.
- d) The trial will be held without the presence of the accused when it is inconvenient due to his condition or for reasons of order and security.
- e) The rules referring to the abbreviated procedure, nor those of the suspension of the probationary procedure, shall not be applicable.

[Article sheet](#)

ARTICLE 390.

Ordinary procedure When the court considers that the accused is not unimpeachable, it shall order the application of the ordinary procedure.

[Article sheet](#)

TITLE V

PROCEDURE FOR JUDGING MEMBERS OF THE SUPREME BRANCHES OF GOVERNMENT

ARTICLE 391.

Applicable Provisions The trial of members of the Supreme Powers and of officials with respect to whom the Constitution requires that the Legislative Assembly authorize their trial so that they may be subject to criminal proceedings shall be governed by the common provisions, except for those set forth in this Chapter.

[Article sheet](#)

ARTICLE 392.

Popular action If the members of the Supreme Powers and officials referred to are charged with a crime of public action, this shall be exercised by the Public Prosecutor's Office, without prejudice to the right of any person to file a complaint if it is a functional crime or the victim in other cases. In the case of a crime of private action, this shall be exercised exclusively by the offended party.

[Article sheet](#)

ARTICLE 393.

Detention in flagrante delicto If the official has been apprehended in flagrante delicto, he/she shall be placed at the order of the Supreme Court of Justice. The President of the Court shall immediately inform the Legislative Assembly, so that it may decide on the maintenance or cessation of such restriction of liberty, without prejudice to the initial investigation by the Public Prosecutor's Office. If the Legislative Assembly authorizes the deprivation of liberty, the Public Prosecutor's Office must file the accusation within a term not exceeding twenty-four hours, otherwise he/she shall be released.

[Article sheet](#)

ARTICLE 394.

Initial investigation When the Public Prosecutor's Office has notice or a complaint is filed for an alleged crime attributed to any of the persons subject to pre-trial proceedings, the Attorney General shall conduct the initial investigation aimed at gathering the information necessary to formulate the accusation or request the dismissal before the Supreme Court of Justice, as the case may be.

[Article sheet](#)

ARTICLE 395.

Transfer of the accusation Once the complaint or accusation is filed before the Supreme Court of Justice, it shall be dismissed by the Court if the facts accused do not constitute a crime or when the accused does not have the right to a preliminary hearing. Otherwise, it shall transfer it to the Legislative Assembly.

[Article sheet](#)

ARTICLE 396.

Legislative Procedure The legislative procedure shall be carried out in accordance with the provisions of the Rules of Procedure of the Legislative Assembly.

[Article sheet](#)

ARTICLE 397.

If the Legislative Assembly authorizes the continuation of the process, the detainees, if any, shall be placed at the order of the Criminal Chamber of the Supreme Court of Justice, which is responsible for judging the persons referred to in this Title. Said Chamber shall decide, within twenty-four hours following the receipt of the file, whether to maintain the preventive detention or replace it with any of the remaining precautionary measures. In any case, once the trial has been authorized by the Legislative Assembly, the Criminal Chamber may decree any of the precautionary measures, if it deems it appropriate.

[Article sheet](#)

ARTICLE 398.

Jurisdictional procedure The Criminal Chamber shall designate one of its members to carry out the necessary acts of investigation, which cannot be postponed or practiced in the trial. The magistrate shall warn the accused that, within three days, he must appoint a defense attorney, indicate the place and manner of notification and proceed to take his statement. Subsequently, the parties shall be given a hearing so that, within five days, they may offer evidence for the trial. The designated magistrate will rule on the offer of evidence and will set the time and date for the oral trial.

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and public. On the same occasion, if appropriate, it shall provide for the application of the rules on complex matters.

Article sheet

ARTICLE 399.-Trial **and appeals**. For the celebration of the debate and the dictation of the sentence the common rules will be applied.

An appeal may be filed against the decision in accordance with the rules established for ordinary criminal proceedings, which shall be heard by the plenary session of the Supreme Court of Justice, after replacing the judges who have intervened in the trial.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

Article sheet

ARTICLE 400.

Conversion of proceedings and accumulation If in the course of an investigation with ordinary proceedings, it is determined that one of the accused should be subject to pre-trial, the court hearing the case shall forward the proceedings to the Attorney General so that it may proceed in accordance with the provisions of the Constitution and this Title. When the fact is attributed to several defendants and only one of them should be subject to pre-trial, the case shall be separated so that it may continue in the ordinary jurisdiction against those against whom the pre-trial does not proceed. Testimony shall be sent to the Attorney General against the remaining ones, so that he may proceed in accordance with the provisions of this Title. If the Legislative Assembly authorizes the continuation of the proceeding, the cases shall be joined and heard by the Criminal Chamber.

Article sheet

ARTICLE 401.-Cases of exception The procedure established in this Title shall not be applicable to the alternate magistrates of the Supreme Court of Justice and the Supreme Electoral Tribunal. Nor shall it be applicable in contraventional matters, unless the accumulation with a criminal proceeding is applicable.

(By resolution of the Constitutional Chamber No. 16111 of November 2, 2016, this numeral was interpreted in the sense that it does cover the substitutes that Title, when they exercise the substitution in an effective manner).

Article sheet

TITLE VI

PROCEDURE FOR ADJUDICATING CONTRAVENTIONS

ARTICLE 402.

Conciliation Hearing To judge contraventions, once the complaint or police report has been received and when possible due to the existence of offended persons, the competent judicial authority will summon the parties to a conciliation hearing in which the pertinent steps will be taken to reach an agreement. This hearing may be called again to continue the conciliation process.

Article sheet

ARTICLE 403.

Effect of the agreements When the parties have reached an agreement, they shall sign a document stating this, with the commitments they have made. The judge will homologate the agreements. Thirty calendar days after the signing of the agreement, the case will be filed as res judicata, if no party has filed objections.

Article sheet

ARTICLE 404.

If a conciliation agreement is not reached or its conditions are not respected, or when, for other reasons, conciliation is not possible, the judicial authority shall summon the parties to attend an oral trial with the evidence for the prosecution and defense.

Article sheet

ARTICLE 405.

Oral hearing The oral and public hearing will begin with the reading of the charges. The accused will be heard immediately, then the offended person, if any, will be heard, and then the evidence admitted will be received. At the end of the hearing, the judicial authority shall immediately issue the judgment. When the accused acknowledges the charge, the hearing shall be terminated without further proceedings and the judgment shall be rendered. The hearing may be extended for a term not exceeding three days, ex officio or at the request of the accused, in order to prepare the evidence. When the accused does not appear voluntarily at the hearing, he may be summoned by means of public force, and if necessary, preventive detention shall be ordered until the hearing is held, which shall be held immediately.

Article sheet

ARTICLE 406.

Precautionary measures Precautionary measures may exceptionally be applied in contraventional matters, when indispensable for the protection of the interests of the parties or of justice.

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However, pretrial detention will only be used to guarantee the presence of the accused at the oral trial.
[Article sheet](#)

ARTICLE 407.

Appeal The sentence issued in contraventional trials may be appealed, by the accused and the victim, before the court of the intermediate proceeding.

[Article sheet](#)

TITLE VII

PROCEDURE FOR THE REVIEW OF THE JUDGMENT

ARTICLE 408.-Procedence. The review shall proceed against final sentences and in favor of the convicted person or of the one on whom a security and correction measure has been imposed, in the following cases:

- a) When the facts taken as the basis for the conviction are irreconcilable with those established by another final criminal sentence.
- b) When the sentence has been based on evidence whose falsity has been declared in a subsequent final judgment.
- c) If the conviction has been pronounced as a result of malfeasance, bribery, violence or any other crime or fraudulent scheme, the existence of which has been declared in a subsequent final judgment, unless it is one of the cases provided for in the following paragraph.
- d) When it is proven that the sentence is illegitimate as a direct consequence of the introduction of illegal evidence or a serious breach of duty committed by a judge, even if it is impossible to proceed due to a supervening circumstance.
- e) When, after the conviction, new facts or new elements of evidence are discovered or come to light which, alone or together with those already examined in the proceedings, show that the act did not exist, that the convicted person did not commit it, or that the act committed falls under a more favorable standard.
- f) When a subsequent law declares that the act previously considered as such is not punishable or that it deserves a lesser penalty, or when the law that served as the basis for the conviction has been declared unconstitutional.

