

New Code of Criminal Procedure

Act No. 328 of 7 August 2001
as amended by Act No. 359 of 16 August 2001

- Statute Law
- Guiding Principles
- Table summarizing the time-limits laid down in the new Code of Criminal Procedure

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Act No. 328

Code of Criminal Procedure

as amended by Act No. 359 of 16 August 2001

General provisions

Article 1 - The purpose of the Code of Criminal Procedure is to regulate criminal justice and to define its scope and the measures to be taken in criminal investigations and trials. It also sets out the types of appeal available against judgements and decisions rendered.

A further purpose is to regulate the procedures for bringing to light the facts and evidence of criminal offences in application of criminal legislation.

Article 2 - Ordinary criminal trials are divided into the following categories:

(a) A Single Judge hears all cases concerning misdemeanours and contraventions unless special provision is made for exceptions. The Public Prosecution Service is not represented;

(b) Each chamber of an Appeal Court is composed of a President and two Auxiliary Judges. The Public Prosecution Service is represented by an Appeal Court Prosecutor, an Appeal Court Advocate-General, the Financial Prosecutor or an Advocate-General attached to the Financial Prosecutor's Office;

(c) Each chamber of the Court of Cassation is composed of a President and two Auxiliary Judges. The Public Prosecution Service is represented by the Public Prosecutor at the Court of Cassation or an Advocate-General of the Court of Cassation.

Article 3 - The Investigation Department in each governorate is composed of the First Investigating Judge and one or more Investigating Judges, depending on the provisions of the Administration of Justice Act.

A chamber of the civil Appeal Court performs the functions of an Indictment Division in each governorate.

Article 4 - The Administration of Justice Act establishes the procedures governing the appointment of judges, the number of chambers of the Court of Cassation in the capital city, and the number of Appeal Court chambers, Single Judges, Investigating Judges and Advocates-General in the capital city, the governorates and the districts.

Public prosecutions and civil actions

Article 5 - Responsibility for initiating a public prosecution, the purpose of which is to prosecute perpetrators of crimes and their accomplices and to subject them to penalties and other measures, lies with the Judges of the Public Prosecution Service in accordance with this Code. Every aggrieved person also has the right to bring a civil action for damages suffered as a result of an offence.

Any person against whom a public prosecution is initiated shall be termed a defendant; a person charged with a misdemeanour shall be termed a charged person; and a person accused of committing a felony shall be termed an accused.

Article 6 - The Public Prosecutor's Office shall be responsible for exercising the public prosecution. It may not discontinue the proceedings or arrange an amicable settlement.

A civil action may be initiated following the public prosecution before the judicial authority responsible for the latter. Such an action may also be brought separately before the competent civil authority.

Article 7 - Any aggrieved person may assume the status of a civil party before the First Investigating Judge in the case of a felony or misdemeanour or before the Single Judge in the case of a misdemeanour or contravention. A civil party may also be joined to the public prosecution before the Criminal Court.

An aggrieved person may file suit to bring a public prosecution if the Public Prosecutor's Office has not done so. The party may withdraw the civil action or reach an amicable settlement without thereby affecting the public prosecution unless the circumstances are such that the extinction of the civil action entails the extinction of the public prosecution.

Article 8 - An aggrieved person who has brought an action before the competent civil court may not abandon the case and bring an action before a criminal court unless the Public Prosecutor's Office initiated a public prosecution on a date subsequent to that on which the party brought the action before the civil court, provided that a final judgement has not been delivered in the civil proceedings.

The competent civil authority shall not proceed with a civil action until the public prosecution has been finally disposed of; a court of summary jurisdiction shall be authorized to take summary measures even if a civil action has been brought before the criminal court.

Article 9 - The public prosecution shall be initiated before the criminal authority which has jurisdiction in the area in which the crime was committed, the place of residence of the defendant, or the place in which the defendant was arrested.

Article 10 - The public prosecution shall be extinguished under the following circumstances:

- (a) Death of the defendant;
- (b) A general amnesty;
- (c) Expiry of a prescription period of ten years in the case of a felony, three years in the case of a misdemeanour, and one year in the case of a contravention;
- (d) Extinction of the civil action in the cases specified by law.
 - The prescription period shall begin to run in the case of one-time offences on the date of their occurrence. In the case of continuing, persistent or successive offences, the prescription period shall begin to run on the date on which the criminal situation comes to an end.
 - The expiry of the prescription period for the public prosecution shall entail the suspension of all acts of prosecution, investigation or trial.
 - The grounds for prescription of public prosecutions shall also be applicable to civil actions. However, the grounds for prescription of civil actions shall not entail the prescription of public prosecutions.
 - The prescription period shall be suspended if it proves impossible, because of *force majeure*, to perform any act of prosecution, investigation or trial, and it shall resume as soon as the impediment is eliminated.
 - The above-mentioned provisions regarding the prescription period shall not preclude the application of provisions regarding certain misdemeanours and contraventions.

- The criminal court that is seized of an action shall continue, in the event of the extinction of the public action on one of the above-mentioned grounds, to hear the civil action. It shall order the confiscation of impounded articles if such articles are prohibited by law.
- The prescription period for the civil action is governed by the Civil Code.
- The provisions of the Criminal Code governing the prescription period shall be applicable to the penalties imposed.

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Part I

The Public Prosecution Service

Article 11 - Public prosecutions at the Court of Cassation are conducted by the Public Prosecutor with the assistance of Advocates-General.

The duties of the Financial Prosecutor's Office at the Court of Cassation are performed by the Public Prosecutor with the assistance of Advocates-General.

The duties of the Public Prosecutor's Office at the Appeal Court are performed by the Public Prosecutor with the assistance of one or more Advocates-General.

The work of the Public Prosecutor's Office at the Military Court is carried out by a Government Commissioner, who is subject to the authority of the Public Prosecutor at the Court of Cassation and is assisted by one or more Advocates-General.

Article 12 - Each Public Prosecutor heads a department and assigns activities falling within his remit to the Advocates-General who assist him in his duties.

Chapter I

Duties of the Public Prosecutor at the Court of Cassation

Article 13 (as amended by Act No. 359/2001) - The Public Prosecutor's Office at the Court of Cassation is headed by a Public Prosecutor who is appointed by a decree of the Council of Ministers based on a proposal by the Minister of Justice. He is assisted by Advocates-General.

The authority of the Public Prosecutor at the Court of Cassation extends to all Judges of the Public Prosecution Service, including the Government Commissioner at the Military Court. He shall provide them with written or oral instructions for the conduct of the public prosecution. They shall be free, however, to make statements at trial hearings.

The prosecutor shall refer to them, depending on their area of jurisdiction, the reports and records produced with respect to any offence, and request them to conduct the requisite public prosecution.

Subject to Article 79 of the Organization of the Legal Profession Act, in all cases in which a criminal prosecution requires a licence or the consent of a non-judicial authority, the Public Prosecutor at the Court of Cassation shall be empowered, where a dispute arises between the authority in question and the Appeal Court Prosecutor's Office, the Financial Prosecutor's Office or the Government Commissioner at the Military Court, to take a final decision on the matter notwithstanding any public or private provision.

Article 14 (as amended by Act No. 359/2001) - The Minister of Justice may request the Public Prosecutor at the Court of Cassation to prosecute any offences of which he has knowledge.

The latter shall be entitled, if necessary, to undertake the investigation directly or through his assistants – the Judges of the Public Prosecution Service assigned to assist him or members of the Judicial Police force subject to his authority – but he shall not be entitled to lay charges.

Article 15 - The Public Prosecutor at the Court of Cassation oversees the actions of Judicial Police officers in the performance of their duties as assistants to the Public Prosecutor's Office. He may make such observations as he sees fit to their supervisors regarding the work referred to above, and may request the Appeal Court Prosecutor, the Financial Prosecutor or the Government Commissioner at

the Military Court to take action against any officer who commits a criminal offence during the performance of his duties or in connection with their performance, without having to obtain prior permission. Such offences shall be handled by the ordinary courts notwithstanding any provision to the contrary.

Article 16 - The Appeal Court Prosecutor, the Financial Prosecutor, the Government Commissioner at the Military Court, the Director-General of the Internal Security Forces, the Director-General of General Security and the Director-General of State Security shall inform the Public Prosecutor at the Court of Cassation of serious offences of which they have knowledge and shall comply with his instructions in this regard.

The Public Prosecutor at the Court of Cassation may inspect the file pertaining to an investigation being conducted by an Investigating Judge and ask the responsible Public Prosecutor to show that the submissions comply with his written instructions.

He may admonish a members of the Public Prosecution Service for any shortcomings in their work, or he may recommend to the Judicial Inspectorate that they be referred to the Disciplinary Board.

Article 17 - The Public Prosecutor at the Court of Cassation shall undertake the following activities:

- (a) Apply for the setting aside of judgements and decisions in criminal proceedings in accordance with the procedures laid down in this Code;
- (b) Demand that a judicial authority be designated and that a case be transferred from one court to another;
- (c) Prosecute offences referred to the Judicial Council;
- (d) Prosecute offences committed by members of the national legal service either within or outside the context of their judicial office;
- (e) Represent the Public Prosecutor's Office at the Court of Cassation and before the Judicial Council;
- (f) Deal with requests for the extradition of criminals and forward them to the Minister of Justice together with his observations;
- (g) Compile a detailed report for insertion in the case file of persons sentenced to death when the case is referred to the Pardon Commission;
- (h) Any other duties and powers mentioned in this Code and in any other legislation.

Chapter II

Duties of the Financial Prosecutor's Office

Article 18 - The Financial Prosecutor is appointed by a decree of the Council of Ministers based on a proposal by the Minister of Justice.

The Financial Prosecutor shall exercise, within the limits of the duties specified in this Code, the same powers as those of the Public Prosecutor at the Court of Cassation.

Article 19 - The Financial Prosecutor has the authority to prosecute the following offences:

(a) Offences arising from breaches of the provisions of the legislation relating to duties and taxes in the various public utilities and establishments and municipalities, including state and municipal taxes, customs duties, and telecommunication and wireless communication fees;

(b) Offences arising from breaches of the legislation concerning banks, financial institutions and the stock exchange, particularly those defined in the Currency and Credit Act;

(c) Offences arising from breaches of the legislation on joint-stock companies and offences by multinational companies;

(d) Offences that adversely affect the State's financial standing, or Lebanese or foreign banknotes circulating by law or by custom in Lebanon, and offences involving the counterfeiting, forgery and circulation of currency, public securities, stamps and stamped papers;

(e) Offences involving the embezzlement of public funds;

(f) Offences pertaining to bankruptcy.

Article 20 - Banking offences arising from breaches of the Law on Currency and Credit may be prosecuted only on the basis of a written request from the Governor of the Banque du Liban.

Offences pertaining to customs duties may be prosecuted only on the basis of a written request from the Director-General of Customs. In cases where the administration concerned is entitled to reach an amicable settlement with the defendant, the public prosecution shall be extinguished if the settlement is reached prior to the delivery of a judgement. Enforcement of the penalty shall be suspended if the settlement is reached thereafter, provided that no contrary legal provision is applicable.

Article 21 - The Financial Prosecutor shall exercise the powers vested in him by this Code under the authority of the Public Prosecutor at the Court of Cassation and subject to the rules and regulations applied by the Appeal Court Prosecutor on the basis of this Code and financial legislation.

These powers of the Financial Prosecutor shall extend throughout the Lebanese territory. In this connection, he may request, through the Public Prosecutor at the Court of Cassation, the Appeal Court Prosecutor in any governorate to initiate a public prosecution before the Investigating Judges or to initiate proceedings directly before the courts exercising jurisdiction.

Article 22 - The Financial Prosecutor may seek the assistance of experts in banking, fiscal and financial affairs in performing technical tasks, after they take the oath of legal expertise, unless they are sworn experts.

The Public Prosecutor at the Court of Cassation may, of his own motion or at the request of the Financial Prosecutor, request the Prime Minister through the Minister of Justice to instruct the Central Inspectorate to undertake an investigation into any financial matters that he is authorized to have examined.

Article 23 - The Financial Prosecutor's Office shall maintain a special legal record of all companies to which Decree No. 3094 of 25 January 1993 is applicable. He shall record all criminal judgements delivered against them.

The registrars at the courts exercising jurisdiction shall inform the Financial Prosecutor's Office of any criminal judgement that has been or is being delivered against a company so that it may be recorded in the special legal register of companies within three months of the date of the judgement.

Chapter III

Duties of the Public Prosecutor's Office at the Appeal Court and procedures in the case of offences discovered during their commission or immediately afterwards

Section I

Duties of the Public Prosecutor's Office at the Appeal Court

Article 24 - The duties of the Public Prosecutor's Office at the Appeal Court are as follows:

(a) To investigate offences characterized as misdemeanours or felonies and to prosecute those who participated in their commission. The office may apply directly for assistance from the law enforcement authorities in the performance of its duties;

Where it obtains knowledge of the commission of a serious offence, it shall immediately inform the Public Prosecutor at the Court of Cassation and carry out his instructions.

(b) To initiate and exercise public prosecutions;

(c) To represent the Public Prosecution Service at appeal courts and criminal courts and to enforce their judgements;

(d) To issue a wanted notice if the person named in a complaint or a suspect cannot be found or if his domicile is unknown; the notice shall contain his full identity and the details of the alleged offence;

– When a warrant is executed, the issuing Prosecutor's Office shall be informed forthwith.

– The warrant expires ten days after its date of issue unless the Public Prosecutor decides to extend it for thirty days, following which it shall expire.

(e) To set aside criminal judgements or to stay or suspend their enforcement pursuant to Article 147 of the Criminal Code;

(f) To carry out any other duties assigned to it under this Code and any other legislation.

The Advocate-General at the Appeal Court may perform the duties of the Appeal Court Prosecutor set out in this Code.

Article 25 - The Public Prosecutor's Office obtains information regarding offences by one or more of the following means:

(a) Investigations conducted by the office itself;

(b) Reports from the official authority or an officer who obtained knowledge of an offence during the performance of his duties or concurrently or in connection with their performance. He is

entitled to carry out an investigation in public administrations or establishments but he may not initiate proceedings;

(c) Preliminary inquiries conducted by the Judicial Police force where it has been instructed to investigate offences, and the reports it submits relating thereto;

(d) Complaints or reports filed with it directly or through the Public Prosecutor's Office at the Court of Cassation or its assistants;

(e) Any lawful means that enables it to obtain information regarding the offence.

Article 26 - The Public Prosecutor's Office at the Appeal Court brings charges and names those charged with the offence. It may bring charges against an unknown person before the Investigating Judge, thereby initiating a public prosecution.

Article 27 - A complaint is filed by a victim or his legal representative and a report is submitted by an informant who knew of the offence or heard about it. A report is admissible only if it is submitted in writing and signed by the informant or his legal representative.

Every complaint or report shall state, clearly and in full, the name of the complainant or informant and his place of residence.

Article 28 - Any person who witnesses a breach of the peace or an offence against a person's safety, life or property is required to report the matter to the Appeal Court Prosecutor or one of his assistants in the place where the offence occurred, the place where the perpetrator was apprehended, or his place of residence. Anyone who fails to comply with this requirement without lawful excuse shall be prosecuted before the Single Criminal Judge responsible for the area where the offence occurred and shall be sentenced to a fine of between two hundred thousand and two million Lebanese pounds.

Section II

Procedures to be followed by the Public Prosecutor's Office in the case of an offence discovered during its commission or immediately afterwards

Article 29 - An offence discovered during its commission or immediately afterwards is:

(a) An offence discovered as it occurs;

(b) An offence where the perpetrator is apprehended during or immediately after its commission;

(c) An offence following which the suspected perpetrator is chased by hue and cry;

(d) An offence detected immediately after being committed with clearly discernible signs of its commission;

(e) An offence where a person is caught in possession of articles, weapons or documents indicating that he is the perpetrator within twenty-four hours of the commission of the offence.

Article 30 - Felonies and misdemeanours shall have the status of offences discovered during their commission or immediately afterwards if they occur within a dwelling whose owner or occupier requests the Public Prosecutor's Office to conduct an investigation within twenty-four hours of their discovery.

Article 31 - In the case of a felony discovered during its commission or immediately afterwards, the Public Prosecutor or the Advocate-General shall proceed forthwith, on receiving the information, to

the scene of the crime and shall inform the First Investigating Judge or the Investigating Judge on duty thereof, without being required to wait for him to arrive in order to take the following steps:

- (a) Prepare a report describing the traces left in connection with the crime, the scene and the apparent circumstances of the crime;
- (b) Seizure of weapons and other items used in the commission of the offence as well as any items that may assist in establishing the facts, and questioning of the suspect about the seized items shown to him;
- (c) Interview of persons who witnessed the offence or obtained information concerning it after they swear an oath as legal witnesses.

Each statement shall be reflected in a record, which shall be signed by the Public Prosecutor or Advocate-General, the clerk and the witness. If the latter refuses to sign, this shall be noted in the record.

Article 32 (as amended by Act No. 359/2001) - The Public Prosecutor or the Advocate-General may prohibit persons present at the scene of the felony from leaving it. Anyone who breaches the prohibition decision shall be prosecuted before the Single Criminal Judge responsible for the area where the offence occurred and shall be sentenced to a fine of between two hundred thousand and two million Lebanese pounds.

If there are strong suspicions regarding one of the persons present, the prosecutor or his deputy shall order his arrest for questioning and the person shall remain in custody for the purposes of the investigation for a period not exceeding forty-eight hours unless additional time is required for the investigation, in which case his custody shall be extended for a further forty-eight hours. The person being questioned may appoint an advocate to be present during the questioning. During the period of custody, he, his advocate, or a member of his family may request a medical examination, and the Public Prosecutor or the Advocate-General shall appoint a doctor as soon as the request is made. The Judicial Police officers and their assistants shall not be present when the doctor carries out the examination. The doctor shall submit his report to the person who authorized the examination and present a copy thereof to the defendant within a period not exceeding forty-eight hours.

If the suspect absconded or was not present at the beginning of the investigation, the Public Prosecutor or the Advocate-General shall issue a warrant to bring the suspect before them immediately. When the suspect appears before them, they shall question him forthwith.

The submission of a report shall not of itself be a sufficient ground to issue a summons in respect of a person whose place of residence is known.

Investigative measures relating to a felony discovered at the time of its commission or immediately afterwards shall end eight days after their commencement.

Article 33 - The Public Prosecutor may enter a suspect's home to search for items that he believes will help to shed light on the investigation. He may seize such items, which shall be described clearly and in detail in his report. He may also decide to retain the seized items, depending on their nature. The search shall be conducted in the presence of the suspect or the defendant. If the suspect or defendant is not present or refuses to take part, if he is unable to be present or if he has absconded, the search shall be conducted in the presence of his advocate, two adult members of his family, or two witnesses selected by the Public Prosecutor.

- As soon as the search is completed and the items seized, the Public Prosecutor shall display the seized items to the suspect, the defendant, his advocate or the aforementioned persons and ask each person to sign the record. If they refuse, this shall be noted in the record.

- If the Public Prosecutor finds prohibited items during the search, he shall seize them. If they are not items resulting from, used in or associated with the offence, he shall report them in a separate record.

- The Public Prosecutor may instruct a Judicial Police officer to conduct a search of the home of the suspect or defendant, on his authority and under his control in accordance with the rules to be observed by the Public Prosecutor himself.

- It is permissible to enter homes to conduct a search or to look for a perpetrator only between 5 a.m. and 8 p.m. unless the homeowner explicitly agrees to such actions outside that time period. However, the Public Prosecutor or the authorized Judicial Police officer may conduct a search or look for a suspect at any time in public places or in places that have acquired such status by virtue of the use made of them.

Article 34 - If the nature of the crime or its impact requires the assistance of one or more experts to clarify technical points, the Public Prosecutor shall appoint the expert and clearly specify his assignment.

- If the victim's condition necessitates medical assistance or an autopsy, the Public Prosecutor shall send for a forensic or specialist physician and give him clear and detailed instructions regarding his assignment.

- The expert or doctor shall carry out the assignment only after swearing an oath to act truly and faithfully.

- He may not exceed the bounds of the assignment. After completing it, he shall file a report specifying the authority that appointed him, the task assigned, the measures taken and his conclusions.

Article 35 - The Public Prosecutor shall take any other investigative measures he deems necessary to gather useful information regarding the felony, to collect evidence and to identify the perpetrators or accomplices. The measures must be lawful and must not be vitiated by moral or material coercion.

He shall record in his reports all measures taken, the time of their commencement and completion, and all means employed in their implementation. He shall then sign each report together with the clerk who assisted him.

Article 36 - The Public Prosecutor shall suspend his investigation of an offence discovered during its commission or immediately afterwards when the Investigating Judge arrives, and he shall provide the judge with his reports and the items seized, except for those which are unrelated to the offence and were seized on the ground that they are prohibited items. The Public Prosecutor shall inform the Investigating Judge of the offence that has been committed and shall name any persons whose involvement in the offence appears to be supported by evidence or suspicions. He shall charge those against whom evidence exists or who are suspected of having participated in the commission of the offence. If the time limit applicable to offences discovered during their commission or immediately afterwards expires before the Investigating Judge arrives, the Public Prosecutor shall complete his investigations and forward the documents contained in the case file to the Investigating Judge, together with the statement of charges.

Article 37 - When an offence discovered during its commission or immediately afterwards occurs within his area of jurisdiction, the Single Judge shall proceed to the scene to undertake an investigation if the Public Prosecutor or the Investigating Judge is not present. He shall observe the rules applicable to the Public Prosecutor in this regard. He shall suspend his inquiries as soon as either of them arrives. On completion of his investigation, he shall forward the file to the Public Prosecutor.

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Part II
The Judicial Police

Chapter I
Members of the Judicial Police

Article 38 - The duties of the Judicial Police are performed, under the supervision of the Public Prosecutor at the Court of Cassation, by Public Prosecutors and Advocates-General.

The persons listed below assist the Public Prosecution Service and work under its supervision in performing the duties of the Judicial Police within their fields of competence, as specified in this Code and in the legislation governing their profession:

1. Governors and district commissioners;
2. The Director-General of the Internal Security Forces, officers of the Internal Security Forces, the Judicial Police, non-commissioned officers serving in the regional sectors, and the heads of Internal Security Forces police stations;
3. The Director-General of General Security, General Security officers and non-commissioned General Security investigators; the Director-General of State Security, the Deputy Director-General, State Security officers and non-commissioned State Security investigators;
4. Village mayors;
5. Captains of ships and aircraft.

Article 39 - Village guards, supervisory officials at the Ministry of Health, forest and consumer protection supervisors, customs supervisors, tobacco control supervisors, supervisors at ports and airports and at the Ministry of Tourism and night watchmen may keep an account of all infringements within their fields of competence and in accordance with the regulations they are required to apply, record them in rigorously compiled reports and submit them to the competent Single Judge.

Chapter II
Measures to be taken by the Judicial Police
in connection with offences whether or not they were discovered during or immediately after their
commission

Article 40 - Judicial Police officers shall take the same measures in the case of an offence discovered at the time of its commission or immediately afterwards as are taken by the Public Prosecutor when he is unable to do so himself. In undertaking such measures, the Judicial Police officer shall comply with the legal rules applicable to the Public Prosecutor when he investigates an offence discovered at the time of its commission or immediately afterwards.

Moreover, in the case of offences not discovered at the time of their commission or immediately afterwards, the Judicial Police, acting on the instructions of the Public Prosecutor's Office, shall investigate felonies or misdemeanours that are the subject of complaints and reports referred to them by the Public Prosecutor's Office.

Section I

Measures to be taken by the Judicial Police in connection with offences discovered at the time of their commission or immediately afterwards

Article 41 - If an offence discovered at the time of its commission or immediately afterwards occurs, the Judicial Police officer shall proceed forthwith to the place where it occurred and shall inform the competent Public Prosecutor thereof. He shall preserve any clues, traces and evidence that might disappear and anything that might assist in shedding light on the facts. He shall look for and seize weapons and materials used in or resulting from the commission of the offence. He shall interview witnesses without requiring them to take an oath. He shall make inquiries, arrest anyone who is strongly suspected of having committed the offence or of having participated in its commission, conduct a search of his home and seize any incriminating materials or prohibited items that he finds. He shall seek expert assistance if necessary. He may question the suspect provided that the latter makes his statement of his own free will in full knowledge of the facts and without being subjected to any form of coercion. If he decides to remain silent, he may not be compelled to speak.

The Judicial Police officer who investigates the offence discovered during its commission or immediately afterwards shall inform the competent Public Prosecutor of his inquiries and shall comply with his instructions.

If the competent Public Prosecutor directs the Judicial Police officer to perform certain acts that fall within his jurisdiction, he shall act within the parameters of the assignment.

Article 42 (as amended by Act No. 359/2001) - If the offence discovered at the time of its commission or immediately afterwards is a felony, and the requirements of the investigation demand that the suspect be held in custody for a longer period, the time limit may be extended up to a maximum period of four days upon a reasoned decision in writing by the Appeal Court Prosecutor, who shall issue it after examining the file and verifying the justifications provided. During the extended period, the suspect, his advocate or a member of his family may request that he be examined by a doctor. The Public Prosecutor shall appoint a doctor as soon as the petition is filed and the doctor shall carry out the examination without a Judicial Police officer being present and shall submit his report to the Public Prosecutor within twenty-four hours. In all circumstances, this period of custody shall be deducted from any sentence imposed.

The Judicial Police officer shall observe strict confidentiality in all the measures that he takes. If it is ascertained that he divulged the content of seized documents or letters or any confidential material that the suspect wished to remain secret, he shall be prosecuted before the Single Criminal Judge with jurisdiction for the area in which the acts complained of occurred and shall be punishable by imprisonment of between one month and one year, and/or a fine of between two hundred thousand and two million Lebanese pounds.

Article 43 - If the Judicial Police officer believes that a person who is not under strong suspicion possesses documents or materials that are useful for the investigation, the Public Prosecutor or the Investigating Judge shall carry out a search of the person's home instead of the Judicial Police officer unless the person concerned consents without coercion to a search by the latter.

Any house search carried out by the Judicial Police in breach of the rules of procedure legally applicable to the Public Prosecutor in the case of felonies discovered during their commission or immediately afterwards shall be declared null and void. A Judicial Police officer who enters a home and undertakes a search in violation of these rules shall be liable to prosecution for the misdemeanour

defined in Article 370 of the Criminal Code. However, the nullity shall be applicable only to the search and not to the other investigative measures.

Article 44 - If the Public Prosecutor or the Investigating Judge is present, the Judicial Police officer shall suspend his operations unless he receives written instructions from either of them to continue. Under such circumstances, he may also be tasked with questioning the suspect.

Once the situation pertaining to offences discovered during their commission or immediately afterwards has come to an end, the Judicial Police officer may not carry out any additional inquiries but shall transmit the records he has compiled to the Public Prosecutor forthwith, together any items seized during the search.

Article 45 - In the event of a felony or misdemeanour discovered at the time of its commission or immediately afterwards being punishable by imprisonment, any person is entitled to arrest the perpetrator caught in the act and to take him to the nearest Judicial Police station.

Article 46 - If the offence discovered at the time of its commission or immediately afterwards is a misdemeanour punishable by imprisonment of at least one year, the Judicial Police officer may arrest the suspect and investigate the misdemeanour under the authority of the Public Prosecutor.

The Public Prosecutor may decide to detain a person charged with a misdemeanour and to bring him forthwith before the Single Judge so that he may be prosecuted in accordance with the rules laid down in this Code.

