

- You are on the latest version of the standard -

Creation of a specialized jurisdiction for organized crime in Costa Rica
N° 9481

(Note by Sinalévi: In accordance with the sole transitory provision of the present norm, the same shall enter into effect eighteen months after the necessary budget for its implementation has been granted, in accordance with the technical studies of the Judicial Branch, and therefore, as of that date, the allocations indicated in articles 18, 19 and 20 of the present law shall be made).

THE LEGISLATIVE ASSEMBLY OF THE REPUBLIC OF COSTA RICA
DECREES:

CREATION OF A SPECIALIZED JURISDICTION FOR ORGANIZED CRIME IN COSTA RICA

ARTICLE 1-Object. The Specialized Jurisdiction on Organized Crime is hereby created, with jurisdiction over the investigation and trial of serious crimes committed by persons of legal age who meet the criteria set forth in this law. The courts and tribunals that apply the present law will extend their competence to the knowledge of related crimes with respect to which the Specialized Jurisdiction in Organized Crime assumes its competence.

For the entire criminal legal system, organized crime shall be understood as any activity that meets the requirements and parameters set forth in articles 8 and 9 of this law.

Article sheet

Article 2- Jurisdiction

The Specialized Court for Organized Crime, the Specialized Criminal Court for Organized Crime and the Specialized Court of Appeals for Organized Crime will be competent to hear cases that qualify as organized crime.

The offices to be established will have jurisdiction throughout the national territory, will only hear criminal acts that comply with the parameters set forth in this law and related crimes, and will be located in San José, as well as in those places and in the manner determined by the Supreme Court of Justice.

The ordinary courts or tribunals of the country will hear organized crime proceedings in those cases where the Public Prosecutor's Office has not requested that they be processed in the specialized jurisdiction, in accordance with articles 8 and 9 of this law.

The appeal of sentence will be heard by the Court of Appeal of Sentence Specialized in Organized Crime.

The appeal in cassation and the special review procedure shall be within the jurisdiction of the Third Chamber of the Supreme Court of Justice.

(As amended by Article 1 of Law No. 9769 of October 18, 2019)

Article sheet

ARTICLE 3-Public action. Criminal action to prosecute crimes committed by members belonging to an organized crime group, as provided in this law, is public and may not be converted into private action.

Article sheet

ARTICLE 4-Procedure. When the elements gathered during the investigation phase determine that the facts investigated can be classified as organized crime, the Attorney General of the Public Prosecutor's Office may request the Specialized Criminal Court on Organized Crime to take cognizance of them. The request must be accompanied by the background information necessary to establish compliance with the requirements for the application of this law.

Once the request has been filed, the court shall rule on said request without prior hearing of the parties and within a maximum period of forty-eight hours, in the event that the person charged has not been summoned.

If the person charged has been summoned prior to the request, the court shall, within forty-eight hours thereafter, summon the parties to an oral and private hearing to decide whether it assumes jurisdiction. At such hearing, the floor shall be given first to the Public Prosecutor's Office, which shall orally state the reasons for which it considers the present law applicable; the floor shall then be given to the other parties. The court shall resolve the request orally after the conclusion of the hearing or, in exceptional cases, defer the resolution of the matter orally or in writing, for a maximum period of forty-eight hours.

The request for access to the specialized jurisdiction for organized crime may be made by the Public Prosecutor's Office before or together with the indictment. In the latter case, the indictment must be sent with the respective request.

Article sheet

ARTICLE 5-Content of the resolution. The court shall authorize or reject the case to be processed in the Specialized Jurisdiction on Organized Crime in a duly motivated resolution.

This resolution will contain an analysis of the existence of the requirements contained in the present law.

Article sheet

ARTICLE 6-Appeals. In the event that the person charged has been summoned, the resolution authorizing or rejecting the case to be processed in the Specialized Jurisdiction on Organized Crime may be appealed by the Public Prosecutor's Office or by the defense, within three days.