The review shall proceed even in cases in which the penalty or security measure has been executed or has been extinguished.

(Thus amended by Article 2° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 409.

Parties entitled to file for review:

- a) The convicted person or the one to whom a security and correction measure has been applied; if incapable, his legal representatives.
- b) The spouse, the cohabitant with at least two years of common life, ascendants, descendants or siblings, if the convicted person is deceased.
- c) The Public Prosecutor's Office.

The death of the convicted person, during the course of the review, shall not paralyze the proceedings. In such a case, the persons authorized to file the petition may appear at the proceedings; failing this, the defense counsel shall continue to represent the deceased.

Article sheet

Article 410.-Formalities for filing. The review shall be filed, in writing, before the Criminal Cassation Chamber. It shall contain the specific reference of the grounds on which it is based and the applicable legal provisions. The documentary evidence invoked shall also be attached and, if applicable, the place or file where it is located shall be indicated.

Likewise, evidence must be offered to prove the cause of review invoked. In the interposition document, a lawyer of his confidence must be appointed. If he does not do so, the court will warn him without prejudice to appoint a public defender, if necessary.

(Thus amended by Article 2° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

Article 411.-Admissibility. When the claim has been filed outside the hypotheses that authorize it or is manifestly unfounded, the court, ex officio, shall declare it inadmissible.

The court shall substantiate the action and rule on the merits, even if it considers that there are defects in its wording. If it considers that these absolutely prevent it from hearing the claim, it will warn the party of their correction, in accordance with Article 15 of this Code, indicating the aspects that must be clarified and corrected. If the defects are not corrected, it will resolve as appropriate.

It will not be admissible to raise, by way of review, matters that have already been discussed and resolved by way of appeal or cassation.

(Thus amended by Article 2° "Creation of the Appeal of the Sentence, other Reforms to the Challenge Regime and Implementation of New Rules of Orality in Criminal Proceedings", Law No. 8837 of May 3, 2010).

Article sheet

ARTICLE 412.

Suspensive effect The filing of the revision shall not suspend the execution of the sentence. However, at any time during the proceedings, the court hearing the review may suspend the execution of the sentence appealed and order the release of the convicted person or replace the imprisonment with another precautionary measure.

Article sheet

Article 413.-Initial hearing

Once the review has been admitted, the court shall give a ten-day hearing to the Public Prosecutor's Office and to those who have intervened in the main proceedings. The victim who can be located shall be informed of the existence of the proceeding. The court shall warn them that they must indicate the place or form for notifications and that they must offer the evidence they deem pertinent.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 414.-Reception of evidence. The court shall admit the evidence it deems useful for the final decision and shall commission one of its members to receive it. For the reception of the evidence, the time and date shall be fixed, and the proceedings shall be held with the participation of the intervening parties who appear.

If the commissioned judge deems it necessary, he shall order the taking of evidence for a better resolution.

When oral evidence has been received, the person who has received it shall be a member of the tribunal at the time of the final decision.

(As amended by Article 1 of Law No. 8503 of April 28, 2006, "Opening of the Criminal Cassation")

Article sheet

ARTICLE 415.

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Oral hearing Once the evidence has been collected, if any of the intervening parties has requested it when filing or answering the review, or if the court deems it necessary, a day and time will be set for a public hearing to be held for the purpose of making oral arguments on their claims. The provisions on the oral hearing in the appeal are applicable, as appropriate.

[Article sheet](#)

ARTICLE 416.

Judgment The court will either reject the review or annul the judgment. If it annuls it, it will remit to a new trial when the case so requires or it will directly pronounce the sentence that corresponds in law.

Neither the legal qualification nor the penalty shall be acquitted or changed as an exclusive consequence of a new appreciation of the same facts known in the previous proceeding or of a new evaluation of the evidence existing in the first trial, regardless of the reasons that made the review admissible.

(The Constitutional Chamber by resolution No. 15294, dated October 31, 2012, interpreted this rule "...in accordance with the parameters and scope established in this judgment.")

[Article sheet](#)

ARTICLE 417.

Remand If a referral is made to a new trial, none of the judges who heard the previous trial may intervene in the new trial. The provisions of the preceding article shall apply in the retrial, and a more serious penalty than the one established in the revised sentence may not be imposed, nor may the benefits granted by the sentence be disregarded.

[Article sheet](#)

ARTICLE 418.

Effects of the sentence The sentence will order, if applicable:

- a) The freedom of the accused.
- b) The total or partial restitution of the sum of money paid as fine, the restitution of the sum covered as compensation, provided that the civil plaintiff has been summoned. When the refund of the fine or its excess is ordered, the devaluation of the currency must be calculated.
- c) The cessation of the disqualification and accessory penalties, of the security and correction measure.

d) The return of the confiscated effects that have not been destroyed. If appropriate, a new penalty shall be fixed or a new computation shall be made.

The judgment of acquittal shall order the cancellation of the registration of the conviction.

Article sheet

ARTICLE 419.

Civil reparation for judicial error When a judicial error is recognized as a result of the review of the procedure, as a consequence of which the sentenced person discounted a sentence that he should not have served, or a greater or more serious sentence than the one that corresponded to him, the court hearing the review may order the payment of compensation to be paid by the State and at the request of the interested party, provided that the latter has not contributed with fraud or negligence to produce the error. The judges who issued the judgment under review shall be jointly and severally liable with the State when they have acted arbitrarily or with gross negligence under the terms of Article 199 of the General Law of Public Administration. Civil reparation may only be granted in favor of the convicted party or his legitimate heirs.

Article sheet

ARTICLE 420.

Publication of the judgment granting the request for review At the request of the interested party, the court shall order the publication of a summary of the judgment of acquittal in the Judicial Gazette, without prejudice to the publication made by the defendant at his own expense.

Article sheet

ARTICLE 421.

Rejection and costs The rejection of an application for review and the judgment confirming the previous one shall not prejudice the right to file a new appeal for review, provided that it is based on different reasons. The costs of a dismissed appeal shall always be borne by the person who filed it.

Article sheet

(*)TITLE VIII

EXPEDITED PROCEDURE FOR IN FLAGRANTE DELICTO OFFENSES

()(This Title was added by Article 18 of the Law for the Protection of Victims, Witnesses and other parties involved in Criminal Proceedings, No. 8720 of March 4, 2009).*

Article 422- Proceedings. This special procedure, of an expeditious nature, shall be applied in cases involving crimes in flagrante delicto and shall be initiated from the first moment that news of the commission of such a criminal act is received. In exceptional cases, even in the case of a flagrante delicto, the ordinary procedure shall be applied when the investigation of the fact prevents the application of such procedure.