Section II

Measures to be taken by the Judicial Police in connection with offences other than those discovered at the time of their commission or immediately afterwards

Article 47 (as amended by Act No. 359/2001) - Judicial Police officers, acting as assistants to the Public Prosecutor's Office, shall perform the duties assigned to them by the Public Prosecutor's Office. They investigate offences not discovered at the time of their commission or immediately afterwards, gather information, make inquiries aimed at identifying the perpetrators and accomplices and gather evidence against them, and carry out actions necessitated by these duties, such as the seizure of incriminating items, the conduct of physical searches of crime scenes, scientific and technical analyses of any samples, and taking statements from witnesses without requiring them to take an oath and of statements from persons complained of or suspects. If they refuse to make a statement or remain silent, this fact shall be mentioned in the record; they may not be coerced to speak or to undergo questioning, on pain of nullity of their statements.

Judicial Police officers shall inform the Public Prosecutor's Office of the measures they take and shall abide by its instructions. They may not search a home or person without obtaining prior permission from the Public Prosecutor's Office. If permission for a search is granted, they shall abide by the legal rules applicable to the Public Prosecutor in the case of offences discovered at the time of their commission or immediately afterwards. Any search conducted in breach of these rules shall be null and void. However, the nullity shall be applicable only to the search and not to other unrelated measures.

Judicial Police officers may not detain a suspect at the police station without a decision by the Public Prosecutor's Office and the period of detention shall not exceed forty-eight hours. This period may be extended by a similar period subject to the consent of the Public Prosecutor's Office.

The period of custody shall be calculated from the time of arrest.

The suspect or person complained of shall enjoy the following rights from the time of his arrest for the purposes of the investigation:

1. To contact a member of his family, his employer, an advocate of his choosing or an acquaintance;
2. To meet with the advocate he appoints by a declaration noted in the record; the official authorization to act prescribed by the rules shall not be required;
3. To request a sworn interpreter if he is not proficient in the Arabic language;
4. To submit a request for a medical examination to the Public Prosecutor either directly or through his advocate or a member of his family. The Public Prosecutor shall appoint a doctor as soon as the request is made. No Judicial Police officer shall be present when the doctor carries out the examination. The doctor shall submit his report to the Public Prosecutor within a period not exceeding twenty-four hours. A copy of the report shall also be provided to the Public Prosecutor who ordered the examination. The detainee and any of the above-mentioned persons may request an additional examination if the period of custody is extended.

The Judicial Police shall inform the suspect upon arrest of the rights set out above and this step shall be noted in the record.

Article 48 - If the Judicial Police officer breaches the rules concerning the detention of the defendant or suspect, he shall be liable to prosecution for the offence of unlawful detention set out in Article 367 of the Criminal Code and punishable by virtue of the same Article, irrespective of whether or not the offence was discovered during its commission or immediately afterwards.

Article 49 - The Public Prosecutor may carry out the preliminary investigation himself. If he does, the suspect's advocate may be present with his client during the questioning.

If he does not carry out the investigation himself, he shall scrutinize the preliminary investigations conducted by the Judicial Police officer, with the exception of the questioning of the suspect or person complained of. If he ascertains that the offence is a felony or if a misdemeanour necessitates further investigation, he shall seize the Investigating Judge.

If the investigation of a misdemeanour proves to be sufficient, he shall seize the competent Single Judge.

Article 50 - The Public Prosecutor may decide to retain the documents resulting from the preliminary investigation if he considers that the act does not constitute an offence, that there is insufficient evidence that an offence has been committed, or that the public prosecution has been extinguished for one of the reasons set out in Article 10 of this Code.

The Public Prosecutor who brings charges in a case is not entitled to undertake an investigation or to deliver a judgement thereon.

Part III
Investigating Judges and their duties

Chapter I

Organization of the Investigation Departments

Article 51 - An Investigation Department composed of a First Investigating Judge and Investigating Judges is attached to each Appeal Court. The Investigation Department is headed by the First Investigating Judge.

The submission containing the Public Prosecutor's Office's charges is filed with the First Investigating Judge. Actions brought directly by victims of crimes discovered during their commission or immediately afterwards based on their personal charges are also submitted to him.

The First Investigating Judge investigates important cases himself and may assign other cases to the Investigating Judges in his department.

He oversees the smooth running of his department.

Article 52 - The Investigating Judge to whom a case is referred may not refuse to investigate it. He may, however, recuse himself. Any party to the litigation may request that he be disqualified.

The rules laid down in the Code of Civil Procedure shall be applicable to anyone requesting withdrawal or disqualification.

If an Investigating Judge is prevented by any impediment from performing his duties, the First President of the Appeal Court shall appoint a Judge to replace him.

The Investigating Judge who investigates a case is not entitled to try the case or to participate in the trial.

Article 53 - The investigation shall remain confidential until such time as the case is referred to the trial court, except for matters pertaining to the indictment decision. Anyone who breaches the confidentiality of the investigation shall be liable to prosecution before the Single Judge in whose area of jurisdiction the act complained of occurred; he shall be punishable by imprisonment of between one month and one year and by a fine of between one hundred thousand and one million Lebanese pounds or by either of these two penalties.

Article 54 - Appeals against the Investigating Judge's decisions lie with the Indictment Division, which has sole authority to issue indictments in the case of felonies and exercises the right of transfer in legally specified cases.

Chapter II

Duties of the Investigating Judge in the case of offences discovered at the time of their commission or immediately afterwards

Article 55 - In the event of an offence discovered during its commission or immediately afterwards, the Investigating Judge shall proceed to the scene of the crime and initiate an investigation without waiting for the Public Prosecutor. If the Public Prosecutor arrives at the scene, he may not participate in the investigation or undertake a separate investigation himself. He may, however, submit any application he sees fit to the Investigating Judge. If he was the first to arrive at the scene of the crime and initiated an investigation, he shall suspend it and comply with the provisions of Article 36 of this Code.

The Investigating Judge shall be accompanied to the scene of the crime by the clerk of his department. If he requests the assistance of an officer of the Judicial Police, the latter shall take an oath to perform his work truly and faithfully and to preserve the confidentiality of the investigation.

Article 56 - The Investigating Judge shall exercise, in the case of a felony discovered during its commission or immediately afterwards, all the prerogatives enjoyed by the Public Prosecutor. He shall carry out all the acts and measures assigned to him and specified in Articles 31, 32, 33, 34 and 35 of this Code.

Article 57 - On completion of the measures required by the investigation of a felony discovered during its commission or immediately afterwards, the Investigating Judge shall hand over the documents to the Public Prosecutor, who shall bring charges against the suspect and file his submissions.

After the Public Prosecutor's Office brings charges, the Investigating Judge shall undertake the investigation in accordance with the normal rules.

The Public Prosecutor may examine the file pertaining to the investigation at any time and submit his requests in writing. The Investigating Judge shall examine them and decide to accept or reject them. If he rejects them, he shall inform the Public Prosecutor thereof. The latter is entitled to file an appeal with the Indictment Division against any decision contrary to his submission. The Investigating Judge must abide by the Indictment Chamber's decision regarding the appeal.

Article 58 - In the case of a misdemeanour discovered during its commission or immediately afterwards which is punishable by one year of imprisonment or less, the Public Prosecutor may ask the Investigating Judge for leave to proceed to the scene of the misdemeanour to conduct an on-site investigation.

The Investigating Judge shall oversee the measures undertaken in the investigation of a felony discovered during its commission or immediately afterwards.

Chapter III

Duties of the Investigating Judge in the case of offences not discovered at the time of their commission or shortly afterwards

Section I

General provisions

Article 59 - The Investigating Judge may conduct an investigation in the case of an offence not discovered at the time of its commission or shortly afterwards only if he conducts the public prosecution on the basis of charges brought by the Public Prosecutor's Office, a direct complaint filed by the victim in the capacity of a civil party, a decision to designate the judicial authority or a decision to transfer the case.

Article 60 - The Investigating Judge shall conduct the public prosecution *in rem*. He may question as a defendant anyone suspected of having committed the offence as a perpetrator, accomplice, accessory or instigator independently of the charges brought by the Public Prosecutor's Office.

If he detects in the course of the investigation criminal acts unrelated to the act charged, he shall transmit the file to the Public Prosecutor so that he may bring the relevant charges. However, if the offences disclosed are related to the act charged, he may issue a joinder to the ongoing investigation without having them referred to him beforehand.

Article 61 - The Investigating Judge must use lawful means in undertaking all investigative measures aimed at establishing the truth. He shall record all measures undertaken in writing.

If the investigation requires an inspection of the scene of the crime, the Investigating Judge shall proceed to the scene together with the clerk of his department. He shall inform the Public Prosecutor of this step without waiting for him, and shall take the samples in accordance with the rules.

Section II

Charges submitted by the Appeal Court Public Prosecutor's Office to the Investigating Judge

Article 62 - The charges submitted by the Public Prosecutor to the Investigating Judge shall contain a description of the offence, specify the identity of all those who participated in its commission, the place in which the criminal act occurred and the time of its occurrence, and state his requests.

If he has been unable to identify all the participants in the offence, he shall bring charges against those identified or else against an unknown person.

The Public Prosecutor's charges shall initiate a public prosecution, brought either by himself or by one of the Advocates-General.

The Public Prosecutor shall attach to the charges the relevant documents, records and supporting evidence.

Article 63 - The Investigating Judge may not refuse to conduct the public prosecution set in motion by the Public Prosecutor's charges unless it transpires that the act of which he has been seized does not constitute a criminal offence or that the public prosecution has been extinguished on a specific legal ground. He shall not take such a decision without consulting the Public Prosecutor.

He may decide to stay the public prosecution by a decision taken after consulting the Public Prosecutor if he ascertains that another Investigating Judge has already conducted the same investigation or an investigation into a related offence.

The Public Prosecutor may request the Investigating Judge to refrain from proceeding with the prosecution if it involves circumstances in respect of which charges have already been brought, or if it is related to another prosecution under investigation and is being joined thereto.

Article 64 - It is not for the Investigating Judge to quash the charges brought by the Public Prosecutor's Office at the Appeal Court on finding a flaw that is liable to render his conduct of the investigation unsound. However, he may decide to refrain from conducting an investigation on account of the flaw. If the Public Prosecutor decides not to rectify the flaw, he shall appeal the Investigating Judge's decision before the Indictment Division.

Article 65 - The Investigating Judge may, after consulting the Public Prosecutor's Office, decide that he lacks competence to investigate the case if it falls outside his territorial or *ratione materiae* jurisdiction or on account of the status of the defendant. His decision in this regard may be appealed to the Indictment Division.

Article 66 - The Public Prosecutor may file supplementary charges in respect of acts that were omitted from his original statement of charges and against persons omitted from that statement or from his subsequent statement. The Investigating Judge shall question the persons concerned as defendants and treat them as such throughout the investigation.

Article 67 - The victim of a crime may file civil charges with the Investigating Judge in connection with the public prosecution initiated by the Public Prosecutor's Office's statement of charges.

He is required to elect a domicile in the town or borough in which the Investigating Judge's office is located if his actual domicile is not in that location. Should he fail to do so, he may not object if he is not served with the documents to which he is legally entitled.

The victim may be fully or partially exempted from paying the costs of the proceedings, even in the event of a decision not to prosecute the defendant, if it is demonstrated that he did not abuse the right to bring an action.

If he is a foreign national, he shall provide surety, the scale and nature of which shall be determined by the Investigating Judge. He may be exempted from providing surety if his civil action warrants such exemption.

Section III

Charges filed by the direct victim of an offence with the Investigating Judge

Article 68 - Any victim of a felony or misdemeanour may file a complaint directly with the First Investigating Judge who has jurisdiction over the area in which the offence was committed, the place of residence of the defendant or the place in which he was arrested. The victim may assume the status of a civil party.

The complaint shall be recorded in the registry of the First Investigating Judge, who shall determine the costs to be paid in advance, comprising legal fees and costs, which shall not exceed one per cent of the cost of the proceedings. In addition, he shall instruct the complainant, if he is a foreign

national, to present surety in the form of legal tender or property, the scale of which shall be determined in his decision.

The complainant shall be exempted from paying an advance if the offence complained of is a felony.

If the act is a misdemeanour, the Investigating Judge may exempt the complainant from paying an advance if he is financially unfit to do so. He may also exempt a foreign complainant from paying surety on the same ground by a reasoned decision.

The complaint filed by a complainant who acquires the status of a civil party and who makes the required payment, unless exempted therefrom, automatically initiates a public prosecution. If either of these two conditions is not met, it shall be regarded as a report and referred to the Public Prosecutor for a decision on whether to initiate a public prosecution.

The complainant may withdraw the civil action. If he does so within two working days of the date of his complaint, he shall not be liable for the costs of withdrawal. His withdrawal shall not affect the course of the public prosecution except in cases where the extinction of the civil action leads to the extinction of the public prosecution.

Article 69 - The First Investigating Judge shall personally undertake the investigation into a direct complaint, however he may assign it to an Investigating Judge in his department.

The Judge handling the direct complaint shall initiate the investigation after consulting the Public Prosecutor's Office at the Appeal Court. However, he shall not be bound by its opinion if it involves a refusal to proceed with the public prosecution already initiated by a civil action in accordance with the provisions of Article 68, paragraph 4, of this Code. He shall deliver a copy of the complaint and its attachments to the defendant at least twenty-four hours before questioning him.

Article 70 - The Public Prosecutor may challenge the status of the civil party to the prosecution before carrying out the investigation. The defendant or his advocate may raise this plea prior to the questioning. The Investigating Judge, after informing the civil party of the plea and giving him twenty-four hours to respond, shall issue a ruling after consulting the Public Prosecutor's Office at the Appeal Court.

Article 71 - If the Public Prosecutor ascertains that the complaint is unclear, he may request the Investigating Judge to proceed with the investigation forthwith before deciding on his position. In these circumstances, the Investigating Judge shall question the persons designated in the complaint as defendants and shall interview the witnesses. He shall then transmit the file to the Public Prosecutor so that he can decide whether to prosecute. The Investigating Judge may, on obtaining evidence that persons interviewed as witnesses participated in the offence, question them as defendants provided that he abides by Article 61 of this Code.

Article 72 - If the Investigating Judge decides to stay the prosecution of a person designated by the complainant, the defendant may apply to the Single Criminal Judge for an award of damages against the civil party for abuse of his right to bring an action. He shall bring his action, on pain of inadmissibility, within three months of the date of being notified of the decision to stay the prosecution.

Chapter IV Investigative measures

Section I Procedural objections

Article 73 - The defendant, or his advocate in the absence of his client and the Public Prosecutor's Office may raise any of the following objections once only prior to the questioning of the defendant:

1. Objection to jurisdiction;
2. Objection of nullity of the public prosecution on one of the legally established grounds of nullity;
3. Objection of inadmissibility of the prosecution on a ground that precludes hearing or proceeding with the case before its substance is examined;
4. Objection on the ground that the act charged does not constitute a legally prosecutable offence;
5. Objection of *lis pendens* or *lis alibi pendens*;
6. Objection of *res judicata*;
7. Objection of nullity of one or more investigative measures.

The Investigating Judge, after hearing the civil party and consulting the Public Prosecutor's Office, shall rule on the objection within a week of the date on which it was filed.

Any party to the proceedings may appeal his decision.

Section II Questioning of the defendant

Article 74 - The Public Prosecutor shall verify the defendant's identity and ascertain his family name and first name, his age, his place of birth, his parents' names, his place of residence, his social and civil status and his criminal record. He may seek the assistance of psychiatric and medical experts in assessing the defendant's mental and physical health. If the defendant or his advocate requests a psychological or physical examination, the Investigating Judge may deny the request only on the basis of a reasoned decision.

Article 75 - The Investigating Judge shall question the defendant in his department unless the latter is unable to attend owing to illness, disability or some other valid excuse. Having verified the impediment, the Investigating Judge shall travel, together with his clerk, to the place in which the defendant can be questioned in accordance with the rules set out below.

Article 76 - When the defendant appears before him for the first time, the Investigating Judge shall inform him of the charges against him, summarizing the facts and informing him of the evidence in his possession or of the suspicions against him so that he can refute them and mount a defence. The Investigating Judge is not required to provide him with a legal characterization of the facts.

The Investigating Judge shall inform him of his rights, particularly the right to the assistance of an advocate during the questioning.

If the Investigating Judge fails to inform the defendant of the charges against him, as set out above, or to inform him of his right to the assistance of an advocate, the results of the questioning shall be inadmissible as evidence.

Article 77 - The Investigating Judge shall respect the principle of the defendant's exercise of free will during the questioning and shall ascertain that he is making his statement without any outside influence of a moral or material nature.

If the defendant refuses to respond and chooses to remain silent, the Investigating Judge may not compel him to speak.

If the defendant shows signs of physical, psychological or mental illness during the questioning, the assistance of a medical expert may be sought to diagnose his condition.

Article 78 - If the defendant declines the assistance of an advocate, the Investigating Judge is not required to appoint counsel on his behalf. This fact shall be recorded on pain of nullity of the questioning and the subsequent measures. He shall question him in the absence of counsel and proceed with the investigative measures.

If the defendant chooses an advocate to defend him, the Investigating Judge may not question him or proceed with the investigative measures unless the advocate is present and is informed of all the investigative acts except for the witnesses' statements, on pain of nullity of the questioning and of the subsequent measures. If the defendant is unable to appoint an advocate, the Investigating Judge shall appoint one or ask the President of the Bar Association to do so. At any time during the investigation, the defendant may inform the Investigating Judge of the name of the advocate whom he has appointed to defend him. If he chooses more than one advocate for the purpose, he shall inform the Investigating Judge of the name of the advocate who should be served with notice of the case.

The notice inviting the advocate to attend shall be sent at least one day before the questioning. The Investigating Judge's clerk shall note this step in the record, mentioning the date on which notice was served. If the advocate is not notified before the date of the hearing, his presence during the questioning, without raising an objection to the failure to serve notice, shall preclude the nullity of the questioning.

If the client's advocate fails to attend without a lawful excuse in spite of being duly informed of the date of the hearing, the Investigating Judge may proceed with the questioning.

Article 79 - Before each examination after the preliminary questioning, the Investigating Judge shall ask the defendant whether he still consents to being questioned without the constant assistance of an advocate, and shall note this step in the record on pain of nullity of the examination in question and the subsequent measures.

The defendant may communicate freely with his advocate throughout the investigation period. Their communications shall be confidential. Any evidence resulting from a breach of the principle of confidentiality shall be inadmissible.

Article 80 - As an exception to the provisions of Articles 78 and 79 of this Code, the Investigating Judge may take a reasoned decision to begin questioning the defendant forthwith if there is a risk that a clue or evidence may disappear.

He may question the defendant without the presence of an advocate in the case of an offence discovered during its commission or immediately afterwards or the equivalent thereof.

Article 81 - If the defendant's advocate is present during the questioning, he may not put any questions with his client or the opposing party except through the Investigating Judge. He is permitted to make observations and to object to any aspect of the Investigating Judge's questioning which, in his view, breaches the rules governing the investigation. If the Investigating Judge does not permit the advocate to speak, to put a question, to make observations or to raise objections, this fact shall be noted in the record of the questioning.

The Public Prosecutor or one of his assistants may attend the questioning of the defendant, and he may raise questions or make observations through the Investigating Judge.

If the defendant is not proficient in the Arabic language, the Investigating Judge shall appoint an interpreter, who shall begin his work after taking an oath to perform his duties honestly and with integrity.

If the defendant is mute, deaf or unable to express himself, the Investigating Judge shall appoint a person who can communicate with him in sign language or in some other way after taking an oath to perform his duties honestly and with integrity. If a deaf or mute person is able to write, the questions and his answers shall be recorded in writing. The paper recording his answers shall be attached to the record of questioning.

The civil party, the property administrator and the surety may be present during the questioning of the defendant or may appoint an advocate for the purpose. They may each put questions and make observations through the Investigating Judge.

If there is more than one defendant in the case, it is not permissible for one of them or for his advocate to attend the questioning of the other defendants except during confrontations between the defendants.

Article 82 - If the Investigating Judge has questioned the defendant about an offence as though it constituted a misdemeanour and then ascertains that it should be characterized as a felony, he shall repeat the questioning and indicate that the defendant is entitled to the assistance of an advocate if he has not appointed one to defend him.

Subject to the provisions of the penultimate paragraph of Article 81 of this Code, the defendant, the civil party, the property administrator and the surety or their advocates may attend the investigative proceedings, except for the hearings of witnesses. They shall each be notified of the proceedings at least twenty-four hours before the investigative measures concerning them. Otherwise the measures undertaken in their absence shall be null and void.

If persons who were to be summoned present themselves without objecting to the manner in which they were notified or to the failure to comply with the twenty-four hour time limit, the investigative proceedings shall be deemed to be valid.

The property administrator and the surety shall each elect a domicile within the town or borough in which the Investigating Judge's department is located, if they have no actual domicile there, for the service of documents and notices. If they fail to do so, they may not object to the failure to serve the documents of which they should be legally notified.

Each of the aforementioned persons shall inform the Investigating Judge in writing of any change in his actual or elected domicile. If these persons fail to do so, notices served at the domicile recorded in the case file shall be valid.

Article 83 - The Investigating Judge may decide to prohibit communication for a period not exceeding five days with a defendant who is being held in custody. The prohibition shall not be applicable to communications between the defendant and his advocate.

If an arrest warrant for a detained defendant is executed in his absence, the Investigating Judge, on being apprised of the detention, shall summon the detained defendant and question him concerning the charges against him in accordance with the rules set out above.

Article 84 - If a defendant who resides outside the Investigating Judge's area of jurisdiction presents a lawful excuse for his inability to present himself before him, the Investigating Judge may request the Investigating Judge or the Single Judge with jurisdiction over the defendant's place of residence to assist in questioning him. He may not appoint a Judicial Police officer for this purpose.

The Investigating Judge may not terminate his investigation without questioning the defendant unless questioning is impossible because he has absconded, or unless he concludes that the evidence assembled is sufficient to terminate the proceedings without the need for questioning.

Section III

Hearing of witnesses

Article 85 - If the proceedings require the hearing of statements from the President of the Republic, the Speaker of the Chamber of Deputies or the Prime Minister, the Investigating Judge and his clerk shall proceed to the relevant office and take his statement.

Article 86 - The Investigating Judge shall summon the persons whose names appear in the complaint, the report or the submissions as well as anybody else who, in his view, may be able to provide evidence to assist the investigation.

- He need not summon a witness named by the civil party or the defendant if he considers that the hearing would serve no purpose. However, if he declines to hear a witness named by the Public Prosecutor's Office, he shall take a reasoned decision in that regard.

- The summons shall be served on the witness at least twenty-four hours before the time set for the hearing.

- Notice shall be served on members of the diplomatic or consular service through the Ministry of Foreign Affairs.

- Summonses to members of the armed forces shall be served through their respective commands.

- If the witness resides abroad, the summons shall be served by registered mail with acknowledgement of receipt.

- If he is in custody, the witness shall be conveyed under escort.

Article 87 - Before being heard, the witness shall present the summons to appear that he received, and this shall be noted in the record. If he attends before being summoned, he may not refuse to make a statement on the ground that he was not notified of the time of his appearance.

The Investigating Judge shall interview each witness individually in the presence of his clerk.

The Investigating Judge shall first ask the witness to state his first name and family name, the names of his parents, his age and profession, his domicile or the place where he is staying, and whether he is married to, in the service of or related to one of the parties, asking him to specify the degree of

affinity, and shall then require him to take the following oath: "I swear by almighty God to tell the truth, the whole truth and nothing but the truth." This shall be noted in the record.

The witness shall make his statement orally and may rely on supporting documents.

The statement of each witness shall be reflected in a record containing the questions put to him and his answers.

The witness's statement shall be read to him and he shall approve it, signing it on each page. If he refuses to sign or is unable to do so, this shall be noted in the record.

The number of pages constituting the witness's statement shall be noted at the end of the record. The Investigating Judge and his clerk shall sign each page. A list of the names of the persons heard and the dates of the hearings shall be included in the official record.

If exhibits are shown to the witness, this shall be noted in the record.

The same rules of procedure shall be applicable to hearings of statements by the civil party, the defendant, the property administrator, the surety and the expert.

Only the person harmed by a breach of one of the above-mentioned rules may request that the record be annulled.

Article 88 - If the witness is not proficient in the Arabic language, the Investigating Judge shall appoint an interpreter, who shall take an oath to perform his duties honestly and with integrity before starting work, unless he is already a certified interpreter.

Article 89 - If the witness makes a false statement, lies or conceals some or all of what he knows regarding the facts of the case concerning which he is being questioned, the Investigating Judge shall refer the record of his statement to the Public Prosecutor's Office at the Appeal Court so that he may be prosecuted for the offence of perjury defined in Article 408 of the Criminal Code.

Article 90 - The record of the investigation shall contain no deletions, annotations or additions.

If it is necessary to cross out or insert a word, the Investigating Judge, the clerk and the witness shall express their approval of the deletion, annotation or addition by signing the margin of the record.

Any unapproved annotation, deletion or addition shall be null and void, and the provisions of the last paragraph of Article 87 of this Code shall be applicable thereto.

Article 91 - The Investigating Judge shall hear minors under 18 years of age as a source of information.

If a minor over 15 years of age has taken a legal oath, his statement shall be considered valid and he may not be prosecuted for the offence of perjury.

The ascendants and descendants of the defendant, his brothers and sisters and relatives by marriage of the same degree, his spouse even if they are divorced, and informants who are legally entitled to financial reward for their information are not allowed to testify.

The Investigating Judge may hear a statement from any of the aforementioned persons as a source of information.

Article 92 - A witness may not be excused from testifying unless it can be demonstrated that he is legally bound to secrecy.

If the Investigating Judge ascertains that the witness's plea of professional or banking secrecy is legally inappropriate, he shall take a reasoned decision, after consulting the Public Prosecutor's Office at

the Appeal Court, to dismiss the plea. The witness may file an appeal against the decision within twenty-four hours of the date of his notification thereof.

Any person who possesses information that might shed light on the investigation is required to bring it to the attention of the Investigating Judge. If he fails to do so, he shall be liable to a fine of between 100,000 and 200,000 Lebanese pounds, payable in the same manner as taxes. If the information in question is likely to prove the innocence of the defendant, a person who fails to testify or who withholds proof of its existence shall be liable to prosecution pursuant to Article 567 of the Criminal Code, as amended.

Article 93 - The Investigating Judge shall order that the witness be reimbursed for his travel expenses and the party who requested his presence shall be liable for payment. In the case of a public prosecution, the Treasury shall be liable for payment.

Article 94 - If the witness resides outside his area of jurisdiction, the Investigating Judge may request the Investigating Judge or Single Judge in whose area of jurisdiction he resides to take his statement.

The requesting Judge shall inform the requested Judge clearly and in detail of the facts concerning which the witness should be questioned. The requested Judge shall duly hear the witness's statement immediately after he takes the oath and shall send the record containing the statement in a sealed envelope to the requesting Judge as speedily as possible.

Article 95 - Any person who has been duly notified of his duty to appear before the Investigating Judge to testify is under an obligation to appear.

If he fails to do so without a lawful excuse, the Investigating Judge shall send a further summons to attend the next hearing after imposing a fine of between 50,000 and 100,000 Lebanese pounds. If he again fails to appear, a warrant shall be issued to have him brought before the Investigating Judge. If the witness pleads illness and provides a doctor's certificate in support of his inability to appear, the Investigating Judge may dismiss the plea if he considers that it is not serious, or he may appoint another doctor or medical panel to examine the witness and determine whether his state of health prevents him from appearing.

If it appears to the Investigating Judge that the certificate is fallacious, he shall compile a report and refer it to the Public Prosecutor's Office so that the witness and the doctor who drew up the certificate may be prosecuted pursuant to Article 466 of the Criminal Code.

If a plea other than illness is raised and it appears to the the Investigating Judge that it is fallacious, he shall compile a report and refer it to the Public Prosecutor's Office so that the witness may be prosecuted pursuant to Article 407 of the Criminal Code.

Article 96 - If the witness is unable to come to the office of the Investigating Judge on account of illness, disability or *force majeure*, the Judge and his clerk may travel to his place of residence and take his statement.