Once the person charged has been summoned, the defense may object to the competence before the judge who decreed it, within three days. An appeal may be filed against the decision within the same period of time.

The appeal shall not have suspensive effect.

Article sheet

ARTICLE 7-Firmness. Once jurisdiction has been declared by means of a firm resolution in the Specialized Jurisdiction on Organized Crime, it may not be objected to by the parties or declined ex officio at a later date.

Article sheet

Article 8- Serious offense

The Attorney General's Office may request the competent authority of the Specialized Jurisdiction on Organized Crime, to assume the knowledge and investigation of these crimes, as well as related crimes, regardless of the criminality of the latter, according to the rules of connection established in Law No. 7594, Code of Criminal Procedure, of April 10, 1996, when, fulfilling the requirements established in Article 9 of this law for the declaration of organized crime, and it is also a complex matter. No. 7594, Code of Criminal Procedure, of April 10, 1996, when the requirements established in Article 9 of this law for the declaration of organized crime are fulfilled, and it is also a complex matter, or for security reasons or any other procedural reason that justifies its necessity, in accordance with the purposes of the process.

For the entire criminal justice system, a felony is defined as a crime for which the maximum term of imprisonment is four years or more.

(As amended by Article 1 of Law No. 9769 of October 18, 2019)

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValue2=85040

Article sheet

ARTICLE 9-Criteria. In order for the Specialized Jurisdiction on Organized Crime to assume jurisdiction, in addition to the investigation of one or more serious crimes, the following mandatory criteria must be present in order to be considered an organized crime group:

- 1) Collective participation. A group composed of three or more persons, which has not been formed fortuitously for the immediate commission of a crime.
- 2) Organized group. That it is a group with an organized structure, because there is a specific role or task for each member of the group.
- 3) Permanence in time. Existing for a certain period of time or for an indefinite period of time.
- 4) Acting in concert to commit crimes. Acting in concert for the purpose of committing one or more felonies.

Article sheet

ARTICLE 10-Terms. In the event that the Specialized Jurisdiction on Organized Crime assumes jurisdiction over a case, the special rules set forth in the Code of Criminal Procedure regarding time limits for complex cases shall apply without the need for an additional judicial resolution, except as provided in the following paragraph.

In the event of a conviction that imposes a custodial sentence, the term of preventive detention may be extended by means of a well-founded resolution, for up to twelve more months.

The Court of Appeals for Sentencing Specialized in Organized Crime, exceptionally and ex officio, may authorize an extension of pretrial detention for up to six months in addition to the pretrial detention terms provided for in the Code of Criminal Procedure, when a new trial is ordered.

The Third Chamber of the Supreme Court of Justice, exceptionally and ex officio, may authorize an extension of preventive detention for up to twelve more months in cases under its jurisdiction, when it orders a new trial.

Article sheet

ARTICLE 11-Intervention of communications. The Public Prosecutor's Office may request, in writing, at the time of formulating the request for the Specialized Criminal Court on Organized Crime to take cognizance of the facts, in accordance with the provisions of this law, the intervention or listening of communications between those present or by epistolary, radio, telegraphic, telephonic, electronic, satellite or any other means, as established in Law No. 7425, Law on Registration, Seizure and Examination of Private Documents and Intervention of Communications, of August 9, 1994 and in Law No. 875 of August 9, 1994, and in Law No. 875 of August 9, 1994.No. 7425, Law on Registration, Seizure and Examination of Private Documents and Intervention of Communications, of August 9, 1994 and Law No. 8754, Law against Organized Crime, of July 22, 2009. The above, without prejudice to the powers retained by the criminal judge of the common jurisdiction, as established in Law No. 7425.

The Criminal Court Specialized in Organized Crime may order, in the cases submitted to its knowledge and by founded resolution, the intervention of communications in the crimes that so allow it, in accordance with the legal system and may delegate the execution of the measure to the Judicial Center for Intervention of Communications.

