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As of June 29, 1999

CRIMINAL PROCEDURE CODE

OF

THE REPUBLIC OF ALBANIA

GENERAL PROVISIONS

Article 1

Role of criminal procedural legislation

1. The main role of criminal procedural legislation is to provide a fair, equal and due legal process, to protect the individuals' freedoms, the rights and the legal interests of the citizens, to contribute to the strengthening of the rule of law and to the application of the Constitution and laws ruling the country.

“Article 1/a

Basis of criminal legislation

The Criminal Code is based on the Constitution of the Republic of Albania, general principles of international criminal law, and international treaties ratified by the Albanian state.

The criminal legislation is composed of this Code and other laws that provide criminal offences.

Article 1/b

Duties of the criminal legislation

The criminal legislation of the Republic of Albania protects the independence of the state, and all its territory, dignity of man, his rights and freedoms, constitutional order, property, environment, coexistence and understanding of Albanians with national minorities, and religious coexistence from criminal offenses and their prevention. [*sic*]

Article 1/c

Principles of the Criminal Code

The Criminal Code is based on the constitutional principles of rule of law, equality before the law, and justice in determining culpability and punishment, as well as principles of humanity.

The implementation of criminal law by analogy is not allowed."

Article 2

Respectability of procedural provisions

1. The procedural provisions define the rules of the carrying on of criminal proceedings, investigations and the trying of criminal offences as well as the execution of the criminal sentences. These rules shall be compulsory for the subjects of the criminal proceedings, state authorities and citizens.

Article 3

Independence of the court

1. The court is independent and renders decisions in conformity to the law.

2. The court renders decisions upon evidence examined and revealed in the hearing.

Article 4

Presumption of innocence

1. The defendant shall be presumed innocent unless his guilt is proven by a final court sentence. Any uncertainty related to the accusation shall be considered in the favor of the defendant.

Article 5

Restrictions to an individual's liberty

1. The liberty of an individual may be restricted by means of precautionary measures only in cases and forms provided by law.

2. No one may be subjected to torture, punishment or cruel treatment.

3. A person sentenced to imprisonment shall be provided human treatment and moral rehabilitation.

Article 6

Provision of defence

1. A defendant is entitled to self-defense or to defense by a defense lawyer. In case of insufficient means, he shall be provided free legal aid.

2. A defence lawyer shall assist the defendant to have all procedural rights guaranteed and his legitimate interests protected.

Article 7

Prohibition of re-trying the same offence

1. No one may be tried again for the same criminal offence for which he has been tried by a final sentence, except when the competent court has decided the re-trial of the case.

Article 8

Use of Albanian language

1. In all stages of the proceedings the Albanian language shall be used.

2. Persons who do not know Albanian shall use their mother tongue and, by assistance of an interpreter, enjoy the right to speak and to be informed of the evidence and acts and of the conduct of the proceedings.

Article 9

Reinstatement of the rights

1. Individuals who are proceeded against the law or who are convicted unfairly shall have their rights reinstated and shall be compensated for the injury undergone.

Article 10

Application of international conventions

1. The relations with foreign authorities in criminal matters shall be governed by international conventions recognised by the Albanian government, by generally admitted principles and standards of international public law and also by the provisions of this code.

FIRST PART

TITLE I

SUBJECTS

CHAPTER I

THE COURT

SECTION I

COMPETENCY AND COMPOSITION OF THE COURTS

Article 11

Competency of the court

1. The court is the organ which provides justice.

2. No one may be found guilty and be convicted for the commission of a criminal offence without a court sentence.

Article 12

Criminal Courts

The criminal justice is provided by:

a) the first instance criminal courts;

b) the courts of appeal;

c) the High Court

Article 13

First instance criminal courts and their composition

1. Criminal offences are tried, in the first instance, by the district and military courts, in panel, in conformity to the rules provided by this code.

2. The district and the military courts try in panel consisting of three judges, when crimes are involved and, by a judge and two assistant judges when criminal contravention are involved.

The trial for juveniles is held by judges who are qualified for these trials and who has been especially and additionally assigned this task.

Article 14

The courts of appeal and their composition

1. The civil court of appeal tries, in second instance, by three judges, the cases tried by the district courts.

2. The military court of appeal tries, in the second instance, by three judges, the cases tried by the military courts.

SECTION II

INCOMPATIBILITY WITH THE FUNCTION OF A JUDGE IN TRIAL

Article 15

Incompatibility due to participation in the proceedings

1. The judge who has rendered or has participated to the rendering of the decision in one of the instances of the proceedings may not exercise the functions of a judge in other ones and may not participate in a retrial in case of annulment of the decision.

2. It may not participate to a trial the judge who has assessed the precautionary measures or any other request of the prosecutor presented during the preliminary investigation of the same proceedings.

3. The one who has exercised the functions of the prosecutor or has conducted operations of the judicial police or has been a defence lawyer, an attorney of one of the parties or a witness, expert or has presented an information, complaint, request for proceedings or has rendered or participated to the rendering of the decision authorising the initiation of an action may not exercise the function of a judge in the same proceedings.

Article 16

Incompatibility due to family, blood or in-law relation

1. There may not participate as judges in the same proceedings the persons who, amongst them or with the participants in the trial, are spouses, close blood relatives (antecedents, descendants, sisters, brothers, uncles, aunts, nephews, nieces, children of sisters and brothers) or close affinity (mother- in- law, father-in-law, son- in-law, daughter -in-law, sister-in-law, brother-in-law, godfather, godmother, stepmother, stepfather)

Article 17

Resignation

1. A judge has to resign from a concrete case:

> a) when he has an interest in the proceedings or when one of the private parties or a defense lawyer is a debtor or creditor of his, of his spouse or of his children;

b) when he is a tutor, an attorney or an employer of the defendant or of one of the private parties or when the defence lawyer or the attorney of one of these parties is a close relative of his or of his spouse;

c) when he has provided any advise or has expressed any opinion about the proceedings in question;

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

e) when any of his own or his spouse's relatives has been impaired or injured from the criminal offence;

f) when any of his relatives or of his spouse is exercising or has exercised the functions of the prosecutor in a proceedings;

g) when he is under one of the conditions of incompatibility provided by articles 15 and 16 and

i) when other important reasons of partiality exist.

2. The statement of resignation shall be submitted to the president of the respective court.

Article 18

Challenge of the judge

1. The parties may ask the challenge of the judge:

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

b) when during the exercise of the functions and before the decision is rendered he has given his opinion about the facts or circumstances subject to proceedings.

2. The judge may not render or participate in the rendering of a decision until declaring the challenging request as unacceptable or rejecting it has been rendered.

Article 19

Time-limits and forms of challenge

1. The request challenging the judge is presented in the audience immediately after the legitimisation of the parties.

2. In case the cause for challenge comes about or is observed while the legitimisation of the parties has expired, the request must be presented within three days from the observation. In case

the cause has come about or has been observed during the audience, the request of challenge must be presented before the closure of the hearing.

3. The request comprises the causes and the evidence and it is submitted in writing. It is presented to the secretary of the competent court along with the other documents. A copy of the request is handed to the judge subject to challenge.

4. If the parties do not submit the request personally, then it may be submitted by the defence lawyer or an authorised attorney. The power of attorney must explain the reasons of the challenge, otherwise it shall not be accepted.

Article 20

Competition between resignation and challenge

1. Request for challenge is deemed null and void in case the judge even after its submission announces his renouncement and this is approved.

Article 21

Competency to decide on the challenge

1. The request for the challenge of the judge of district court, military court or court for serious crimes is under discretion of the court of appeal; the one for a judge of the court of appeal is under discretion of a college of the same court, provided that the judge under challenge is not a member of this one. The decision may be appealed.

2. The request for challenge of a judge of the High Court is under discretion of a college of this court, provided that the judge under challenge is not a member of this one. The decision is final.

3. The request for challenge of judges appointed to decide upon challenge shall be not accepted.

Article 22

Decision regarding request for challenge

1. In case the request for challenge is submitted by someone who was not entitled to this right or without respecting the time-limits or forms provided by Article 19 or when the causes are not grounded on the law, the court that examines the request is entitled to not accept it by rendering a decision.

2. The court may suspend temporarily any procedural conduct or impose restrictions in urgent operations.

3. After collecting the necessary data the court decides upon request for challenge.

4. The decision rendered under the paragraphs hereto shall be notified to the judge under request for challenge, to the prosecutor, to the defendant and to the private parties. The decision may be appealed to the High Court.

Article 23

Provisions when the statement of resignation and the request for challenge are accepted

1. In case the resignation and the request for challenge are accepted the said judge may not complete any proceeding operations.

2. The act accepting the statement of resignation or the request for challenge shall consider whether the operations previously performed by the judge subject to resignation or challenge are valid and at what an extent the validity stands.