This special procedure will omit the intermediate stage of the ordinary criminal proceeding and will be entirely oral. Likewise, these cases may be resolved in accordance with the procedure established in the Restorative Justice Law.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 423.-Initial procedure

The suspect arrested in flagrante delicto shall be immediately transferred, by the acting police authorities, to the Public Prosecutor's Office, together with all the evidence available. No written police report or police report shall be required; the oral statement of the acting authority shall suffice.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 424- Action by the Public Prosecutor's Office. The prosecutor shall immediately proceed with the criminal proceeding, to establish whether there is merit to initiate the investigation. For this purpose, he shall rely on the initial version provided by the police authority that intervened at first, as well as all the accompanying evidence. In addition, in accordance with the provisions of the Restorative Justice Law, ex officio or at the request of a party, it will verify the existence of the admissibility requirements and inform the victim, the person charged and his technical defense about the possibility of processing the case through the application of the restorative justice procedure, in order to communicate the request to the Trial Court to transfer the case to the respective restorative justice office.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 425- Appointment of the technical defense. From the first moment the suspect's status is obtained, the prosecutor shall proceed to indicate to him that he may appoint a defense counsel of his confidence. In case of refusal of the suspect or if his private defense counsel does not appear within twenty-four hours, a public defender shall be appointed ex officio to assist him in the proceedings. Once the defense counsel of the accused person has been appointed, the prosecutor shall give him a term of twenty-four hours to prepare his defense for such purpose. The Public Prosecutor's Office shall immediately render a brief oral report on the accusation and the existing evidence.

The technical defense or public defense, once the admissibility requirements have been verified, must explain to the offender the possibility of resolving the case through the application of the restorative justice procedure, as well as his rights and obligations established by law, in order to restore the damage caused to the victim and the community with the commission of the criminal act. If the offender expresses his/her consent to refer the case, he/she must inform the Public Prosecutor's Office, in order to verify compliance with the requirements, and communicate the request to the Trial Court to transfer the case to the respective restorative venue.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 426.-Request for a hearing before the trial judge

When the prosecutor considers it pertinent that the matter should go to trial and the technical defense is constituted, he will proceed to orally request the trial court to hold a hearing to hear his request; the court will immediately decide, orally, whether the requirements to apply the procedure in flagrante delicto are met.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 427- Constitution of the trial court and competence. The trial court, in any type of crime to be tried through this procedure, shall be constituted according to its competence, as provided in the Organic Law of the Judiciary, which shall have competence to resolve on grounds of incompetence, impediments, recusals and nullities. It will also be competent to apply any of the alternative measures to the process, the restorative justice procedure, as well as the abbreviated procedure. When none of the above measures are applicable, the court will immediately conduct the debate.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 428- Conduct of the hearing by the court. Upon receipt of the request by the prosecutor, the court shall immediately conduct the hearing, which shall be oral and public. A digital video and audio record shall be made of the hearing; the parties shall have access to it, by means of a copy. In the first part of this hearing, the prosecutor will orally present the accusation against the accused, describing the facts and determining their legal qualification, as well as the offer of evidence. The defense may refer to the accusation and make its considerations on it, in addition to offering evidence for the process.

The judge shall verify that the accusation is clear, precise and circumstantial and that the act attributed is typical. If this is not the case, the prosecutor must correct it orally on the spot.

Immediately, the application of alternative measures, the restorative justice procedure and the abbreviated procedure will be discussed.

If the referral of the case to the restorative venue is approved, the hearing will be suspended for a maximum period of eight working days for the corresponding proceedings. In the same act, the Court will set a date and time for the continuation of the hearing, in which the restorative agreements will be homologated or the process established in flagrante delicto will continue. The confidentiality of the information obtained in restorative justice will be guaranteed at all times.

In the event that the application of the measures does not proceed, is not proposed by the defense or is not accepted by the Public Prosecutor's Office or the victim, depending on the measure, or the court considers them inappropriate, the latter shall proceed to conduct the trial immediately and in the same hearing. In this case, the court shall qualify the origin and relevance of the evidence offered by the parties.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus amended by Article 47 of the Restorative Justice Act, No. 9582 of July 2, 2018).

Article sheet

Article 429.-Performance of the trial

In the second part of the initial hearing, the trial will take place, where the statement of the accused will be received. Immediately after, the testimonial evidence will be received in the following manner: initially the statement of the offended party and then the other evidence; subsequently, the documentary evidence will be incorporated and the parties may dispense with its reading. Finally, the conclusions will be made by the prosecutor and then the defense. The court will immediately pronounce sentence orally; if it deems it necessary, it will retire to deliberate and after a reasonably short period of time, which may not exceed four hours, unless there is an exceptional cause that justifies it and it is orally communicated to the parties, without the extension of the period exceeding twenty-four hours after the end of the debate hearing. Subsequently, the court shall be constituted in the courtroom, where it shall orally pronounce sentence in full. The oral decision will be valid as notification for all the parties, even if they do not appear.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 430.-Pretrial detention order

When the prosecutor considers the convenience of the imposition of preventive detention or any other precautionary measure, he may so request to the trial court, from the beginning of the proceedings. If the court, in accordance with the parameters established in this Code, considers the prosecutor's request proportional and reasonable, it shall establish the precautionary measure of preventive detention against the accused, which may not exceed fifteen working days.

When it must be requested for a longer period of time, as well as in cases where the prosecutor or the trial court considers that it is not appropriate to apply the expedited procedure, because the facts committed in flagrante delicto or because the investigation of the facts is incompatible, preventive detention will proceed, if there is merit for it, according to the rules established in this Code. The criminal judge will be in charge of deciding on the request made by the prosecutor.

In the case of an oral sentence of conviction, if the court deems it appropriate, the accused shall be remanded in custody for a maximum period of six months. When the defendant is acquitted in the sentence, any precautionary or restrictive measure imposed against him shall be lifted.

For everything that is not expressly indicated in this article, the rules of preventive detention regulated in these procedural regulations shall apply.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 431.-Resources

Appeals against a judgment rendered orally shall be heard in accordance with the rules set forth in this Code.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 432.-On the civil action and the complaint.

In the first phase of the hearing, the civil plaintiff and the plaintiff may also be constituted as parties, in which case the court will order their oral explanation and will give the floor to the defense to express their position; it will then decide on their admission and the process will continue. When appropriate, the person entitled to bring the civil action for restitution may delegate it to the Public Prosecutor's Office to represent him in the proceeding.

When the civil action for damages is declared admissible, the ruling shall be made in the abstract and the corresponding items shall be settled through the civil enforcement of the judgment.

The plaintiff and the civil plaintiff will assume the process in the state in which it is, so that no suspension of the debate motivated by the attention of other professional or personal commitments is appropriate. If the evidence offered by the civil plaintiff or the plaintiff is incompatible with the objectives of expeditiousness of the expedited procedure, the court shall orally inform the proposing party, who shall state whether it dispenses with it or requests the application of the ordinary procedure, in which case the court shall order the procedures to be adjusted.

The civil action shall not proceed in the expedited procedure when there are third parties who are civil defendants and are not present or duly represented by counsel at the time of the opening of the debate, without prejudice to the rights conferred by the civil jurisdiction.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 433.-Guarantees

For all purposes, especially labor, it shall be understood that the victim and witnesses shall be entitled to paid leave from their employer, public or private, when they have to attend court proceedings or appear before the court summons and for the time necessary for this purpose. For the purpose of verifying attendance at such acts, the court hearing the case shall issue the respective voucher indicating the nature of the act and the effective duration of the proceedings.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 434.-Location and schedules

The location and schedules of the judges of the cases in flagrante delicto established by this Law shall be defined by regulation.

The fixing of the days and hours of service to the public of these judges shall be established at night, on weekends or holidays, for the best rendering of the service of administration of justice, in such a way that the terms established in this Law may be effectively complied with.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 435.-Duration of the process

When the expedited procedure is applicable, in no case should a period of more than fifteen working days elapse between the initiation of the procedure and the holding of the hearing by the court. Failure to comply with this time limit shall be grounds for disciplinary liability for the official responsible for the delay.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

Article 436.-Supplementary rules

For matters not provided for in this title, the regulations of this Code shall be applied in a supplementary manner, insofar as they are compatible with the expeditious nature of the expedited procedure.

(Thus added by Article 18 of the Law for the Protection of Victims, Witnesses and Other Intervenors in Criminal Proceedings, No. 8720 of March 4, 2009).