Article 97 - In the absence of his clerk or a clerk of the Investigation Department, the Public Prosecutor's Office or the courts, the Investigating Judge may appoint an Internal Security Forces officer, who shall record the witness's statement after taking an oath to perform his assignment honestly and with integrity.

If there is no clerk available to compile the record, the Investigating Judge may do so himself. The record that he compiles under these circumstances shall not be null and void.

Section IV

Attendance, searches and seizure of evidence

Article 98 - The Investigating Judge may travel with his clerk to carry out an inspection of the scene of the crime or to search a residence for incriminating materials or items capable of shedding light on the investigation. He shall inform the Public Prosecutor of his movements. If the latter accompanies him, he shall conduct the inspection and search in his presence; if he does not, he shall conduct them alone.

The inspection or search shall be conducted in the presence of the civil party and the defendant. If one of them is not present or is unable to attend, it shall be conducted in the presence of his advocate, two witnesses who are members of his family or two witnesses chosen by the Investigating Judge.

The Investigating Judge shall compile a detailed record of the investigative measures or the search, which shall be signed by himself, his clerk and all those present. If exhibits or items of interest to the investigation are seized, he shall include a sufficiently detailed description of the nature of each item. He shall preserve the exhibits and articles as befits their nature, placing them under the seal of the Investigation Department and attaching a label listing the seized items, signed by the Investigating Judge, his clerk and those present.

If the seized items are registers, documents or statements of account, they shall be placed in sealed envelopes bearing the seal of the Investigation Department, and labelled with a list of the items. These will be kept at the Investigation Department.

If the seized items consist of bullion, banknotes or securities, they shall be placed in envelopes bearing the seal of the Investigation Department, labelled with a detailed record of the items seized and deposited in the Palace of Justice vault.

If confidential documents are seized during the search, they shall be numbered and may be viewed only by the Investigating Judge and their owner. They shall be placed in sealed envelopes bearing the seal of the Investigation Department and a label shall be attached stating that they are confidential and indicating the quantity of documents involved and the numbers assigned to them.

Article 99 - If the seized items include any article that cannot be transported to the Investigation Department or the secure depository at the Palace of Justice because of its size or dangerous nature, the Investigating Judge shall deposit it with whichever party he deems best suited to look after it. This shall be noted in a record signed by the Investigating Judge, his clerk, the owner of the seized item and the person with whom it has been deposited.

Article 100 - When prosecuting a lawyer, the Investigating Judge may not search his office without first informing the President of the Bar Association thereof, except in the case of an offence discovered during its commission or immediately afterwards.

- The Investigating Judge shall not breach professional secrecy during the search.
- The President of the Bar Association or a person designated by him may be present during the search.
- Any interception of the suspected lawyer's communications shall require a judicial decision and prior notification of the President of the Bar Association.

Article 101 - If the Investigating Judge finds prohibited items during the search, the acquisition or possession of which constitutes a misdemeanour or a felony, he shall seize them, even if they are

unrelated to the offence being investigated, note this fact in a record signed by himself, his clerk and anyone present during the search, and send the items together with the record to the Public Prosecutor's Office.

Article 102 - Seals placed on seized items and items held in safekeeping may be broken only in the presence of the Investigating Judge, his clerk, the defendant or his advocate, and the person who searched his home or in whose presence the search was undertaken. If any of the aforementioned persons fails to appear, the seals shall be broken in their absence provided that they were informed of the time set for the procedure.

The Investigating Judge may examine telegrams and correspondence and keep those which he deems necessary to shed light on the facts or which, if seen by third parties, might prove harmful to the investigation. He may not reveal the contents of any seized telegram or correspondence without the consent of the party concerned.

The Investigating Judge may not examine correspondence between the defendant and his advocate.

Article 103 - If the Investigating Judge considers that the investigation will not be served by keeping some or all of the seized items, he shall return them to the legal claimant unless the claim is subject to a legal dispute. If there is a serious dispute regarding the right of ownership or possession of a seized item that may be returned, the Investigating Judge shall defer its return until the dispute has been settled.

If the civil party or the defendant requests the return of a seized item, the Investigating Judge shall rule on the request after consulting the opposing party and the Public Prosecutor's Office. An appeal against his decision in this regard may be filed within twenty-four hours of the date on which he informs the party to the dispute against whom the decision was taken.

Article 104 - If the Investigating Judge wishes to search a residence located outside his area of jurisdiction, he shall seek the assistance of the Investigating Judge or the Single Judge in whose jurisdiction the residence is located.

He shall describe the assignment clearly and in detail. The requested Judge shall undertake the assignment and abide by the rules governing the seizure of exhibits or items that may serve the purposes of the investigation. He shall compile a record thereof, sign it together with his clerk and the owner of the residence or two witnesses, and send it with the seized exhibits and items to the requesting Judge in a sealed envelope bearing the seal of his department, attaching a label listing the seized items.

Article 105 - Any search undertaken in breach of the rules set out above shall be null and void. Any investigative measures based thereon shall also be null and void.

The nullity shall not preclude the use of information brought to light by the search for the purposes of the investigation if it includes supporting evidence.

The measure shall not be null and void if the aggrieved party consents thereto.

Chapter V
Orders issued by the Investigating Judge
during the investigation

Section I

Summonses, warrants to produce a person before the Judge
and arrest warrants

Article 106 - The Investigating Judge may issue a summons to the civil party, defendant, witness, property administrator or surety to attend a hearing, specifying the date and time.

The defendant shall proceed to the Investigating Judge's department on being served with the summons and shall appear before him. If he fails to attend, without presenting a lawful excuse, or if the Investigating Judge fears that he may abscond, a warrant to produce him before the Judge shall be issued, containing a written order to the law enforcement authorities to ensure his presence within twenty-four hours of the date of the scheduled hearing.

The Public Prosecutor's Office shall execute the warrant to produce him before the Judge.

Article 107 - The Investigating Judge shall question the summoned defendant forthwith. A defendant against whom a warrant to be produced before the Judge has been issued shall be questioned within twenty-four hours of the time of execution of the warrant.

- After twenty-four hours have elapsed, the chief of the police station shall automatically conduct the defendant to the Public Prosecutor, who shall request the Investigating Judge to question him. If the latter refuses, if he is absent or if he is precluded from questioning him by a lawful impediment, the Public Prosecutor shall request the First Investigating Judge to question him or to appoint an Investigating Judge to do so. If it proves impossible to question him, the Public Prosecutor shall order his immediate release. If he is held for more than twenty-four hours without being brought before the Public Prosecutor, the custody shall be deemed wrongful and the responsible officer shall be prosecuted for the offence of deprivation of personal liberty.

- After questioning the defendant and consulting the Public Prosecutor's Office, the Investigating Judge may issue an arrest warrant if the offence with which the defendant is charged is punishable by more than one year's imprisonment or if he has a previous criminal conviction or has been sentenced to more than three months' imprisonment without suspension.

- The arrest warrant shall be based on a reasoned decision and the Investigating Judge shall state the factual and material grounds supporting his decision to issue the warrant, whether the reason is that pre-trial detention is the only way to preserve the evidence or the incriminating material traces, to prevent the coercion of witnesses or victims, or to prevent the defendant from communicating with accomplices or with accessories or inciters, or whether the purpose of the arrest is to protect the defendant himself, to terminate the impact of the offence or to prevent its recurrence, to prevent the defendant from absconding or to preclude any breach of public order arising from the offence.

- The summons issued to the defendant, the warrant to produce him before the Judge and the arrest warrant must state his identity and the date on which it was issued. It must contain a description of the defendant and the offence with which he is charged and the legal provision applicable thereto, and bear the signature of the Investigating Judge who issued it and the seal of his department.

– The defendant shall be served with the warrant to produce him before the Judge and the arrest warrant upon execution, even if he is in custody for another offence, and shall be given a copy of the notice served.

– If the rules governing the warrant to produce the defendant before the Judge and the arrest warrant set out above are breached, the clerk shall be fined a maximum of two million Lebanese pounds by a decision of the court that is informed of the breach.

– The defendant may file an appeal against the Judge's arrest warrant within twenty-four hours of the date on which it is served.

– The appeal against the warrant shall not stay its enforcement.

– If the defendant has absconded, the Investigating Judge may issue a reasoned arrest warrant in his absence.

– If it proves impossible to enforce an arrest warrant issued against an absentee defendant, he shall be notified thereof through the posting of a copy at the entrance to his most recent place of residence in the presence of the local mayor or two neighbours serving as witnesses, and this measure shall be recorded.

Article 108 (as amended by the Act of 26 June 2010) - With the exception of a person previously sentenced to at least one year's imprisonment, the period of detention for a misdemeanour may not exceed two months. This period may be extended by, at a maximum, a similar period where urgently necessary.

With the exception of homicide, felonies involving drugs and endangerment of state security, felonies entailing extreme danger and crimes of terrorism¹, and with the exception of persons with a previous criminal conviction, the period of custody may not exceed six months for a felony. This period of custody may be renewed once on the basis of a reasoned decision.

The Investigating Judge may decide to prevent the defendant from travelling for a period not exceeding two months for a misdemeanour and a year for a felony from the date of being released or left at liberty.

Article 109 - A person who is arrested pursuant to an arrest warrant issued *in absentia* shall be conveyed without delay to the Public Prosecutor's Office in the department of the Investigating Judge who issued the warrant. The Public Prosecutor's Office shall give the officer who enforced the warrant a certificate that it has received the arrested person. It shall have the latter conveyed to the place of detention and shall inform the Investigating Judge of the arrest.

The Investigating Judge shall have the arrested person brought before him forthwith and shall question him in accordance with the provisions of Articles 74 *et sequitur* of this Code.

Any law enforcement officer instructed to execute an arrest warrant shall enter the residence in which, according to the evidence, the person subject of the warrant has sought refuge. However, he may only effect such an entrance between 5 a.m. and 8 p.m.

The rules set out in the previous paragraph shall be applied in enforcing a warrant to produce a person before the Judge.

¹ Act No. 111 of 26 June 2010 amended article 108 of the Code of Criminal Procedure to include crimes of terrorism.

Article 110 - The Investigating Judge may decide, in the course of the investigative proceedings, irrespective of the nature of the offence, to withdraw the arrest warrant issued in respect of the defendant with the consent of the Public Prosecutor provided that the defendant elects a domicile in the town or borough in which the office of the Investigating Judge is located if he has no actual domicile there, so that he may be notified of all measures pertaining to the investigation and to enforcement of the judgement.

Article 111 - After consulting the Public Prosecutor's Office, the Investigating Judge may, irrespective of the nature of the offence, release the defendant and place him under judicial supervision, with one or more of the following conditions that such supervision requires, notably:

- (a) To reside in a specified town, borough or village, not to leave it and to elect a domicile therein;
- (b) Not to frequent certain establishments or places;
- (c) To deposit his passport with the registry of the Investigation Department and to notify the Directorate-General of Public Security thereof;
- (d) To undertake not to move outside the area of supervision and to report regularly to the supervisory office;
- (e) Not to engage in certain occupational activities that the Investigating Judge has prohibited during the period of supervision;
- (f) To undergo regular examinations by physicians and experts during a period specified by the Investigating Judge;
- (g) To deposit surety, the amount of which shall be determined by the Investigating Judge.

The Investigating Judge may vary the supervisory obligations as he sees fit.

If the defendant breaches one of the supervisory obligations imposed on him, the Investigating Judge may decide, after consulting the Public Prosecutor's Office, to issue an arrest warrant against him and to forfeit the surety to the Treasury.

Article 112 - A defendant placed under judicial supervision may request that it be lifted. The Investigating Judge shall rule on his request, after consulting the Public Prosecutor's Office, within a period not exceeding three days from the date on which it was recorded by the registry of the Investigation Department. His decision may be appealed before the Indictment Division, in accordance with the rules applicable to appeals against decisions by the Investigating Judge.

Section II

Release orders

Article 113 - Where an offence is a misdemeanour carrying a maximum penalty of two years' imprisonment and the defendant is Lebanese and resident in Lebanon, he is entitled to be released five days after the date of his arrest provided that he has not previously been convicted of a heinous crime or sentenced to imprisonment for at least one year.

The released defendant shall undertake to attend all proceedings pertaining to the investigation, the trial and enforcement of the judgement.

Article 114 - In the case of all other offences, if the conditions entitling the defendant to be released have not been met, the Investigating Judge may decide, after consulting the Public Prosecutor's

Office, to release him from detention, with or without surety, if he files an application and undertakes in the application to attend all proceedings pertaining to the investigation, the trial and enforcement of the judgement.

– The surety shall include:

- (a) Attendance by the defendant at all proceedings pertaining to the investigation, the trial and enforcement of the judgement;
- (b) Fines, fees and judicial costs;
- (c) The costs advanced by the civil party;
- (d) A portion of the personal damages.

The Investigating Judge shall specify the amount and type of surety and the sum payable for each constituent part. He may modify the amount or type if necessary.

Article 115 - The defendant or his advocate shall file the application for release with the Investigating Judge before the Investigating Judge's order is delivered.

A copy of the application shall be served on the civil party at his elected domicile so that he may make observations thereon within twenty-four hours of the date of notification.

After a period of twenty-four hours has elapsed from the time of notification of the civil party, the application shall be referred to the Public Prosecutor for his opinion. The Investigating Judge shall take a decision in line with or contrary to that of the Public Prosecutor as soon as the file is returned to him.

Article 116 - The civil party may file an appeal against the release order to the Indictment Division within twenty-four hours of the date on which he is notified thereof. The defendant may file an appeal against a decision to reject his release within twenty-four hours of the date on which he is notified thereof.

- The Public Prosecutor's Office may appeal the decision within twenty-four hours of the date on which it is delivered.
- An appeal against the release order entails a stay of its enforcement.
- The appeal shall be filed through the Investigating Judge.

The released defendant is required to elect a domicile in the town or borough in which the Investigating Judge's office is located if his actual domicile is not in that location.

Article 117 - The surety may take the form of cash, state bonds, a bank or commercial guarantee, or a title to real property.

- If it consists of cash or state bonds, it shall be deposited in the Palace of Justice vault and a receipt shall be issued.
- If it consists of a bank guarantee, a letter of guarantee shall be issued by the insuring bank and duly incorporated in the case file. The basic record shall indicate the date and time of receipt, the name of the insuring bank, the amount indicated in the letter of guarantee and the record number of the letter.
- If the surety consists of a commercial guarantee, a letter of guarantee shall be issued by the commercial body, be it an individual, an institution or a corporation. The basic record of the Investigating Judge shall record the name and address of the guarantor and the amount indicated in the

letter of guarantee. In addition, a reference to the letter of guarantee shall be placed in the surety's file in the commercial register.

- If the surety consists of a title to real property, it shall be accompanied by a report compiled by a sworn expert containing the number of the property, its location and area, and a detailed estimate of its worth. A reference to this title shall be placed in the Land Registry journal. The original of the surety title and the report shall be deposited in the Palace of Justice vault. It shall be mentioned in the basic record.

- The civil party and the defendant may, within the period prescribed in Article 116 of this Code, file an appeal against the part of the release decision relating to the amount of the surety.

Article 118 - If the released defendant attends the proceedings pertaining to the investigation, the trial and enforcement of the judgement, the first portion of the surety shall be reimbursed. If he fails to attend any of the investigative or trial proceedings or does not submit to enforcement of the judgement, the first portion of the surety shall be forfeited to the Treasury.

- If it is decided to stay the prosecution of the defendant, the whole of the surety shall be reimbursed.

- If it is decided to extinguish the public prosecution on account of his death, the first portion of the surety shall be paid to his estate.

- If it is decided to drop the charge against him on the ground of a general amnesty or a pardon, the first portion of the surety shall be reimbursed.

- If a dispute arises regarding the application of this article, it shall be settled in chambers by the judicial authority seized of the case or the authority that rendered the judgement, on the basis of an application from the person concerned.

Article 119 - The Public Prosecutor's Office shall be responsible for implementing parts (a) and (b) of the surety, and parts (c) and (d) shall be implemented through the Enforcement Department after the final judgement.

Article 120 - If significant grounds for re-arresting the defendant arise after his release, the Investigating Judge may issue an arrest warrant after consulting the Public Prosecutor's Office. If the order to release him was issued by the Indictment Division when the Investigating Judge's decision to dismiss the application was set aside, the Investigating Judge shall submit the case file to the Indictment Division so that it may issue a ruling on the Judge's decision to re-arrest the defendant. The enforcement of his decision shall not, however, be stayed on that account. If the Indictment Division decides to set aside his decision, it shall order that the defendant be released.

Chapter VI

Orders issued by the Investigating Judge on completion of the investigation

Article 121 - On completing the investigation, the Investigating Judge shall transmit the case file to the Public Prosecutor's Office so that it may present its final submissions. The Public Prosecutor's Office shall present its submissions within a period not exceeding one week.

If the Public Prosecutor's Office requests further investigations, it shall specify the existing shortcomings and the investigative measures that it considers necessary. The Investigating Judge may decide to grant or reject the request. If he rejects it, he shall state the grounds for his rejection. The

Public Prosecutor's Office may appeal against the decision to reject it. If the Indictment Division sets the decision aside, it may either address the subject matter of the request, or it may refer the case file to the First Investigating Judge so that he may continue the investigation or entrust it to another Investigating Judge. If, however, it endorses the decision, it shall return the file to the Investigating Judge so that he may issue the indictment after the Public Prosecutor's Office issues its final submissions.

Article 122 - If the Investigating Judge decides to stay the prosecution of the defendant, he shall base his decision on either a legal or factual ground.

The ground shall be legal if there is no definition of the act charged under criminal law, if a new law was enacted after the charge was laid under which it is no longer characterized as an offence, if the definition of the act as an offence is no longer valid on a legally justifiable ground, or if the public prosecution in respect of the charge is extinguished on any of the legally established grounds of extinction.

The ground is factual if the investigation fails to establish that the offence charged actually occurred, if there is no evidence of the existence of a causal link between the offence charged and the defendant, or if the public prosecution was brought against an unknown person and the investigation failed to detect him or to ascertain his identity. In the latter situation, the Investigating Judge shall issue a permanent wanted notice with a view to detecting the perpetrator or ascertaining his identity.

If the Investigating Judge orders a stay of the prosecution in favour of the defendant, he shall order his immediate release if he is in custody. An appeal against this decision shall not stay its enforcement.

Article 123 - If the Investigating Judge decides that the charge is a contravention or a misdemeanour that is not punishable by imprisonment, he shall immediately release the defendant if he is in custody and refer the case file to the Single Judge through the Public Prosecutor's Office.

Article 124 - In a case involving an order regarding a misdemeanour or a contravention, the Public Prosecutor shall send the case file to the competent Single Judge within three days of the date on which it was filed with him, together with a list of the items compiled by the Investigation Department.

Article 125 - If the Investigating Judge considers that the act he has investigated amounts to a felony, he shall issue a decision setting out the facts of the case, the evidence available and the legal definition applicable thereto. He shall refer the file to the Public Prosecutor's Office for transmission to the Indictment Division, which is the authority responsible for the indictment.

If the Investigating Judge decides that the charge of a felony is not applicable to the facts of the case but that the charge of a misdemeanour is applicable, the Public Prosecutor may appeal his decision. The civil party is not entitled to appeal the decision.

Article 126 - The Investigating Judge's order to refer the case to the Single Judge or to characterize the act as a felony shall contain the defendant's family name and given names, his age, his place of birth, his parents' names, his nationality, registration number, place of residence and occupation, and the date of his arrest and release, as well as a clear statement of the facts, the evidence and the legal characterization.

Article 127 - If new evidence comes to light following publication of the order to stay the prosecution of the defendant, the investigation shall be reopened if the order was based on a factual ground.

New evidence shall consist of witness statements, or documents or records that were not in the possession of the Investigating Judge, but which might have affected the conclusion which he reached.

The new evidence shall be submitted to the Public Prosecutor, who shall assess its usefulness and whether it is sufficient to warrant an application for the investigation to be reopened. If he considers that it serves the aforementioned purpose, he shall request the Investigating Judge to reopen the investigation.

The Investigating Judge shall examine the new evidence and issue whatever orders he sees fit. He shall question the defendant without having a subsequent charge brought by the Public Prosecutor's Office and shall abide by the applicable rules in his investigative work.

If the Investigating Judge concludes, after resuming the investigation, that the order to stay prosecution should be reversed, he shall decide, after consulting the Public Prosecutor's Office, to commit the defendant for trial or to characterize his act as a felony. If however the fresh investigation does not produce any evidence to necessitate the amendment of the first decision to stay prosecution, he shall issue an order that it should stand.

If the order to stay the prosecution was issued by the Indictment Division, it shall provide for the reopening of the investigation on the basis of an application from the Public Prosecutor. The investigation shall be carried out by its President or by a Judge delegated by him in accordance with the rules applicable before the Investigating Judge.

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Part IV
The Indictment Division

Article 128 - The Civil Division of the Appeal Court performs the functions of an Indictment Division, which include:

1. Serving as an indictment authority in the case of a felony;
2. Hearing appeals against orders of the Investigating Judge and against decisions that form part of its remit pursuant to special legislation;
3. Dealing with the right of a higher court to transfer a case pending before a lower court;
4. Ruling on applications for review.

Chapter I
The Indictment Division as an indictment authority

Article 129 - If the Investigating Judge considers in his final order that the act charged is a felony, he shall refer the case file to the Public Prosecutor's Office for transmission to the Indictment Division. The Public Prosecutor's Office shall prepare a report within five days containing its submissions. The civil party and the accused may present a submission within the same period setting out the facts of the case, the evidence, the legal definition and the grounds for their defence.

Article 130 - After the Public Prosecutor refers the case file, together with his report, to the Indictment Division, the latter shall deal with the case on the merits. If it considers that the investigation is complete and that any further investigations would serve no purpose, it shall issue one of the following orders:

- (a) An order to stay the prosecution of the defendant and to release him if it considers that there is insufficient evidence to charge him with the alleged felony, if the act attributed to him does not constitute an offence, if its characterization as an offence is no longer valid on a legally justifiable ground, if a new law has been enacted that amends the previous law, or if the public prosecution has been extinguished on any of the legally established grounds;
- (b) A decision to consider that the act constitutes a misdemeanour or a contravention entailing the referral of the defendant to the Single Criminal Judge and his release if the act is deemed to be a contravention or misdemeanour that is not punishable by more than one year's imprisonment;
- (c) An order to indict the defendant if it ascertains that the facts and the evidence against him are sufficient to warrant the indictment after characterizing the act attributed to him as a felony.

In its decision, the Indictment Division shall order the referral of the accused to a criminal court to be tried on the charges against him and shall issue an arrest warrant against him.

Article 131 - The indictment shall contain the names of the members of the Indictment Division, the submissions of the Public Prosecutor's Office, a clear and detailed account of the facts of the case, an itemized list of the evidence of the link between the offence and the act charged, a reasoned legal description, a citation of the legal provisions applicable to the facts and a draft of the arrest warrant. It shall also contain the family name and first name of the accused, his date of birth, his parents' names, his civil register number, place of residence and nationality, the date of his arrest and that of his release, where relevant.

- The President of the Division and the two Judges shall sign the indictment.

The arrest warrant shall contain the family name and first name of the accused, his date of birth, his parents' names, his place of residence, occupation and nationality, the felony with which he is charged, the legal provision applicable thereto, and the order issued to the law enforcement authorities to arrest him.

If the Indictment Division issues an order to refer the accused to a criminal court and no arrest warrant has yet been issued, it may still issue the warrant on the basis of a request from the Public Prosecutor's Office.

Article 132 - If the Indictment Division ascertains that the investigation is incomplete or unclear, its President shall conduct a supplementary investigation or instruct one of the Judges to do so.

The supplementary investigation shall comply with the rules governing the Investigating Judge's work in that regard.

Once the supplementary investigation has been completed, the case file shall be referred to the Public Prosecutor's Office so that its submission may reflect the new evidence. The Indictment Division shall then issue the appropriate ruling thereon.

Article 133 - The Indictment Division shall issue a single indictment for joint offences. Even if some of the offences are misdemeanours, the entire case shall be referred to a criminal court.

The following are considered joint offences:

- (a) Offences committed by several persons jointly at one time;
- (b) Offences committed by a number of persons at different times and in different places by common accord;
- (c) Offences committed to prepare, facilitate or execute other offences, to eliminate the traces of the offences, or to prevent the perpetrators from being prosecuted;
- (d) Offences where several persons are involved in concealing evidence of the crime, wholly or in part.

Article 134 - The Indictment Division may, irrespective of the decisions of the Investigating Judge referred to it, examine all the felonies as well as the misdemeanours joined thereto, of its own motion or pursuant to a request from the Public Prosecutor, and shall take an appropriate decision thereon.

- It may undertake a supplementary investigation, of its own motion or pursuant to a request from the Public Prosecutor, the defendant or the civil party.

Chapter II

The Indictment Division as an appeals authority

Article 135 - The Indictment Division serves as the appeals authority for any appeal against the decisions of the Investigating Judge.

1. The Public Prosecutor's Office may appeal against all decisions resulting from the investigation that are contrary to its motions, be they administrative, investigative or judicial, and against a decision by the Judge to withdraw the detention order because the requisite conditions have not been met, within twenty-four hours of the date of issue of the order.

2. The defendant may appeal against the following decisions of the Investigating Judge:
 - (a) A decision to reject the application for his release;
 - (b) A decision to dismiss any of the objections raised under Article 73 of this Code.
3. The civil party may appeal against the following decisions:
 - (a) A decision by the Judge to accept one or more objections raised under Article 73 of this Code if they are prejudicial to his interests;
 - (b) A decision by the Judge to leave the defendant at liberty or to release him by right or on bail;
 - (c) An order to stay the prosecution of the defendant;
 - (d) A decision by the Judge to characterize the charge as a contravention;
 - (e) A decision by the Judge to withdraw the arrest warrant in respect of the defendant on account of a breach of the rules in force.

The property administrator or the surety may not appeal against the Investigating Judge's decisions except for the final decision regarding jurisdiction.

– The time limit for the appeal is twenty-four hours. It shall begin to run for the civil party, the defendant, the property administrator and the surety on the date of notification at his elected domicile within the town in which the Investigating Judge's office is located if he has no actual residence there.

Article 136 - The appeal shall be filed directly with the Indictment Division or through the Investigating Judge.

The Indictment Division shall rule on the appeal against the Investigating Judge's decision within a period not exceeding ten days from the time of its filing.

Article 137 - An appeal filed before the Indictment Division entails a transfer of jurisdiction in respect of its substance. If the appeal is filed within the legal time limit, and specifies the legal grounds and the submission of the appellant bears the signature of counsel at the Appeal Court, the Indictment Division shall rule that the appeal is procedurally admissible and shall decide, on the merits, to uphold, set aside or amend the appealed decision.

An appeal filed by the civil party against the decision to stay the prosecution of the defendant leads to the resumption of the public prosecution and its referral to the Indictment Division.

If the Indictment Division decides to stay the defendant's prosecution, he may file an application for damages in accordance with the provisions of Article 72 of this Code.

Article 138 - If the Public Prosecutor's Office or the civil party appeals against the Judge's decision to release the defendant, to leave him at liberty or to withdraw the arrest warrant on account of a breach of the rules, the appeal shall stay enforcement of the decision pending a ruling, which shall be made within twenty-four hours.

If this period elapses without a decision by the Indictment Division, the Public Prosecutor shall automatically release him.

Article 139 - If the Indictment Division sets aside the Investigating Judge's decision to leave the defendant at liberty, it may issue an arrest warrant against him.

If the Division sets aside the Investigating Judge's decision to dismiss the application for the defendant's release, the released person shall elect a domicile in the town or borough in which the Indictment Division is located if his actual residence is not located there.