[Article sheet](#)

ARTICLE 12-Intervention of communications during the process. The provisions of the preceding article do not prevent the Public Prosecutor's Office and other authorized parties, in accordance with Law No. 7425, Law on Registration, Seizure and Examination of Private Documents and Intervention of Communications, and Law No. 8754, Law against Organized Crime, of July 2009, from requesting the intervention of communications or listening to communications during the proceedings.° 8754, Law against Organized Crime, of July 22, 2009, may request the intervention of communications or the listening of communications between those present or by epistolary, radio, telegraphic, telephonic, electronic, satellite or other means, at any time during the process, once the Specialized Criminal Court on Organized Crime has taken cognizance of the facts.

[Article sheet](#)

ARTICLE 13-Release of bank secrecy. In any investigation for organized crime, the bank secrecy of the accused or of the natural or legal persons linked to the investigation shall be lifted, in accordance with the provisions of the legislation in force, especially Law No. 8754, Law against Organized Crime, of July 22, 2009.

[Article sheet](#)

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValue2=85040

ARTICLE 14-Validity of the proceedings. When the Specialized Court on Organized Crime takes cognizance of a case, the procedural acts practiced in the common jurisdiction shall retain their validity and effectiveness.

Likewise, when the matter is returned to the common jurisdiction when the jurisdiction has been confirmed, the procedural actions carried out in the Specialized Jurisdiction on Organized Crime shall remain valid and effective.

Likewise, the proceedings carried out in the processes before the common jurisdiction will be valid, even when the matter could have been processed before the Specialized Jurisdiction on Organized Crime, according to the provisions of the present law.

Article sheet

ARTICLE 15-Units of the Public Prosecutor's Office, the Public Defense and Section of the Judicial Investigation Agency. The Office of the Attorney General of the Republic and the Public Defense Office shall create the respective units to hear the matters to be investigated and tried before the Specialized Jurisdiction on Organized Crime and a Section against Organized Crime in the Judicial Investigation Organism (OIJ). Likewise, they will determine the requirements to be met by the persons who will work in those units.

Article sheet

ARTICLE 16-Budgetary content and initial integration of the courts The Ministry of Finance shall grant sufficient economic content for the operation of the courts and tribunals created by this law. At the time of the publication of the present law, the Ministry of Finance shall effectively and completely transfer the necessary resources to allow the Judicial Branch to create the Specialized Jurisdiction on Organized Crime; likewise, it shall annually transfer the necessary resources to allow the operation of this Jurisdiction. The Judicial Branch shall guarantee the necessary resources for the operation of the Jurisdiction created in the present law.

The Planning Department of the Judicial Branch shall recommend the number of officials to be employed in this Jurisdiction at the time this law becomes effective.

Article sheet

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValor2=85040

ARTICLE 17-Supplementary rules. The criminal process followed before the Specialized Jurisdiction on Organized Crime shall be the ordinary one provided for by Law No. 7594, Code of Criminal Procedure, of April 10, 1996, with the exceptions provided for in this law.

The proceedings and resolutions of the Specialized Jurisdiction on Organized Crime shall be governed, in all matters not expressly provided for in this law, by Law No. 7594, Criminal Procedure Code, of April 10, 1996; Law No. 8754, Law against Organized Crime, of July 22, 2009; Law No. 7333, Organic Law of the Judiciary, of May 5, 1993 and Law No. 7333, Organic Law of the Judiciary, of May 5, 1993.No. 8754, Law against Organized Crime, dated July 22, 2009; Law No. 7333, Organic Law of the Judiciary, dated May 5, 1993; and Law No. 7728, Law of Judicial Reorganization, Amendments to the Organic Law of the Judiciary, dated December 15, 1997.

Article sheet

Article 18- Additions

Articles 93 ter, 96 ter, 101 bis and 107 bis are added to Law No. 7333, Organic Law of the Judiciary of May 5, 1993. The texts are as follows:

Article 93 ter- It is incumbent upon the Court of Appeal of Sentence Specialized in Organized Crime to hear:

- 1-) Appeals against sentences handed down by courts specializing in organized crime.
- 2-) Appeals against resolutions issued by the Specialized Court on Organized Crime, when the law provides that the appeal is admissible.
- 3-) Impediments, excuses and recusals of its proprietary and alternate members.