Article sheet

BOOK III

RESOURCE

S TITLE I

GENERAL RULES

(*)ARTICLE 437.- General rules The judicial resolutions will be appealable only by the means and in the cases expressly established.

The right to appeal shall correspond only to the party to whom it is expressly granted. Where the law does not distinguish between the various parties, the appeal may be lodged by any of them.

()This article was interpreted by resolution of the Constitutional Chamber N° 2002-08591 of 14:59 hours of 04/09/2002. In the sense that said article is not unconstitutional, to the extent that it is interpreted, in light of Article 41 of the Political Constitution and International Human Rights Law, in the sense that the victim may also appeal in cassation against the order that orders the suspension of the probationary proceeding.*

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(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 422 to the current Article 437).

Article sheet

ARTICLE 438.

Conditions for filing appeals Appeals shall be filed under the conditions of time and form determined in this Code, with specific indication of the contested points of the decision.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 423 to the current Article 438).

Article sheet

ARTICLE 439.

The parties may only challenge judicial decisions that cause them injury, provided that they have not contributed to cause it. The appeal must be based on the reproach of the defects that cause the affectation.

The accused may challenge a judicial decision even if he has contributed to cause the defect, in cases where constitutional or legal provisions on his intervention, assistance and representation are violated.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 424 to the current Article 439).

Article sheet

ARTICLE 440.-Adhesion

Whoever has the right to appeal may adhere, within the period of notice, to the appeal filed by any of the parties, provided that he complies with the other formal requirements for filing the appeal.

The other parties shall be heard on the adhesion for a period of three days before the proceedings are referred to the appellate court.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 425 to the current Article 440).

Article sheet

Article 441.-Instance to the Public Prosecutor's Office

The victim or any injured party, when they are not constituted as parties, may submit a reasoned request to the Public Prosecutor's Office to file the pertinent appeals. The Public Prosecutor's Office shall communicate to the victim or any injured party who can be located, according to the information in the file, within the time limit for appeal, its decision not to challenge the acquittal, the termination or the modification of the precautionary measure adopted due to the danger of obstruction. He shall explain, in writing and in a reasoned manner, the reason for his action.

If the victim or any injured party does not agree, he/she may file the corresponding appeal, within a term equal to that of the other parties, which shall begin to run as of the communication from the Public Prosecutor's Office.

(Thus amended by Article 16 of the Law for the Protection of Victims, Witnesses and other Participants in Criminal Proceedings, No. 8720 of March 4, 2009).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 426 to the current Article 441).

Article sheet

ARTICLE 442.

Appeal during the hearings During the hearings, only the appeal for revocation shall be admissible, which shall be resolved immediately, without suspending the hearings.

The lodging of the appeal implies the protest for the remedy of the defect.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 427 to the current Article 442).

Article sheet

ARTICLE 443.

Extensive effect When there are co-accused, the appeal filed by one of them will also favor the others, unless it is based on exclusively personal motives.

The defendant will also benefit from the recourse of the civil defendant, insofar as it has an impact on the criminal liability.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in

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Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 428 to the current Article 443).

Article sheet

ARTICLE 444.

Suspensive effect The decision shall not be executed during the appeal period and while the appeal is being processed, unless otherwise provided by law.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 429 to the current Article 444).

Article sheet

ARTICLE 445.

Withdrawal The Public Prosecutor's Office may withdraw its appeals, in a well-founded opinion, even if they have been filed by a lower level representative.

The parties may withdraw the appeals filed by them or their counsel, without prejudice to the other appellants or adherents, but they shall bear the costs. In order to withdraw an appeal, the defense counsel must have an express mandate from the defendant.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 430 to the current Article 445).

Article sheet

ARTICLE 446.

Competition

The appeal will attribute to the appellate court the hearing of the proceeding, only with respect to the points of the decision to which the grievances refer.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 431 to the current Article 446).

Article sheet

ARTICLE 447.

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Prohibition of reform to the detriment of

When the decision was only challenged by the defendant or his defense counsel, it may not be modified to his detriment.

Appeals filed by any of the parties will allow for the modification or revocation of the decision, even in favor of the defendant.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 432 to the current Article 447).

Article sheet

ARTICLE 448.

Correction

Errors of law in the grounds of the challenged judgment or decision, which have not influenced the operative part, shall not annul it; but they shall be corrected, as well as material errors in the designation or computation of penalties.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 433 to the current Article 448).

Article sheet

TITLE II

APPEAL FOR REVOCATION

ARTICLE 449.

Source

An appeal for reversal may only be filed against orders and writs that resolve a procedural step without substantiation, so that the same court that issued them may re-examine the matter and issue the appropriate decision.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 434 to the current Article 449).

Article sheet

ARTICLE 450.

Formalities

Except in oral hearings, this appeal shall be filed, in a well-founded document, within three days of notification. The court shall rule by order, after hearing the interested parties, within the same period of time.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 435 to the current Article 450).

Article sheet

ARTICLE 451.-Effect. The resolution that relapses will be executed, unless the resource has been interposed in the same moment with that of subsidiary appeal and it is properly substantiated.

(Thus added by Article 2 of Law No. 9021 of January 3, 2012. Previously this numeral had been repealed by article 10° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of orality in criminal proceedings", law N° 8837 of May 3, 2010).

(By means of an erratum, published in La Gaceta No. 51 of March 12, 2012, page 55, the wording of paragraph 2 of Law No. 9021 of January 3, 2012 was corrected, in the sense that only paragraph 451 was added, and the subsequent numbering was not corrected).

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 436 to the current Article 451).

Article sheet

TITLE III

APPEAL OF APPEAL

ARTICLE 452.

Resolutions that can be appealed

In addition to the provisions of the contraventional procedure and criminal enforcement, the appeal shall only proceed against the resolutions of the courts in the preparatory and intermediate proceedings, provided that they are declared appealable, cause irreparable damage, put an end to the action or make it impossible for it to continue.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 437 to the current Article 452).

Article sheet

ARTICLE 453.-Interposition. The appeal shall be filed before the same court that issued the resolution and in the same hearing in which the resolution of instance was issued. In that opportunity, the appellant shall briefly indicate the reason for the grievance.

The grounds for the appeal shall be stated before the appellate court. Where the appellate court has its seat in a different place, the party shall fix a new place or the manner for receiving notifications, if necessary.

When the appellant intends to offer evidence on appeal, he shall offer it together with the filing of the appeal and shall specifically state the fact he intends to prove.

In the exceptional cases in which the judicial decision has been issued out of court or in writing, the appeal may be filed within three days following the notification.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Previously this paragraph had been amended by Article 3 "Creation of the appeal of the sentence, other reforms to the regime of challenges and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 438 to the current Article 453).

Article sheet

ARTICLE 454.-Proceedings and elevation. Presented the resource, the court will summon the other parts so that in the term of three days they answer the resource and, in its case, they offer test.

If there are accessions during the summons, the other parties shall be notified so that they may answer the accession within the same term.

Then, without any further formality and immediately, it shall forward the proceedings to the court of appeal for its decision.

Only a copy of the relevant proceedings shall be forwarded or a special file shall be created in order not to delay the procedure.

Exceptionally, the appellate court may request other copies or the original proceedings; this shall not imply a stay of the proceedings.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Previously this paragraph had been amended by Article 3 "Creation of the appeal of the sentence, other reforms to the regime of challenges and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 439 to the current Article 454).

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Article sheet

ARTICLE 455.-Proceedings in the appellate court. Received the proceedings, the court of appeal within the following three days shall summon to an oral hearing with the presence of the parties, shall decide the admissibility of the appeal and the proceeding of the issue raised, all in a single resolution.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Previously this paragraph had been amended by Article 3 "Creation of the appeal of the sentence, other reforms to the regime of challenges and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 440 to the current Article 455).