Chapter III

The right of transfer

Article 140 - If the Investigating Judge issues a decision in which he ascertains that the charge is a felony, the Indictment Division may, without requiring a charge to be brought by the Public Prosecutor's Office, examine all the offences disclosed during the investigation and joined to the original offence and may investigate all persons concerning whom there is evidence of involvement in the offences.

In the case of offences that are not joined to the original offence, the initiation of the public prosecution shall require charges to be brought by the Public Prosecutor's Office.

If the indictment sets aside on appeal a decision whereby the Investigating Judge refused to take a step or to undertake an investigation, the Division shall take the step or undertake the work instead of the Investigating Judge and may decide the merits of the case itself.

If it sets aside on appeal a decision of the Investigating Judge to stay the prosecution or to refrain from proceeding with the case on one or more of the grounds set out in Article 73 of this Code, it may decide the merits of the case itself.

If the Indictment Division does not decide the merits of the case itself, it shall refer it to the First Investigating Judge so that he may continue investigating it or refer it to another Investigating Judge.

Article 141 - If the Indictment Division decides the merits of the case, it shall undertake the investigations and issue a summons or an arrest warrant, as the circumstances require, and may assign this duty to one of its members.

The investigations conducted by the President of the Indictment Division or the delegated Judge shall be governed by the same rules as those applicable to the investigation by the Investigating Judge. Either of them may delegate some of the investigative work to an Investigating Judge or a Single Judge, in accordance with the provisions governing the delegation of powers issued by the Investigating Judge.

Article 142 - Once the investigations conducted by the Indictment Division itself or through one of its members are completed, it shall return the case file to the Public Prosecutor's Office so that it may revise its submissions with respect to the merits of the case. It shall then deliver its decision after examining the details of the case and the supplementary investigations.

Article 143 - Appeals against decisions of the Indictment Division before the Court of Cassation are permissible only on the grounds set forth in Articles 206 and 207 of this Code.

– The time limit for an appeal against decisions of the Indictment Division is fifteen days. It shall begin to run for the Public Prosecutor's Office on the date of its delivery and for the civil party, the defendant, the property administrator and the surety, on the date of notification pursuant to the rules laid down in Articles 147 and 148 of this Code; it shall be deemed to have been notified if it is ascertained that the person concerned obtained knowledge thereof.

Chapter IV

Decisions on applications for rehabilitation

Article 144 - Any person convicted of a felony or misdemeanour is eligible for rehabilitation. The relevant decision shall be issued by the Indictment Division with jurisdiction in the place of residence of the convicted person on the basis of an application from the person concerned.

Applications for rehabilitation in accordance with Articles 159 and 160 of the Criminal Code shall comply with the following rules:

(a) The convicted person shall file an application for rehabilitation to the Indictment Division;

He shall attach thereto a copy of the judgement delivered against him and a copy of his criminal record issued not more than one month prior to the date on which the application is filed.

(b) The Indictment Division shall designate one of its members to ascertain whether the application meets the legal conditions and to report thereon to the Indictment Division.

The Indictment Division shall transmit the application, together with the report, to the Public Prosecutor's Office so that it may prepare its submission.

Article 145 - If the Indictment Division decides to approve the application, it shall submit a certified copy of its decision to the Appeal Court Prosecutor, who shall communicate it to the Judicial Records Department for implementation.

Article 146 - If the Indictment Division decides to reject the application for rehabilitation, the person who filed the application may not file another application until six months have elapsed from the date on which he was notified of the rejection.

Part V

Rules governing the service of legal documents and decisions

Article 147 - Evidence held on file, summonses, judgements and decisions are served and judicial measures are executed through special security units under the direct authority of the Public Prosecutor, the First Investigating Judge and the Presidents of special authorities and courts. They are answerable to the President of the judicial body who charges or instructs them to serve any document or execute any measure in the event of their failure to do so at the appointed time.

The process server may not serve a document on himself or on his spouse, or on their ascendants, descendants, relatives by marriage or any other relatives up to the fourth degree of kinship.

The document to be served shall state the name of the person requesting service, the name and address of the process server, the date on which he was instructed to serve the document and the name and address of the addressee.

If the addressee is a legal person, the document shall be served at its main office.

In addition to the foregoing, the document to be served shall specify the offence that is the subject of the prosecution, investigation or trial, the legal provision applicable thereto, the judicial authority seized of the case, and the status of the person to be served with the document: plaintiff, defendant, property administrator, surety, witness, etc.

The person serving the document shall execute his instructions without delay and do his utmost to notify the addressee himself.

The addressee shall sign the original of the document served and shall be provided with a copy thereof. If he refuses or is unable to sign, or if he refuses to take delivery of the copy, this shall be noted by the process server on the original document.

If the person to be served with a document is not present at his elected place of residence or domicile, the document shall be served through a member of his family, a domestic employee or any other person living in the same dwelling provided that it may be inferred from his appearance that he is an adult. A further condition is that his interest does not conflict with that of the addressee of the document. If he refuses to state his name and relationship with the addressee or to acknowledge receipt of a copy of the document, the process server shall record his refusal and shall leave a copy of the document with him.

If the person to be served with a document is a legal person, it shall be notified through its legal representative, a person authorized to sign or any person with the requisite status. The person served with the document shall be provided with a copy thereof.

Members of the diplomatic or consular service shall be served with documents pertaining to their case through the Ministry of Foreign Affairs.

Military personnel shall be served with documents pertaining to their case through the commanders of their units.

Article 148 - If the person to be served with a document has no known place of residence or domicile, or if the process server does not find anyone who can be served with the document at his place of residence or domicile, he shall be notified through the posting of a copy of the document at the entrance to his last known place of residence; a second copy thereof shall be communicated to the local mayor, and a third copy shall be posted at the entrance to the judicial authority that ordered the

notification. These measures shall be recorded by the process server on the original copy of the document, which shall be returned to the relevant authority.

If the person to be served with a document has no known last place of residence, it shall suffice for the process server to post a copy of the document at the entrance to the judicial authority that ordered the notification.

Article 149 - The document shall be served at least three days prior to the date on which the addressee is required to appear before the judicial authority that ordered notification, unless a contrary legal provision is applicable.

If the document is to be served on a person living in a foreign country, it shall be served by means of a registered letter with acknowledgement of receipt, through the Lebanese embassy or consulate in the country concerned, or in accordance with the rules applicable under local legislation.

If it proves impossible to serve the document, the court may take it that the person to be served with the document has no known place of residence and it shall be served in accordance with the provisions of Article 148 of this Code.

If the notification measures, including the time limit, are not complied with, the judicial authority shall declare the document to be served null and void if the addressee fails to appear and to serve the document again in accordance with Article 148 of this Code. If he appears and requests that the hearing be deferred before raising any plea pertaining to the case, the Judge seized of the case shall order its deferral and shall inform him of the date; in the absence of such a request, he shall be deemed to have been notified.

If the judicial authority declares that the service of the document is null and void on account of an act attributable to the process server, the latter may be fined a sum equivalent to the costs of serving the document and shall, if necessary, be required to pay damages to the aggrieved party.

When calculating the time limit for service of the document, the time and day of service shall not be taken into account. If the time limit expires on a public holiday or outside official working hours, the time limit shall be extended until the next working day.

Part VI
Trial courts

Chapter I
The Single Criminal Judge

Section I

Referral of a case to the Single Judge

Article 150 - The Single Judge hears cases involving misdemeanours and contraventions, with the exception of offences to which special legal provisions are applicable. The Public Prosecution Service is not represented before him.

Article 151 - Cases are referred to the Single Judge in one of the following ways:

- (a) Charges laid by the Public Prosecutor's Office;
- (b) Charges laid directly by the victim, who assumes the status of a civil party;
- (c) An indictment decision by the Investigating Judge or the Indictment Division;
- (d) An application for damages on the ground of a stay of prosecution, acquittal or discharge;
- (e) A decision to designate a judicial authority or to transfer the case;
- (f) Commission of a misdemeanour during a trial hearing;
- (g) Contraventions for which a penalty notice has been issued.

Article 152 - The Public Prosecutor brings charges of a misdemeanour before the Single Judge in cases involving a person whose identity has been ascertained.

The statement of charges contains a description of the misdemeanour with which he is charged and the place in which it was committed and is accompanied by the record of the preliminary investigations, the complaint, and all documents supporting the prosecution. The Public Prosecutor may subsequently bring charges against a person whom he failed to charge so long as the case remains pending before the Single Judge. The latter may draw his attention to his failure to bring charges against a person against whom evidence exists, but he is not bound to do so.

The Public Prosecutor may ask to examine the case file, provided that he returns it not more than three days after the date on which it is entrusted to him.

The Public Prosecutor shall sign the document containing his charges and he may not withdraw it or drop the charges.

He may not charge a person with an offence before the Single Judge if he has already charged the person with the same offence before the Investigating Judge.

Article 153 - If a person is caught in the act of committing a misdemeanour that is punishable with imprisonment, he shall be brought before the Public Prosecutor, who shall question him, charge him and refer him to the Single Judge, who shall deliver a ruling that day or on the following day in

accordance with Article 108 of this Code. Before referring the case to the Single Judge, the Public Prosecutor may issue an arrest warrant, which shall be enforced forthwith.

If the defendant requests a deferral in order to appoint an advocate, the Single Judge shall grant him a period of three days for this purpose, which is non-renewable.

In the case of a misdemeanour discovered during its commission or immediately afterwards, the Public Prosecutor shall record the names of the witnesses. The Single Judge may summon them orally to a hearing through the Judicial Police force, the law enforcement authorities or the bailiffs' office.

If one of them fails to appear, the Single Judge may issue an order to have him produced before him.

Article 154 - If the Single Judge ascertains that the case pertaining to an offence discovered at the time of its commission or immediately afterwards is not ready for trial, he shall order its deferral for a period not exceeding ten days. He may release the defendant of his own motion in the absence of a civil action or in response to a petition from the defendant, with or without surety, if he finds that there is no need to remand him in custody, provided that the released defendant elects a domicile in the town or borough in which the Single Judge's office is located. In such cases he may, if he considers it necessary, issue a travel ban for a period not exceeding two months.

If the defendant files an application for release, a copy of his application shall be served on the civil party at his actual place of residence within the area of jurisdiction of the Single Judge or at his elected domicile, and he shall submit his observations thereon within twenty-four hours of the date of service. The Single Judge shall decide whether to grant or reject the application within a similar time limit.

The civil party and the defendant may file an appeal against the Single Judge's decision before the Appeal Court within twenty-four hours of the date of notification. The Public Prosecutor's Office may file an appeal against it within twenty-four hours of the date of its delivery.

Article 155 - The victim of a misdemeanour may file a direct complaint and assume the status of a civil party before the Single Judge with jurisdiction over the area in which the offence was committed, the place of residence of the defendant, or the place in which he was arrested.

The complaint shall be recorded in the registry of the Single Judge, who shall require the complainant to pay an advance in respect of legal fees and costs, which shall not exceed one per cent of the cost of the proceedings. In addition, he shall instruct the complainant, if he is a foreign national, to present surety and shall determine its nature and scale in his decision.

The Judge may exempt the complainant from paying an advance if he is financially unfit to do so. He may also exempt a foreign complainant from paying surety on the same ground by a reasoned decision.

Public prosecutions are initiated by a complaint filed by a complainant who acquires the status of a civil party and who makes the required payment, unless exempted therefrom. If either of these two conditions is not met, it shall be deemed to constitute a report. In such cases, the Judge shall order its referral to the Public Prosecutor for a decision on whether to initiate a public prosecution.

The complainant may withdraw the civil action. If he does so within two days of the date of filing his complaint, he shall not be liable for the costs of withdrawal. His withdrawal shall not affect the course of the public prosecution, except in cases where the extinction of the civil action leads to the extinction of the public prosecution.

If the public prosecution is initiated by charges brought by the Public Prosecutor's Office, the victim may file a petition to exercise the incidental personal rights to which he is entitled.

In all cases, the civil party shall elect a domicile in the town or borough in which the court is located and shall inform the court thereof in writing.

Article 156 - The Single Judge shall schedule a hearing and summon the civil party, the defendant, the witnesses, the property administrator and the surety to attend.

– The Single Judge shall serve the defendant with a copy of the direct complaint together with its attachments at least three days before the date of the hearing.

Article 157 - The defendant, or his advocate in the absence of the defendant, may:

1. Raise one or more of the objections provided for in Article 73 of this Code prior to being questioned;

The Single Judge shall serve the civil party with a copy of the submission filed by the defendant or his advocate in this regard and shall allow him a period of not more than five days to respond thereto.

On expiry of this period, he shall rule on the objection raised.

The Public Prosecutor may file an appeal against this ruling within twenty-four hours of the date of its delivery.

The defendant and the civil party or their respective advocates may file an appeal against the ruling within twenty-four hours of the date of notification.

2. Apply for a stay of execution of the arrest warrant issued *in absentia* by the Investigating Judge against him until a judgement is delivered.

– The Judge may decide to stay the enforcement of the arrest warrant issued *in absentia*, with or without surety, on condition that the defendant undertakes to attend the trial hearings. If he fails to attend any hearing without a lawful excuse, the Judge may reverse his decision to stay enforcement.

– The decision to stay execution, or to reverse that decision, is not open to any kind of review.

Article 158 - If the Investigating Judge decides to charge the defendant with a misdemeanour or contravention, the Public Prosecutor's Office shall refer the case file to the Single Judge within three days of receiving it, unless an appeal is filed against the indictment decision.

An indictment decision issued by the Indictment Division shall also be referred to him within the same time limit.

The Single Judge shall deal with the case on the basis of the indictment decision.

Article 159 - If the Investigating Judge decides to stay the prosecution of the defendant on a legal or factual ground, the defendant may apply for an award of damages against the civil party before the Single Criminal Judge with jurisdiction pursuant to Article 72 of this Code.

Article 160 - The Single Judge shall hear a case referred to him by a decision of a Criminal Division of the Court of Cassation pursuant to a decision designating a judicial authority or a decision to transfer the case.

If the Criminal Division of the Court of Cassation decides to quash the Single Judge's decision declaring that he lacks jurisdiction to hear the case, the case shall be returned to him or referred to another Single Judge within the same jurisdictional area.

Article 161 - If a misdemeanour occurs during a court hearing before the Single Judge, he shall record it forthwith, question the perpetrator and, if applicable, hear the witnesses. He shall impose the penalty applicable to the misdemeanour at the same hearing. If he decides to impose a term of imprisonment, he may issue an arrest warrant against the convicted person to be executed forthwith. This decision is open to appeal.

If the act committed during the hearing constitutes a felony, he shall order the arrest of the perpetrator and compile a report setting out the facts for transmission to the Public Prosecutor's Office, together with a notice regarding the perpetrator's arrest.

Article 162 - The Single Judge shall deal with contraventions in respect of which a penalty notice has been issued by officers authorized by law to issue such notices and transmit them to the court exercising jurisdiction.

Section II

Rules governing proceedings before the Single Criminal Judge

Article 163 - When the case file arrives at the department of the Single Judge, the clerk of the court shall register it and the Judge shall set a time for the hearing. The clerk shall prepare notices for the plaintiff, the defendant, the property administrator and the surety and arrange to have them served. Notice shall be served on each of them three days before the opening of the proceedings. The Judge may decide in urgent cases to reduce the time limit.

If one of the aforementioned persons appears at the court, after being informed of the time of the hearing, he may not claim that he was not served with notice thereof or that the time limit of three days was not respected.

Article 164 - Subject to the provisions of Article 165 of this Code, a defendant who has been notified of the time of a hearing shall present himself at the court in person.

If the defendant is a legal person, its legal representative or an advocate instructed as counsel shall attend the hearing.

Article 165 - The defendant shall attend himself or be represented by his advocate if the maximum penalty carried by the offence with which he is charged does not exceed one year's imprisonment. In such cases, the trial shall be deemed to have been conducted adversarially. If he is neither present himself nor represented by an advocate, he shall be tried *in absentia*.

If the Judge finds that the defendant should be present in person, he shall notify him through his advocate of the date of the hearing at which he is to be questioned, specifying the day and time. If the defendant fails to attend the hearing, the Judge may draw an inference from his absence as evidence of the veracity of the charge against him.

If the offence with which the defendant is charged carries a penalty of more than one year's imprisonment and he fails to appear despite having been notified of the time of the hearing, he shall be tried *in absentia*.

Article 166 - If a defendant who is in custody has been notified of the time of the hearing and fails to appear without a lawful excuse, he shall be tried *in absentia*.

Article 167 - If the offence with which the defendant is charged is fully covered by an amnesty, he may be represented by an advocate at the trial.

Article 168 - The civil party, the property administrator and the surety may be represented at the trial by an advocate.

If the civil party fails to attend the trial without a reasonable excuse and is not represented by counsel although he was duly notified, the proceedings shall be conducted in his absence and the public prosecution shall proceed. He may not raise an objection to the judgement delivered at the conclusion of the proceedings, but he may appeal against it.

If the civil party attends one trial hearing at which he presents his claims and fails to attend the other hearings without a reasonable excuse, the court may award him personal compensation and conduct the trial in his absence as though it were adversarial.

If the property administrator or the surety fails to attend the trial, is not represented by counsel and presents no reasonable excuse although he was duly notified, the trial shall be conducted in his absence. He may not raise an objection to the judgement delivered, but he may appeal against it.

Article 169 - If the defendant attends the opening of the trial hearing and fails to attend the subsequent hearings without presenting a reasonable excuse, the trial shall be deemed to have been conducted adversarially.

Article 170 - If the defendant is unable to attend the trial on a major health ground and it is impossible for certain reasons to defer the trial, the Single Judge may proceed to the place where he currently resides twenty-four hours after notice is served on him of the decision to question him. A record shall be made of the measures taken and the Judge shall sign it on each page, together with his clerk and the defendant.

If the defendant is absent from the trial after this questioning and the excuse on health grounds is still valid, he may be represented by counsel. Otherwise, his trial shall be deemed to be adversarial.

The civil party or his advocate may be present during these proceedings, having been duly notified of the appointed time.

Section III

Objection to a judgement delivered *in absentia*

Article 171 - A convicted person shall be notified of a judgement delivered *in absentia* in accordance with the rules governing notification laid down in this Code before a summary of the judgement is sent for enforcement.

The judgement delivered against the convicted person shall not be enforced until he has been notified in accordance with the rules laid down in Articles 147 *et sequitur* of this Code. The person convicted *in absentia* may file an objection to the judgement delivered *in absentia*, within ten days of the date on which he was notified thereof, in the form of a motion to the court that delivered the judgement.

If the notice served fails to comply with the above-mentioned provisions, he may file an objection thereto during the prescription period applicable to the penalty imposed.

If a convicted person is not notified of a judgement delivered *in absentia*, the judgement shall be deemed to constitute the final judicial procedure, and the prescription period with respect to the public prosecution shall begin to run on the date of its delivery.

Article 172 - The civil portion of the judgement delivered *in absentia* shall be confirmed as soon as the notification formalities have been completed in accordance with the rules laid down in the Code of Civil Procedure. The beneficiary of an award of personal damages shall receive a copy of the

judgement that is enforceable pursuant to the provisions governing the enforcement of civil judgements.

If, following an appeal against the judgement delivered *in absentia* the convicted person is acquitted or the proceedings have been declared null and void and the civil portion of the judgement has been enforced, the convicted person may file an application for return of the confiscated amounts by the executor, and for damages.

Article 173 - A person convicted *in absentia* may file an objection to the judgement delivered *in absentia* as a whole or only to the civil obligations and damages awarded.

The person making the objection may attend the hearings himself or appoint an advocate to attend on his behalf if the sentence imposed does not exceed one year's imprisonment, or if his objection only concerns the civil portion of the judgement and damages awarded.

If he attends and if his objection was filed within the legal time limit and in compliance with the applicable formal requirements, the Judge shall order the annulment of the judgement delivered *in absentia* and shall deem it to be non-existent. There shall be a re-trial in accordance with the normal rules.

If the person making the objection fails to attend the first hearing without a reasonable excuse, the Judge shall order the formal dismissal of the objection, taking into consideration the provisions of the second paragraph of this article. No objection may be raised to this ruling, but the first judgement delivered *in absentia* is open to appeal.

The time limit for filing an appeal begins to run on the date of notification of the judgement resulting from the objection.

Article 174 - If the objection raised by the defendant is found to be justified, he shall be exempted from payment of the costs of the proceedings conducted *in absentia*. Otherwise he shall be liable for payment.

Where the court orders the formal dismissal of the objection, it may sentence the objector to a fine of between five hundred thousand and one million Lebanese pounds.

Section IV

Judicial proceedings and authentication of evidence before the Single Judge

Article 175 - The Single Judge has *ratione personae* jurisdiction only, i.e. with respect solely to the persons charged. He may not include other persons unless charges are filed against them subsequently prior to the disposal of the case. Where there are charges against persons other than the defendants, he shall prepare a report on the matter and transmit it to the Public Prosecutor without delay.

Article 176 - The Single Judge examines the facts set out in the Public Prosecutor's Office's statement of charges, the direct complaint of the victim, or the indictment decision. He may raise an objection to circumstances and facts associated with the offence charged that were liable to influence its classification.

The Single Judge is not bound by the legal definition of the offence charged.

If he considers that the offence charged constitutes a felony, he shall declare his lack of jurisdiction to hear the case.

Article 177 - If the Single Judge declares that he lacks jurisdiction on the ground that the charge laid constitutes a felony, the case file shall be referred to the Public Prosecutor's Office. He may issue an arrest warrant against the defendant if the case was brought directly before him. If it was referred to him pursuant to a statement of charges by the Public Prosecutor's Office or by the Investigating Judge, he shall simply declare that he lacks jurisdiction and refer the case to the Public Prosecutor's Office.

Article 178 - The judicial proceedings shall be public and oral on pain of nullity unless the Single Judge decides to hold them *in camera* to preserve law and order or public morals. Minors may be barred from the courtroom in all cases.

Article 179 - The offences charged can be proved on the basis of sufficient proof if there is no legal provision to the contrary. The Judge shall base his judgement solely on the evidence in his possession, and which was discussed adversarially during the proceedings.

The Judge shall assess the evidence with a view to arriving at a firm personal conviction.

Article 180 - At the opening of the proceedings, the clerk shall read out the charges laid by the Public Prosecutor's Office, the indictment decision of the Investigating Judge or a summary of the facts contained in the direct complaint. He shall then provide an account of the evidence against the defendant.

The Judge shall hear the testimony of the civil party or his counsel. He shall then question the defendant in the presence of his counsel if he has appointed an advocate to assist him during the proceedings.

If the defendant refuses to answer and remains silent, the Judge and the civil party may not compel him to speak. The Judge may not make an adverse inference from his silence.

Article 181 - The parties to the case may request to call witnesses, and the Single Judge may call any witness if he considers that it would be useful to hear his testimony. Before giving evidence, the witness shall swear the following oath: "I swear by almighty God to tell the truth and nothing but the truth." Note shall be taken of this oath in the record of the proceedings.

When the Judge has finished hearing the witness, the civil party or his counsel and the defendant or his counsel may put questions to him regarding the case through the Judge. The Judge may refuse to put a question if he considers that it serves no purpose. If the party insists on raising it, he shall record the question and his decision to reject it.

A summons shall be served on each witness three days before the date of the hearing.

If a witness appears in court of his own accord having been made aware that he has been summoned,, he may not file a claim regarding failure to serve him with a summons or failure to comply with the three-day time limit.

Article 182 - The witness shall be heard by the Judge after he has ordered the other two witnesses to withdraw. Before having him take the oath referred to in the preceding article, the Judge shall ask him to state his family name and first name, his date of birth, his parents' names, his nationality, civil register number, his occupation and his domicile, and whether he is linked to the defendant by ties of kinship or by enmity.

As a matter of principle, testimony given by ascendants and descendants of the defendant, his brothers and sisters, persons of equivalent kinship through marriage, and his husband and wife, even after divorce, is inadmissible. The Judge may hear their testimony if the civil party or the defendant does

not object, and the testimony shall not be void. However, if one of them raises an objection, this shall not preclude the Judge from hearing them as a source of information.

Testimony given by a minor under 18 years of age shall be admissible only as a source of information.

A minor under 7 years of age shall be heard only as a source of information and on the basis of a reasoned decision.

Article 183 - If a witness fails to appear at the hearing in spite of being duly served with a summons and does not present a reasonable excuse, the Judge may sentence him to a fine of between 100,000 and 500,000 Lebanese pounds.

A witness who has been fined may request the Judge to exempt him from payment if he presents a lawful excuse.

The Judge may issue a warrant requiring a witness who fails to appear on being notified for the second time to be produced before him, even if has already ordered him to pay a fine.

Article 184 - The Judge may decide, of his own motion or in response to a petition by one of the parties to the case, to call any witness who is present in the courtroom.

If the witness is not proficient in the Arabic language, or if he is deaf or mute, the Investigating Judge shall appoint an interpreter who shall take an oath to perform his duties honestly and with integrity.

Article 185 - The testimony shall consist of the facts and circumstances of the offence charged and the part played by the defendant.

If a witness who is summoned to appear before the Single Judge is the person who reported the offence to the competent authority, the Judge shall draw attention to that fact before hearing his testimony.

If the witness is an informant who reported the offence in return for a reward, the Judge may hear him as a source of information.

Article 186 - The witness shall deliver his testimony orally. He may not be interrupted by the plaintiff, the defendant, or counsel for either party.

- The witness may ask the Judge's permission to consult records or documents when delivering his testimony.

- The Judge may ask the witness to remain outside the courtroom after hearing him so that he may summon him for a second hearing, or to confront him with other witnesses.

- The Judge shall show the witness the exhibits and probative material and question him about them. He may read to him the statement he made during the preliminary investigation or interview and question him about it and if he confirms it.

Article 187 - The parties to the case may not object to the hearing of a witness who has already started his testimony after taking an oath.

A statement by one defendant against the other perpetrators of the offence shall not constitute sufficient evidence of a probative nature. It is for the Judge to assess it in the light of the evidence in his possession.

Article 188 - If it appears that the witness is giving false testimony, the Judge shall instruct the law enforcement authorities to detain him at the police station and shall submit a report on the matter to the Public Prosecutor, stating that the witness has been detained. The Public Prosecutor may prosecute the witness for the offence of perjury in accordance with the relevant rules.

Article 189 - The witness shall sign the record of his statement after it is read to him.

Article 190 - The records and reports contained in the case file shall have probative value only if they are formally sound and the person who compiled them did so in performance of his duties and within the bounds of his competence, setting down what he witnessed, heard or investigated himself.

If the law requires that the record be deemed valid unless there is proof that it has been forged, the Judge shall take it into account. He shall not permit the presentation of contrary evidence of a personal nature.

If under law the record has probative value until there is evidence of the contrary, the defendant may attempt to prove the contrary through written evidence or by means of testimony.

Article 191 - After the Judge completes the procedures he deems necessary to reach a firm conviction, he shall hear the requests of the civil party or the arguments of his counsel and then the property administrator and the surety, as appropriate, or their counsel. The defendant shall, in any event, be the last to take the floor.

The defendant may present his defence himself, even in the presence of his counsel.

Section V

Orders issued by the Single Judge concerning detention

Article 192 - The Single Judge may order the release of the defendant from custody after consulting the Public Prosecutor's Office.

The defendant shall submit his application for release to the Single Judge in duplicate. One copy shall be served on the civil party, if there is one, at his elected domicile if he has no actual place of residence in the town or borough in which the court is located.

If the civil party has not elected a domicile, notice shall be served at the registry of the court.

The civil party may file an objection to the application within twenty-four hours of the date on which he is notified.

On expiry of the time limit, the Single Judge shall rule on the application. If he decides to order the release of the defendant, the civil party may file an appeal against the decision with the Appeal Court to which appeals lie from the Single Judge within twenty-four hours of the date on which he is notified.