3. The provisions regarding resignation and challenge of the judge shall also apply to the secretary of audience and to the persons appointed to make transcriptions or phonographic or audio-visual reproduction. Their resignation or challenge is under discretion of the court trying the case.

CHAPTER II

PROSECUTOR

Article 24

Functions of the prosecutor

1. The prosecutor conducts the criminal prosecution, carries on investigations, controls the preliminary investigations, brings accusation before the courts and takes measures for the execution of decisions in conformity with the rules provided by this Code.

2. The prosecutor has the discretion to decide whether to not initiate or dismiss the criminal actions in cases provided by this code.

3. In case no lawsuit or authorisation to proceed is required, the criminal prosecution can be exercised ex-ufficio.

4. The orders and instructions of a superior prosecutor are compulsory for the inferior prosecutor.

Article 25

Exercise of the functions of prosecutor

1. The function of the prosecutor shall be exercised:

a) during the preliminary investigations and during the trials of the first instance- by the prosecutors in the first instance courts;

b) during the trials of appealed cases- by the prosecutors in the courts of appeal and in the High Court.

2. The superior Prosecutor is entitled to exercise the competency of the inferior prosecutor.

3. Prosecutor is independent in exercising his functions in the hearing.

Article 26

Resignation of the prosecutor

1. The prosecutor must resign when there are reasons of partiality as provided by Article 17.

2. The statement of resignation is subject to decision of the chief prosecutor in the first instance court, of the chief prosecutor in the court of appeal and the Attorney General, as per rank order. For the chief prosecutors the decision is rendered by the superior chief prosecutors.

3. The decision accepting the statement of resignation shall provide the replacement of the resigned prosecutor by another prosecutor.

Article 27

Cases of replacement of the prosecutor

1. The chief prosecutor shall decide the replacement of the prosecutor when there are serious reasons related to the function and also in cases provided by Article 17, Paragraph 1, Letters "a, b, ç and e". In other cases the prosecutor shall be substituted only with his consent.

2. In case the chief of the prosecution office does not decide even though there are cases provided by Paragraph 1, the substitute prosecutor is ordered by the Attorney General.

3. The rules provided for the renouncement and the substitution of the prosecutor shall also apply to the officer of the judicial police.

Article 28

The transfer of acts to another prosecution office

1. When during the preliminary investigations the prosecutor considers that the criminal offence is under the competence of a court different from that in which he exercises his functions, he shall immediately transfer the acts to the prosecution office in the competent court.

2. In case the prosecutor considers that the prosecution office to proceed is the one which has transferred the acts, he shall inform the Attorney General who, after examining the acts, shall determine which prosecution office must proceed and shall notify the concerned prosecution offices.

3. Investigation made before the transfer or the determination made in accordance with the paragraph 1 and 2 shall be valid and may be used in cases and forms provided by law.

Article 29

The requesting of the acts from another prosecution office

1. When a prosecutor is informed that in another prosecution office preliminary investigations are simultaneously being performed against the same charged person and for the same fact, related with the one he is proceeding for, he shall immediately inform that prosecution office, requesting the delivery of the acts.

2. If the prosecutor who has received the request does not agree with it, he shall inform the Attorney General who, after having received the necessary data shall decide, in conformity to the rules applicable to court competency, which of the prosecution offices must proceed and notifies the interested prosecution offices. The assigned prosecution office shall be immediately sent the acts from the other prosecution office.

3. The acts of the preliminary investigations, carried on by various prosecution offices shall be used in cases and forms provided by law.

CHAPTER III

JUDICIAL POLICE

Article 30

Functions of the judicial police

1. The judicial police, even ex- officio, must become aware of the criminal offences, in order to prevent ulterior consequences, to search for their authors, to carry on investigations and to collect everything which contributes to the application of the criminal law.

2. The judicial police carries on any investigation operations which are assigned or delegated by the prosecutor.

3. The functions provided by paragraphs 1 and 2 are carried on by the officers and the agents of the judicial police.

Article 31

Services and sections of the judicial police

1. The functions of the judicial police shall be carried on:

a. By the officers and the agents of the judicial police pertaining to the organs entitled by the law to carry on investigations from the moment they are informed a criminal offence has been committed;

b. By the sections of the judicial police set up in any district prosecution office and consisting of a personnel of the judicial police;

c. By the services of the judicial police provided by law.

Article 32

Officers and agents of the judicial police

1. There are officers of the judicial police:

a. The chiefs, inspectors and other members of the Police of the Ministry of Interior, who are recognised this capacity by the law;

b. The officers of the Military Police, Financial Police, Forestal Police and any other police forces recognised by law who are recognised such a capacity by the law

2. There are agents of the judicial police:

a. The personnel of the Police of the Ministry of Interior, who are recognised such a capacity by the law;

b. The personnel of the Military Police, Financial Police and of any other police recognised by law, when on duty.

3. There are also officers and agents of the judicial police, within the competencies of the service they have been given and in accordance with the respective attributes, the persons who are recognised by law the functions provided by Article 30.

Article 33

Subordination of the judicial police

1. The sections of the judicial police are subordinated by the chiefs of the district prosecution offices.

2. The officer of the judicial police is responsible before the district prosecutor for the activity carried on by himself or his subordinates.

3. The officers and the agents of the judicial police are obliged to carry on the tasks. The members of the sections may not be removed from the activity of the judicial police without the approval of the Attorney General.

4. The personnel of the sections are available to the courts and the prosecution offices which may use also any services of the judicial police.

CHAPTER IV

THE DEFENDANT

Article 34

Becoming a defendant

1. A defendant shall become the person who has been charged a criminal offence by the act of notification of accusation, which must give sufficient evidence to be held as a defendant. This act must be notified to the defendant and to his defence lawyer.

2. The status of the defendant shall be retained at any stage and instant of the proceedings until the decision of the cessation, acquittal or punishment becomes final.

3. The status of the defendant shall be renewed when the decision of the cessation is rendered null and void or when a retrial shall be decided.

Article 35

Assistance provided to the juvenile defendant

1. The juvenile defendant shall be provided legal and psychological assistance at any stage and instance of the proceedings by the presents of the parents or other persons requested by a juvenile and accepted by the proceeding authority.

2. The proceeding authority may carry on actions and compile acts for which is required the participation of the juvenile without the presence of the persons indicated in the paragraph 1 only when this is in the interest of the juvenile or when the delay may impair seriously the proceedings, but always in the presence of the defence lawyer.

Article 36

Prohibition to use the statements of the defendant as testimony

1. The statements made by the defendant during the proceedings may not be used as testimony.

Article 37

Self-incriminating statements

1. When a person not being held as defendant, before the proceeding authorities, makes selfincriminating statements, then the proceeding authority interrupts the interrogation forewarning him that after these statements there may be initiated investigation against him and invites him to appoint a defence lawyer. The previous statements may not be used against the person who has made them.

Article 38

General rules applying to interrogation

1. Even when isolated by precautionary measures or when deprived from liberty for any other cause, the defendant shall be interrogated in a free state, except when necessary to take measures to prevent the escape or violation.

2. It may not be used, even with the consent of the person under interrogation, methods or technics to influence upon the free willingness or to modify the capacity of the memory related to the evaluation of the facts.

3. Before the interrogation starts the defendant is explained his right to silence and that even if he fails to speak, the proceedings shall continue the same.

Article 39

The interrogation on merits

1. The proceeding authority explains to the defendant, clearly and in detail, the fact which has been attributed, makes him familiar with the evidence against him and, when the investigations are not impaired, indicates their sources.

2. The proceeding authority invites him to explain everything helpful for his defence and interrogates him face to face.

3. When the defendant refuses to respond, this shall be noted in the minutes. In the minutes shall be also noted, when necessary, the physical features and eventual specific marks of defendants.

Article 40

Revelation of personal identity of the defendant

1. As the defendant appears, the proceeding authority invites him to state the personal data and anything else which may be useful to his identification, forewarning him for the consequences to the one who refuses to give his personal data or gives false ones, except when this statement implies self culpability.

2. Failure to attribute the defendant his real personal data shall not hinder the carrying on of actions from the proceeding authority, when the physical identity of the person is certain.

3. Wrong personal data attributed to the defendant are corrected by decision of the proceeding authority.

Article 41

Verification of the age of the defendant

1. In any stage and instance of the proceedings, when there are reasons to believe that the defendant is a juvenile, the proceeding authority makes the necessary verifications and, if necessary, orders the expertise.

2. When even after the verification and the expertise there are still doubts regarding the age of the defendant it is presumed that he is a juvenile.

Article 42

Verifications on the personality of the defendant juvenile

1. The proceeding authority collects information on the personal, familiar and social life conditions of the defendant juvenile intending to reveal the responsibility and its extent to evaluate the social importance of the fact and also to impose suitable criminal measures.