Article sheet

ARTICLE 456.- Oral hearing. Whoever has offered proof will take to his charge to make it concur to the hearing. The secretary will help the offerer issuing the necessary citations or orders, which he will diligently carry out. The court shall immediately decide orally, except that due to the lateness of the hour or because of the complexity of the matter, the decision may be deferred for up to twenty-four hours.

(Thus amended by Article 3 "Creation of the appeal of the sentence, other reforms to the system of challenges and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 441 to the current Article 456).

Article sheet

ARTICLE 457.

Holding of the hearing

The hearing shall be held with the intervening parties who appear, and their attorneys may speak, without the admission of replies.

Those who intervene in the discussion may leave brief written notes on their report.

The accused shall be represented by his defense counsel, but may attend the hearing and, in that case, shall be given the floor last.

At the hearing, the court may question the appellants on the issues raised in the appeal.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 442 to the current Article 457).

Article sheet

TITLE IV

APPEAL OF JUDGMENT

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

Article 458.-Resolutions subject to appeal. All sentences and dismissals issued in the trial phase and that resolve the criminal, civil, incidental and other aspects determined by law may be appealed.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009, which transferred it from the former Article 443 to the current Article 458).

Article sheet

ARTICLE 459.-Procedence of the appeal. The appeal of sentence will allow the integral examination of the judgment, when the interested party alleges disagreement with the determination of the facts, the incorporation and valuation of the evidence, the legal grounds or the fixing of the penalty. The appellate court will rule on the points that are expressly questioned, but will declare, even ex officio, the absolute defects and violations of due process that are found in the sentence.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 444 to the current Article 459).

Article sheet

ARTICLE 460. The resource of appeal of sentence will be interposed before the court that dictated the resolution, within the term of fifteen days of notified, by means of writing or any other form of registry reglamentariamente authorized.

The appellant shall state the grounds for its disagreement, the grievance caused and its claim. In the same act, the appellant shall offer evidence in support of its allegations.

When the appellate court has its seat in a different place, the party must fix a new place or a new form for receiving notifications.

(As amended by Article 4 "Creation of the appeal of the judgment, other reforms to the appeals regime and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 445 to the current Article 460).

Article sheet

Article 461.-Hearing. Once the appeal has been filed, the court that issued the sentence shall give a hearing to the interested parties for a term of five days, during which time they must indicate the place or form to receive notifications in the appeal and may also file adhesions. If there is any adhesion, the court will grant a new hearing to the other parties on this matter, for a term of five days. Once these periods have expired, the court will send the case file to the corresponding court of appeal.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 446 to the current Article 461).

Article sheet

Article 462.-Procedure. The appellate court may declare the appeal inadmissible if it considers that the decision cannot be appealed, that the appeal has been filed out of time, or that the party does not have the right to appeal, in which case it shall so declare and return the proceedings to the court of origin.

If the appeal is admissible, the court shall substantiate it and rule on the merits, even if it considers that there are defects in its wording. If it considers that these absolutely prevent it from hearing the claim, it shall warn the party of its correction in accordance with Article 15 of this Code, specifying the aspects that must be clarified and corrected. If the defects are not corrected, it shall declare the claim inadmissible.

If the appeal is admissible, the court shall summon, when appropriate, an oral and public hearing, admit the relevant and useful evidence for the verification of the grievances charged. Likewise, it shall order the court to bring in, ex officio, the evidence it deems necessary for the same purposes. In this hearing, according to the points of disagreement of the parties, the acts prior and subsequent to the debate, the records of the acts carried out during the trial, the records of the sentence, and the evidence admitted will be re-examined. During this hearing, the appellant and the parties shall be given the opportunity to present and argue the points of the appeal. In any case, the court that establishes the infringement of a fundamental right of the parties involved may decree it ex officio.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 447 to the current Article 462).

Article sheet

ARTICLE 463.-Oral hearing. If when filing the appeal of sentence, answering it or adhering to it, any of the interested parties has offered proof that must be received orally or considers it necessary to orally expose their allegations, or when the court deems it useful, it shall set an oral hearing within fifteen days of receiving the proceedings.

In order to hold the hearing and the reception of evidence, the rules set forth in the appeal of the pre-trial stages shall apply.

(As amended by Article 4 "Creation of the appeal of the judgment, other reforms to the appeals regime and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 448 to the current Article 463).

Article sheet

Article 464.-Evidence in appeal of judgment. In order to the integral examination of the trial or of the judgment issued by the trial court, by means of the appeal of sentence, the court, at the request of a party, shall have the power to examine the records of the evidence produced in the trial, as long as it is necessary, pertinent and useful for the purposes of the appeal, the object of the case or for the ascertainment of a grievance. The same shall apply to the statements of the accused.

In the case of testimonial evidence, the records of the debate or evidence shall be examined and, if there is any doubt as to the scope of the manifestations of any witness or expert, by exception, his deposition or report may be received directly in an oral, public and contradictory hearing, in which the provisions regulating the debate in the trial phase shall be applied, insofar as they are compatible.

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The appellant may offer, in the appeal brief, new evidence on the facts of the proceeding or on the manner in which an act was carried out, when it contradicts what is stated in the proceedings, in the minutes, in the records of the debate or in the judgment itself.

The court will accept as new only the evidence offered in due time but arbitrarily rejected, that which appears as new after the sentence and that which, although previously existing, was not in effective possibility of being offered by the interested party at the time.

The sentencing court of appeal may, in any case, make use of the documentation systems available to it, whether written minutes, phonic recording or video recording, to facilitate the control of what occurred in the sentencing court, avoiding unnecessary repetitions as far as possible.

When the evidence is given orally, the judges who have received it shall be part of the court at the time of the final decision.

(As amended by Article 4 "Creation of the appeal of the judgment, other reforms to the appeals regime and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 449 to the current Article 464).

Article sheet

Article 464 bis.--*(Repealed by Article 10 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).*

(Thus added by Article 3 of Law No. 8503 of April 28, 2006, "Opening of the Criminal Cassation")

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 449 bis to the current Article 464 bis)

(By resolution of the Constitutional Chamber No. 13820 of August 20, 2014, numeral 10 of Law No. 8837 of May 3, 2010, "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings" was annulled, which repealed this article, restoring Article 466 bis of the Code of Criminal Procedure. Subsequently by vote 2014- 017411 of October 22, 2014, resolution number 2014-013820 of August 20, 2014 was added, to the effect that the following is understood: 1) The unconstitutionality of article 10 of the Law creating the appeal of the sentence is only with respect to the repeal of article 466 bis of the Code of Criminal Procedure, not so with respect to the rest of the norms that said article 10 repealed. 2) The effects of the judgment on the merits are sized so that Article 466 bis of the Code of Criminal Procedure (originally Article 451 bis) becomes effective again as of the date on which this action was resolved, i.e., as of August 20, 2014. In such a way that, the cassation appeals raised under the assumption of the rule, which had already been resolved as of August 20, 2014 remain intact, but the cassation appeals raised under the assumption of the rule, which were not resolved as of August 20, 2014 (i.e., were pending resolution), would be without effect by virtue of the prohibition that revives (with the new entry into force of Article 466 bis of the Code of Criminal Procedure) by being declared unconstitutional the rule that repealed it).

Article sheet

ARTICLE 465. Examination and resolution. The judgment appeal court shall assess the merits of the claims invoked in the appeal and their grounds, so that it may evaluate the manner in which the trial judges assessed the evidence and based their decision.

It shall make use of the records available to it, shall reproduce the oral evidence of the trial when it deems it necessary, pertinent and useful for the merits of the claim, and shall make the integral assessment that corresponds to the rest of the proceedings and the evidence introduced in writing.

If the appellate court deems the appeal to be admissible, it shall totally or partially annul the challenged decision and order the retrial or decision to be reinstated. When the annulment is partial, the specific object of the new trial or resolution shall be indicated. In other cases, it shall amend the defect and resolve the matter in accordance with the applicable law.