If he decides to reject the application, the defendant may file an appeal against the decision within the same period from the date of his notification.

The Public Prosecutor may file an appeal against the Single Judge's decision within twenty-four hours of its delivery.

An appeal by the civil party or the Public Prosecutor filed within the legal time limit shall stay enforcement of the decision.

The civil party or the defendant may file an appeal, within the above-mentioned time limit, against the part of the release order setting the amount of surety to be provided.

The period of detention and the length of the travel ban shall be governed by the provisions of Article 108 of this Code.

Article 193 - The Single Judge may issue a detention order against the defendant if, following an adversarial trial, he decides to sentence him in his presence to a term of imprisonment of more than one year, provided that the order is based on a reasoned decision.

The detention order shall remain in force notwithstanding an appeal against the judgement.

Section VI

Judgements delivered by the Single Judge

Article 194 - At the conclusion of the trial, the Single Judge shall deliver his judgement at the final hearing or at a subsequent sitting.

The judgement shall be signed by the Judge and the clerk, shall bear the date of its delivery and shall contain a clear description of the facts established by the Judge, an itemized list of the supporting evidence, and an appropriately meticulous account of the grounds and reasoning, and of the legal provisions applicable to the offence.

It shall cite the legal basis upon which the Single Judge was seized of the case.

The Judge shall rule on all the objections and questions raised before him by the parties to the case.

He shall rule on the public prosecution and the civil action brought pursuant to the public prosecution or as a direct complaint, and shall deliver his judgement in public.

He may not refer in his judgement to facts that were not invoked or persons who were not formally charged.

Article 195 - If the Single Judge ascertains that the facts that have been established constitute a felony, he shall declare that he lacks jurisdiction to hear the case and shall refer the case file to the Public Prosecutor's Office.

If he finds evidence when hearing the case of offences of which he has not been seized or of persons who have not been charged, he shall refer the case file to the Public Prosecutor's Office so that it may bring charges concerning the facts or against the persons concerned as part of the original statement of charges or as a separate case.

Article 196 - If the Single Judge ascertains that the elements of the misdemeanour charged are complete and that there is sufficient evidence to establish a causal link between it and the act committed by the defendant, he shall uphold the charges, ascertain the applicable legal provisions, convict the defendant and sentence him to the appropriate penalty. He shall award the appropriate damages and rule on all the civil obligations to the civil party if he has filed a claim and if the requisite conditions for the award have been met. If the penalty imposed is a fine or a suspended prison sentence, he shall order the release of the convicted person if he is in detention.

Article 197 - If the Single Judge ascertains that the evidence of the defendant's participation in the commission of the offence with which he is charged is inadequate, he shall find the defendant not guilty and order that he be released forthwith if he is in detention. When delivering the judgement of

acquittal, he shall sentence the civil party to pay damages to the defendant if he files a claim on the ground that the civil party abused his right to bring an action.

If the defendant does not file a claim for damages during the criminal proceedings prior to the disposal of the case, he may file a claim before the same authority in a separate action within three months of the date of notification of the judgement of acquittal or of the Judge's decision to confirm it.

Article 198 - If the Single Judge ascertains that the act charged does not constitute a criminal offence, that it is exempt from punishment, that it is not punishable by imprisonment, that the definition of an offence has ceased to apply to it for any reason, or that the action has been extinguished due to the one of the causes of extinction, he shall discharge the defendant and release him forthwith if he is in detention.

The provisions of the preceding article shall be applicable if a claim for damages is filed.

Article 199 - If the Single Judge ascertains that the act constitutes a contravention, he shall issue a ruling thereon and award damages to the victim if he has filed a claim. He shall order the release of the defendant forthwith if he is in detention.

Article 200 - The costs of the proceedings shall be borne by the party against whom the adjudication was made.

– The civil party may be exempted from all or part of the costs if the Judge ascertains that he acted in good faith, unless he initiated the public prosecution by means of a direct complaint.

Article 201 - The Single Judge may rule on applications for the restitution of impounded articles even if he has decided the merits of the case so that he is no longer seized thereof, unless an appeal has been filed against his judgement.

The Judge's ruling in favour or against the restitution of impounded articles shall be open to appeal.

Article 202 - The Single Judge may expedite enforcement of a portion of the award of damages to the civil party, even if his judgement is open to appeal.

Section VII

Summary rules

Article 203 - Summary rules are applicable to breaches of bylaws, public health regulations and traffic regulations. When any the above-mentioned regulations is breached, whether the breach carries a penalty applicable to a contravention or a criminal offence, the record thereof shall be sent to the Single Judge who shall rule on the legal penalty applicable to the act without summoning the defendant.

The Judge shall deliver his judgement within ten days, unless a shorter legal time limit is applicable.

Article 204 - The facts as set forth in the record shall be deemed to be true unless there were irregularities in compilation of the record.

The Judge shall characterize the facts and specify the legal provisions applicable thereto and shall sentence the defendant unless he ascertains that:

(a) The act with which is the defendant is charged does not constitute an offence, or is completely exempt from punishment;

- (b) That he lacks jurisdiction to rule on the contravention;
- (c) That the public prosecution has been extinguished on some ground.

If he decides to declare that he lacks jurisdiction, he shall refer the case file to the competent Single Judge.

Article 205 - The ruling issued by the Single Judge in respect of any of the above-mentioned contraventions shall be enforceable unless the convicted person files an objection pursuant to the normal rules within ten days of the date on which he is notified thereof.

- The Public Prosecutor may file an objection to the ruling pursuant to the normal rules within ten days of the date of its delivery.

- If the Single Judge decides to dismiss the objection, the penalty imposed shall be increased by a maximum of one half.

Article 206 - The summary rules set out above shall not be applicable if a civil action has been brought in respect of the case.

Article 207 - When the judgement has become final and conclusive, because the time limit for filing an objection has expired, because the objector withdraws the objection, or because the objection has been dismissed, the clerk shall send a summary of the judgement with the annotation "enforceable" to the Public Prosecutor's Office within five days of the confirmation or the judgement.

If the clerk fails to comply with the provisions of this article, he shall be sentenced by the Single Judge to a fine of between 100,000 and 500,000 Lebanese pounds.

Chapter II

Appeals against judgements and decisions of the Single Judge to the Appeal Court

Section I

Exercise of the right of appeal

Article 208 - A defendant who has been convicted may file an appeal against the first-instance judgement either in respect of the sentence imposed or in respect of the damages awarded.

The defendant may file an appeal against an acquittal if he has been sentenced to pay some or all of the judicial costs and against any judgement awarding him damages where the plaintiff abused his right to bring an action.

Article 209 - The property administrator or the surety may file an appeal against a judgement requiring him, jointly with a convicted defendant, to pay damages to the civil party. They may file a separate appeal against the judgement even if the defendant acquiesces thereto. In the latter case, he alone shall benefit from his appeal.

Article 210 - The civil party may appeal against the part of the judgement concerning the civil action. If the civil action is dismissed on the ground of an acquittal, he may file an appeal against the dismissal even if the acquittal has become final because of the lack of an appeal by the Public Prosecutor's Office.

– He may file an appeal against a judgement sentencing him to pay damages to the defendant.

Article 211 - The Public Prosecutor's Office at the Appeal Court may file an appeal against the provisions of judgements pertaining to the public prosecution.

The Public Prosecutor's Office at the Court of Cassation may file an appeal in writing to the Public Prosecutor's Office at the Appeal Court against the initial judgement to acquit the defendant, to exempt him from punishment, to extinguish the public prosecution, or to declare that the Court lacks jurisdiction to hear the case.

Section II

Judgements that are open to appeal

Article 212 - Judgements pertaining to misdemeanours are open to appeal.

Judgements against contraventions are open to appeal only where they involve:

- (a) A sentence of imprisonment or payment of a fine of more than 500,000 Lebanese pounds;
- (b) An additional or subsidiary penalty or an award of personal damages of more than 500,000 Lebanese pounds;
- (c) Dismissal of an objection provided for under Article 73 of this Code;
- (d) A penalty in respect of a contravention joined with a misdemeanour.

Article 213 - Rulings on the merits of a dispute that are not final may be appealed only when the final judgement has been delivered.

Rulings on any objection raised under Article 73 of this Code, rulings on release, and rulings whereby the Single Judge dismisses the case without addressing the merits, shall be exempted from this principle.

Section III

Formal conditions governing the admissibility of an appeal

1. Time limit for appeals

Article 214 - The civil party, the defendant, the property administrator and the surety may file an appeal against an initial judgement within fifteen days of the date of its delivery if it is delivered adversarially, and from the date of his notification thereof if it is deemed to be adversarial, if it is delivered *in absentia* or if it involves the dismissal of an objection on formal grounds.

The Public Prosecutor at the Appeal Court may file an appeal against a judgement within one month of the date of its delivery.

The rules laid down in Articles 165 to 170 of this Code shall be applicable to the characterization of the judgement as being delivered adversarially or *in absentia*.

Article 215 - If the judgement is not delivered at the time specified at the final hearing for its delivery, any party to the case may file an appeal within fifteen days of the date of being notified thereof.

Article 216 - Any party to the case who did not file an appeal against the first-instance judgement within the time limit of fifteen days may file a subsidiary appeal within five days of the date of being notified of the first sitting to hear an original appeal filed by another party to the case.

– Dismissal of the original appeal on procedural grounds shall entail dismissal of the subsidiary appeal.

2. Rules governing the filing of appeals

Article 217 - The appeal is filed through an appeal lawyer with the Appeal Court in the area of jurisdiction of the Judge who delivered the judgement, subject to appeal or through the Judge. The appeal must set out the grounds invoked by the person filing it and his demands.

Article 218 - If the appeal is filed through the Single Judge who delivered the judgement subject to appeal, he shall transmit the appeal together with the case file within three days of the date on which it is filed.

If the convicted person is in detention, the Public Prosecutor's Office shall order his transfer to the detention centre at the Appeal Court. If the person has served his sentence prior to the ruling on his appeal, the Public Prosecutor's Office shall release him forthwith.

Section IV

Effects of the appeal and proceedings at the Appeal Court

Article 219 - The initial judgement shall not be enforced before the expiry of the time limit for an appeal and before a ruling is delivered in the event of an appeal.

The appeal stays enforcement of the judgement appealed against. However, the Judge's provisional award of damages to the civil party shall be payable in advance, unless the Appeal Court issues a ruling to the contrary when examining the initial judgement against which the appeal was filed. An arrest warrant issued by the Single Judge pursuant to Article 193 of this Code shall remain in force unless the Appeal Court decides to release the detainee.

Article 220 - An appeal filed by the Public Prosecutor shall entail referral of the public prosecution as a whole to the Appeal Court, unless it relates to only part of it, in which case its effect is confined thereto.

Where an appeal is filed by the defendant, the Appeal Court shall confine its examination to the part of the judgement appealed against.

The Appeal Court may not consider new facts that might constitute offences and that were not invoked before the Single Judge who delivered the judgement appealed against.

Article 221 - If the defendant is the only party to file an appeal against the initial judgement, the Appeal Court may not impose a more severe sentence or increase the award of damages to the civil party.

Article 222 - An appeal filed only by the civil party shall entail referral of the civil part of the case to the Appeal Court. The Appeal Court may not reduce the amount of the damages awarded to him.

Article 223 - The Appeal Court shall set the date of the appeal proceedings and shall comply with the ordinary rules governing proceedings before the Single Judge. The Public Prosecution Service shall be represented before it by the Public Prosecutor or by one of his Advocates-General.

It shall hear the petitions, as applicable, of the civil party or his counsel, if either of them is present, and the arguments of the representative of the Public Prosecutor's Office. It shall then hear the arguments of counsel for the defence and the defendant himself if he so requests.

If it is satisfied with all the facts and evidence contained in the case file, it shall close the proceedings and deliver its judgement at the end of the hearing, or adjourn the hearing for it to be delivered at a later date.

Article 224 - If the Court finds it necessary to obtain further information, it shall summon the witnesses and undertake any investigative measures that it considers useful at a public hearing, or shall instruct one of its members to undertake a supplementary investigation in accordance with the normal rules.

When the supplementary investigation has been completed, the relevant documents shall be added to the case file, and all the parties may examine them and discuss them at a public hearing.

Article 225 - When the Appeal Court concludes its investigative measures, it shall decide to set aside, amend or uphold the outcome of the appealed judgement, replacing the reasoning on which the latter judgement was based with its own reasoning.

Article 226 - When the Court sets aside the appealed judgement and decides to acquit the defendant or to discontinue the proceedings, it shall order his immediate release if he is detained and shall dismiss the civil action.

A defendant who is acquitted or exempted from punishment may seek an award of damages against the plaintiff who abused his right to bring an action, in accordance with the provisions of Article 197 of this Code.

Article 227 - When the Public Prosecutor's Office files an appeal against the initial judgement, the entire case shall be heard by the Appeal Court. If the Court ascertains that the facts of the case constitute a felony, it shall set aside the appealed judgement and declare that it lacks jurisdiction. It may issue a detention order against the defendant and transmit the case file to the Public Prosecutor's Office for referral to the Investigating Judge.

A dispute regarding jurisdiction when its ruling is confirmed shall be settled through the procedure for settling conflicts of jurisdiction between different courts in criminal matters.

Article 228 - When the Appeal Court ascertains that the Single Judge who delivered the appealed judgement was not competent to hear the case, it shall set aside the judgement on the ground of lack of jurisdiction and transmit the case file to the Public Prosecutor's Office so that it may take the requisite action.

Article 229 - When the Appeal Court ascertains that the act charged is a contravention, it shall issue a ruling thereon after setting aside the appealed judgement.

Article 230 - If the Appeal Court sets aside the appealed judgement because of a failure to comply with the law or because it breaches the fundamental rules of procedure, it shall examine the merits of the case and issue a ruling.

Article 231 - An application to set aside may be filed against a judgement delivered by the Appeal Court *in absentia*, in accordance with the rules governing applications to set aside a judgement *in absentia* delivered by the Single Judge and within the same time limit.

Article 232 - The Appeal Court may decide, after consulting the Public Prosecutor's Office, whether it is appropriate to release a detained defendant. Its decision is not open to any kind of review.

Chapter III The Criminal Court

Section I General provisions

Article 233 - The Criminal Court is composed of the President and two Auxiliary Judges. It shall be convened in the presence of the Public Prosecutor or Advocate-General and the clerk. It shall be seized of cases pursuant to an indictment accompanied by the statement of charges issued by the Public Prosecutor's Office.

The Court shall examine offences constituting felonies and related misdemeanours. It may not examine any offence that is not included in the indictment or prosecute a person who has not been indicted. It may amend the legal definition of the acts described in the indictment.

Article 234 - Anyone who was involved in the case at the prosecution or investigation stage, or who was a member of the Indictment Division that drew up the indictment may not be included in the composition of the Criminal Court.

Article 235 - The record of the proceedings shall note, at the beginning of each hearing, the names of the President of the Court, the two Auxiliary Judges, the representative of the Public Prosecutor's Office and the clerk, and the time at which the hearing was opened. It shall be signed by all of the aforementioned, except the representative of the Public Prosecutor's Office, at the end of each hearing. If any of them fails to sign, the hearing shall be null and void. The record shall contain an account of all investigative measures and proceedings. The President shall issue instructions to the clerk regarding the material to be recorded.

Section II Preparations for proceedings before the Criminal Court

Article 236 - The Public Prosecutor shall prepare a list of witnesses for the prosecution and serve a copy thereof, together with a copy of the indictment, on the accused.

Once the notification procedure has been completed, the Public Prosecutor's Office shall transmit the case file to the Criminal Court after ordering the detained accused to be brought to the detention centre at the Court. Proceedings that are conducted without ensuring that the indictment and the list of witnesses for the prosecution have been served on the accused, as well as the resulting judgement, are liable to annulment.

Article 237 - The President of the Court or an Auxiliary Judge delegated by the President shall question the accused who has been produced before it prior to the court hearing.

If the accused is not in detention, the President of the Court shall issue a summons requiring him to surrender within twenty-four hours of the beginning of the proceedings. If he surrenders within the stated period, he shall remain in detention until a release order is delivered. If he fails to do so without a reasonable excuse, he shall be deemed to be a fugitive from justice and an enforceable arrest warrant shall be issued against him.

Article 238 - During the preparatory questioning, the accused shall be asked whether he has been served with the indictment and the list of witnesses for the prosecution and whether he has

appointed counsel to assist him during the proceedings. He shall also be questioned about his social circumstances and asked to comment on the charge against him and the investigations on which it is based.

If the accused has not appointed counsel, the President or the Auxiliary judge appointed by him shall ask the President of the Bar Association to appoint a defence counsel within twenty-four hours of the time of his notification or shall appoint counsel himself.

A record of the preparatory questioning shall be signed by the President or delegated the appointed Auxiliary Judge, the accused and the clerk.

Section III

The trial

Article 239 - All the parties are entitled to examine the case file and to have a copy thereof.

Article 240 - The civil party before the Criminal Court shall appoint a defence counsel.

If more than one perpetrator was involved in the commission of a single felony or several related felonies and separate indictments were issued against them or against some but not others, the President of the Court shall order the decisions to be joined in a single case.

Article 241 - If the indictment comprises unrelated felonies, the President of the Court may decide to deal with some of the felonies at the beginning of the proceedings against the accused and to deal subsequently with the others.

Article 242 - The President of the Criminal Court shall set a date for the proceedings and summon the civil party and the witnesses. He shall issue an order requiring an accused who was at liberty during the initial investigation to surrender to the Court twenty-four hours before the commencement of the proceedings.

The time limit shall begin to run on the date on which notice is served pursuant to the provisions of Articles 147, 148 and 149 of this Code.

If he surrenders within the time limit, he shall be tried adversarially and the arrest warrant against him shall be enforced. If he does not, he shall be tried *in absentia* and the proceedings shall be held according to the rules governing the trial of a fugitive from justice.

Article 243 - Before ruling on the merits of the case, the Court shall take the following decisions:

(a) A decision on an objection to jurisdiction on the ground that the accused was a minor on the date of commission of the felony with which he is charged;

If the Court decides to declare that it lacks jurisdiction and if there is another accused in the case, it shall separate the proceedings and refer the minor's file to the Public Prosecutor's Office for transmission to the Juvenile Court.

(b) A decision on one or more procedural objections filed by the parties to the case;

(c) A decision on the defence arguments on the merits;

(d) A decision on whether to stay enforcement of the arrest warrant pending completion of the institution of legal proceedings before the Court if the accused was released during the initial investigation;

(e) A decision on whether to release the accused if he is in detention.

The accused shall be released on condition that he elects a domicile in the town or borough in which the Court is located so that he may be served there with documents and writs, that he presents himself at the Court twenty-four hours before each hearing and that he pays the surety determined by the Court unless he remains in detention during the period running from the final hearing of the proceedings until delivery of the judgement. If he fails to attend a hearing without a reasonable excuse, he shall be deemed to be a fugitive from justice and the rules applicable to the trial of a fugitive shall be applied.

- The Court may decide to issue a travel ban against the accused pending delivery and enforcement of the judgement.
- The Court may not rule on an application for release until it has consulted the Public Prosecutor's Office.
- The Court shall comply with the provisions of Article 108 of this Code.
- The ruling on an application to release the accused shall not be open to appeal.

Article 244 - The parties to the case may request to call witnesses before the initiation of the proceedings or during the trial.

The Public Prosecutor and the civil party shall be notified of the list of witnesses called by the accused at least twenty-four hours before the time set to hear their testimony. The accused shall also be notified of the list of witnesses called by the civil party or the Public Prosecutor within the same time limit.

The President of the Court may decide of his own motion to summon experts who performed forensic duties pertaining to the case in order to question them to seek clarification of their opinions and any other witnesses whose testimony he might consider useful.

The costs of summoning the witnesses and their travel expenses shall be borne by the accused and the civil party who called them.

Article 245 - If the President of the Court ascertains before the commencement of the proceedings that the information available in the case is incomplete, he shall order a supplementary investigation to be conducted in the presence of the parties and shall either undertake it himself or delegate one of his Auxiliary Judges to do so. On completion of the supplementary investigation, the records thereof shall be added to the case file.

Article 246 - The President of the Court shall oversee the maintenance of order in the courtroom and take whatever steps are required to ensure the smooth progress of the proceedings. The members of the law enforcement authorities responsible for court security shall comply with his orders in this regard.

If any of those present at the hearing cause a disturbance, the President shall order their expulsion from the courtroom.

If they resist the order, the President may order that they be placed in detention for twenty-four hours. If their conduct constitutes a misdemeanour, a record of the act shall be compiled, the Court shall take up the matter immediately, prosecute them adversarially, and sentence them forthwith.

Article 247 - The President is vested with discretionary authority and may take any measures he deems necessary to shed light on the facts provided that this does not stem from a prejudiced view of the case.

Article 248 - The President shall structure the hearing and the discussions in whatever manner he deems appropriate. He is entitled to reject any request that may unreasonably prolong the proceedings.

Unless a party to the case raises an objection to the hearing of a witness on legal grounds, he shall hear the witnesses after they take the oath . In the event of an objection, he shall then decide to dismiss the witness or to hear him as a source of information. He may sentence a witness who has been duly summoned and fails to appear at the hearing to a fine of between 100,000 and 500,000 Lebanese pounds.

A witness who has been sentenced to a fine may apply for an exemption if he presents a valid excuse.

The President of the Court may order any witness who has failed to attend the Court for a second time after being summoned, even if he has already been fined by him.

The President of the Court may attach to the file any papers and documents that he deems necessary to shed light on the facts, together with the other communications and documents in the case file. He may consult the initial or preliminary investigation file or the judicial file in order to deliberate on the statements contained therein and may seek expert assistance in clarifying technical points. Where he wishes to hear a witness who is resident outside his area of jurisdiction, he may appoint the Investigating Judge with jurisdiction in the area of the witness's domicile or place of residence.

Article 249 - Proceedings before the Criminal Court shall be held in public unless the President decides to hold them *in camera* to preserve law and order or public morals.

The trial hearings shall be held daily until the final disposal of the case, unless the circumstances of the case require the deferral of a hearing, which shall be held at the earliest convenient time.

Records of the proceedings shall be compiled. The bench and the clerk shall sign the record.

If the civil party fails to attend the proceedings without a lawful excuse, the trial shall be held in his absence and the public prosecution shall proceed. If he attends some hearings and presents his claims on such an occasion, the Court may award him personal damages.

Article 250 - The proceedings shall be conducted orally. The President may decide to make an audio or visual recording thereof. All evidence to be used in deciding on the merits of the case shall be discussed by the parties in public; all criminal exhibits must be produced in court and the records of their seizure shall be read out. All of the parties may comment thereon.

Article 251 - The accused shall appear before the Court at the trial hearing without instruments of restraint. He shall be guarded by members of the law enforcement authorities to prevent him from escaping.

The President shall enquire about his family name and given name, his parents' names, his nationality, date and place of birth, civil register number, place of residence, occupation and level of education, whether he is married or single, and whether he has a criminal record and, if so, the type of offence of which he was convicted and whether he has served his sentence. He shall also ask him whether he has appointed defence counsel.

The proceedings shall not be held in the absence of counsel for the accused.

If he has not appointed counsel, the President of the Court may ask the President of the Bar Association to appoint defence counsel for the accused, or he may appoint counsel himself.

If the accused insists that no defence counsel shall be appointed, his trial shall take place without counsel.

Article 252 - The President shall alert the accused to his obligation to pay attention to the facts set forth in the indictment.

The President or the Auxiliary Judge delegated by the President shall read out the indictment clearly. The civil party, the representative of the Public Prosecutor's Office and the accused shall not interrupt the reading by making observations.

After the reading, the President shall summarize for the accused the facts with which he is charged in the indictment, the supporting evidence and the legal definition. The civil party shall then report the outcome of his civil action and present his claims or waive his rights with respect to the case. Finally, the representative of the Public Prosecutor's Office shall state the grounds for the indictment and present the list of witnesses for the prosecution. The clerk of the court shall read out the list.

Subject to the provisions of Article 244, the civil party, the representative of the Public Prosecutor's Office and the accused may raise an objection to the hearing of a witness whose name does not appear on the list with which he was served. The Court shall rule on the objection at the same hearing or at the following one.

The President of the Court may decide, exercising his discretionary authority, to hear all or some of the witnesses whose names are listed. He may also hear one or more witnesses whose names do not appear on the list of witnesses.

Article 253 - Before the President of the Court questions the accused, he shall order that the witnesses be conveyed to the room reserved for them, where the law enforcement authorities shall guard them and prevent them from disclosing what they intend to say in their testimony.

– After the witnesses have left the courtroom, the President shall ask the accused whether he pleads guilty to the charge against him. The President shall then proceed with the questioning after ascertaining that the accused is able to understand the questions put to him and that his statements are made entirely freely.

If the accused refuses to answer and remains silent, he may not be compelled to speak. If he suffers from a physical, psychological or mental illness, or shows signs thereof during the questioning, the court may seek the assistance of a medical expert, of its own motion or in response to a petition by one of the parties, to diagnose his condition. The doctor whose assistance is sought shall provide full details in his report of the diagnosis he has been asked to provide. He may not use his assignment to coerce the accused to provide him with information regarding the offence for which he is being tried.

When the President concludes his questioning of the accused, the two Auxiliary Judges, the civil party, the representative of the Public Prosecutor's Office, and counsel for the defence may put questions to him through the President, who is entitled to reject any question if he considers that it will not be helpful or useful in shedding light on the facts.

The questions and answers shall be noted with the requisite precision and clarity in the record of the proceedings.

Article 254 - If the accused is mute or deaf, the President of the Court shall appoint a person who can communicate with him in sign language or in some other way after taking an oath to perform his duties honestly and with integrity. If a deaf or mute person is able to write, the questions and his answers shall be recorded in writing.

If the defendant does not understand the Arabic language, the President of the Court shall appoint a qualified interpreter, who shall begin his work after taking an oath to perform his duties honestly and with integrity.

After the questioning of the accused, his statement shall be read to him clearly. He shall confirm it or make observations regarding it if necessary, and this shall be noted in the record of the proceedings.

Article 255 - On completion of the questioning of the accused, the President shall call each witness to give testimony in the absence of the other witnesses. He shall ask each witness to state his name, his parents' names, his domicile or place of residence, his age, the closeness of his acquaintance or relationship with the accused and the civil party, whether he is related to either of them and, if so, the degree of kinship. The witness shall then swear the following oath:

"I swear by almighty God to tell the truth, the whole truth and nothing but the truth." He shall then deliver his testimony orally and the clerk shall note it in the record of the proceedings.

If the witness does not swear the oath in the form specified above, his testimony shall be void unless the President exempts him from taking the oath on ascertaining that he belongs to a denomination that precludes him from taking it.

Article 256 - The Court shall hear the following as a source of information:

- (a) The ascendants and descendants of the accused;
- (b) His full brothers and sisters, his half brothers and sisters, or his relatives by marriage to the same degree;
- (c) The spouse of the accused, even after a divorce;
- (d) The civil party;
- (e) A minor of less than 18 years of age.

The Court may hear the testimony of all those witnesses after they take the legal oath unless one of the parties to the case raises an objection thereto.

Article 257 - The testimony of an informant who reported the offence to the competent authorities without receiving a fee or reward for the information shall be admissible. In order for such evidence to be admissible, the Public Prosecutor shall reveal the status of the informant before he is heard.

If the informant received any kind of fee or reward for the information he provided, his testimony shall be inadmissible if any party to the case raises an objection. The President of the Court may still hear him as a source of information.

A Judicial Police officer is prohibited from mentioning the name of an informant when giving testimony.

Article 258 - A person who is pledged to professional secrecy may not be compelled to give testimony if the testimony would result in a breach of the confidential information that he is required to protect.

If a witness is pledged to professional secrecy and a party objects thereto, the Court shall rule on the dispute in the light of the law governing his profession and the nature of his work.