The sentencing courts of appeal specialized in organized crime shall be composed of independent sections, each composed of three judges, according to the needs of the service, and shall distribute their work as provided for in this law.

Article 96 ter-

The courts specialized in organized crime will be formed by independent sections of at least four judges and will be integrated, in each case, with three of them, to hear the following cases:

- 1-) The trial phase.
- 2-) On the impediments, excuses and recusals of the regular and alternate judges.
- 3-) Interlocutory appeals filed during the preparatory and intermediate stages.

Article 101 bis-

To be a judge of the Court Specialized in Organized Crime and a judge of the Criminal Court and of the Court of Appeals for Sentencing Specialized in Organized Crime, titular or substitute, the following are required:

- 1-) Be a Costa Rican citizen in exercise of his or her rights as a citizen.
- 2-) Be at least thirty-five years of age.
- 3-) Possess a law degree, legally recognized in the country.
- 4-) Have practiced as a legal professional in the auxiliary or jurisdictional areas of justice, in criminal matters, for a minimum of five years and be eligible in the corresponding scale.
- 5-) Hold a professional appointment in property, after completing the probationary period, in the Judiciary.
- 6-) Possess specialized training in organized crime provided by the Judicial Academy or in coordination with it.

These judges will earn a salary incentive compared to the other judges of the Criminal Court.

To be a judge of the Criminal Court and of the Court of Appeal of Sentence of the Specialized Jurisdiction on Organized Crime, titular or alternate, it is required:

- 1-) Be a Costa Rican citizen in exercise of his or her rights as a citizen.
- 2-) Be at least thirty-five years of age.
- 3-) Possess a law degree legally recognized in the country.
- 4-) Have practiced as a legal professional in the auxiliary or jurisdictional areas of justice, in criminal matters, for a minimum of six years and be eligible in the corresponding scale.
- 5-) Hold a professional appointment in property, after completing the probationary period, in the Judiciary.
- 6-) Possess specialized training in organized crime provided by the Judicial Academy or in coordination with it.

These judges shall earn a salary incentive compared to the other judges of the Criminal Court or the Court of Appeals for Sentencing, as the case may be.

The Superior Council of the Judiciary appoints the judges of the Criminal Court and the judges of the Court of Appeals for Sentencing, and the Supreme Court of Justice appoints the judges of the Criminal Court and the Court of Appeals for Sentencing of that jurisdiction, for a period of eight years; upon expiration of this term, they shall return to their posts. Their appointment may be extended for the term necessary to finalize procedural acts in progress, in their charge, duly justified or until the person to assume the new term is appointed.

Appointments made because of a vacancy shall be for a full term.

Prior to joining the Specialized Jurisdiction on Organized Crime, it will be necessary to pass a rigorous recruitment and selection program, in accordance with the principle of proven suitability, which will be approved by the Court.

All persons working in the Specialized Jurisdiction on Organized Crime must be evaluated every two years by the Human Resources Department, in order to verify that they maintain their suitability for the position, as established in the Judicial Service Statute and when exceptionally requested by higher instances. The unfavorable results will be forwarded to the Plenary Court and the Superior Council respectively, who, among other options, may revoke or suspend their appointment in this jurisdiction and return them to their position of ownership.

Those who work exclusively in the Specialized Jurisdiction on Organized Crime will receive a salary incentive and will keep their position during the term of their appointment.

Those who work in this jurisdiction will have special protection, only when risk factors arise due to the exercise of their functions that make it necessary, according to the respective technical studies.

Those who work in the Specialized Jurisdiction for Organized Crime will also perform work within the ordinary jurisdiction, when the institutional requirements so determine.