When the appeal has been filed only by the accused or in his favor, the decision of the court of appeal or the judgment of resubmission may not impose a more severe penalty than the one imposed in the annulled judgment, nor may it disregard the benefits granted therein.

If, as a result of the resolution of the appeal, the defendant's imprisonment must cease, the sentencing court of appeal shall directly order his or her release.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 450 to the current Article 465).

Article sheet

ARTICLE 466.-Referral trial. The trial of resubmission shall be held by the same court that issued the sentence, but composed of different judges.

The appeal filed against the judgment of the resubmission trial must be heard by the respective judgment appeal court, composed of judges other than those who ruled on the previous occasion. If it is not possible to integrate it with new judges, because the impediment covers incumbent and substitute judges, or there is not a sufficient number of substitutes, the jurisdiction shall be assumed by the necessary incumbent judges, notwithstanding the cause and without disciplinary liability with respect to them.

(Thus amended by Article 4 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 451 to the current Article 466).

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Article sheet

Article 466 bis - Remand trial. The trial of resubmission shall be held by the same court that rendered the judgment, but composed of different judges.

The Public Prosecutor's Office, the plaintiff and the civil plaintiff may not file an appeal against the judgment of the trial court in a resubmission trial that reiterates the acquittal of the accused person ordered in a previous trial.

In the case of the preceding paragraph, the corresponding appeals may be filed with respect to the civil action for restitution, restitution and costs.

(As amended by the sole article of Law No. 10200 of May 5, 2022)

(Thus added by Article 3 of Law No. 8503 of April 28, 2006, "Opening of the Criminal Cassation")

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 451 bis to the current Article 466 bis).

(Previously, this article had been repealed by Article 10 of the Law of Creation of the Appeal of the Judgment and other reforms to the regime of challenges and implementation of new rules of orality in criminal proceedings, No. 8837 of May 3, 2010. Subsequently, by resolution of the Constitutional Chamber No. 13820 of August 20, 2014, said numeral 10 of the affecting law was annulled, restoring this article in its pre-existing text. Subsequently by vote 2014-017411 of October 22, 2014, resolution number 2014-013820 of August 20, 2014 was added, to the effect that the following is understood: 1) The unconstitutionality of article 10 of the Law creating the appeal of the sentence is only with respect to the repeal of article 466 bis of the Code of Criminal Procedure, not so with respect to the rest of the norms that said article 10 repealed. 2) The effects of the judgment on the merits are sized so that Article 466 bis of the Code of Criminal Procedure (originally Article 451 bis) becomes effective again as of the date on which this action was resolved, i.e., as of August 20, 2014. In such a way that, the cassation appeals raised under the assumption of the rule, which had already been resolved as of August 20, 2014 remain intact, but the cassation appeals raised under the assumption of the rule, which were not resolved as of August 20, 2014 (i.e., were pending resolution), would be without effect by virtue of the prohibition that revives (with the new entry into force of Article 466 bis of the Code of Criminal Procedure) by being declared unconstitutional the rule that repealed it).

Article sheet

TITLE V APPEAL

IN CASSATION

(Thus added to the previous title by Article 5° "Creation of the appeal of the sentence, other reforms to the regime of challenges and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

Article 467.-Resolutions subject to appeal. The cassation appeal shall proceed against the resolutions issued by the sentence appeal courts, which totally or partially confirm, or resolve in definitive, the sentence issued by the trial court.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

Article 468.- Grounds. The appeal in cassation may be based on any of the following grounds:

- a) When the existence of contradictory precedents dictated by the sentence appeal courts, or of these with precedents of the Criminal Cassation Chamber, is alleged.
- b) When the sentence does not observe or erroneously applies a substantive or procedural legal precept.

For the purposes of paragraph a) of this article, precedent is understood to mean only the interpretation and application of law directly related to the subject matter of the decision.

When the legal precept invoked as not observed or erroneously applied constitutes a defect in the procedure, in order for the appeal to proceed, it must be directed against the acts sanctioned with inadmissibility, lapse of time, ineffectiveness or nullity, provided that the appellant has timely demanded the correction of the defect or has stated that he/she intends to appeal in cassation. The provisions of Article 178 of this Code, referring to absolute defects, shall remain unaffected.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Thus added by Article 5 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

Article sheet

Article 469.-Interposition. The cassation appeal shall be filed under penalty of inadmissibility, before the court that issued the decision, within fifteen days of notification, by means of a written document or any other registry authorized by regulation. It shall be duly grounded and shall clearly cite the legal provisions that are considered to have been disregarded or erroneously applied, or the mention and content of the precedents that are considered to be contradictory; in any case, the grievance and the claim shall be indicated.

Each reason and its grounds must be stated separately, and no other reason may be given outside of this opportunity.

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

Article 470.-Hearing. Once the appeal has been filed, the court that issued the sentence of appeal shall give a hearing to the interested parties for a term of five days, during which time they must indicate the place or form to receive notifications on appeal and they may also file adhesions. If there is any adhesion, the court will grant a new hearing to the remaining parties on this matter, for a term of five days. Once this period has expired, it will send the file to the Chamber of Cassation.

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

Article 471.- Admissibility and procedure. The Chamber of Cassation shall declare the appeal inadmissible when the legal requirements for its filing are not met, as established in Article 469 above; furthermore, when the resolution is not appealable, the party does not have the right to appeal, when the appeal is intended to modify the proven facts or when the appeal is absolutely unfounded, in which case it shall so declare and return the proceedings to the court of origin.

If the appeal is admissible, it shall be assigned to an examining magistrate; the Chamber shall substantiate it and rule on the grounds raised.

If the appeal is admissible and it is not deemed necessary to convene an oral hearing, the Chamber shall render judgment.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Thus added by Article 5 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010).

Article sheet

Article 472.- Oral hearing. If upon filing the appeal, answering it or adhering to it, any of the interested parties considers it necessary to present his arguments orally, he shall request an oral hearing from the Chamber, which shall schedule it within fifteen days of receipt of the proceedings. The same procedure shall be followed if the Chamber, ex officio, deems it necessary.

For the oral hearing, the rules set forth for the appeal shall apply. The resolution of the case shall be issued immediately after the hearing, unless the complexity of the matter requires its postponement.

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

Article 473.-Resolution and extensive effects. If the Chamber of Cassation deems the appeal for violation of procedural law to be admissible, it shall annul, totally or partially, the challenged decision and shall order the reinstatement of the procedure and resolution of the court of appeal of the judgment. When the annulment is partial, the specific object of the new procedure or resolution shall be indicated.

In all other cases, the Chamber, in accepting the appeal, shall correct the defect and resolve the matter in accordance with the applicable law.

When it deems it appropriate, in order to protect the right of the accused to an appeal that involves a comprehensive review of the trial and the sentence, the Chamber may order the annulment of the debate, the resolutions that depend on it and its reinstatement shall be ordered by resubmission to the trial court.

In making its decision, the Chamber shall have at its disposal the records of the trial and of the judgment appeal proceedings. Evidence may only be offered when the appeal is based on a procedural defect and the manner in which an act was carried out is disputed, as opposed to the records of the judgment appeal proceedings.

If, as a result of the resolution of the appeal, the Chamber considers that the imprisonment of the accused should cease, it will directly order his release.

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

Article 474.-Prohibition of reform in prejudice. When the cassation appeal has been filed only by the accused or in his favor and when the appeal of sentence has been filed only by the accused, or in his favor, in the resolution of the Chamber or in the remand trial, a more serious sanction than the one imposed in the annulled sentence may not be imposed, nor may the benefits that have been agreed upon therein be disregarded.

(As amended by Article 1 of Law No. 9021 of January 3, 2012)

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

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Article 475.-Referral trial. The trial of resubmission to the trial instance or to that of appeal of sentence shall be held by the same court that issued the annulled resolution, but composed of different judges.