Article 259 - The Court may hear a witness who attends without a summons if his name appears on one of the lists of witnesses to be heard.

Article 260 - A witness may not be interrupted when testifying.

– The civil party, the representative of the Public Prosecutor's Office, the two Auxiliary Judges and the accused may put questions to the witness through the President.

– The President of the Court may decide to reject a question that does not serve to shed light on the facts.

Once the witness has testified, the President shall ask him whether his testimony concerned the accused in the dock. He shall then invite the accused to make any observations in respect of the witness's statement. He may then arrange any confrontation that he deems necessary between the accused and the witness in order to shed light on the facts.

The statement shall be read in public and the witness shall confirm it.

After delivering his testimony, the witness may not leave the courtroom until permitted to do so by the President.

Article 261 - If there are discrepancies or variations between the witness's testimony and his statements during the initial or preliminary investigation, or if he has changed his testimony, the President shall order the clerk of the court to note that fact in the record.

The civil party, the representative of the Public Prosecutor's Office and the accused may request that such discrepancies or variations be noted in the record of the proceedings.

If the discrepancy or variation in the witness's testimony contributes to the belief that the witness gave false testimony, the President of the Court may, of his own motion or in response to a petition from the aforementioned persons, order his arrest.

The representative of the Public Prosecutor's Office shall charge him with perjury. The charge shall be noted in the record of the proceedings. The President of the Court or one of his two Auxiliary Judges shall then question the witness regarding the offence of perjury with which he is charged or he shall delegate one of the other Judges to do so.

The person entrusted with the investigation shall question the witness who has been charged and gather information concerning the charge without expressing his opinion regarding the investigation. After completing the investigation, he shall transmit the file to the Public Prosecutor's Office, which shall draft its submission and forward it to the Indictment Division. The Division shall issue a ruling to indict or not to indict. If it decides to indict the witness on a felony charge of perjury, the Court shall rule thereon before or in conjunction with the original case.

An appeal against the Indictment Division's ruling may be filed with the Court of Cassation.

Article 262 - In the case of a charge of perjury as set out in the preceding article, the representative of the Public Prosecutor's Office, the civil party and the accused may request that the hearing in the original case be deferred until a ruling is delivered in the perjury case. The Court shall rule on the petition. It is also entitled to issue such a ruling of its own motion.

Article 263 - After the witness has finished his testimony, the President of the Court may order, of his own motion or in response to a petition from the representative of the Public Prosecutor's Office, the accused, or the civil party, the removal of specific witnesses from the courtroom and the admission of one or more of those removed to hear their testimony separately or in the presence of the others or

of some of them, to arrange a confrontation between them, to show them the exhibits that have been seized and to discuss them with the accused.

Article 264 - The President of the Court may, before hearing a witness or during his testimony, have the accused temporarily removed from the courtroom in order to seek explanations from a witness separately or jointly with others. Counsel for the accused shall be present when the explanations are sought from the witness. If counsel leaves the room, his departure shall not invalidate the testimony given in his absence. However, the Court may not proceed with the trial until the accused has been returned to the courtroom and informed of the testimony given in his absence.

If the accused causes a commotion or disturbance in the courtroom while a witness is being heard or during the proceedings, the President of the Court shall order him to desist. If he continues, the President shall order that he be removed from the courtroom, that he remain outside, and that the proceedings continue in his absence.

On conclusion of the hearing, the President of the Court shall order that the accused be notified of the measures taken after his removal, and his notification thereof shall be noted in the record of the proceedings.

Article 265 - A witness who has been fined may raise an objection to the fine before the Court. The Court shall consider his plea and issue a ruling on the objection that may not be appealed on any ground.

- The fine shall be enforced in accordance with the provisions governing the enforcement of fines.

Article 266 - If the Court decides not to further summon a witness on whom it was unable to serve the summons in due form, his statement shall be read out in public before the Investigating Judge and it shall then be discussed between the parties.

- If it appears that a witness did not take the oath before giving his testimony, the President of the Court may summon him again so that he may take the oath at a public hearing and ask him whether he confirms the previous testimony. If he does, the Court may rely on it in its judgement.

Article 267 - If a witness is deaf or mute, or is not proficient in the Arabic language, the provisions of Article 254 of this Code shall be applied when hearing his testimony.

Article 268 - If the Court decides to visit the place in which the offence occurred, it shall set a date and serve notice on all parties to the case. If one of them fails to appear, the Court shall carry out its investigations in his absence. The missing party may seek the information thereon in the case file.

Article 269 - The President of the Court or the Auxiliary Judge whom he delegates may undertake a supplementary investigation pertaining to the case before the Court and compile a record of a search for clues that are liable to disappear and that might assist in uncovering the truth, or to hear a person who is close to death. The person responsible for the investigation shall keep records of what has been seized, or of the information heard, and shall send them to the Court for discussion at a public hearing.

Article 270 - When the Court finishes hearing witnesses and gathering and discussing evidence, it shall hear the claims of the civil party. The representative of the Public Prosecutor's Office shall then present his evidence and arguments and make his submissions. Counsel for the defence shall then present his client's arguments and shall also specify his grounds of defence. The Court shall then hear the final statement of the accused and close the proceedings.

Article 271 - After the closure of the proceedings, the civil party, the representative of the Public Prosecutor's Office and the accused may file a petition for their reopening, stating the grounds in support of the petition. The Court shall grant the petition if it appears to be reasonable and acceptable, or if it is based on significant grounds that require further discussion.

Article 272 - After the President of the Court announces the closure of the proceedings, he shall withdraw to chambers with the two Auxiliary Judges to deliberate on the case and scrutinize the indictment, the Court's final investigation, the documents and records contained in the case file, the claims of the civil party, the arguments of the representative of the Public Prosecutor's Office, the pleadings of counsel for the accused and the final statement of the accused. The Court shall then confer on all the material scrutinized and deliver its unanimous or majority verdict that same day or within no more than ten days. The judgement must be signed by the President, the two Auxiliary Judges and the clerk.

- Where a member of the Court fails to sign the judgement, it shall be liable to annulment.
- Where a member of the Court dissents from the judgement, he shall record his dissent and sign it.

Article 273 - If the Court ascertains that the act in question was committed, that the characterization of the offence is valid, and that the evidence shows that it is attributable to the accused, it shall convict him and impose the requisite penalty. It shall also rule on the damages to be awarded to the civil party if a claim for damages has been filed. It shall confiscate the seized items or return them if there is no reason to confiscate them. It may also decide on one or more preventive measures and one or more ancillary or additional penalties.

The Court may decide to impose concurrent sentences pursuant to Article 205 of the Criminal Code.

Article 274 - If the Court ascertains that the evidence in the case file is insufficient to convict the accused, it shall acquit him. If it ascertains that the act attributed to the accused does not constitute an offence or does not entail a penalty, it shall discontinue the proceedings.

If it ascertains that some elements of the felony attributed to the accused are incomplete and that the act constitutes a misdemeanour, it shall amend the legal characterization contained in the indictment, convict the accused of a misdemeanour, and sentence him accordingly.

The judgement delivered by the Criminal Court shall contain the following elements:

- (a) A reference to the indictment on the basis of which the Court was seized of the case and to the charges laid before it by the Public Prosecutor's Office pursuant to the indictment;
- (b) A clear summary of the civil party's claims, the pleadings of the representative of the Public Prosecutor's Office and counsel for the accused, and a reference to the content of the final statement by the accused;
- (c) A clear summary of the facts drawn from the indictment and the judicial proceedings;
- (d) An itemized list of the evidence and the grounds necessitating conviction or acquittal;
- (e) A statement of the nature of the offence, identification of the legal characterization applicable thereto and a citation of the relevant legal article;
- (f) Specification of the penalty on conviction;
- (g) A statement of the amount of personal damages;

(h) An order for fees and costs.

The Court shall specify in its judgement any aggravating factual circumstances, followed by grounds of excuse, aggravating personal circumstances and mitigating circumstances.

If any ground exists that might justify the act committed by the accused, the Court shall ascertain its existence before deciding that the act does not constitute an offence and hence that the accused is not accountable.

In all cases, the Court shall rule on all previously joined objections pertaining to the merits, and shall examine any defence argument and any petition filed by the parties to the case.

Its judgement shall be adequately reasoned, without ambiguity, obscurity or inconsistency.

Article 275 - The President of the Court or an Auxiliary Judge delegated by the President shall read out the judgement at a public hearing in the presence of the representative of the Public Prosecutor's Office, the accused, and the civil party. If the accused or the civil party does not attend, the judgement shall nevertheless be read out in his absence. The clerk of the court shall sign the judgement after the reading. He shall then compile a record of the reading of the judgement at the dictation of the President, who may include the conclusions of the judgement therein.

The President, the two Auxiliary Judges and the clerk shall sign the record.

If, during the reading of the judgement, a convicted accused causes a disturbance, a commotion or disorder in the courtroom, the President shall order that he be removed and the reading of the judgement shall proceed in his absence.

If the conduct of the convicted accused constitutes a misdemeanour, the President shall record the fact and the Court shall examine the offence and sentence him forthwith. The accused may raise a defence during the proceedings pertaining to the misdemeanour that he committed.

Article 276 - If the Court has acquitted the accused or discontinued the proceedings against him, it shall release him forthwith unless he is detained on another ground. He may not be prosecuted subsequently for the same act, even if it is defined in different terms.

If the Court ascertains in the course of the proceedings that the accused committed an offence that is not contained in the indictment, it shall remand him in custody, if the act constitutes a felony, to the Public Prosecutor's Office so that it may initiate the prosecution and refer the matter to the appropriate judicial authority.

If the act constitutes a misdemeanour, it shall prepare a report on the matter and transmit it to the Public Prosecutor's Office.

If it ascertains that the act with which the accused is charged was committed by another person, it shall, after acquitting the accused, send the case file to the Public Prosecutor's Office so that it may prosecute the suspect and bring him before the appropriate judicial authority.

Article 277 - The accused may, prior to the closure of the proceedings, file a claim for damages against the civil party on the ground that he acted in bad faith, abused the right to bring an action, or committed an error in exercising that right. If the Criminal Court acquits the accused or discontinues the proceedings against him, it shall award him appropriate damages to cover the damage suffered.

Article 278 - If the judgement of acquittal of the accused is based on a lack of evidence, insufficient evidence or doubt, the civil party may file a claim before the Criminal Court for the damages he sustained, based on the facts set out in the indictment.

If he filed no claim for damages during the proceedings and prior to their closure, he may still file a claim pursuant to the provisions of the preceding article.

Article 279 - If the Court ascertains that the act with which the accused is charged does not constitute a felony but a misdemeanour or a contravention, or if the relevant legal provision has been amended so as to render the act a misdemeanour or a contravention, the Court shall proceed with the case and deliver a judgement.

Article 280 - If the accused is acquitted or the proceedings discontinued, the civil party shall be ordered to pay the fees and costs of the case. He may be fully or partially exempted from payment if it is found that he acted in good faith or if it was the Public Prosecutor's Office that initiated the public prosecution. However, if the civil party initiated the public prosecution through a direct complaint, thereby acquiring the status of a civil party, he may not be exempted. If he paid a sum of money in advance in connection with his civil action, the amount in excess of the fees and costs of the case shall be reimbursed.

Article 281 - The judgement delivered by the Criminal Court shall be recorded in a special register of judgements. The original copy of the judgement shall be kept in the case file and shall be signed by the bench that delivered the judgement and by the clerk.

Section IV

Rules governing the prosecution of an accused who is a fugitive from justice

Article 282 - If the Indictment Division decides to indict a person, it shall issue an arrest warrant against him.

The Public Prosecutor's Office shall serve the accused with a copy of the indictment, the list of prosecution witnesses and the arrest warrant, in accordance with the rules laid down in Articles 147, 148 and 149 of this Code, and shall refer the case file to the Criminal Court together with its statement of charges based on the indictment. No actions may be taken that are contrary to the provisions of the indictment.

Article 283 - As soon as the file is referred to the Court, the President shall convene a sitting to examine it. He shall issue a summons requiring the accused to surrender to the Court twenty-four hours before the beginning of the proceedings. If the summons is served and he fails to surrender to the Court, the Court shall try him *in absentia* and regard him as a fugitive from justice. It shall order the enforcement of an arrest warrant against him and deprive him of his civil rights, prevent him from disposing of his property and from bringing any case unrelated to his personal circumstances during the period of his flight, and to appoint a trustee to administer his property during that period.

The trustee may not dispose of the convicted person's property without special permission from the Criminal Court.

The Public Prosecutor's Office shall inform the property registration department of the Court's decision in this regard so that it may be noted automatically on the pages pertaining to the property of the accused.

Article 284 - The summons shall be served on the accused by way of publication and by posting it for a period of ten days at the entrance to his last place of residence, displaying it in the public square of his town or village, and posting it at the entrance to the courtroom.

If the accused has no domicile or no known place of residence in Lebanon, he shall be notified exceptionally through publication of the decision, at the State's expense, in two local newspapers designated by the Court and in the Official Journal. It shall also be published by posting it at the entrance to the registry of the Criminal Court.

Article 285 - A fugitive accused may not be represented by counsel at court proceedings conducted *in absentia*. However, a person appointed by him may present an excuse on his behalf after providing evidence of his having been appointed to represent him. If the Court accepts the excuse, after verifying its validity, it shall defer the proceedings until a later date. If the accused does not surrender to the Court twenty-four hours before the new date set, the trial *in absentia* shall proceed.

Article 286 - After the Court has decided to try an accused *in absentia*, the President shall order the reading of the indictment, the writ of summons and the record of its publication and display. It shall then hear the testimony of the civil party and the arguments of the Public Prosecutor's Office and shall close the proceedings.

Article 287 - The Court, after reaching a firm conviction, shall deliver its judgement, either by acquitting or convicting him, and imposing a sentence and confirming that his immovable and movable property is administered by a trustee, whom it shall appoint if he was not appointed during the proceedings, and shall confirm its decision to enforce the arrest warrant issued against the accused.

The accused shall remain deprived of his civil rights from the date of delivery of the judgement until the expiry of the prescription period applicable to the sentence imposed until he surrenders to justice or until his death.

Article 288 - The Public Prosecutor's Office shall have a summary of the judgement published in the Official Journal and in a local daily newspaper within eight days of the date of its delivery. A copy thereof shall be posted at the entrance to the last place of residence of the accused; another shall be displayed in the public square of his town or village; and a third shall be posted at the entrance to the courtroom of the Criminal Court. The summary shall also be communicated to the Secretary of the Land Registry.

The judgement shall enter into force on the date following its publication in the Official Journal.

Article 289 - Throughout the entire period that the property of the fugitive convicted person is being administered by the trustee, his wife, children, parents, and anyone in respect of whom he is the legal provider, may file a petition concerning the trustee with the Summary Affairs Judge whose office is located within the area of jurisdiction of the Criminal Court that delivered the judgement, requiring the trustee to grant them monthly maintenance which shall be levied on the convicted person's property. The Judge shall issue a decision specifying the amount of the maintenance, taking into account the circumstances and needs of each of the petitioners.

The civil party may also file an application concerning the trustee with the same Summary Affairs Judge, requiring the trustee to pay him an interim advance in respect of the damages awarded to him.

The decision shall be applicable to the immovable and movable property of the convicted person through the Enforcement Department.

Article 290 - If the Court ascertains that insufficient investigations have been undertaken to convict the fugitive accused, it shall delegate one of its members to undertake a supplementary investigation in accordance with the normal rules and to add it to the case file. It shall then deliver a judgement on the case.

Where it ascertains that there is insufficient evidence against him, it shall acquit him, or it shall discontinue the proceedings if it considers that the act with which he is charged does not constitute an offence or does not carry a penalty, or that he is not accountable where it ascertains that he can invoke a justifiable ground. It may also redefine the act charged if it constitutes a misdemeanour and sentence him for a misdemeanour.

Article 291 - The conviction of a fugitive accused of a felony may not be challenged or appealed before the Court of Cassation.

If the Criminal Court characterized the act described in the indictment as a misdemeanour, the person convicted *in absentia* may challenge the judgement before it. The challenge shall be governed by the procedure applicable before the Appeal Court when ruling on misdemeanours.

If the Court decides to discharge the convicted person of the count of felony and to compel him to pay damages, he may file an objection against the award of damages within fifteen days of the date of receiving notice thereof.

If a civil action for a felony is extinguished as a result of the expiry of the ten-year prescription period, the accused person sentenced to pay damages to the civil party may appeal the judgement within fifteen days of the date of his notification thereof.

In all cases in which an objection is filed against the amount of personal damages awarded, the Court shall examine the basis of assessment of the damages awarded in the light of Articles 133 and 134 of the Obligations and Contracts Act.

The civil part of the judgement *in absentia* shall be confirmed, once the notification procedures have been completed, pursuant to the relevant provisions of the civil rules.

The beneficiary of the adjudication shall receive enforceable personal damages pursuant to the rules governing the enforcement of civil judgements.

If the person convicted *in absentia* is acquitted or it is ruled that the proceedings against him should be discontinued, he may sue the enforcer for unjust enrichment.

Article 292 - If the fugitive convicted person surrenders or is arrested before the extinction of the sentence on expiry of the prescription period, the Court shall declare the extinction of the judgement delivered against him *in absentia* and of the other procedures undertaken from the date on which it was seized of the case. It shall further prosecute the accused in accordance with the normal rules laid down in Articles 236 *et sequitur* of this Code. It shall deliver its judgement in accordance with those rules.

If some witnesses cannot be heard before the Court, it shall suffice to read out and deliberate on the testimony that they gave during the preliminary or judicial investigation.

Article 293 - The flight of one of the co-accused may not be invoked as a ground for deferral of the trial or any delay in hearing the case against the other accused.

Article 294 - If the convicted person who is a fugitive from justice is arrested and denies his identity, the Criminal Court that delivered the judgement against him shall verify his identity.

Chapter IV
The Court of Cassation

Section I

Jurisdiction of the Court of Cassation

Article 295 - The Court of Cassation has jurisdiction in the following cases:

- (a) Applications to set aside judgements delivered by Criminal Courts and rulings issued by Criminal Appeal Courts and the Indictment Division;
- (b) Other applications to set aside falling within its jurisdiction pursuant to special laws;
- (c) Applications for retrial of criminal cases;
- (d) Applications for designation of a judicial authority;
- (e) Applications for transfer of a case;
- (f) Offences committed by Judges.

Section II

Grounds for setting aside judgements delivered in cases concerning felonies

Article 296 - Judgements delivered by Criminal Courts may be set aside on any of the following grounds:

- (a) Delivery of the judgement by a body that was not legally constituted;
- (b) A breach of the law or an error of interpretation or application of the law;
- (c) A breach of the rules of jurisdiction;
- (d) Non-compliance with the applicable procedures entailing nullity, or infringement of fundamental standards during the trial;
- (e) A judgement concerning an offence that was not mentioned in the indictment, or against a person who was not charged therein;
- (f) Failure to rule on a plea or ground of defence or an application filed by a party to the case, or a judgement exceeding the content of the application;
- (g) A non-reasoned judgement, or a discrepancy between the reasoning and the judgement clause or a discrepancy within the judgement clause itself;
- (h) Distortion of the facts or of the clear content of the documents presented in the case file;
- (i) Lack of a legal basis;
- (j) Judgements imposing the death penalty.

Article 297 - A party to a case may not appeal against a judgement on the ground of a breach of a legal rule established in the interests of another party.

Article 298 - The Public Prosecutor's Office and the convicted person may file an application to set aside a judgement on one or more of the grounds of cassation set out in Article 296 of this Code. If it

is set aside on the basis of an application by either of them, the public prosecution shall be conducted before the Court of Cassation, which shall proceed on the basis of the rules applicable to a Criminal Court and shall issue a final ruling on the case. An application to set aside filed by the civil party shall be confined to the civil portion of the judgement or the appealed decision.

If the appealed judgement acquitted the accused, discontinued the proceedings, or found that he was unaccountable, he shall not be tried as a detainee before the Court of Cassation unless a reasoned decision is taken to place him in detention. The provisions of Article 108 of this Code shall be applicable.

If the judgement by the Public Prosecutor's Office led to the accused being charged or convicted, the person concerned shall be kept in custody during his trial at the Court of Cassation in accordance with the provisions of Article 108 of this Code.

Article 299 - An application to set aside filed by a person sentenced for a felony shall be admissible if he is in detention or if he has served his sentence. The Court of Cassation may not release a detained convicted person before setting aside the contested judgement.

Article 300 - If the penalty imposed in the contested judgement is that applicable by law to the offence, the convicted person may not file an application to set it aside on the ground of an error in citation of the legal clause applied.

Article 301 - The civil party may appeal against the judgement if the personal damages awarded are less than those claimed.

Section III

Grounds of cassation in cases concerning misdemeanours and contraventions

Article 302 - With the exception of judgements delivered by a body that was not legally constituted, decisions regarding jurisdiction and extinction of the public prosecution due to expiry of the prescription period, an amnesty, or failure to bring proceedings, an application to set aside may not be filed in cases concerning misdemeanours, save on the grounds set out in Article 296 of this Code, provided that there was a discrepancy in the legal definition of the act by the Judges at first and second instance.

Article 303 - Subject to the provisions of the preceding article, only the Public Prosecutor's Office may file an application to set aside rulings made by the Appeal Court concerning contraventions on the ground of the legal characterization if it considers that the contravention should be characterized as a misdemeanour.

Article 304 - A person who challenges an appeal ruling may not invoke grounds unrelated to the content of the ruling or outside the scope of the proceedings that led to the ruling.

Article 305 - The Court of Cassation may not stay the enforcement of a sentence pertaining to a misdemeanour or a contravention unless it has set it aside.

Section IV

Grounds for setting aside decisions of the Indictment Division

Article 306 - With the exception of decisions rendered by a body that was not legally constituted, decisions regarding jurisdiction and extinction of the public prosecution due to expiry of the

prescription period, an amnesty, or failure to bring proceedings in the case judged, an application to set aside may not be filed against final decisions of an Indictment Division except where there was a discrepancy in the legal characterization of the act by the Investigating Judge and the Indictment Division, and on one of the following grounds:

1. A breach of the law or an error of interpretation or application of the law;
2. Non-compliance with the applicable rules entailing nullity, or infringement of fundamental rules relating to an investigation;
3. Distortion of the facts or of the content of the documents contained in the case file;
4. Failure to rule on a plea or ground of defence or an application filed by a party to the case;
5. Lack of a legal basis or defective reasoning.

Article 307 - Without prejudice to the grounds for cassation set out in the preceding article:

- (a) The civil party may contest a final ruling that his civil action is inadmissible on the ground of failure to register as a civil party;
- (b) The civil party and the Public Prosecutor's Office may contest rulings that stay any ruling by the Indictment Division discharging the accused.

Article 308 - An accused who is a fugitive from justice may not challenge the indictment before the Court of Cassation unless he surrenders.

Article 309 - If the Court of Cassation dismisses an application to set aside, it shall confiscate the sum deposited as surety, and it may sentence the person who filed the application to a fine of between 100,000 and 500,000 Lebanese pounds if it considers that he abused the right to litigate.

Article 310 - When the indictment ordering that the accused be committed for trial at the Criminal Court becomes final and conclusive, and orders that the accused be committed for trial to the Criminal Court, it shall vest that Court with jurisdiction.

Section V

Procedures and conditions pertaining to an application to set aside

Common provisions

Article 311 - In no case may an application to set aside be filed in respect of interlocutory decisions or rulings that precede the final decision or judgement until after its delivery or concurrently therewith.

Decisions or judgements concerning one or more objections raised under Article 73 of this Code are exempted from the foregoing provision.

The Criminal Division of the Court of Cassation shall determine whether any aspect of the contested decision or judgement calls for a stay of the investigation or trial and shall take a decision thereon.

Article 312 - Only persons party to the case may file an application to set aside the judgement or decision rendered thereon. The person filing an application to set aside must have the requisite standing and interest on pain of inadmissibility.

Article 313 - The following are entitled to file an application to set aside: the Public Prosecutor's Office at the Court of Cassation, the Public Prosecutor's Office at the Appeal Court, the Financial Prosecutor's Office, the civil party, the convicted person, the property administrator and the surety.

The challenge by the Public Prosecutor's Office shall concern the part of the judgement pertaining to the public prosecution; that of the convicted person shall concern the sentence imposed, the personal damages awarded and the costs; and that of the civil party shall be confined to the part of the judgement concerning the civil action.

The property administrator and the surety may challenge any judgement or decision requiring them to pay personal damages.

Article 314 - If one of the convicted persons files an application to set aside a judgement or decision and the other parties do not, the Court of Cassation may not impose a more severe penalty on the convicted person or increase the damages awarded against him.

Article 315 - Each party to the case may confine its challenge to one aspect of the judgement or decision, which shall be independent from the others.

Article 316 - The convicted person, the civil party, the property administrator and the surety may file an application to set aside an adversarial judgement delivered by a Criminal Court and an adversarial ruling delivered by a Misdemeanours Appeal Court within fifteen days of the date of its delivery.

The Financial Prosecutor's Office or the Public Prosecutor's Office at the Appeal Court may file an application to set aside an adversarial judgement or ruling within a month of the date of its delivery. The Public Prosecutor's Office at the Court of Cassation may file an application to have it set aside within two months of the date of its delivery.

An application to set aside may not be filed against a judgement delivered *in absentia* against an accused who is a fugitive from justice.

Each party to the case may file an application to set aside a ruling on an objection issued by a Misdemeanours Appeal Court within the period specified in the first and second paragraphs of this article.

The period begins to run with respect to the convicted person, the civil party, the property administrator and the surety on the date of notification of the judgement concerning an objection if it was not delivered adversarially. It begins to run with respect to the Public Prosecutor's Office at an Appeal Court and the Public Prosecutor's Office at the Court of Cassation on the date of its delivery.

Article 317 - An application to set aside shall be filed with the registry of the Court of Cassation or the registry of the Court that delivered the contested judgement.

If it is filed with the latter, the Court shall transmit the case file to its Public Prosecutor's Office within not more than five days of the date of filing so that it may be transmitted to the Public Prosecutor's Office at the Court of Cassation for immediate referral to the Court.

If an application to set aside is filed directly with the Court of Cassation, the Court shall request that the file be transmitted through the Public Prosecutor's Office at the Court of Cassation.

Article 318 - In addition to adhering to the time period set in Article 316 of this Code, the application to set aside shall meet all of the following conditions on pain of dismissal on procedural grounds:

(a) It shall contain the names of the litigants and the name of the Court that delivered the contested judgement, and shall indicate the contested judgement and the grounds of the application to set aside;

(b) It shall be signed by appeal counsel and shall contain the original document authorizing him to act or a certified copy thereof, a certified copy of the contested judgement or ruling, exempt from the proportionate fee, and a receipt for the deposit with the Treasury of surety of 200,000 Lebanese pounds.

The Public Prosecutor's Office shall not be required to present a copy of the contested judgement with its application or to pay the surety and legal costs.

Article 319 - Within five days of the date of expiry of the time limit for filing an application, the applicant may present a submission setting out the grounds for the application to set aside. The submission may not include new grounds.

The applicant shall be deemed to have elected a domicile at the chambers of his counsel. All notices served at those chambers shall be deemed to be valid if the procedural rules were complied with.

The application to set aside shall be recorded in a special register. Each party to the case may consult it and take a true copy thereof.

The surety shall be returned to the applicant if the application is admitted or if he withdraws it before a ruling is issued thereon. It shall be forfeited to the Treasury if the application to set aside is dismissed.

The convicted person or the civil party shall be exempted from the surety fee in cases concerning felonies. In cases concerning misdemeanours, the exemption shall be subject to the production of a certificate of indigence.

The Public Prosecutor's Office shall be exempted from payment of all fees and costs pertaining to an application to set aside.