2. The proceeding authority collects information from persons who have had relations with the juvenile and hears the opinion of the experts.

Article 43

Verifications on the responsibility of the defendant

1. When there are reasons to believe that due to mental sickness caused after the occurrence the defendant is not able to participate consciously in the proceedings, the court shall order, even ex-officio, the expertise.

2. During the expertise is continuing, the court, upon request of the defence lawyer, assumes the evidence which may lead to the innocence of the defendant and, when the delay brings danger, any other evidence requested by the parties.

3. When the necessity of the definition of the responsibility arises during the preliminary investigations the expertise is ordered by the prosecutor, ex-ufficio or upon request of the defendant or his defence lawyer. Meanwhile, the prosecutor carries on only the actions, which do not require the conscious participation of the defendant. When the delay brings danger, there may be assumed evidence only in cases provided for the incident of the proof.

Article 44

The suspension of the proceedings due to irresponsibility of the defendant

1. When it results that the mental conditions of the defendant hinders his conscious participation in the proceedings, the proceeding organ decides the suspension of the proceedings, but still when it must not be decided the acquittal or cessation. By the decision of the suspension the proceeding authority appoints a special tutor to the defendant, who are given the rights of a legal attorney.

2. The decision of the suspension is subject to appeal in the Court of Cassation from by the prosecutor the defendant or his defence lawyer.

3. The suspension does not hinder the proceeding authority to acquire evidence which may lead to the acquittal of the defendant and, when the delay brings danger, any other evidence requested by the parties. In the actions which must be carried on about the personality of the defendant and also in those that the defendant is entitled to be present his special tutor shall participate.

Article 45

Revocation of the decision of suspension

1. The decision of suspension is revoked when it results that the mental condition of the defendant allows his conscious participation in the proceedings or when the defendant must be found innocent or the case must be ceased.

Article 46

Compulsory medical measures

1. In any case that the mental condition of the defendant indicates that he must treated, the court decides, even ex-officio, the hospitalisation of the defendant in a psychiatric institution.

2. When it is decided or it must be decided the compulsory medical measure for the defendant, the court orders that the defendant is preserved in the psychiatric institution.

3. During the preliminary investigation the prosecutor asks from the court to decide the hospitalisation of the defendant in a psychiatric institution and, when the delay brings danger, orders the temporary hospitalisation until the court renders the decision.

Article 47

The death of the defendant

1. When it results the death of the defendant the proceeding authority in any stage and instance of the proceeding, after hearing the defence lawyer decides the cessation of the case.

2. The decision does not hinder the exercise of the prosecution for the same fact and against the same person when after it is proven that he has not died.

CHAPTER V

THE DEFENCE LAWYER OF THE DEFENDANT

Article 48

The defence lawyer chosen by the defendant

1. The defendant has the right to chose not more than two defence lawyers.

2. The selection is made by a statement before the proceeding authority or by an act delivered to the defence lawyer or mailed to him by registered letter.

3. The selection of the defence lawyer for the detained, arrested or imprisoned person, unless he has made the selection, may be provided by a relative in forms provided by paragraph 2.

Article 49

The appointed defence lawyer

1. The defendant who has not selected a defence lawyer or who has remained without him shall be assisted by a defence lawyer appointed by the proceeding organ if he requires him.

2. When the defendant is under eighteen years old or with psychic or physical defects unabling him to use self-defence, the assistance of a defence lawyer is compulsory.

3. The board of the bar chamber shall make available to the proceeding authorities the lists of the lawyers and sets up the criteria of their appointment.

4. The court, the prosecutor and the judicial police when must carry on operations requiring the assistance of the defence lawyer or the defendant has not got any, shall notify the appointed defence lawyer the operations in question.

5. When the presence of the defence lawyer is required and the selected or appointed defence lawyer has not been provided, has not been presented or has abandoned the defence the court or the prosecutor appoints another lawyer as substitute, who shall exercise the rights and shall assume the obligations of the defence lawyer.

6. The appointed defence lawyer may be substituted only for lawful reasons. He shall loose the functions when the defendant shall select his defence lawyer.

7. When the defendant does not have sufficient income the expenses for the defence shall be covered by the state.

Article 50

Extension of the rights of the defendant to the defence lawyer.

1. The defence lawyer has the rights the law recognises the defendant, except those reserved personally to this latter.

2. The defence lawyer has the right to freely and face to face communicate with the detained, arrested or the punished, to be notified beforehand for the carring on of the investigations where the defendant is present and to participate in them, to ask questions to the defendant, witnesses and experts, to get familiar with all the materials of the case on termination of the investigations.

3. The defendant may render null and void, by expressed statement, the action carried on by the defence lawyer before a decision is rendered by the court in relation to this action.

Article 51

Substitution of the defence lawyer

1. The defence lawyer, in case of hindrance and as long as it exists, with the consent of the defendant, may appoint a substitute.

2. The substitute shall exercise the rights and shall assume the obligations of the defence lawyer.

Article 52

The guarantees of the defence lawyer

1. The inspection and searches in the office of the defence lawyer are permitted only:

a) when he or other persons who continuously work in the same office are defendant and only with intention to prove the criminal offence attributed to them;

b) to search the traces or the material proofs of the criminal offence or to search for belongings or persons provided by specific rules.

2. Before inspecting, searching or sequestring in the office of the defence lawyer the proceeding authorities inform the board of bar chamber in order that one of his members is able to be present during the operations.

In any case a copy of the act is send to the board of the bar chamber.

3. The searches, inspections and sequestration in the office of the defence lawyers are made personally by the judge, whereas during the preliminary investigations they are made by the prosecutor provided with an authorising decision of the judge.

4. There is not permitted the interception of the conversations or communication of the defence lawyers and their assistants neither between each other nor with their clients.

5. It is prohibited any form of control of the correspondence between the defendant and his defence lawyer.

6. The results of the searches, inspections, sequestration, interceptions of conversation or communication made in violation of the above provisions, except as provided by paragraph 2, shall not be used.

Article 53

Conversation of the defence lawyer with the detained defendant

1. The person arrested in the commission or the detained has the right to consult his defence lawyer immediately after the arrest or the detention.

2. The detained defendant has the right to consult his defence lawyer since the moment of the execution of the precautionary measure.

Article 54

The defence of several defendants by a defence lawyer

1. The defence of several defendants may be undertaken by a common defence lawyer provided that amongst the defendant there are no conflicts of interests.

2. The proceeding authority when ascertains conflict of interest of the defendants states it by means of a decision and makes the necessary substitution.

Article 55

Refusal, renouncement or revocation of the defence lawyer

1. The defence lawyer who does not accept the task he has been trusted or renounces, notifies immediately the proceeding authority and the one who has appointed.

2. Refusal is effective from the moment when it is communicated to the proceeding authority.

3. The renouncement does not have effect until the party is assisted with a reliant new lawyer or with a lawyer appointed ex-ufficio and until the time limit which might have been fixed to the substitute lawyer to get familiar with the acts and the evidence has expired.

4. The provision of the paragraph 3 shall also apply to the revocation.

5. The renouncement of the attorney of the plaintiff and the civilly sued person shall not in any case hinder the continuation of the proceedings.

Article 56

The responsibility in case of abandonment or refusal of the defence

1. The proceeding authority informs the board of the bar chamber the cases of abandonment, refusal of the defence and the violation of the reliance.

2. The board of the bar chamber has the right to impose disciplinary measures in case of abandonment or refusal of the defence appointed ex-ufficio.

3. When the board considers the abandonment or the refusal justified because of violations of the rights of the defence, the disciplinary measure shall not be imposed even if the violation of the defence is not recognized by the court.

Article 57

The time-limit provided to the substitute defence lawyer

1. In cases of renouncement, revocation and conflict of interests of the defendants, the new lawyer of the defendant or the one appointed as substitute shall be provided an adequate time to get familiar with the acts and evidence.

CHAPTER VI

THE INJURED, PLAINTIFF AND CIVILLY SUED

Article 58

The rights of the person injured by the criminal offence

1. The person injured by the criminal offences or his successors have the right to ask the prosecution of the guilty and the compensation of the damage.

2. The injured person who does not have legal capacity shall exercise the rights recognised by law through his legal attorney.

Article 59

The injured accuser

1. The one who is injured by criminal offences provided by articles 90, 91, 92, 112/1, 119, 120, 121, 122, 125, 127, 148, 149 and 254 of the Criminal Code has the right to submit a request to

the court and to participate in the trial as a party to prove the accusation and to ask for the compensation of the damage.

2. The prosecutor participates in the trial of these cases and, accordingly, demands the punishment of the defendant or his innocence.