The appeal in cassation filed against the judgment of the court of appeal must be heard by the Cassation Chamber, composed of magistrates different from those who ruled on the previous occasion. If it is not possible to integrate it with new magistrates, because the impediment covers incumbent and substitute magistrates, or there is not a sufficient number of substitutes, the competence will be assumed by the necessary incumbent magistrates, notwithstanding the cause and without disciplinary liability with respect to them.

(Thus added by article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010).

Article sheet

BOOK IV

ENFORCEMENT

TITLE I CRIMINAL

ENFORCEMENT

CHAPTER I

GENERAL RULES

ARTICLE 476.

Rights

The convicted person may exercise, during the execution of the sentence, the rights and powers granted to him by the criminal and penitentiary laws and regulations, and shall submit to the corresponding court the observations that, based on those rules, he deems appropriate.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 452 to the current Article 467).

(Thus renumbered by Article 5 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010, which transferred it from former Article 467 to 476).

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ARTICLE 477.

Competition

Judicial decisions shall be enforced, unless otherwise provided, by the court that rendered them in the first or sole instance.

The sentencing court shall be competent to make the first determination of the penalty or security measures, as well as the conditions for their enforcement. The court of execution of the sentence will be competent for the successive fixations, extinction, substitution or modification of the sentence.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 453 to the current Article 468).

(Thus renumbered by Article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 468 to 477).

Article sheet

ARTICLE 478.

Execution incidents

The Public Prosecutor's Office, the complainant, the convicted person and his defense counsel may raise, before the penalty enforcement court, incidents relating to the execution, substitution, modification or termination of the sentence or security measures. These must be resolved within five days, after hearing the other intervening parties. If it is necessary to incorporate evidence, the court, even ex officio, will order a summary investigation, after which it will decide.

Incidents relating to early release and those in which, due to their importance, the court deems it necessary, shall be resolved in an oral hearing, summoning the witnesses and experts who must report during the debate.

The court shall decide by a well-founded order and, against its decision, an appeal may be lodged with the sentencing court, the lodging of which shall not suspend the execution of the sentence, unless the latter court so decides.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 454 to the current Article 469).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 469 to Article 478).

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ARTICLE 479.

Suspension of administrative measures

During the processing of the incidents, the penalty enforcement court may order the provisional suspension of the measures of the penitentiary administration that are challenged in the proceedings.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 455 to the current Article 470).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 470 to Article 479).

Article sheet

ARTICLE 480.

Defense

The work of the defense counsel will culminate with the final sentence, without prejudice to the continuation of the exercise of the technical defense during the execution of the sentence. Likewise, the convicted person may appoint a new defense counsel, failing which a public defender will be appointed.

The exercise of the defense during the penal execution will consist of advising the convicted person, when required, for the interposition of the necessary steps to protect his rights.

It shall not be the duty of the defense to monitor compliance with the sentence.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 456 to the current Article 471).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010, which transferred it from former Article 471 to 480).

Article sheet

ARTICLE 481.

Public Prosecutor's Office

Prosecutors for the enforcement of sentences shall intervene in enforcement proceedings, ensuring that fundamental rights and the provisions of the sentence are respected.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 457 to the

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current Article 472).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010, which transferred it from former Article 472 to 481).

Article sheet

ARTICLE 482.

Powers of the penalty enforcement judges

Sentence enforcement judges will monitor compliance with the prison regime and respect for the constitutional and legal purposes of the sentence and security measures. They may summon convicted persons or officials of the prison system to appear before them for purposes of supervision and control.

They will be especially responsible for:

- a) To maintain, replace, modify or terminate the penalty and security measures, as well as the conditions of their enforcement.
- b) To visit prisons at least once every six months, in order to verify that the fundamental and penitentiary rights of the inmates are being respected, and to order the corrective measures they deem appropriate.
- c) To resolve, in accordance with the procedure foreseen for incidents of execution, the petitions or complaints made by inmates regarding the prison regime and treatment insofar as they affect their rights.
- d) To resolve, by way of appeal, complaints made by inmates regarding disciplinary sanctions.
- e) Approve the sanctions of isolation for more than forty-eight hours, in cells.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009, which transferred it from the former Article 458 to the current Article 473).

(Thus renumbered by Article 5 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010, which transferred it from former Article 473 to 482).

Article sheet

CHAPTER II

PENALTIES AND SECURITY MEASURES

ARTICLE 483.

Enforceability

The sentence must become final in order to be enforceable. Immediately after it becomes final, the corresponding communications and registrations shall be ordered.

If the sentenced person is at liberty, arrangements shall be made for his capture.

The court shall order the execution of the necessary measures to comply with the effects of the sentence.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 459 to the current Article 474).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 474 to Article 483).

Article sheet

ARTICLE 484.

Final tally

The sentencing court shall compute the sentence and deduct from it the preventive detention and house arrest served by the convicted person, in order to accurately determine the date on which the sentence will end.

The computation shall always be reformable, even ex officio, if an error is proven or when new circumstances make it necessary.

The liquidation of the sentence shall be immediately communicated to the court of execution and to the National Institute of Criminology.

Failure to comply with these provisions shall be considered serious misconduct.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 460 to the current Article 475).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 475 to Article 484).

Article sheet

ARTICLE 485.

Illness of the condemned

If during the execution of the custodial sentence, the convicted person suffers from an illness that cannot be treated in prison, the court of execution of the sentence shall order, subject to the necessary medical reports, the internment of the sick person in a suitable establishment and shall order the necessary measures to prevent escape.

The director of the penitentiary establishment shall have the same powers in urgent cases, but the measure must be immediately communicated to the court, which may confirm or revoke it.

These rules shall be applicable to pre-trial detention, in relation to the court hearing the proceedings, and to the remaining penalties insofar as they may be suspended due to illness.

The time of internment shall be computed for the purposes of the sentence, provided that the convicted person is deprived of liberty.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings No. 8720 of March 4, 2009, which transferred it from the former Article 461 to the current Article 476).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 476 to Article 485).

Article sheet

ARTICLE 486.

Deferred execution

The penalty enforcement court may suspend the enforcement of the custodial sentence in the following cases:

- a) When a woman in an advanced state of pregnancy or with a child under three months of age must serve it, provided that the deprivation of liberty endangers the life, health or integrity of the mother, fetus or child.
- b) If the convicted person is seriously ill and the execution of the sentence endangers his life, according to an opinion to be requested from the Department of Forensic Medicine.

When these conditions cease, the sentence will continue to be executed.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 462 to the current Article 477).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal process", Law No. 8837 of May 3, 2010, which transferred it from former Article 477 to Article 486).

Article sheet

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Article 486 bis.- Substitution of imprisonment during the execution of the sentence by house arrest with electronic monitoring.

The sentence enforcement judge may order house arrest with electronic monitoring during the execution of the sentence, as a substitute for imprisonment, provided that the following conditions are met:

- 1) When the convicted woman is in an advanced state of pregnancy at the time of imprisonment, is the head of household of a son or daughter under twelve years of age, or the child or relative suffers from some kind of disability or serious illness duly proven. This substitution may also be ordered if the child or relative has been under her care and it is proven that there is no other person who can take care of the child or relative. In her absence, the parent who has assumed this responsibility will have the same benefit.
- 2) When the convicted person is over sixty-five years of age, provided that his personality, the nature and modality of the crime justify the substitution of imprisonment.
- 3) When the convicted person is suffering from a physical, addictive or psychiatric illness whose treatment, even if it is possible to follow it in prison, it is appropriate to do so outside the prison to ensure recovery, subject to the necessary medical and technical reports that justify house arrest.
- 4) When situations arise in the execution of the sentence that merit the protection of the principle of humanity, provided that his personality, the nature and modality of the crime justify the substitution of imprisonment.