Article 320 - The respondent to the application to set aside shall, within three days of their submission, receive a copy of the application and its attachments and a copy of the explanatory memorandum. He may submit his observations and claims within ten days of the date of notification.

Article 321 - The Court of Cassation shall examine the application to set aside and the case file. If it ascertains that the application was submitted within the legal time limit and that the other formalities were complied with, it shall declare it formally admissible. It shall then study the grounds of the challenge it contains. If it sets aside the contested decision, it shall hold new public proceedings to examine the case and deliver a judgement on the merits. During the proceedings, it shall apply the rules applicable to the Court that delivered the contested judgement. It shall then issue its ruling on the case.

If it dismisses the application to set aside, it shall uphold the contested judgement or decision, order the forfeiture of the surety fee, and sentence the applicant to a fine of between two hundred thousand and one million Lebanese pounds if it ascertains that he abused his right to litigate.

Article 322 - If the civil party is the only party submitting an application to set aside, only the civil action shall be heard before the Court. The Court of Cassation may not reduce the damages awarded.

Article 323 - If an application to set aside is submitted by one of several persons convicted of the same offence and the Court of Cassation admits the application in formal terms and on the merits,

concluding that elements of the offence concerning which the contested judgement was delivered were lacking, the other convicted persons shall benefit from the setting aside of the judgement.

In such cases, the Public Prosecutor's Office at the Court of Cassation shall issue a summary of the judgement in respect of each one of them.

Article 324 - After setting aside the contested judgement or decision, the Court of Cassation shall apply the provisions of Articles 276 and 277 of this Code where the circumstances to which they are applicable exist.

Article 325 - If the Court of Cassation decides to dismiss the application to set aside on procedural grounds or on the merits, the clerk of the court shall draft a summary of the decision, to be signed by the President of the Court, and shall transmit it within three days of the date of its delivery to the Public Prosecutor's Office at the Court of Cassation which in turn shall forward it to the Public Prosecutor's Office at the Appeal Court that delivered the contested judgement with a view to its enforcement.

Article 326 - Subject to the provisions governing a retrial or those set out in Articles 741 *et sequitur* of the Code of Civil Procedure, the decisions of the Court of Cassation shall not be open to any form of review.

Section VI

Application to set aside in the interests of the law

Article 327 - Where a Criminal Court delivers a judgement or an Appeal Court issues a ruling that becomes final on expiry of the time limit for an application to set aside, the Public Prosecutor's Office at the Court of Cassation may, of its own motion or pursuant to a request from the Minister of Justice, file an application to set aside solely in the interests of the law within one year of its delivery. If the Court of Cassation decides to annul the contested judgement or decision, the convicted person shall benefit from the annulment and shall not suffer prejudice therefrom. In all cases, the judgement shall remain in force for the benefit of the civil party.

Section VII

Application for a retrial

Article 328 - The Court of Cassation has jurisdiction to consider applications for a retrial.

An application for a retrial may be submitted in cases concerning felonies and misdemeanours in the following circumstances:

- (a) Where, after a person has been convicted of homicide, sufficient evidence comes to light that the alleged victim of the homicide is still alive;
- (b) Where, after a person was convicted of a felony or misdemeanour, another person is convicted of the same offence, defined in the same terms, provided that evidence ensues therefrom of the innocence of one of the convicted persons;
- (c) Where a person was convicted on the basis of testimony given by another person which was subsequently found to be perjury in a final judgement;
- (d) Where, following conviction, a new event occurs, a new fact comes to light, or new documents are discovered that were unknown to the Court during the trial and that are liable to constitute evidence of the innocence of the convicted person.

The extinction of the sentence imposed due to expiry of the prescription period shall not preclude the hearing of an application for a retrial.

Article 329 - The convicted person shall submit the application to the Criminal Division of the Court of Cassation through the Public Prosecutor at the Court.

The application may be submitted by his legal representative in the event of incapacity or if his absence has been confirmed by a judicial ruling, or by one of his heirs or their executors if he is deceased.

The application shall be accompanied by a certified true copy, exempt from fees, of the judgement to be reviewed and of the substantiating evidence, the document authorizing counsel who signed the application to act, and a receipt for the deposit of surety amounting to 200,000 Lebanese pounds.

The Public Prosecutor at the Court of Cassation shall refer the application to the competent Criminal Division of the Court, together with his submissions, within one week.

Article 330 - Where the Court of Cassation finds an application for a retrial admissible, it shall consider the merits of the case. It may conduct a supplementary investigation if necessary.

Article 331 - If the Court, on considering an application for a retrial, annuls the contested judgement delivered against one of a number of living convicted persons because the act of which he was convicted has been decriminalized or because the convicted person is exempted from punishment, this annulment shall suffice.

If the annulment is based on decriminalization of the acts tried, all other convicted persons shall benefit therefrom.

Article 332 - Where an application for a retrial is submitted after the death or loss of capacity of the convicted person through one of the persons mentioned in Article 329 of this Code, the Court shall consider the application. If it decides to annul the contested judgement and to acquit the convicted person or to revoke the penalties, it shall order that its judgement be displayed on the Court's notice board in the place where the offence occurred, in the place of residence of the convicted person, in the Official Journal, and in two local daily newspapers. The State shall bear the costs of publication.

Article 333 - If it decides to acquit the convicted person or to discontinue proceedings, the judgement shall have retroactive effect, rendering void all consequences of the previous judgement except for entitlements acquired in good faith.

The Court may decide, on the basis of a claim from the applicant for a retrial, to award him damages for the prejudice sustained from the previous judgement.

If the convicted person is deceased, the right to claim damages shall be transferred to his legatees or their executor.

The Court shall determine the amount of damages on the basis of the rules laid down in the Obligations and Contracts Act.

The State shall be liable for the damages awarded. It may claim restitution from anybody who was responsible for the delivery of the previous judgement.

Article 334 - The applicant for a retrial shall pay an advance in respect of the costs of the case pending delivery of a decision on his application. The subsequent costs shall be paid by the State.

Section VIII

Application for the designation of a judicial authority

Article 335 - In the event of a jurisdictional dispute between judicial authorities, the Criminal Division of the Court of Cassation shall designate the competent judicial authority.

Where an offence occurs and where two Investigating Judges seize themselves of the same offence, or two courts take up the same case after each declared that it had jurisdiction, or where each of two Investigating Judges or courts declare that they lack jurisdiction, or where a court decides that it lacks jurisdiction to try a case referred to it pursuant to an order issued by an Investigating Judge or an Indictment Division, and where the jurisdictional dispute hampers the course of justice owing to the definitive nature of two contradictory rulings in the same case, the dispute shall be settled by the designation of a judicial authority.

The provisions of this Article shall be applicable if a dispute arises between an ordinary court and a special court.

Article 336 - The Public Prosecutor's Office, the civil party, and the defendant may file an application for the designation of a judicial authority with the Court of Cassation, which shall order the Public Prosecutor's Office to provide it with copies of the documents pertaining to the case before the two judicial authorities involved in the dispute.

A copy of the application for the designation of a judicial authority shall be served on each party to the case and they may each respond to it within ten days of the date of service.

Article 337 - When the judicial authorities involved in the dispute are informed of the application for the designation of a judicial authority, they shall suspend delivery of a final decision in the case.

Interlocutory measures and investigations may continue pending the designation of a judicial authority.

Article 338 - The Criminal Division of the Court of Cassation shall consider the application for the designation of an authority after the expiry of the ten-day time limit.

It shall take a decision in chambers on the designation of an authority within a period not exceeding one month.

It may also annul the measures and actions taken by the judicial authority that is divested of the case.

Its decision shall not be open to any kind of review.

The two judicial authorities involved in the dispute shall comply with the ruling.

Article 339 - Where the civil party or the defendant was not justified in filing his application for the designation of a judicial authority, he shall be sentenced to a fine of between two hundred thousand and one million Lebanese pounds and to pay damages to his adversary where a claim has been filed.

Section IX

Application for transfer of the case

Article 340 - A Criminal Division of the Court of Cassation shall rule on applications for the transfer of a case from one judicial authority to another. It shall relieve one authority of the case, at the

investigative or trial stage, and refer it to another authority at the same level to continue the proceedings, because it proved impossible to constitute the authority with original jurisdiction or because the investigation or trial was suspended, or in order to maintain public safety, to ensure the proper administration of justice or on the ground of legitimate suspicion.

Only the Public Prosecutor at the Court of Cassation may request that a case be transferred on the ground of maintenance of public safety.

Where the judicial authority in respect of which an application for transfer is filed is a Criminal Division of the Court of Cassation, the full bench of the Court of Cassation shall rule on the application.

The Public Prosecutor at the Court of Cassation may apply to transfer a case for one of the reasons set out in the first paragraph, of his own motion or pursuant to an application from the Appeal Court Prosecutor, the Financial Prosecutor, the civil party, the defendant or the Minister of Justice on the grounds set forth in the first paragraph.

The application for a transfer shall be served on all parties to the case, who may respond to it within ten days of the date of service.

The filing of the application shall not be suspensive unless the Court of Cassation decides otherwise.

Article 341 - Where two Investigating Judges attached to a single department are seized with related offences, the First Investigating Judge from the court in question may appoint one of them to proceed with the investigation.

Where the two Investigating Judges are attached to separate departments, the competent Criminal Division of the Court of Cassation, acting on an application from the Public Prosecutor at the Court, shall appoint an Investigating Judge to proceed with the case.

Article 342 - Any ruling on the transfer of a case delivered by the Court of Cassation shall be served on all the parties to the case through the Public Prosecutor's Office at the Court of Cassation. This ruling shall not be subject to any kind of appeal. If the Court of Cassation dismisses the application, its ruling shall not preclude the submission of another application, provided that it is based on facts that come to light after the date of the first application.

Article 343 - Where the civil party or the defendant files an application for transfer of the case and the application is dismissed by the Court of Cassation, it may sentence the applicant to a fine of between two hundred thousand and one million Lebanese pounds and award damages to the adversary if he has filed a claim.

In all these cases, the ruling of the Court of Cassation shall not be open to any kind of review.

Section X

Offences committed by Judges

Article 344 - The Court of Cassation has jurisdiction to try offences committed by Judges, either outside the context of their duties or when they arise from or were committed in the course of the performance of their duties.

Article 345 - Where a Judge of a court of first instance, an Investigating Judge, an Advocate-General attached to the Public Prosecutor's Office of an Appeal Court or a Financial or Military Court, an Advocate-General attached to an Appeal Court, an Advocate-General attached to an Administrative Court or the Audit Court, or an assistant Advocate-General attached to the Council of State commits an

offence constituting a misdemeanour outside the context of the performance of his duties, he shall be prosecuted by the Public Prosecutor's Office at the Court of Cassation of its own motion or on the basis of a complaint from the aggrieved party. The case shall be tried before a Criminal Division of the Court of Cassation.

Article 346 - Where the misdemeanour is attributable to a President of an Appeal Division, a Public Prosecutor at an Appeal Court, the Financial Prosecutor, the Government Commissioner, a Court of Cassation Judge, a member of the Public Prosecutor's Office at the Court of Cassation or a First Investigating Judge, he shall be prosecuted by the Public Prosecutor's Office at the Court of Cassation of its own motion or on the basis of a complaint from the aggrieved party. The case shall be tried before the full bench of the Court of Cassation.

Article 347 - If the act attributable to a Judge, irrespective of his level, constitutes a felony, the First President of the Court of Cassation shall appoint a Judge of at least the same level as the defendant Judge to hear the case.

The Public Prosecutor at the Court of Cassation shall lay the charges and conduct the public prosecution.

Article 348 - If the circumstances make it necessary to detain the Judge charged with a felony, the Judge conducting the investigation shall issue an arrest warrant against him. However, its enforcement shall require the approval of the First President of the Court of Cassation.

The Judge shall be detained in a special place to be determined by the Public Prosecutor at the Court of Cassation.

Article 349 - The Judge entrusted with the investigation shall consult the Public Prosecutor at the Court of Cassation in all cases in which the law requires an Investigating Judge to consult the Public Prosecutor's Office at an Appeal Court.

The Judge conducting the investigation may substitute for detention of the defendant Judge supervisory measures designed to curb his mobility or freedom to travel. If he violates any of them, or if the investigator ascertains that they are ineffective, he shall issue an arrest warrant pursuant to Article 348 of this Code.

The Judge entrusted with the investigation shall follow the rules applied by an Investigating Judge in criminal cases.

Appeals against the rulings of the Judge entrusted with the investigation may be lodged with the panel provided for in Article 350 of this Code, in accordance with the rules applicable to appeals against the rulings of an Investigating Judge.

Article 350 - The investigation file shall be submitted to a panel composed of three Judges of at least the same level as the defendant Judge. They shall be appointed by the Higher Council of the Judiciary. The panel shall be presided over by the most senior Judge, or by a President appointed by the First President of the Court of Cassation.

The panel shall perform the duties of an Indictment Division. It shall refer the accused to a Criminal Division of the Court of Cassation if he is one of the Judges mentioned in Article 345 of this Code and to the full bench of the Court of Cassation if he is one of the Judges mentioned in Article 346 of this Code.

If the panel ascertains that there is insufficient evidence to indict him, or that elements of the offence are lacking, it shall stay the prosecution of the defendant Judge.

The rulings delivered by the panel are not open to any kind of review.

Article 351 - Articles 344 to 350 inclusive of this Code shall be applicable to offences committed by Judges in circumstances arising from the performance of their duties.

All these Articles shall be applicable to Judges of the Council of State, Judges of the Audit Court and retired Judges holding honorary office.

Article 352 - The party harmed by the offence attributed to the Judge may claim damages pursuant to the public prosecution.

He may not bring a direct action initiating a public prosecution.

Where the offence committed did not arise from the performance of or in connection with judicial duties, he shall claim damages against the defendant Judge.

However, where it arose from or in connection with the performance of such duties, the aggrieved party may bring an action against the State, the Judge, or against both of them.

Article 353 - If a Judge charged with a misdemeanour or a felony arising from or committed outside the context of the performance of his duties had an accomplice, accessory, inciter or concealer, the prosecution, investigation and trial shall also apply to such persons.

If the investigation fails to establish the identity of such persons, or if it is impossible or too late to prosecute them, this shall not affect the prosecution of the Judge and the hearing of his case.

Article 354 - If the President of the Higher Council of the Judiciary, the President of the Council of State, the Public Prosecutor at the Court of Cassation, the President of the Audit Court or the President of the Judicial Inspectorate commits an offence that constitutes either a misdemeanour or a felony outside the context of, during or in connection with the performance of his duties, he shall be tried before a panel composed of five Judges appointed by a decree of the Council of Ministers based on a proposal by the Minister of Justice.

The members of the panel shall be selected from among active Judges or retired Judges holding honorary office on condition that no Judge whose level is lower than level XVII is selected.

The Public Prosecutor at the Court of Cassation shall personally conduct the prosecution unless he was one of the persons who committed or participated in the commission of the offence. In that case, a Judge at a level no lower than level XVII shall be appointed by a decree of the Council of Ministers to take his place in charge of the proceedings solely in connection with the offence in question.

The Minister of Justice, with the consent of the Higher Council of the Judiciary, shall appoint a Judge of at least the same level as the Judge appearing before him to investigate the offence.

The rules laid down in Articles 345 *et sequitur* shall be applicable to the prosecution and trial of the aforementioned persons.

The President of the appointed panel of Judges shall perform the duties of the First President of the Court of Cassation with regard to authorizing the detention of the defendant Judge.

Chapter V

The Judicial Council

Article 355 - Cases shall be referred to the Judicial Council pursuant to a decree of the Council of Ministers.

Article 356 - The Judicial Council shall try the following offences:

- (a) The offences defined in Articles 270 to 336 inclusive of the Criminal Code;
- (b) The offences defined in the Act of 11 January 1958;
- (c) All offences pertaining to weapons and ordnance transactions concluded or being concluded by the Ministry of National Defence, as well as related or ancillary offences, particularly those defined in Articles 351 to 366 inclusive, Articles 376, 377 and 378 and Articles 453 to 472 inclusive of the Criminal Code, and in Articles 138 and 141 of the Code of Military Justice.

Cases concerning such offences before the military and ordinary courts shall be referred to the Judicial Council, which shall exercise both civil and military jurisdiction pursuant to the referral decree.

Article 357 - The Judicial Council is composed of the First President of the Court of Cassation as President and four Court of Cassation Judges appointed by a decree of the Council of Ministers based on a proposal of the Minister of Justice and the consent of the Higher Council of the Judiciary.

The decree shall designate one or more additional Judges to replace the principal Judge in the event of his death, withdrawal, dismissal or end of service.

The Public Prosecution Service shall be represented in the Judicial Council by the Public Prosecutor at the Court of Cassation or by one of his assistants whom he delegates.

Article 358 - If the First President of the Court of Cassation is unable to preside over the Council bench, the most senior appointed member shall preside.

Article 359 - The Judicial Council shall be convened at the Palace of Justice in Beirut, at the place in which the offence occurred, if necessary, or in any other place designated by the President if it cannot be convened at the Palace of Justice in Beirut.

Article 360 - The Public Prosecutor at the Court of Cassation or an Advocate-General delegated by him from the Public Prosecutor's Office at the Court of Cassation shall initiate and exercise the public prosecution.

The investigation shall be conducted by an Investigating Judge appointed by the Minister of Justice with the consent of the Higher Council of the Judiciary.

Article 361 - The Public Prosecutor at the Court of Cassation shall present the charges to the Judge investigating the offence and refer the investigation file to him.

Article 362 - The judicial investigator may issue all warrants required by the investigation without being requested by the Public Prosecutor's Office. His decisions in this regard are not open to any kind of review.

He shall deal with the case in an objective manner. If the investigation reveals the existence of an accomplice to the offence, he shall question him as a defendant even if his name is not among those against whom charges were brought by the Public Prosecutor's Office.

The Public Prosecutor's Office may bring charges subsequently against any person who was not mentioned in the original statement and the investigator shall question him as a defendant.

Article 363 - Subject to the provisions of the preceding article, the judicial investigator shall apply the rules followed before the Investigating Judge, except for the period of detention stipulated in Article 108 of this Code.

The Public Prosecutor at the Court of Cassation may consult the case file and make such submissions and requests as he sees fit.

The aggrieved party may bring a civil action following the public prosecution.

Article 364 - On completion of the investigation, the Public Prosecutor's Office at the Court of Cassation shall present its submissions on the merits. The judicial investigator shall decide, in the light of the results of the investigation and the documents pertaining to the case, either to stay the prosecution of the defendant or to indict him and refer him to the Judicial Council.

The indictment issued by the judicial investigator comply with the rules governing the issuance of indictments by the Indictment Division. The rules governing the drafting of the bill of indictment by an Indictment Division shall be applicable to the indictment decision issued by the judicial investigator.

The judicial investigator shall issue an arrest warrant against the accused. If he failed to issue a warrant, he shall do so pursuant to a request by the Public Prosecutor at the Court of Cassation even if he is no longer seized of the case.

If the judicial investigator is deceased or unable to do so, the President of the Judicial Council shall issue an arrest warrant against the accused at the beginning of his trial.

Article 365 - The Public Prosecutor's Office at the Court of Cassation shall serve a copy of the indictment and the list of prosecution witnesses on each of the accused five days before the date of the hearing. Similarly, the accused shall notify the Public Prosecutor at the Court of Cassation of the list of defence witnesses five days before the date of the hearing. The civil party may submit a list of his witnesses within the same time limit and shall present a copy thereof to the Public Prosecutor's Office at the Court of Cassation and the accused five days before the date of the hearing.

Article 366 - The trial shall be held, either adversarially or *in absentia*, before the Judicial Council in accordance with the rules governing proceedings before a Criminal Court. The Council shall deliver its judgement in accordance with the same rules.

The judgements of the Judicial Council are not open to any kind of review of an ordinary or special nature.

Article 367 - The Judicial Council may, of its own motion or pursuant to an application from the Public Prosecutor's Office at the Court of Cassation, conduct a supplementary investigation into the case by the full bench or through any of its members delegated for the purpose.

Part VII**Interlocutory matters**

Article 368 - The Criminal Judge seized of a public prosecution has jurisdiction to rule on any plea raised before him unless it constitutes a preliminary question or the law provides otherwise.

Article 369 - The following shall constitute suspensive interlocutory matters:

- (a) Matters pertaining to immovable property and other real property entitlements;
- (b) Matters pertaining to citizenship;
- (c) Matters pertaining to civil status, except for determination of age;
- (d) Administrative matters;
- (e) Civil matters, where decisions concerning them affect the determination of elements of the offence charged, provided that they were pending before the competent civil judicial authority prior to the initiation of the public prosecution;
- (f) Criminal matters, where the determination regarding elements of the offence depends on the decision rendered in that regard.

Article 370 - When an interlocutory matter is raised before him, the Criminal Judge shall ascertain, before suspending consideration of the case with which he is seized, whether it is based on serious grounds and whether a ruling thereon is necessary and relevant to a ruling in the criminal case.

If the Criminal Judge decides to admit a plea concerning an interlocutory matter, he shall set a time period for consultation of the competent legal authority. If the person who raised the plea complies with the time limit, the Criminal Judge shall suspend the hearing of the case pending a ruling on the interlocutory matter. If he does not, he shall proceed with the case.

The Criminal Judge who defers a decision on the case shall not be prevented from taking any investigative measures that he considers necessary or urgent.

Part VIII
Cases of forgery

Chapter I
Original cases of forgery

Article 371 - Where the Public Prosecutor learns of the existence of a document in an official depository that is alleged to be a forgery, he shall attend the scene in person or appoint a colleague with the task of carrying out all the necessary examinations and checks there. He may also order that suspected forged documents be taken to his office.

The person suspected of having made the forgery and his accomplices shall be brought before the Investigating Judge.

Article 372 - When the Investigating Judge is seized of the case, he shall instruct his clerk to draft a detailed record describing the document alleged to be a forgery.

The Investigating Judge and his clerk shall sign the record as well as the document, noting on it "Not to be modified".

The suspect document and the record shall be deposited with the Investigation Department.

Article 373 - If the document that is alleged to be a forgery was in an official depository, it shall be signed by the head of the responsible department before being transferred to the Investigation Department. He shall hand it over as soon as he is notified of the Investigating Judge's decision. If he fails to do so, the Investigating Judge shall order that he be brought before him together with the document.

If the Investigating Judge ascertains that there is no legal ground for his failure to hand over the document, he shall sentence him to a fine of between two hundred thousand and one million Lebanese pounds.

The provisions of this article shall be applicable to any private individual with a suspected forged document in his possession.

Article 374 - When an official document is seized, a true copy thereof certified by the Investigating Judge and his clerk shall be left with the depository.

If the document was deposited with a public official, the true copy thereof shall replace the original until its return. The official may issue a reproduction of the certified copy indicating that the original is deposited with the Investigating Judge for the purposes of a forgery investigation.

If the document forms part of a register from which it cannot be removed, the Investigating Judge may order that the register be transferred to his department.

Article 375 - It is possible to allege that documents are forgeries even when they have been used in judicial, administrative or other proceedings.

Anyone who has made use of an allegedly forged document shall be required to sign it.

The document in question shall be placed in a secure depository at the Court with the annotation "Not to be modified".

Article 376 - The Investigating Judge may request the services of technical experts to compare the handwriting and signature on the allegedly forged document with any authentic signatures or handwriting. He may require the defendant to take dictation himself or call upon the experts to do so. If the suspect refuses to write, this shall be noted in the record of his interview.

Article 377 - Ordinary documents may be used for the purpose of collation, conformity or comparison, with the consent of the plaintiff and the defendant.

If the person holding the documents is not a public official, he shall be required to hand them over pursuant to the provisions of Article 373 of this Code.

Article 378 - Investigations in forgery cases shall be conducted in accordance with the rules of criminal procedure applicable to other offences.

The Public Prosecutor and the Investigating Judge may enter the homes of any person suspected of counterfeiting official state seals, of forging coins, banknotes and fiscal stamps, of smuggling such counterfeited or forged items into Lebanese territory, or of being involved in their circulation, even if the home of such person is outside their area of jurisdiction.

Chapter II

Incidental and ancillary cases of forgery

Article 379 - The Public Prosecutor's Office and the other parties may, at any stage of the proceedings, raise an allegation of forgery with respect to any document produced in the case.

Article 380 - The incidental charge of forgery shall be filed with the registry of the Court hearing the case. The plaintiff shall identify the allegedly forged document and present the supporting evidence.

Article 381 - The Court hearing the case shall refer the incidental charge to the Public Prosecutor's Office so that it may present its submission. It may suspend the original case until the relevant legal authority issues a ruling on the incidental forgery case, provided that the ruling in the original case depends on the outcome of the incidental case.

If the original case before it relates solely to personal damages, it shall defer the proceedings until a judgement is delivered in the forgery case.

Article 382 - In the event of a final ruling that no forgery has occurred, the Court that suspended its hearing of the original case on the ground of the incidental charge of forgery shall sentence the person who filed the charge of forgery to a fine of between five hundred thousand and one million Lebanese pounds and to the payment of damages.

Article 383 - Where an ordinary document is found to be a forgery, the Court shall declare it null and void and destroy it. Where an official document is found to be a forgery, in whole or in part, the Court dealing with the forgery case shall either declare that the document is invalid or shall order that it be restored to its original state by deleting any addition or inserting any deletion.

In the latter case, the document shall be attached to a summary of the Court's judgement. Documents used for the purpose of collation or comparison shall be returned to their respective sources.

Article 384 - The rules applied in original forgery cases shall also be applicable to incidental forgery cases.

Part IX**Measures to be taken in the event of loss of documents
pertaining to a case or the judgements delivered thereon**

Article 385 - In the event of the theft, loss or destruction of the original copy of a judgement prior to its enforcement or of all or some of the documents pertaining to a case or an investigation prior to the delivery of a ruling thereon, the procedures set out in the following Articles shall be applied.

Article 386 - If a duplicate or a duly certified official copy of the judgement or decision exists, it shall be substituted for the original and deposited place of it.

If a certified copy is in the possession of a public official or any other person, the President of the Court that delivered the judgement or decision shall order him to hand it over to the registry of the Court. If he refuses, the provisions of Article 373 of this Code shall be applied to him. The person from whom a certified copy is taken may request a copy thereof free of charge.

Article 387 - The loss of an original copy of a judgement or decision shall not entail a retrial if all channels of appeal against it have been exhausted. A summary of the decision shall suffice if it is not possible to obtain a certified official copy thereof.

Article 388 - If all or some of the documents pertaining to a case or investigation are lost before the delivery of a decision, the investigation shall be repeated in whole or in part.

If the case is being heard before a court, it shall undertake whatever investigative measures it deems necessary.

If the entire case file is lost, the file shall be restored in accordance with the rules in force.

Article 389 - If the original copy of the judgement or decision is lost and no certified official, summary or certified copy thereof is found, but the order to charge or to indict is found, new proceedings shall be initiated and a new judgement rendered. If there is no order to charge or to indict in the case file and no certified official copy of either document is found, the proceedings shall be repeated from the point at which the documents went missing.

Article 390 - If all or some of the documents pertaining to a case or investigation are lost, and the original copy or a certified official copy of an appeal against the judgement or decision exists, and if the case is being heard before the Court of Cassation, the trial proceedings shall not be repeated unless the appeal relates to measures taken during the trial.

If the decision is set aside, the ordinary rules laid down in the preceding articles shall be applicable.

Part X**Applications for Pardons**

Article 391 - The Higher Council of the Judiciary has jurisdiction to consider applications for pardons submitted by persons sentenced to death pursuant to a final judgement or referred to it by the competent authorities.

Article 392 - All applications for pardons in respect of a death penalty shall be submitted to the President of the Republic directly or through the Minister of Justice in the form of a petition signed by the convicted person, his advocate or a member of his family.

The petition shall be exempt from stamp duty and legal charges.