Article 60

The request of the injured accuser

1. The request for trial made by the injured accuser shall be deposited in the secretary of the court and must comprise, by consequence of objection:

a) the personal data of the injured accused

b) the personal data of the accused person

c) the name and the family name of the attorney and the power of attorney

d) exposition of the reasons that motivate the request

e) The signing by the injured accuser or his attorney

2. The request must be notified to the person who is attributed the criminal offence.

Article 61

The lawsuit in the criminal proceedings

1. The one who has undergone material damage by the criminal offence or his successors may bring a civil lawsuit in the criminal proceedings against the defendant of the civilly sued to ask for the restitution of the property and the compensation of the damage.

Article 62

The time-limit for the constituency of the civil plaintiff

1. The constituency of the civil plaintiff may be made by the proceeding authority until the judicial examination has not started.

2. The time-limit provided by paragraph 1 may not be prolonged.

Article 63

The guarantee of the civil lawsuit

1. In order to guarantee the restitution of the property and the compensation of the damage, upon request of the civil plaintiff, the proceeding authority may impose the sequestration of the property of the defendant of the civilly sued. This measure shall retain until the termination of the case.

Article 64

Renouncement from the judgement of the civil lawsuit

1. The renouncement from the judgement of the civil lawsuit may be made in any stage and instance of the proceedings by means of a statement made personally by the plaintiff or by his attorney in the sitting or through a written act deposited in the secretary of the court and notified to the other parties.

2. In case the civil plaintiff does not presents the conclusions in the final discussion or when brings a lawsuit before the civil court it is deemed that he has renounced from the judgement of the civil lawsuit.

3. When there is a renouncement from the judgement of the lawsuit as provided by article 1 and 2, the criminal court may not recognize the expenses and damage caused to the defendant and to the sued from the intervention of the civil plaintiff. The lawsuit for the indemnification and disbursement may be brought before the civil court.

4. The renouncement does not hinder the bringing of the lawsuit before the civil court.

Article 65

The summons of the civilly sued

1. The one who is civilly responsible for the offence committed by the defendant may be summoned in the criminal proceedings upon request of the civil plaintiff. The defendant who has been acquitted or whose case has been ceased may be summoned as civilly sued for the offences of the other co-defendants.

2. The request for the summons of the civilly sued must be made before the start of court examination.

3. The summons is ordered by a writ of the court.

Article 66

The voluntary intervention of the civil plaintiff

1. When it is made the constituency of the civil plaintiff, the civilly sued, by written request, may intervene voluntarily into the proceedings until the judicial review has not started. The court shall decide upon the request after hearing the parties.

2. The time-limit provided by paragraph 1 may not be prolonged.

3. The intervention of the civilly suit shall loose the effects in case of renouncement from the judgement of the civil lawsuit.

Article 67

The attorney of the private parties

1. The injured accuser, the civil plaintiff and the civilly sued have the right to be represented in the proceedings through an attorney provided with a power of attorney.

2. The address of the injured accuser, plaintiff and the civilly sued is deemed, to any procedural effect, to be that of the attorney.

3. The attorney, in case of hindrance and as long as it lasts, with the consent of the represented person, may appoint a substitute.

Article 68

The provision of the civil lawsuit

1. The court, as the case may be, accepts entirely or partly the civil lawsuit or rejects it.

2. When the decision of acquittal is rendered because the fact is not provided as a criminal offence or when the criminal case is ceased by a decision, the civil lawsuit shall remain unexamined.

3. When the civil lawsuit in the criminal proceedings is rejected it may not be brought again before the civil court.

TITLE II

JURISDICTION AND COMPETENCY

CHAPTER ONE

JURISDICTION

Article 69

Criminal jurisdiction

1. Criminal jurisdiction is exercised from the criminal courts under the rules provided by this code.

2. The criminal court examines everything which is necessary to make a decision and it decides under the rules provided by law.

Article 70

Effects of the criminal decision to civil and administrative judgement

1. A final criminal decision is compulsory for the court examining the civil consequences of the offence only regarding the fact whether the criminal offence has been committed and whether it is committed by the tried person.

2. The criminal decision occasionally resolving a fact connected with a civil, administrative or criminal case shall not have a compulsory effect in any other trial.

Article 71

Consequences of civil and administrative proceedings to the criminal proceedings

1. The final civil decision is compulsory for the court trying the criminal case only regarding the fact whether the offence has occurred or not, but not what concerns the guilt of the defendant.

2. When the criminal decision depends on the solution of a dispute regarding the family status or the citizenship for which a proceedings before the competent court has started, the criminal court may decide even ex-ufficio the suspension of the judicial examination until the dispute is resolved by a final decision. The suspension does not hinder the carrying out of the urgent actions.

Article 72

Absence of jurisdiction

1. The question of absence of jurisdiction is raised, even ex-ufficio, in any stage and instance of the trial.

The court renders a decision and, when the case is, orders the transfer of the acts to the competent authority.

2. When the absence of jurisdiction is raised during the preliminary investigations the proceeding prosecutor shall decide the transfer of the acts to the competent court in order that this decides.

Article 73

Disputes regarding jurisdiction

1. When there are disputes regarding jurisdiction, the court which raises them renders a decision transferring them along with the copy of the acts necessary for its solution to the High Court, indicating the parties and the defence lawyers.

2. There shall apply the provisions of the section IV of the chapter II of this title.

CHAPTER II

COMPETENCIES

SECTION I

Substantial competency

Article 74

The competencies of the district court

1. The district court is competent to try the criminal offences except those which are under the competency of the military court.

Article 75

The competencies of the military court

1. The military court tries the military men for military criminal offences, war prisoners or other persons provided by law.

SECTION II

TERRITORIAL COMPETENCY

Article 76

General rules

1. The territorial competency is determinated, orderly, by the place where the criminal offence has been committed or attempted or by the place where the consequence has come about.

2. In case the place indicated in the paragraph 1 is not known, the competency belongs, orderly, to the court of the residing place or the domicile of the defendant.

3. If even this way it may not be determined, the competency shall belong to the court of the place where the prosecution office which has been the first to register the criminal offence is located.

4. The rules provided by the paragraphs herein shall also apply during the preliminary investigations.

Article 77

The competency for criminal offences committed abroad

1. In case the criminal offence has been entirely committed abroad the competency shall be determined, orderly, by the residing place, domicile, the place of arrest or of the surrender of the defendant. When there are many defendants, then it shall proceed the court which is competent for their majority.

2. In case the competency may not be determined by the rules indicated in the paragraph 1, it shall belong to the court of the place where the prosecution office which has been the first to register the criminal offence is located.

3. In case the criminal offence is partly committed abroad, the competencies shall be determined under the general rules of the territorial competency.

Article 78

The competency to proceed judges and prosecutors

1. The proceedings in which a judge or a prosecutor becomes defendant or injured from the criminal offence which, according to the rules of this chapter would be within the competency of a court of a district where the judge or the prosecutor exercises their functions or did exercise in the moment of the occurrence shall be under the competency of the court which has the substantial competency and which is located in the centre of another neighbouring district, except when in this district the judge or the prosecutor has come after to exercise his functions. In the last case the competent shall be the court of another district nearer it, in which the judge or the prosecutor did exercise the functions in the moment of the commission of the criminal offence.

SECTION III

COMPETENCY DUE TO JOINDER OF CONNECTED PROCEEDINGS

Article 79

Cases of the joinder of the proceedings

1. There is a joinder of the proceedings when:

a) the criminal offence under the proceedings has been committed by several persons in co-operation amongst them or when several persons independently have committed it.

b) a person is accused for several offences committed by a single commission or omission or for some commissions or omissions to achieve a single criminal intention.

c) a person is accused for several offences, some of which committed to commit or to hide the others or to provide unlawful profits or failure of punishment to the guilty or to the others.

Article 80

Joinder of proceedings which are under the competency of different courts

1. In case some of proceedings connected amongst them are under the competency of a civil court whereas the others under the military court, competent court for all of them is the latter.

Article 81

Limits of a joinder in case of criminal offences committed by juveniles

1. When some of the proceedings connected amongst them are under the competence of ordinary court whereas the others under the court that tries cases when juveniles are involved competent for all of the proceedings shall be the latter, except for cases when prosecutor and the court consider that they must be separate.

2. When at the time of the trial the defendant is an adult, but one or several offences have been committed by him when he was a juvenile, the case shall be tried by the court handling cases with juveniles.

Article 82

Territorial competency specified by the connection of the proceedings

1. Territorial competence for connected proceedings, for which several courts have the same substantial competence, belongs to the competent court for the most serious criminal offence and if the offences are equally serious, to the competent court for the offence recorded the first.