Article 107 bis- The Specialized Court on Organized Crime shall be responsible for the jurisdictional acts of the preparatory and intermediate proceedings. It shall be ensured that a judge does not assume both stages in a single proceeding.

(As amended by Article 1 of Law No. 9769 of October 18, 2019)

Article sheet

Article 19- Repeal of several articles of Law No. 8754, Law against Organized Crime, of July 22, 2009

Articles 2, 3, 7 and 9 of Law No. 8754, Law against Organized Crime, of July 22, 2009, are hereby repealed.

(As amended by Article 1 of Law No. 9769 of October 18, 2019)

Article sheet

ARTICLE 20- Amendment of Law No. 8754, Law against Organized Crime. Article 11 is amended and Articles 11 bis, 11 ter and 11 quater are added to Law No. 8754, Law against Organized Crime, of July 22, 2009. The texts are as follows:

Article 11- Police Information Platform. The Police Information Platform (PIP) shall be part of the administrative structure of the Judicial Investigation Organism (OIJ), as an instrument of integrated consultation of data from different sources of public and private information relevant to judicial investigations and the maintenance of public security. Its objective is to function as a standardized information platform, capable of integrating all the data required for the state police forces and the OIJ to be able to

http://www.pgrweb.go.cr/scij/Busqueda/Normativa/Normas/nrm_texto_completo.aspx?nValor1=1&nValue2=85040

The information is consulted and fed back to judicial investigation agencies throughout the country, as part of the activities of investigation, prevention and fight against crime.

The state police and judicial investigation bodies will be linked to the PIP and will have the obligation to of:

- i) Include data and information relevant to the public safety functions within its competence.
- ii) To share and ensure access by other state police and criminal investigation agencies to information from their records, databases, electronic files, international networks and police intelligence, in order to achieve greater efficiency and effectiveness in both preventive and repressive investigations of all types of crimes and threats to public safety.

The information included in the PIP, which comes from citizens' personal data, will be used for the following purposes exclusively for internal purposes of the police and judicial bodies; it may not be commercialized under any circumstances or conditions and will be of restricted access because it is sensitive to the privacy of individuals. Its handling shall comply with the provisions of Law No. 8968, Protection of the Person against the Processing of Personal Data, of July 7, 2011, considering that, even being part of publicly accessible records, they are not of unrestricted access because they are of interest only to their owner or to the Public Administration, in the fulfillment of public purposes.

However, in order not to affect criminal investigations in the preliminary stage, no information will be provided to any person on consultations made in his name in the Police Information Platform, except by express order of the jurisdictional authority or when required in administrative disciplinary proceedings to determine the correctness of actions by personnel with access to it.

Article 11 bis- Access to information to support the Police Information Platform. Except in cases where a legal rule expressly requires a court order to access them, all records, databases, files of state bodies and entities, autonomous institutions, municipal corporations, private and public companies that provide public services to citizens, non-state public entities, will be accessed free of charge by the Judicial Investigation Organism (OIJ), for the exclusive use of the PIP. The information accessed will be strictly relevant to police and judicial investigations.

The requirements will be made by the director of the OIJ in an express and reasoned manner for each entity only once, in order to establish continuous access to such information, justifying its usefulness for the purposes pursued by the PIP.

Once the request has been formulated, the required information must be provided immediately and in a manner that ensures consultation through the transfer of information by technological means through communication networks, as well as by means of backups of the required databases.

Access to the data, motivated by a court order, will be restricted to previously designated police agents or judicial investigators, as well as to the prosecutors in charge of the case and the judges to whom it corresponds to issue any order or sentence in that case; when the same information is required in another process, it may not be known or shared without the prior authorization of the judicial authority. Those who know such data legally must keep them secret and may only refer to them in statements, reports or necessary and indispensable actions of the process.

All public and private entities requested to provide information for the PIP will be obliged to cooperate and, within a maximum period of six months from the date on which the Agency's Directorate General

The Judicial Investigation Department formally requests the information, sign agreements for access to its digital databases and relevant information to the PIP to ensure its timely linkage.