Article 393 - When the death sentence is confirmed, the Minister of Justice shall refer the case file, together with the report of the Public Prosecutor at the Court of Cassation, to the Higher Council of the Judiciary, which has ten days to deliver its opinion on the enforcement or commutation of the sentence.

Article 394 - The President of the Higher Council of the Judiciary or a Council member delegated by him shall prepare a report summarizing the facts of the case, the evidence on which the judgement was based, together with the grounds for the clemency petition, and shall give his opinion on the petition.

Article 395 - After hearing the statement by its rapporteur and examining the documents, the Higher Council of the Judiciary shall consider the charge against the convicted person, the evidence on which the judgement was based, the grounds provided in support of the petition for a pardon, and the pre-conditions for enforcement or commutation of the death sentence to another sentence; it shall deliver its opinion *in camera* either to reject the petition or to grant it, with a proposal to commute the death sentence, and shall submit a report to the Minister of Justice.

Article 396 - The Higher Council of the Judiciary shall set up a Commission, composed of three of its members, to consider all other petitions for a special pardon. The Commission may decide, in accordance with the above-mentioned rules, on petitions for a special pardon in respect of judgements imposing sentences other than the death penalty for felonies or imposing sentences for misdemeanours.

Article 397 - When a clemency petition is filed, enforcement of the judgement shall be stayed if the sentence consists of a fine or imprisonment for less than one year where the convicted person is not already in detention pursuant to a notice sent by the President of the Commission to the Public Prosecutor at the Court of Cassation informing him of the receipt of the clemency petition.

Article 398 - If the President of the Republic rejects the clemency petition, a person sentenced to hard labour for life or for a period of at least ten years may not file another petition until three years have elapsed in the first case and two years in the second case from the date of notification of the rejection.

In other cases the convicted person may file a second clemency petition after one year has elapsed.

He may not file a further clemency petition if the sentence consists of a fine or imprisonment for one year or less. However, this shall not preclude the President of the Republic from exercising his right to order the filing of a new clemency petition to the Commission.

Article 399 - If the President of the Republic grants the clemency petition, he shall issue a decree to that effect.

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Part XI**Judicial oversight of remand centres and prisons
and protection of personal freedom from unlawful detention**

Article 400 - Detention orders shall be enforced by placing the persons to be detained in remand centres. Convicted persons shall be incarcerated in prisons, where the judgements against them shall be enforced.

Article 401 - Remand centres and prisons shall be established and organized pursuant to a decree issued by the Council of Ministers.

Article 402 - The Appeal Court Prosecutor, the Financial Prosecutor, the Investigating Judge and the Single Criminal Judge shall examine the situation of persons held in remand centres and prisons in their respective areas of jurisdiction once a month.

– Each of the aforementioned persons may order those responsible for remand centres and prisons in their respective areas of jurisdiction to undertake such measures as are required by the investigation and the trial.

Article 403 - Where the Appeal Court Prosecutor, the Financial Prosecutor or the Single Criminal Judge obtains knowledge, within his area of jurisdiction, of the unlawful detention of any person, he shall release the person after verifying whether the detention is unlawful. If any one of them ascertains that there is a lawful ground for detention, he shall send the detainee forthwith to the competent judicial authority and prepare a record of the fact.

If any of them fails to comply with the foregoing provisions, he shall be subject to disciplinary action.

Article 404 - Final criminal judgements delivered by Criminal and Appeal Courts and the Court of Cassation shall be enforced by the Public Prosecutor of the Court that rendered the judgement.

The Single Criminal Judge shall enforce the judgements he delivers.

Enforcement of the provisions of judgements shall be ensured by means of written instructions to the Internal Security Forces.

Article 405 - The provisions of Articles 35 to 65 inclusive and Articles 112 to 117 inclusive of the Criminal Code shall be applicable to the enforcement of criminal judgements.

Article 406 - The day on which the enforcement begins shall be deducted from the term of the sentence. The convicted person shall be released on the day on which the term of the sentence ends.

– Enforcement of a custodial sentence of twenty-four hours ends on the day after the beginning of enforcement.

– The period of enforcement of a custodial sentence or a sentence restricting liberty shall begin on the date of arrest of the convicted person pursuant to the judgement delivered against him; any period spent in pre-trial detention shall be deducted therefrom.

Article 407 - If the accused or defendant is acquitted of the offence for which he was placed in pre-trial detention, the period spent in detention shall be deducted from the sentence for any other offence he may have committed before or during his detention.

Article 408 - In the case of multiple custodial sentences or sentences restricting liberty imposed against a defendant or accused, the period of detention shall be deducted first from the lightest sentence.

Article 409 - If a pregnant woman is convicted, enforcement of the sentence shall be deferred until ten weeks after delivery of her child.

Article 410 - If a custodial sentence or a sentence restricting liberty is imposed on a person suffering from a life-threatening illness, the sentence may be enforced in the prison hospital.

Article 411 - If a custodial sentence or a sentence restricting liberty is imposed on a person suffering from a nervous breakdown or serious mental illness, the Public Prosecutor's Office may order that he be placed in a mental hospital. The period spent in the hospital shall be deducted from the sentence imposed.

If the illness persists, the legal provisions applicable to mentally ill persons shall be applied to him.

Article 412 - A detained person shall be released on delivery of a judgement of acquittal or exemption from punishment; imposition of a non-custodial sentence; imposition of a suspended sentence; or where the detainee has already served the period of the sentence in pre-trial detention.

Article 413 - If the convicted person is sentenced to pay personal damages, judicial costs and a fine, and his funds are insufficient to meet all those payments, the sentence shall be enforced on the basis of the following priorities:

- (a) Personal damages;
- (b) Judicial costs;
- (c) The fine.

Article 414 - The personal damages awarded pursuant to the civil party's claim and the advance in respect of judicial fees and costs shall be enforced pursuant to the provisions of the Code of Civil Procedure.

Article 415 - A person sentenced to pay judicial costs shall pay them to the Treasury within ten days of the date of receiving notice to pay following the final judgement. If he fails to pay that sum, the Public Prosecutor shall order his imprisonment for a period of twenty-four hours for every 10,000 Lebanese pounds owed. The period of imprisonment may not exceed six months. The convicted person may not be imprisoned for failure to pay judicial costs if he was a minor when the offence was committed.

If the period spent in detention exceeds the term of imprisonment, a sum shall be deducted from the fine and judicial costs imposed in accordance with the rate set out above.

Article 416 - The rule governing apportionment set out in Article 53 of the Criminal Code shall be applicable to the judicial costs.

Article 417 - If the convicted person serves a period of imprisonment in lieu of the fine and judicial costs, his debt to the Treasury shall be cancelled.

Article 418 - If a convicted person who is imprisoned for failure to pay the fine and judicial costs expresses the wish, while in prison, to discharge his debt to the State, the Public Prosecutor or his deputy shall order that he be released from prison and produced before him to pay the sums due, following deduction of the sum equivalent to the period spent in prison.

If the convicted person pays the entire sum required on arrest, he shall be released forthwith and the order to imprison him for failure to pay the fine and judicial costs shall be annulled.

Article 419 - In the event of the death, flight or incapacity of the convicted person, the judicial costs and the fine shall be collected in accordance with the procedure for the collection of funds by the Ministry of Finance.

Article 420 - A death penalty shall be enforced only after consultation of the Pardon Commission and with the consent of the President of the Republic.

The judgement shall be enforced pursuant to a decree specifying the place and means of execution.

A death penalty shall not be executed on Sundays or Fridays, or on national or religious holidays.

A death penalty shall not be enforced against a pregnant woman until ten weeks after she has given birth.

Article 421 - The death penalty shall be executed in the presence of the following persons:

- (a) The President of the Court that delivered the judgement. If he is unable to attend, the First President of the Court of Cassation shall appoint a Judge to replace him;
- (b) The Public Prosecutor at the court that delivered the judgement, or one of his deputies;
- (c) A Judge of the civil court of first instance which has jurisdiction in the place of execution;
- (d) The clerk of the court that delivered the judgement;
- (e) Counsel for the convicted person;
- (f) A member of the clergy of the religious denomination to which the convicted person belongs;
- (g) The prison governor;
- (h) The Beirut Judicial Police Commissioner or his deputy, or the Gendarmerie commander responsible for the place of execution or his deputy;
- (i) The prison doctor or the forensic physician of the region.

Article 422 - The civil Judge referred to in subparagraph (c) of the preceding article shall ask the convicted person whether he wishes to say anything or to make a statement before execution of the judgement. This shall be noted in a special record signed by him and his clerk.

Article 423 - The clerk of the court that delivered the judgement shall draw up a record of the execution of the death penalty and it shall be signed by the persons mentioned in subparagraphs (a), (b) and (d) of Article 421 of this Code at the place of execution.

A copy of the record shall be displayed for twenty-four hours at the place of execution.

The clerk shall attach a copy of the record of the execution of the judgement to the original copy of the judgement deposited with the registry of the court.

Article 424 - It is prohibited to publish any statement regarding execution of the death penalty in the newspapers apart from the record mentioned in the preceding article. Anyone who breaches this prohibition shall be liable to the penalty provided for under Article 420 of the Criminal Code.

Part XII**Procedures for the enforcement of criminal judgements**

Article 425 - Once a court delivers its judgement, it is no longer seized of the case.

Article 426 - If a purely factual error, or one of a clerical or computational nature, occurs in the judgement or ruling delivered by a judicial authority, the authority may correct the error of its own motion or pursuant to a request from one of the parties to the case.

The decision to correct shall be taken in chambers and the correction shall be recorded in the margin of the judgement or ruling.

Article 427 - Any request for interpretation in relation to a judgement shall fall under the jurisdiction of the court that delivered it. It shall rule thereon after consulting the Public Prosecutor's Office.

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Part XIII**Transitional provisions**

Article 428 - The Code of Criminal Procedure Act promulgated on 18 September 1948 and its amendments are hereby revoked and all legal provisions and texts that are inconsistent or in conflict with this Code are also revoked.

Article 429 - This Code shall enter into effect three months after its publication in the Official Gazette.²

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² This Code was published in issue No. 38 of the Official Gazette of 7 August 2001.

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Draft Code of Criminal Procedure

Guiding Principles

Major principles enshrined in the Draft Code

(a) Public prosecutions and civil actions

- The distinction between a public prosecution and a civil action has been drawn, with the principle of joinder being no longer applicable and the differences between them clearly defined, especially with respect to the prescription period, in line with global developments in legislation and to preserve the rights of the aggrieved party.
- Setting out the grounds for an interruption or suspension of the prescription period in both types of action.

(b) Powers of the Public Prosecutor's Office and the Judicial Police force

- Regulation of the use of a wanted notice issued by the Public Prosecutor and specification of its period of validity to prevent abuse.
- Limiting the period of detention of a suspect, in the case of an offence discovered at the time of its commission or immediately afterwards to twenty-four hours, with the option of one extension for a similar period if the investigation so requires.
- Inadmissibility of interviewing a person as a witness if there are strong suspicions that he was involved in the commission of the offence, with a view to preventing any perversion of the law.
- Clarifying the role of the Judicial Police in investigating offences not discovered at the time of their commission or immediately afterwards; the Public Prosecutor and the officer of the Judicial Police assisting him must ensure that the Judicial Police officer states, in each record of any measure taken, the time at which the operation began and ended and all means used in its execution. The aim is to clarify whether it might have affected the will of the suspect or to disclose whether the rights of the defence were abused.
- Prohibition of the detention of a suspect or person complained of unless the penalty applicable to the offence is at least one year's imprisonment.
- Provision for the prosecution of a Judicial Police officer for unlawful detention under Article 367 of the Criminal Code if he breaches the rules governing detention of persons complained of or suspects. This is an effective means of preserving the human right to liberty.
- Making it impossible for a Judicial Police officer to question the suspect or a person subject of a complaint. The officer of the Judicial Police may only interview such persons if they freely consent to it.
- Requirement that the Judicial Police officer maintains full confidentiality in respect of all measures taken. If it is ascertained that he breached the confidentiality of any documents or correspondence seized or of any matter that the suspect or person complained of wished to remain confidential, he shall be liable to prosecution.
- Provision to the effect that any search of a private dwelling undertaken by a Judicial Police officer in breach of the legal rules applicable to the Public Prosecutor in the case of a felony discovered at the time of its commission or immediately afterwards shall be null and void.

– Prohibition of any additional investigations by the Judicial Police officer once the situation relating to an offence discovered during its commission or immediately afterwards has come to an end. The Code limits his powers when making inquiries regarding complaints and reports referred to him by the Public Prosecutor.

The provisions of the last four paragraphs stem from a desire to put an end to the controversy arising from the conduct of Judicial Police officers in carrying out the investigation.

(c) The investigation

The powers of the Investigating Judge were not clearly defined under the legislation previously in force, especially with respect to the detention of the defendant, which depended solely on his personal assessment and conviction.

The detention of the defendant constituted in itself a breach of the presumption of innocence, since it was based solely on a suspicion that fell short of certainty. It was therefore necessary, on the one hand, to consider this issue and, on the other, to bear in mind the interests of society, which require that the suspect should be removed from it for a period of time. The only way to achieve this is by balancing the interests of the individual with those of society. To this end, the Draft Code has established the following principles:

- Enshrinement of solutions commonly accepted in jurisprudence and doctrine concerning the manner in which the Investigating Judge should be seized of a case;
- Remedying of a defect in the legislation previously in force by specifying what is meant by the Investigating Judge's department in which the defendant is required to elect a domicile as follows: the town or borough in which the Investigating Judge's department unless his actual domicile is in that location;
- Clarification of the procedural pleas that may be raised by the defendant before the Investigating Judge prior to his questioning and granting of permission to his advocate to speak on his behalf in his presence or absence;
- Allowing the Public Prosecutor, as an original party to the case, to attend the hearing at which the defendant is questioned;
- Provision for the punishment of breaches of the rules relating to searches;
- Definition of the period of pre-trial detention required for the investigation of a misdemeanour and a felony sufficiently precisely, reconciling human rights principles with the need to investigate offences and the perpetrators;
- Allowing the Investigating Judge to substitute judicial supervision of the defendant for detention, to designate the requisite means of supervision and to punish any breach of the measures imposed;
- Distinguishing between the various types of surety and specifying the rules governing each category; Provision of a sufficiently clear description of each category of surety and establishment of the rules governing its submission.

(d) The Indictment Division

As the Indictment Division is both the authority that hears appeals against decisions by the Investigating Judge and acts as an indictment authority in the case of felonies, the Draft Code sought to provide a sufficiently precise and clear definition of its duties in both areas. It also specified its role as a competent jurisdiction with respect to applications for rehabilitation.

In view of the lacuna and ambiguities regarding some legal solutions due to the shortcomings and vagueness of the legislation currently in force, the Draft Code clarified the issues in dispute by means of the following provisions:

- Allowing the Indictment Division to issue an arrest warrant for the accused pursuant to an application from the Public Prosecutor’s Office if it inadvertently failed to do so when issuing the indictment;
- Determining precisely, leaving no scope for differing interpretations, the decisions of the Investigating Judge that are open to appeal by the defendant, the civil party, the property administrator and the surety;
- Enshrinement of the jurisprudence of the Court of Cassation requiring the Indictment Division to issue an arrest warrant for the defendant when it sets aside a decision by the Investigating Judge to leave him at liberty, with a view to ensuring the latter’s independence in this respect;
- Specification of the cases in which the Indictment Division may exercise its right of transfer, clarifying when it is mandatory and when it is optional.

(e) The trial

The Single Judge

The legislation hitherto in force specified the offences to be heard by the Single Judge in Articles 148 and 149.

Amendments to the Criminal Code abolished some of these offences or incorporated them in other texts and modified some of the Article numbers mentioned in the aforementioned Articles.

The provisions of the Code of Criminal Procedure applicable before the Single Judge were also vitiated by shortcomings and vagueness, so that they gave rise to jurisprudential and doctrinal disputes and conflicts of interpretation.

This Draft Code endeavoured, first, to clarify ambiguities in the provisions and to remedy shortcomings and, second, to update them so that they were consistent with human rights law. The following provisions were thus implemented:

- A provision to the effect that the Public Prosecutor may not charge a person with an offence before the Single Judge if he has already charged him with the same offence before the Investigating Judge, and that it is not permissible to charge him before the Single Judge with an offence which has been shown by the preliminary investigations to constitute a felony;
- Allowing the defendant’s advocate, in the presence or absence of his client, to raise one or more of the pleas provided for in Article 74;
- Allowing the legal person concerned to be represented during the trial by his director-general or his legal representative;
- Codifying the principle that the defendant may be present himself or send his advocate to represent him if the penalty for the offence with which he is charged does not exceed one year’s imprisonment and that the trial in such cases shall be deemed to be adversarial;
- A provision to the effect that a judgement delivered *in absentia* of which the convicted person is not notified shall be deemed to be the final judicial procedure, so that the prescription period in respect of the public prosecution begins to run on the date on which it is delivered;

- A provision to the effect that the Single Judge, when he declares that he lacks jurisdiction because the act charged constitutes a felony, shall refer the case file to the Public Prosecutor's Office, and that he may issue an arrest warrant for the defendant if the case was referred to him directly. However, if it was referred to him pursuant to a charge by the Public Prosecutor's Office or in execution of an order from the Investigating Judge, he may simply declare his lack of jurisdiction and refer the case to the Public Prosecutor's Office;

- A provision to the effect that the defendant may remain silent during questioning and that the Single Judge may not compel him to speak;

- A provision concerning the inadmissibility of the testimony of a minor under eighteen years of age save as a source of information;

- A provision to the effect that the Single Judge may decide to request that seized items be restored, even if the case has been disposed of and he is no longer seized of it.

The Appeal Court

The legislation currently in force provided, in Articles 173 to 181 inclusive, for appeals against judgements rendered by the District Judge. It also provided, in Articles 192 to 210 inclusive, for appeals against judgements rendered by the court of first instance.

The Administration of Justice Act of 10 May 1950 abolished the court of first instance and replaced it with the Single Judge, who also took over the powers of the District Judge. This was subsequently confirmed by the Administration of Justice Act of 16 October 1961. However, those measures did not achieve the desired aim, since the provisions originally relating to the District Judge and the court of first instance both contained a number of inconsistencies and were repetitious and contradictory.

Being conscious of this problem, the drafters of the legislation tried to ensure consistency between the provisions to preclude any discrepancies, contradictions or flaws. Article 205, for instance, stipulated: "If the act is a felony, the Court shall refer the defendant to the Investigating Judge dealing with the case." This referral contradicted the rules governing criminal proceedings.

The Draft Code contains provisions which facilitate the tasks of litigants and lawyers, in particular by means of:

- Enshrinement of the settled case law as follows: "If the judgement is not delivered at the time specified at the final hearing for its delivery, any party to the case may file an appeal within fifteen days of the date of being notified thereof." It should be noted that the time limit for an appeal was set at fifteen days in the Draft Code instead of ten days;

- A provision to the effect that dismissal of the original appeal on procedural grounds entails dismissal of the subsidiary appeal;

- The Appeal Court is prohibited from considering new facts that were not invoked before the Single Judge that rendered the judgement;

- Setting out where the Appeal Court can exercise its right to bring cases pending in lower courts for a decision before itself.

The Criminal Court

The legislation previously in force set out in clear and precise terms the rules governing a trial before a Criminal Court in Chapters VIII and IX. Some of them, however, provided for pointless procedures and others were impracticable. For instance, Article 115 of the Administration of Justice Act

stipulated that the accused should be tried in detention. Applying this rule would however require the Court to remain in session until a judgement was delivered, a condition that was not applied in practice in a Criminal Court.

The Draft Code eliminated pointless procedures, providing firstly for the issuance of an order requiring an accused who was released during the investigation or who refused to take part in it to present himself for trial, whether or not an absentee arrest warrant was issued in respect of him and regardless of any formalities involved. Secondly, it allows for the release of the accused during the trial provided that he elects a domicile in the town where the Court is located so that he can be served there with documents and writs, and that he surrenders to it twenty-four hours before each hearing and pays surety, the amount of which is decided by the Court. However, the accused shall remain in detention from the closing session of the trial until the judgement is delivered. If the accused fails to attend any hearing without an acceptable excuse, he is deemed to be a fugitive from justice and the special rules pertaining to the trial of a fugitive shall be applied in respect of him.

The legislation previously in force stipulated that the property of a convicted person who was a fugitive from justice was to be administered by the Government in the same manner as that of an absentee. However, this measure did not have the desired effect. It was therefore necessary to seek guidance from civil law and to entitle the civil party to enforce his award through the enforcement department against the property of a convicted person who is a fugitive from justice.

Article 333 of the legislation previously in force stipulated the following: "If the Court considers that the act with which the accused is charged does not constitute a felony but a misdemeanour or a contravention, it shall remain seized of the case and shall deliver a judgement." However, this provision did not specify whether the fugitive accused is entitled, where his act is found to be a misdemeanour or a contravention, to challenge the judgement delivered against him *in absentia*. The drafters of the Code remedied this flaw by stipulating that the Judge's decision to charge the accused with a felony cannot be challenged and is not open to an application to set aside. However, if a Criminal Court classifies the act referred to in the indictment decision as a misdemeanour, the person convicted *in absentia* may challenge the judgement before it. The rules followed before the Misdemeanours Appeal Court are applicable to this challenge. If the convicted person is exempted from the penalty for a felony but is required to pay personal damages, he may also challenge that judgement. If the civil action is not extinguished when the public prosecution for a felony is extinguished by the expiry of the prescription period, the convicted person may appeal that judgement by taking action against the civil party. The legislation previously in force required that the accused should have a properly appointed advocate present during questioning and throughout the trial. However, it failed to provide for a situation in which the accused insisted on refusing to appoint counsel to represent him. This problem arose during the trial of Dr. Samir Geagea before the Judicial Council when he refused to accept any counsel appointed to defend him after his own counsel withdrew from the proceedings. The Draft Code remedied this flaw as follows: If the accused insists that no defence counsel shall be appointed, the proceedings shall be conducted without counsel. The impediment to the continuation of the proceedings was thus removed.

The Court of Cassation

Articles 112 to 142 of the Administration of Justice Act were applicable to criminal cases. The jurisprudence of the Court of Cassation played a role in eliminating the shortcomings or vagueness of these provisions.

Act No. 303 of 21 March 1994 amended Article 113 of the above-mentioned Act as follows: Applications to set aside judgements rendered in criminal cases shall be admissible where the decision,

the investigations before the Court or the trial proceedings disregarded or breached the law or where a procedure that was mandatory on pain of nullity was not implemented.

The amendment did not go as far as treating a breach of fundamental procedures as a ground for cassation.

The provisions concerning the grounds for cassation were not sufficient when it came to determining why the Court of Cassation was assigned the role of reviewing judgements rendered by Criminal and Appeal Courts in order to create jurisprudence through the interpretation and application of the law.

To that end, it became necessary to broaden the grounds for cassation through Decree No. 7855 of 16 October 1961, which laid down the rules governing cassation so that the Court of Cassation could play its pre-eminent role in a manner consonant with its *raison d'être*.

The Draft Code achieved that aim in the articles stating the grounds for cassation and set them out in detail and in a manner that leaves no scope for interpretation.

The civil chamber at the Court of Cassation was in the past responsible for ruling on applications to designate a judicial authority and applications for transfer of a case.

The aim that had been envisaged in conferring such jurisdiction on the civil chamber was not achieved because it was deemed to be supplementary. The drafters of the Code therefore decided that one of the criminal chambers of the Court of Cassation should rule on such applications.

The Judicial Council

The jurisprudence of the Council, when it came to ruling on a plea that it lacked jurisdiction to hear a case, lacked uniformity and led to inconsistencies in the majority of cases because of the lack of clarity of the relevant provision of the legislation currently in force. Hence the need arose to adopt a text that would put an end to the differences of opinion.

Where the Judicial Council was seized of a case pursuant to an indictment referred to it by the Investigating Judge, the Draft Code required it to determine its jurisdiction in the light of legal provisions which clearly specify the categories of offences that are referred to the Judicial Council. It was on that basis that rulings on lack of jurisdiction were entrusted to it.

Rules governing the service of documents and legal judgements and decisions

As the rules governing service of process in the legislation previously in force were imprecise and unclear, this led to violations of the rights of the defence. The Draft Code therefore contains new provisions drawn from French legislation aimed at ensuring that the service of process in criminal cases achieves the desired aim, remedying shortcomings in the existing Code and leaving no scope for interpretation.

**Table summarizing the time limits
laid down in the new Code of Criminal Procedure**

I: Before the Investigating Judge

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The civil party:	1. 24 hours 2. 24 hours	Objection to an application for release (Article 115) Appeal against a decision to release or to leave at liberty or against the surety, a stay of prosecution, definition of the act as a contravention or withdrawal of the detention order (Article 135)
(b) The property administrator and the surety:	24 hours	Appeal against a final decision regarding jurisdiction (Article 135)
(c) The defendant:	24 hours	Appeal against a decision to reject an application for release or to dismiss a procedural plea
(d) The Public Prosecutor's Office:	24 hours	Appeal against all administrative, investigative or judicial decisions (Article 135)

II: Before the Single Judge

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The civil party:	1. 24 hours	Objection to an application for release (Article 192) Appeal against a decision to release (Article 192) Appeal against final decisions (Article 214)
	2. 24 hours	
	3. 15 days	
(b) The property administrator and the surety:	15 days	Appeal against final decisions (Article 135)
(c) The defendant:	1. 10 days	Objection to a notified judgement delivered <i>in absentia</i> (Article 171) Objection to a non-notified judgement delivered <i>in absentia</i> (Article 171)
	2. Duration of the prescription period in respect of the public prosecution	
	3. 24 hours	Appeal against a decision to reject an application for release (Article 192)
	4. 15 days	Appeal against final decisions (Article 214)
(d) The Public Prosecutor's Office:	1. 24 hours	Appeal against a decision to release (Article 192)
	2. One month	Appeal against a final decision (Article 214)
(e) All parties:	5 days	Appeal following dismissal of the original appeal (Article 216)

III: Decisions concerning summary rules

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The convicted person:	10 days	Objection to a final judgement (Article 205)
(b) The Public Prosecutor:	10 days	Objection to a final decision (Article 205)

IV: Setting aside of decisions of the Indictment Division

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The civil party: (b) The defendant:	15 days from the date of notification	Appeal against decisions of the Indictment Division (Article 143)
(c) The property administrator and the surety:		
(d) The Public Prosecutor's Office:	15 days from the date of delivery	Appeal against decisions of the Indictment Division (Article 143)

V: Setting aside of judgements concerning felonies

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The civil party: (b) The property administrator and the surety: (c) The defendant:	15 days	Setting aside of a judgement concerning a felony from the time of its delivery adversarially in the Criminal Chamber and from the time of its delivery in a manner deemed to be adversarial (Article 316)
(d) The Public Prosecutor's Office at an Appeal Court or the Financial Prosecutor's Office:	One month	Setting aside of a judgement by the Criminal Chamber concerning a felony from the time of its delivery (Article 316)
(e) The Public Prosecutor's Office at the Court of Cassation:	Two months	Setting aside of a judgement by the Criminal Chamber concerning a felony from the time of its delivery (Article 316)

VI: Setting aside of judgements concerning a misdemeanour

<u>Person concerned</u>	<u>Time limit</u>	<u>Subject matter</u>
(a) The civil party: (b) The property administrator and the surety: (c) The defendant:	15 days	Setting aside of a judgement on appeal from the time of its delivery adversarially and from the time of its delivery in a manner deemed to be adversarial (Article 316)
(d) The Public Prosecutor's Office at an Appeal Court or the Financial Prosecutor's Office:	One month	Setting aside of a judgement on appeal from the time of its delivery (Article 316)
(e) The Public Prosecutor's Office at the Court of Cassation:	Two months	Setting aside of a judgement on appeal from the time of its delivery (Article 316)

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