2. Crimes are considered more serious than contravention. Amongst the crimes or amongst the contravention shall be considered as most serious the criminal offence for which is provided a longer maximal punishment or, when the maximums are equal, the longer minimum punishment. In case there are provided punishments to imprisonment and to fine, the punishment to fine shall be considered only when the punishments to imprisonment are equal.

SECTION IV

DISPOSITIONS DUE TO INCOMPETENCY

Article 83

Incompetency

1. Substantial incompetence is raised, even ex-officio, in any stage and instance of the proceedings.

2. Territorial incompetence and that deriving from the joinder of the proceedings due to a connection may be raised or rejected only before the judicial review has started.

Article 84

Incompetency announced during the preliminary investigations

1. When during the preliminary investigations or at their termination the prosecutor ascertains his incompetency for any reasons, he decides the transfer of the acts to the prosecutor in the competent court.

Article 85

Incompetency declared in the first instance trial

1. If in the first instance trial the court considers that the proceedings is under the competency of another court, it shall declare its incompetence for any reasons by decision and shall order the transfer of the acts to the competent court.

Article 86

The decision of the court of appeal and the High Court regarding competency

1. The court of appeal, when ascertains that the first instance court has been not competent, shall cancel the appealed decision and shall transfer the case to the competent court.

2. The decision of the High Court regarding competency is compulsory, except when new facts leading to a different legal definition making competent a superior court, appear.

Article 87

The evidence taken by an incompetent court

1. Failure to observe the provisions regarding the competence does not produce nullity of the assumed evidence.

2. Statements made before the court which did not have substantial competency, if repeated, may be used only to object the content of the deposition.

Article 88

Precautionary measures imposed by the incompetent court

1. The precautionary measures imposed by the court which in the meantime or after is declared incompetent for any reasons, shall become ineffective, if the competent court, within ten days from the receipt of the acts, does not decide for the precautionary measures.

SECTION V

DISPUTES REGARDING COMPETENCY

Article 89

Cases of disputes

1. There are disputes, in any stage and instance of the proceedings, when two or more courts at the same time receive or does not accept to examine the same accusation attributed to the same person.

2. The disputes during preliminary investigations shall be resolved by the superior prosecutor.

3. There may not be expounded any dispute on the territorial competency due to connection of the proceedings during preliminary investigations.

Article 90

The presentation of the dispute

1. The dispute may be presented by the prosecutor in any of the courts subject to dispute or by the defendant and private parties. The presentation is submitted to the secretary of one of the courts subject to dispute by a written and motivated request, which is enclosed the necessary documents.

2. The disputes arising during the preliminary investigations shall be resolved by the superior prosecutor.

3. The court raising the dispute shall render a decision by which orders the submission to the High Court of the copy of the acts necessary for its solution, indicating the parties and the defence lawyers.

4. The court that has rendered the decision shall immediately notify the court subject to dispute.

Article 91

Solution of the disputes

1. The disputes are resolved by a decision of the High Court. The court examines data, acts and documents that it considers as necessary.

2. The decision is notified immediately to the courts in dispute, to the relevant prosecution offices, to the defendant and private parties.

SECTION VI

JOINDER AND SEPARATION OF CASES

Article 92

Joinder of cases

1. The joinder of cases which stand at the same stage and instance before the same court may be decided, if the speed of their solution is not impaired:

a) In cases provided by article 79;

b) In cases of criminal offences committed by several persons damaging each other;

c) In cases when the prove of a criminal offence or of an its circumstance influence on the proof of another criminal offence or of an its circumstance.

Article 93

Separation of cases

1. The separation of cases is decided even ex-officio but when the verification of facts is not damaged:

a) the proceedings where one or more defendants or one or more accusation are involved are suspended

b) one or more defendants have not appeared before the trial because of the nullity of the write of summons, of the innocent ignorance of the writ of summons or for lawful reasons or because of lawful hindrances

c) one or more defence lawyers have failed to appear before the trial because of failure of notification or lawful hindrances.

ç) the judicial examination for one or more defendants or one or more accusations is complete, whereas for the other defendants or for other accusations other operations are needed.

2. In addition to cases provided by paragraph 1, the separation may be also ordered by agreement of parties when the court considers it as necessary to accelerate the process.

SECTION VII

TRANSFER OF THE CASE

Article 94

Causes of transfer

1. In any stage and instance of the trial, when public security or freedom of willingness of the persons who participate in the process are impaired by serious local events which may damage the performance of the process and which may not be avoided by other means, the Court of Cassation, upon motivated request of the prosecutor in the proceeding court or of the request of the defendant, shall transfer the case to another court, assigned according to article 76.

Article 95

Request for transfer

1. The request of transfer is filed, along with the connected documents, to the secretary of the competent court and is notified within seven days to the other parties.

2. The request of the defendant is signed by him personally or by a special attorney of him

3. The court transfers immediately the request, along with other documents and eventual remarks, to the High Court.

4. Failure to respect the forms and time-limit provided by paragraph 1 and 2 constitutes a reason for non-acceptance of the request.

Article 96

Effects of the request

1. The submission of the request of the transfer does not suspend the trial, but the court may not terminate the case until a decision accepting or rejecting the request is rendered.

2. The High Court may decide the suspension of the trial. The suspension does not hinder the carrying on of immediate actions.

Article 97

Decision regarding request of transfer

1. The High Court after taking the necessary data, decides in the consulting room, in absence of the parties.

2. The decision accepting the request is notified to the court which was proceeding and to the court that shall be appointed to try it. The court which was proceeding, transfers immediately the acts to the appointed court and orders the notification of the decision of the High Court to the prosecutor, defendant and private parties.

3. The court appointed by the High Court states by a decision whether the carried out actions are still valid and the extent of such validity.

TITLE III

ACTS, NOTIFICATIONS AND TIME-LIMIT

CHAPTER I

ACTS

SECTION I

GENERAL RULES

Article 98

Language of acts

1. Criminal procedural acts are made in Albanian language.

2. The person who does not speak Albanian is interrogated in his mother's tongue and the minutes is kept also in this language. Into the same language there are translated the procedural acts given to him upon his request.

3. Infringements of these rules render the act null and void.

Article 99

The signing of the acts

1. When it is required the signing of an act, unless the law does otherwise provide, it is sufficient the hand-writing of the name and the family name of the said person at the foot of the act.

2. The signing put in by mechanical means or by symbols differing from the writing are null and void.

3. When the person is not able to sign, the clerk receiving the written act or filing the oral act, ascertains the identity of the person and writes down this fact at the foot of the act in the presence of the third persons.

Article 100

Date of the acts

1. When the law requires the date of an act, in the act are indicated the day, the month, the year and the place where the act is done. The indication of the time is required only when provided expressly.

2. When it is provided that an act is deemed null and void because the date has been not indicated, this rule applies only to the case when the date may not be precisely given under the elements to be contained by an act or by other acts connected with it.

Article 101

Replacement of the original act

1. When the original of a procedural act is damaged, is lost or disappeared and for various reasons is not found, the authenticated and certified copy has the value of the original and is put in the place when the original was.

2. For this reason, the court even ex-ufficio orders by decision the person who keeps a copy to deliver it to the secretary.

Article 102

The remaking of the acts

1. When the replacement of the act may not be done, the court even ex-ufficio, verifies the content of the missing act and orders whether it may be remade or not and in what way it must be remade.

2. When the draft of the missing act exists, this is remade on its bases, provided that one of the judges who have signed, certifies that it has been authentic with the draft.

Article 103

Prohibition to publication of an act

1. There is prohibited the publication, even partly, of the secret acts connected with the case or even only their content by means or press or mass-media.

2. It is prohibited the publication, even partly, of the acts which are not secret until the termination of the preliminary investigations.

3. It is prohibited the publication, even partly, of the acts of judicial examination when the hearing is held in camera. Prohibition to publication is cancelled when the time-limit provided by law for state archives expire or when the time-limit of ten years from the date that the decision has become final has expired, provided that the publication is authorised by the Minister of Justice.

4. It is prohibited the publication of the personal data and photographs of the defendants and of juvenile witnesses accused or damaged from the criminal offence. The court may permit the publication only when this is in the interest of the juvenile or when the juvenile has reached the age of sixteen.

Article 104

Violation of prohibition to publication

1. The violation of prohibition to publication performed by a state employee or a public entity, if does not constitute a criminal offence, is a disciplinary violation. In this case the prosecutor notifies the organ entitled to disciplinary measures.

Article 105

The receiving of copies, excerpts and certificates

1. During the proceedings and after its termination any interested person may get, on his expenses, copies, excerpts or certificates of specific acts.

2. The request is examined by the prosecutor, for the acts of the preliminary investigation, or by the court which has rendered the decision for those of the judicial examination.

3. The issue of copies, excerpts or certificates does not cease the prohibition to publication.

Article 106

The request of the prosecutor for copies of the acts and for information.