Failure to comply with the requests for information within the established term, public or private companies will be subject to a financial penalty consisting of a fine equivalent to two percent (2%) of the gross income earned in the previous fiscal year, up to a maximum of forty base salaries, which will be imposed by the competent body, and which will be used for the maintenance and development of the Police Information Platform.

The PIP should be linked to the information platforms of international police organizations with which the Costa Rican government is affiliated.

Those who do not cooperate with these provisions shall be subject to the penalties contemplated in the Penal Code for the crime of disobedience.

Article 11 ter- Administrative responsibility for the Police Information Platform. The director of the Judicial Investigation Agency (OIJ) shall be responsible for ensuring the conditions for the correct operation of the Platform, delegating its operational administration to its Office of Plans and Operations (OPO).

The Director will establish a protocol for access and use of the information contained in said Platform, establishing, among other elements, the guidelines that guarantee the integrity of the system to prevent said information from being used for illicit purposes or purposes other than those for which it was created, avoid duplication of information, ensure that the data contained therein is updated, as well as establish the security conditions of the information contained therein and the levels of access to the information by the different police and judicial investigation bodies, establishing access profiles for the users authorized to make use of the information of the PIP.

It is empowered to establish agreements with public institutions and private companies, to formalize the conditions of access to information relevant to the corresponding telematic and infrastructure schemes, required to ensure the connection, linkage and maintenance of equipment and computer networks for this purpose.

The use of the Police Information Platform will be the direct administrative responsibility of the authorized officer or officers, as enabled by their access profile; its misuse will be subject to administrative sanctions. Criminal responsibilities and penalties will be established, when the improper use results in a leakage of information or to the detriment of judicial and police investigations.

Article 11 quater- Financing of the Police Information Platform. For the financing of the Police Information Platform, in addition to the provisions of this article and Article 30 of Law No. 8754, Law against Organized Crime, of July 22, 2009, an additional amount shall be available from the resources provided for in Article 85 of Law No. 8204, Law on Narcotics, Psychotropic Substances, Drugs for Unauthorized Use, Related Activities, and Related Activities, of July 22, 2009.° 8204, Law on Narcotics, Psychotropic Substances, Drugs of Unauthorized Use, Related Activities, Money Laundering and Financing of Terrorism, of December 26, 2001, as follows:

- a) Two percent (2%) of the amount destined to the fulfillment of preventive programs.
- b) Three percent (3%) of the percentage allocated to repressive programs.
- c) One percent (1%) of the amount granted for the insurance and maintenance of forfeited property, on the occasion of the application of this law.

d) In order to comply with Article 31 of Law No. 9095, Law against Trafficking in Persons and Creation of the National Coalition against the Smuggling of Migrants and Trafficking in Persons, of October 26, 2012, an additional amount of five percent (5%) of the resources collected in the National Fund against Trafficking in Persons and Smuggling of Migrants (Fonatt) shall be available, in accordance with the provisions of Article 52 of the aforementioned law.

Article sheet

SOLE TRANSITORY- Cases initiated in criminal courts with common jurisdiction on the date of entry into force of this law, which are in the intermediate or trial stages, shall continue to be heard by those courts.

It will come into effect eighteen months after the necessary budget for its implementation has been granted, according to the technical studies of the Judicial Branch.

(As amended by Article 4 of Law No. 9769 of October 18, 2019)

Given at the Presidency of the Republic. San José, on the thirteenth day of September of the year two thousand seventeen.

Article sheet

Transitory II- At least fifteen months prior to the entry into force of this law, a competency-based training process for the operators of this specialized jurisdiction must be initiated, through or in coordination with the Judicial School and the training units.

Likewise, the Judicial Branch must carry out the process for the definition of the profiles of these positions and proceed with the selection of the officials of this jurisdiction.

(So added by Article 5 of Law No. 9769 of October 18, 2019)

Article sheet

Date of generation: 07/09/2022 02:07:45 p.m.