The judge may order the conditions that ensure compliance with the sentence by ordering their placement in the program defined by the Ministry of Justice and Peace, in order to ensure compliance with the plan of execution and technical care, and compliance obligations. Likewise, it may grant the necessary permits for the necessary medical check-ups, the occurrence of childbirth or obligations acquired in relation to the care of minor children in their care or persons with disabilities or dependents, ensuring permanent monitoring. These rules will be applicable to preventive detention in relation to the judicial authority hearing the process. In case of unjustified non-compliance or commission of a new felony, the competent judge will be notified, who may modify or revoke this benefit and order imprisonment.

(Thus added by Article 10 of Law No. 9271 of September 30, 2014, "Electronic monitoring mechanisms in criminal matters").

Article sheet

ARTICLE 487.

Safety measures

The rules set forth in this Chapter shall apply to security measures insofar as they are applicable.

The court shall periodically examine the situation of the person undergoing a measure. It shall fix a period of no more than six months between each examination, following a report from the establishment and the experts. The decision will deal with the cessation or continuation of the measure and, in the latter case, may order the modification of the treatment.

When the judge becomes aware, based on a well-founded report, that the causes that motivated the internment have disappeared, he shall proceed to its substitution or cancellation.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 463 to the current Article 478).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 478 to Article 487).

Article sheet

TITLE II

CIVIL EXECUTION

ARTICLE 488.

Competition

A judgment ordering restitution, indemnification or compensation for damages, when it is not immediately enforced or cannot be enforced by simple order of the court that issued it, shall be enforced by the interested party before the civil or administrative court, as the case may be.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 464 to the current Article 479).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 479 to Article 488).

Article sheet

ARTICLE 489.

Confiscation

When the sentence orders the confiscation of any object, the court will give it the appropriate destination according to its nature, in accordance with the rules governing the matter. Where appropriate, the instruments with which the crime was committed will be sent to the Criminological Museum of the Supreme Court of Justice.

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(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 465 to the current Article 480).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 480 to Article 489).

Article sheet

ARTICLE 490.

Restitution and retention of seized items

Confiscated items not subject to confiscation, restitution or seizure shall be returned to the person to whom they were seized, immediately after the sentence has become final. If they have been delivered in provisional deposit, the depositary shall be notified of the definitive delivery.

The seized property of the convicted person may be retained as security for the costs of the proceeding and the pecuniary liability imposed.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 466 to the current Article 481).

(Thus renumbered by Article 5 "Creation of the appeal of the sentence, other reforms to the challenge regime and implementation of new rules of orality in criminal proceedings", Law No. 8837 of May 3, 2010, which transferred it from former Article 481 to 490).

Article sheet

ARTICLE 491.

Controversy

If a dispute arises over the restitution or its form, the parties concerned shall be referred to the civil courts.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 467 to the current Article 482).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 482 to 491).

Article sheet

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ARTICLE 492.

Declaratory judgment of instrumental falsehood

When a judgment declares a public instrument to be false, the court that issued it will order that the act be reconstructed, suppressed or reformed. If applicable, it will order the corresponding registry rectifications.

If the document has been extracted from an archive, it shall be returned to it, with a marginal note on each page, and a copy of the judgment establishing the total or partial falsity shall be added.

In the case of a notarized document, the statement made in the judgment will be noted in the margin of the matrix, in the testimonies that have been presented and in the respective registry.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 468 to the current Article 483).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 483 to 492).

Article sheet

FINAL PROVISIONS ARTICLE 493.

Practical standards

The Supreme Court of Justice shall issue the necessary practical rules for the application of this Code.

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 469 to the current Article 484).

(Thus renumbered by Article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 484 to 493).

Article sheet

ARTICLE 494.

Derogations

The Code of Criminal Procedures, Law No. 5377 of October 19, 1973 and the laws that added to and reformed it, as well as any provision that opposes or contradicts the provisions of this Code are expressly repealed.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 470 to the current Article 485).

(Thus renumbered by Article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 485 to 494).

Article sheet

ARTICLE 495.

Reforms Articles 294 and 298 of the Code of Criminal Procedures, Law No. 5789 of September 1, 1975 (sic: should be understood as Law No. 5377 of October 19, 1973). The texts shall read:

"Article 294.

If the judge considers prima facie that the accused, in case of conviction, will not be deprived of liberty for a period longer than the imprisonment suffered, he shall order the cessation of the imprisonment and the immediate release of the accused.

In addition, in exceptional cases, the judge, by means of a reasoned order, may revoke the preventive detention when so required due to a change in the conditions that justified its imposition.

In all cases, the revocatory resolution shall be appealable, without suspensive effect, by the Public Prosecutor's Office."

"Article 298.

Release from prison shall not be granted:

- 1.- Before three months have elapsed since the judge ordered the preventive detention, without prejudice to the extraordinary power granted to the judge by the second paragraph of article 294.
- 2.- Whoever is declared in rebellion.
- 3.- When, in the opinion of the court, there are strong indications that the accused will try to evade justice.
- 4.- When there are indications - equally serious - in the background of the accused or in other elements of conviction, that the criminal activity will continue".

(Thus renumbered by Article 18 of the Law for the Protection of Victims, Witnesses and other participants in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 471 to the current Article 486).

(Thus renumbered by Article 5 "Creation of the appeal of the judgment, other reforms to the system of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 486 to Article 495).

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Article sheet

ARTICLE 496.

Validity

This Code will become effective on January 1, 1998.

(Thus renumbered by Article 18 of the Law on the Protection of Victims, Witnesses and Other Persons Involved in Criminal Proceedings, No. 8720 of March 4, 2009, which transferred it from the former Article 472 to the current Article 487).

(Thus renumbered by Article 5° "Creation of the appeal of the sentence, other reforms to the regime of contestation and implementation of new rules of oral proceedings in the criminal procedure", Law No. 8837 of May 3, 2010, which transferred it from former Article 487 to 496).

Article sheet

TRANSITIONAL PROVISIONS

TRANSITIONAL I.-

TRANSITIONAL I.

Application to pending proceedings Proceedings which, upon the entry into force of this law, have been ordered to be brought to trial or have been granted an extraordinary extension, even if they are not final, will continue to be processed in accordance with the previous Code.

In all other cases, this Code shall apply and the procedures must be adapted in accordance with the new provisions.

Article sheet

TRANSITORY II.

Prescription of pending cases The period of prescription of the criminal action in cases pending in the courts, to which this Code shall apply, shall begin to run as from the entry into force of the latter. For cases that must continue to be processed in accordance with the rules of the Code of Criminal Procedure of 1973, the statute of limitations provisions of the Criminal Code of 1970 shall apply.

Article sheet

TRANSITIONAL III.

Transitory powers of the Supreme Court of Justice In addition to the powers already provided for by law, during the first two years that this Code is in force, the Supreme Court of Justice may

transferring officials from one district to another or from one office to another, opening or closing offices, assigning surcharges, reorganizing offices and redistributing the territorial jurisdiction of the courts, whenever this is indispensable for the better application of this Code.

Article sheet

TRANSITORY IV.-

Transitional legislation Prior to the entry into force of this Code, a law must be passed to regulate the organization of the judicial offices, their competence and that of the Public Prosecutor's Office and, in general, to adapt the organization of the Judicial Branch to the requirements of this Code. Such law shall contain the rules governing the transition from one procedural system to another.

Article sheet

TRANSITIONAL V.-

The reform of articles 294 and 298 of the Code of Criminal Procedures, Law No. 5789 of September 1, 1975 (sic: it should be understood as Law No. 5377 of October 19, 1973), which is made by means of this law, will remain in force from its publication until January 1, 1998.

Given at the Presidency of the Republic, San José, on the tenth day of April, nineteen hundred and ninety-six.

Article sheet

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