1. The prosecutor has the right, when necessary to make investigations, to ask from the court, even in cases of secrecy, copies of acts connected with other criminal offences he prosecutes and also written information regarding their content.

2. The court shall without delay give an answer to the request or rejects it by motivated decision.

3. The provisions of paragraph 1 and 2 apply to also the requests made by the Minister of Interior and the Chief of Information Service, when they need copies of the acts and information in order to prevent criminal offences.

Article 107

The participation of the deaf-dumb and deaf and dumb in the making of procedural acts

1. When the deaf, dumb and deaf and dumb want or must give explanations, this is made as following:

a) The deaf are made the questions and forewarning in writing and he shall answer orally.

b) The dumb are asked the questions and the forewarning orally and he replies in writing.

c) The deaf and dumb are presented the questions and the forewarning in writing and he replies in writing.

2. In case the deaf, the dumb or the deaf and dumb are not able to read or write the proceeding authority shall appoint one or more interpreters selected amongst the persons who have the skill to communicate with them.

Article 108

The witnesses in the procedural acts

1. There may not be witnesses for the certifying of the content of a procedural act:

a) Juveniles up to fourteen years old and the persons who evidently are mentally sick or who are in a serious state of drunkenness or poisoning by drugs and psychotrops.

b) Persons under precautionary measures.

Article 109

The power of attorney applicable for specific procedural acts

1. When the law permits that the act is made through a special attorney, the power of attorney is made by a notarial act or by a private letter certified by competent authorities, otherwise it is not accepted, and shall comprise, in addition to the data specifically required by law, the definition of the object for which it is given and of the facts it has been referred to. The power of attorney is attached to the acts.

2. The power of attorney issued by state authorities must have the signature of the responsible and the seal of the authority.

Article 110

Memories and requests of parties

1. The parties and their attorneys have the right, in any stage and instance of the proceedings, to present memories and written requests.

2. The proceeding authority renders a decision within fifteen days.

Article 111

Statements and requests of the detained persons

1. The person held in custody has the right to present complaints, requests and statements through the director of the institution, who issues a document certifying that they have been handed. They are recorded in a special book, are notified immediately to the competent authority and have the same effect as having been excepted directly by that authority.

2. The defendant under house arrest or under supervision in a healing place has the right to present claims, request and statements to the officer of the judicial police who certifies to have received them and takes care of their immediate sending to the competent authority.

3. The same rules apply to information, complaints, requests and statements presented by private parties or injured person.

SECTION II

ACTS OF THE COURT

Article 112

The forms of court disposition

1. The court disposes by decision and by order.

2. The final decision is made in the name of the people.

3. The decision and the order shall motivated, otherwise they are deemed null and void.

4. The decision is made in the consulting room, in absence of the secretary and parties.

5. When a member of the court has not voted for what has been decided, upon his request, there is kept a summarised minutes explaining the reasons of the objection. The minutes is signed by all members and is put in a sealed envelope at the secretary.

6. The orders are issued without respecting any specific formalities and, when it is not otherwise provided, they are given even orally.

Article 113

The depositing of the court acts

1. The original of the court acts are deposited in the secretary within five days from their

making. Appealable acts shall be notified to the prosecutor and to the persons the law recognises the right to appeal.

Article 114

The correction of material errors

1. The court which has issued the acts may, even ex-ufficio, make the correction of material errors of the decisions and orders. When this act is appealed and the appeal is accepted, then the correction is made by a decision of the court examining the appeal on which bases is made a note in the original of the act.

SECTION III

DOCUMENTATION OF THE ACTIONS

Article 115

The minutes

1. The documentation of the actions is made by minutes.

2. The minutes is compiled by the secretary of the court, in full or in summarised form, by stenotyping, by other technical means and, when these means are missing, by handwriting.

3. When the minutes is compiled in a summarised form it must be made also the phonographic reproduction and, if there are conditions, even the audio-visual reproduction when required.

Article 116

The content of the minutes

1. The minutes contains the indication of the place, year, month, day and, when necessary, even the time in which it has started and completed, the personal data of the persons who have participated, indication of the causes, if known, the absence of the persons who must participate and the requests presented by the parties.

Article 117

The signing of the minutes

1. The minutes, except the one kept in the hearing, after being read, is signed at the foot of each page by the keeper, by the one who proceeds and by the persons who have participated.

2. When one of the participants does not want or is not able to sign, this is written as a remark, giving also the reason why.

Article 118

Transcription of the minutes kept by stenotyping means

1. The tapes typed with stenotyping symbols are transcripted into ordinary letters not exceeding five days from the date they have been made and they are attached to the acts along with the transcription.

2. When the person who has typed the tapes is subject to prohibition to transcription, then the court orders to trust the transcription to a proper person even not working in the state administration.

Article 119

Phonographic or audio-visual reproduction

1. Phonographic or audio-visual reproduction is made by technicians, even out of the state administration, under the auspices of the secretary of the court.

2. In case of phonographic reproduction, the minutes shall indicate the time of start and termination of reproduction operations.

3. When the phonographic reproduction is not understandable, as evidence shall be used the minutes compiled in a summarised form.

4. The phonographic or audio-visual records shall be attached to the acts.

Article 120

The forms of documentation in particular cases

1. The court, when the actions to be documented have a simple content or when the mechanical means of the reproduction or technical assistants are missing, decides the making of the minutes in a summarised form.

2. When the minutes is kept in a summarised form, the court takes care that the essential parts of the statements and the circumstances under which they have been made shall be noted.

Article 121

Oral statements of the parties

1. When the law does not require the written form of the document the parties may make, by themselves or by means of special attorneys, oral requests or statements. In this case, the secretary of the court compiles the minutes and records the statement. To the minutes shall be attached, when the case is, the special power of attorney.

2. The party that requires it is issued on his own expenses a certificate or the copy of the statements made.

Article 122

Nullity of the minutes

1. The minutes shall be deemed null and void when there are doubts regarding participating persons or when the signature of the clerk who has kept it is missing.

SECTION IV

THE TRANSLATION OF THE ACTS

Article 123

The appointment of the interpreter

1. The defendant who does not know the Albanian language is entitled to free assistance by an interpreter in order to understand the accusation and to attend the actions he participates in.

By means of the interpreter he is obliged to make a written statement admitting he does not know the Albanian language.

2. The proceeding authority shall also appoint an interpreter when a writing into a foreign language must be translated.

3. The interpreter is also appointed when the court, the prosecutor or the officer of the judicial police do know the language to be translated.

Article 124

Incapacity and the incompatibility of the interpreter

1. There may not exercise the task of an interpreter:

a) the juvenile, the one who is prohibited to translate, the one who is incapacitated, the mentally sick, the one who is prohibited or suspended the exercise of public duties and profession;

b) the person under precautionary measures;

c) the person who may not be asked as a witness, the one who has been summoned as a witness and as expert in the same process or in a process connected with this.

Nevertheless, in case a deaf, a dumb or a deaf and dumb is asked the interpreter may be selected by their relatives.

Article 125

Request for challenging and withdrawal of the interpreter

1. The parties have the right to challenge the interpreter for reasons provided by article 124.

2. When there is a reason to ask the challenge or withdrawal, the interpreter must announce it.

3. The request for challenge or withdrawal may be submitted before the assignment and, for reasons acknowledged later on, before the interpreter has performed his assignment.

4. The request for challenge or withdrawal is subject to a decision of the proceeding authority.

Article 126

The assignment of the interpreter

1. The proceeding authority verifies the identity of the interpreter and asks him whether there are reasons for his challenge or not.

2. The interpreter is forewarned of his obligation to an accurate translation and to the secrecy of actions carried on in his presence. After this, he is invited to perform the assignment.

Article 127

Time-limit for completion of written translations. Substitution of the interpreter

1. The proceeding authority shall fix the interpreter a time-limit in case the translation of the writings requires an overtime work. The interpreter may be substituted when he does not present the written translation within the time-limit.

2. The substituted interpreter, after being summoned to appear before the court to give the reasons why the assignment has been not completed, and the court may punish him by fine up to ten thousand lek.

SECTION V

NULLITY OF THE ACTS

Article 128

Absolute nullity

1. The procedural acts shall be deemed null and void when there are not respected the provisions related with:

a) the prerequisites to be a judge in the concrete case and the required number of judges to set up the colleges as provided by this code;

b) the right of the prosecutor to initiate criminal proceedings and to participate in the proceedings;

c) the summons of the defendant or the presence of the defence lawyer when it is compulsory.

2. An act which has been qualified as absolutely null and void by law may not become valid.

Article 129

Relative nullity

1. The nullity differing from those provided by articles 130 and 131, paragraph 2 may be declared upon request of the parties.

2. The nullity related to the acts of preliminary investigation and to those made for the incident of the proof must be objected before the judicial examination starts.

3. The nullity proven in the trial may be objected along with the appeal of the final decision.

4. Time-limit to present or to object the nullity may not be prolonged.

5. The nullity of an act must when the party is present must be objected before it is completed or, when this is not possible, immediately after its completion.

Article 130

The evaluation of nullity

1. Except when the law does otherwise provide, the nullity is not considered when:

a) the interested party has expressly withdrawn from its objection or has accepted the consequences of the act.

b) the party has profited from the right for which exercises the null and void act has been ordered before.

2. Nullity of notifications, announcements and communications is evaluated in case the interested party has failed to appear or has refused to appear.

3. The party declaring that appears only to present the irregularity of the act is entitled to a time-limit, not less than five days, to defence.

Article 131

Consequences of declaring the nullity

1. The nullity of an act renders null and void subsequent acts which are depended on the one that has been declared null and void.

2. The court declaring the nullity of an act orders its repetition when this is needed and possible charging expenses to the one who has caused the nullity intentionally or because of gross negligence.

CHAPTER II

NOTIFICATION

Article 132

Organs and forms of notification

1. The notification of the acts are carried on by the clerk or by mail.

2. The judge, when considers necessary may order that notification are made by the judicial police.

3. When the copy of the act is delivered to the interested person by the secretary of the court this has the value of the notification. In this case the secretary of the court notes on the

original acts the delivery and the date.

4. The notifications made by the court to the interested person in their presence are kept in the minutes.

Article 133

Urgent notification by telephone, telegraph and fax

1. The judge, in urgent cases, may order that the persons requested by the parties, except the defendant, are notified by telephone from the secretary of the court or from the judicial police.

On the original of the notification is noted the number of the dialed number of the telephone, the name and the duty of the person which receives the notification, his relations with the one subject to notification the date and the time of the telephone call.

2. The notification telephone is valid since the moment it is made but still when there is also received the confirmation by the receiver through the telegram.

3. The notification may be made also by telegram and fax.

4. The judge under specific circumstances may dispose by order motivated at the foot of the act that the notification of the person, except the defendant is made by using adequate technical means which guarantee the notification.

Article 134

Notification of acts to the prosecutor

1. The notification of the act to the prosecutor during the preliminary investigation is made by the judicial police or by mail.

2. The delivery of the copy of the act to the interested person by the secretary has the validity of the notification. The deliverer notes on the original of the act the fact of the delivery and the date.

3. Oral notification made by the prosecutor replace the notifications provided that this fact is

noted in the minutes.

Article 135

Notifications by private parties

1. Notifications by the parties may be made even with the sending of the copy of the act by their attorneys through a registered letter with a confirmation of receipt.

Article 136

Notification to the prosecutor

1. The notifications to the prosecutor are made even directly by the parties, defence lawyers or their attorneys through the delivery of the copy of the act to the secretary. The one who receives it notes in the original and in the copy of the act the personal data of that who has made the delivery and the date.

Article 137

Notification to the private parties

1. Notifications to the person injured from the criminal offence are made equally as in cases when it is notified for the first time the defendant in free conditions. When the places indicated in the article 143 are not known the notification is made by depositing the act in the secretary. When it results from the acts that his domicile or residing place or residence are abroad, he shall be cited by a registered letter with confirmation of reception by which he must declare or choose an address within the territory of Albanian state. When after twenty days from the reception of the registered letter the declaration or the choice of the address is not made the notification is done by depositing the act in the secretary.

2. The notification of the first summons to the civilly sued person is made in the forms provided for the first notification of the defendant in free state.

3. The notifications regarding the plaintiff and civilly sued person are made to their attorneys.

Article 138

Notifications of injured persons by public announcements

1. When the notification of the injured persons is difficult because there are many of them or because it is difficult to identify some of them, the court may order the notification by public announcement.

2. The notification is considered completed when the clerk of the court deposits a copy of the act along with the documents which certify the public announcement at the secretary.

Article 139

The notification of the imprisoned defendant

1. The notification of the imprisoned defendant in the prison by handing him the act.

2. When the defendant refuses to receive the copy of the act or when he is absent for justified reasons the act is handed to the responsible of the institution who, in such a case, gives notes to the interested person by the fasted means.

3. The provisions hereof shall be also applicable in case the defendant is detained for another accusation or is serving the punishment to imprisonment.

4. When the prisoner is released due to the changing of the precautionary measures he must declare or choose an address. This is noted in the act of release and is notified to the proceeding authority. When the notification in the declared or the chosen address may not be executed then the act is delivered to the defence lawyer.

Article 140

The notification of the defendant in free state

1. The notification of the defendant in free state is made by delivering him the copy of the act.

When it may not be delivered to him personally the notification is made in his domicile or working place by delivering the act to a person who lives with him or to a neighbour or to a person who works with him.

2. When the places indicated in the paragraph one are not known the notification is made in the place where the defendant lives temporarily or in the place where he resides more frequently, by delivering it to one of the persons indicated in the paragraph 1.

3. The copy of the notification may not be delivered to a juvenile under fourteen or to a person with evident lack of intellectual capacity.

4. When the persons indicated in the paragraph 1 are absent or when there are not suitable or refuse to receive the act then it is proceeded by tracing the defendant in other places. In case that even this way the notification may not be done, the act is deposited in the administrative unit of the quarter or the village where the defendant lives or works. The notification of the deposit is posted on the gate of the house or working place of the defandant. The clerk notifies him for the deposit by a registered letter with a confirmation of the receipt. The effects of the notification start since the reception of the registered letter.

5. The notification of the defendant who is serving military service is made by handing him personally the act and when this cannot be done the act is notified to the commando unit which is obliged to immediately notify the interested person.

6. The defendant is obliged to notify the proceeding authority for any changing of the declared or chosen domicile by telegram or registered letter.

Article 141

The notification of the defendant when he is not found

1. When the notification cannot be done according to rules specified for the first notification of the defendant in free state, the proceeding authority orders the searching for the defendant In

case the search does not give any positive result then it is issued the decision of failure to be found by which after appointing a defence lawyer to the defendant, is ordered that the notification is done by delivering a copy to the defence lawyer. The unfound person is represented by the defence lawyer.

2. The decision of the failure to find him shall loose the effects when the preliminary investigations terminate or as the decision of the court is rendered.

3. The notification to the hidden or escaped defendant is made by delivering of the copy of the act to the defence lawyer and when he has not a defence lawyer the proceeding authority appoints a defence lawyer ex-officio, who represents the defendant.

Article 142

The notification of the defendant abroad

1. When the domicile or the residence of the defendant abroad is known the proceeding authorities sends him a registered letter with confirmation of reception, by which notifies the criminal offence he is charged with and asks him to declare or choose a domicile in the Albanian territory. In case after three days from the reception of the registered letter the declaration or the choice of the domicile is not made or when this is not notified, the notification is made by the delivery to the defence lawyer.

2. When it results that there are not sufficient data to act as provided by paragraph 1 the proceeding authority, before issuing the decision of failure to find him, orders for searches to carry out, even outside the territory of that state, in conformity to the rules provided by international conventions.

Article 143

Nullity of notification

1. The notification is null and void when:

a) the act has not been notified entirely, except when the law permits the notifications by excerpts,

b) in the copy of the notified act the signature of the one who has made the notification is missing,

c) there are violated specific provisions regarding the person who is entitled to the delivery of the copy,

ç) there is not made the posting of the notification for the defendant in free state,

d) in the original of the notified act the signature of the person who has undertaken the notification according to article 140, paragraph 1 is missing,

dh) there are not observed the forms of the notification by special technical means and for this reason the one who should be notified did not get informed of the act.

CHAPTER III

TIME-LIMITS

Article 144

General rules

1. The procedural time-limits are fixed hourly, daily, monthly or yearly.

2. The time-limits are assessed under the ordinary calendar.

3. When the daily fixed time-limit chances on a holiday or on a bank holiday, it is postponed up to the subsequent working day.

4. Except when the law otherwise provides, there shall not be assessed in the time limit the hour or the day on which the time-limit starts. There are assessed the last hour or the last date.

5. The time-limit for the presentation of statements the deposit of the documents or the carrying on of other operations in the court shall be considered terminated at the moment when, as a rule, the offices are closed for the public.

Article 145

Time-limit that may not be prolonged

1. The time-limit which may not prolonged are those provided by law for specific cases.

These time-limits may be prolonged only when the law does otherwise provide.

2. The party in which favour has been fixed a time-limit may ask or permit its shortening by a statement delivered to the secretary of the proceeding authority.

Article 146

Prolongation of the time-limit to appear

1. When the domicile of the defendant given by the acts or the declared or chosen domicile stands outside the district where the proceeding authority has its seat the time-limit to appear shall be prolonged as long as days are needed for travelling. In any case the prolongation of the

time-limit may not be longer than three days. the prolongation of the time-limit for the defendant residing abroad id fixed by the proceeding authority taking into consideration the distance and the means of transport which are used.

2. These rules shall also apply to the time-limit provided for the appearing of any other person for which the proceeding authority has issued an order or a writ of summons.

Article147

Reinstatement of the time-limit

1. The prosecutor, the defendant, private parties and defence lawyers shall be reinstated the fixed time-limit when they prove to have not been able to observe the time-limit due to mischance or force majeure.

2. In case the decision is rendered in absence the defendant may request the reinstatement of the time-limit to make an appeal when proves that he has not been notified of the decision.

3. The request to reinstate the time-limit is presented within ten days from the disappearing of the fact which constituted mischance or force majeure, whereas in cases provided by paragraph 2 from the day when the defendant has become effectively aware of the act. The reinstatement of the time-limit is not permitted more than once for each party for each stage of the proceedings.

4. The request is subject to the decision of the authority which proceeds at the time of its presentation.

5. The decision permitting the reinstatement of the time-limit for making the appeal is appealable only along with the final decision.

6. The decision refusing the request for reinstatement of the time limit is subject to an appeal to the Court of Cassation.

Article 148

The effects of reinstatement of time-limit

1. The court which he has decided the reinstatement of the time-limit, upon request of the party and as far as it is possible, orders the repetition of the operations in which the party was entitled to participate.

2. When the reinstatement of the time-limit is rendered by the Court of Cassation the repetition of the operations shall be decided by the court which is competent to the review on merits

TITLE IV

THE PROOF

CHAPTER I

GENERAL RULES

Article 149

The meaning of the proof

1. The proof are information on the facts and circumstances connected with the criminal offence which are acquired from sources provided by criminal procedural law in conformity with its rules and which contribute to proving whether the criminal offence has been committed or not, the consequences which have come from it, the guilt or innocence of the defendant and the extent of his responsibility.

Article 150

The subject of the proof

1. There are subject of the proof the facts connected with the accusation, the guilt of the defendant, the taking of precautionary measures, the punishment and civil liability as well as the facts which influence to the application of the procedural rules.

Article 151

The taking of the proof

1. During the preliminary investigation the proceeding authority takes the proof under the rules provided by this code.

2. The proof in the trial are taken upon request of the parties. The court decides by order, dismissing the proof prohibited by law and those who are obviously unnecessary. The disposition regarding the taking of the proof may be revoked in any stage of court examination.

3. When a proof which is not provided by law is requested, the court may take it if it assists to prove the facts and if it does not impair the free willingness of the person. The court decides on the taking of the proof after hearing the parties how to take it.

4. There may not be used the proof taken contrary to the prohibitions provided by law. The uselessness is also brought ex-officio in any stage and instance of the proceedings.

Article 152

Evaluation of proof

1. The evaluation of the proof is the definition of the genuineness and their capacity of proving. Any proof is subjected to examination and does not have any prejudiced value. The court evaluates the proof upon conviction created after their thorough examination.

2. The existence of a fact may not be picked up from the indications except when these are important, accurate and in harmony with each other.

3. The statements made by the co-defendant in the same criminal offence or by the perso held as defendant in proceedings connected with him shall be evaluated along with other proof which confirm their genuineness.

CHAPTER II

TYPES OF PROOF

SECTION I

TESTIMONY

Article 153

The subject and the limits of testimony

1. The witness is questioned on the facts which are subject to proof. He cannot give evidence on the moral behaviour of the defendant, unless the case is connected with facts which help to figure out his personality in connection with the criminal offence and the social dangerousness.

2. The interrogation of the witness can be extended also to the kinship relations and to the existing interests between the witness and the parties or other witnesses, as well as to the circumstances which verification is needed to evaluate his reliability. The testimony to facts which help to figure out the personality of the injured by the criminal offence is only accepted if the accusation to the defendant must be evaluated in relation with the behaviour of the injured person.

3. The witness is questioned for specific facts. He may neither give evidence about facts which are discussed in public nor express his personal opinion, except when they cannot be divided from the testimony to the facts.

Article 154

Indirect testimony

1. When the witness, in order to know the fact, refers to other persons, the court, upon request of the party or ex-officio, orders them to appear to give evidence.

2. In case the provisions of the paragraph 1 are not taken into consideration, the testimony of the witness to the fact acknowledged by him from other persons is useless, except when their interrogation is impossible because of their death, their grave malady or when they are not found.

3. The witness cannot be questioned for facts which he has learn from the persons who are obliged to keep their professional or state secret, except when these persons have given evidence on the same facts or have spread them in any other way.

4. It may not be used the testimony of the person who refuses or who is unable to indicate the person or the source from which he has learned the facts subject to his interrogation.

Article 155

Capacity to give evidence

1. Anyone, except those who are not able to testify because of their mental or physical disability, has the capacity to give evidence.

2. When the evaluation of the statements needs the verification of mental and physic capacity to give evidence, the court even ex-officio can order for necessary verifications to carry.

Article 156

Incompatibility with the assignment of the witness

1. There cannot be questioned as witnesses:

a) the persons who, due to physical or psychological sickness, are not able to give right evidence;

b) the defendants in a common criminal offence or in a connected proceedings even when they have been subject to a dismissal, acquittal or conviction, except when the acquittal has become final;

c) the ones who are carrying on or have been vested the function of the judge or prosecutor in the same proceedings;

ç) the civilly sued.

Article 157
The duties of the witness

1. The witness is obliged to appear before the court, to observe its orders and to say the truth for the questions brought before him.

2. The witness may not be forced to testify to facts which can incriminate him.

Article 158

Exemptions from obligation to testify

1.There are not obliged to testify:

a) the close relatives of the defendant, except when they have made an indictment or a complaint or when they or a close relative of them are injured by the criminal offence;

b) the spouse, for facts he has learnt from the defendant during their matrimonial life;

c) the divorced spouse of the defendant;

d) the person who is not the spouse of the defendant but he concubinages or have concubinaged with him or her;

e) the person who is related with the defendant by adoption.

2. The court explains to the above mentioned persons the right to not testify and asks them if they wish to make use of this right. If this rule is ignored, the testimony is rendered null and void.

Article 159

Professional secrecy

1. There may not be forced to give evidence for facts learnt due to their duty or profession, except when they have to present them to the proceeding authorities:

a) the representatives of the religious belief, whose statutes are not in opposition to the Albanian rule of law;

b) practicing lawyers, legal representatives and notaries;

c) doctors, surgeons, pharmaceutists, obstetricians and any body else exercising a medical profession,

d) the ones who exercise other duties or professions, whom the law recognises the right to not give evidence for what concerns the professional secret.

2. When there are reasons to suspect that these persons try to not give evidence under unmotivated grounds, the court orders for necessary verification. When it results ungrounded, the court decides that the witness must give evidence.

3. The provisions setforth in paragraph 1 and 2 shall also apply to the professional journalists as far as the names of the persons from whom they have collected information during the

performance of their profession are concerned. But, in case the data are indispensable to prove the criminal offence and the truthfulness of these data may become clear only through the identification of the source, the court orders the journalist to give the source of his information.

Article 160

The keeping of the state secret

1. The state employees, public clerks and the persons assigned with a public service are not obliged to give evidence for facts which are considered as state secret.

2. When the witness insists that the fact is a state secret, the court requests a written confirmation of the competent state authority.

3. When the secret is confirmed and the proof is not essential for the solution of the case, the witness is not questioned, but in case the proof is essential, the court decides the suspension of the case until the superior authority of the state administration shall give its response. After this the witness must testify.

4. When, after thirty days from the communication of the request, the competent state authority does not confirm the secret, the witness is asked to testify.

5. The officers and the agents of judicial police, as well as the personnel of informative service may not be ordered to tell the names of their informers. The information given by them shall not be considered and used if these officials are not questioned as witness concerning the information.

Article 161

Exclusions in the status of a secret

1. There may not be qualified as state secret the data or documents connected with criminal offences, which attempt to overthrow the constitutional order. The nature of the criminal offence is defined by the proceeding authority.

2. If the exception of the secret is not accepted, the competent state authority shall be informed.

Article 162

The taking of testimony from the President of the Republic and other high rank state employees

1. The testimony of the President of the Republic is taken in the residence he exercises the function of the Head of the State.

2. In case the testimony of the Chairman of the Parliament, Prime-Minister, President of the Constitutional Court, President of the Court of Cassation must be taken, they may ask to be interrogated in the offices they exercise their functions. When the court considers their presence as indispensable to carry out acts such as recognition or confrontation, it is proceeded under ordinary rules.

Article 163

Taking testimony from diplomats

1. In case a diplomat or anyone in charge of diplomatic mission outside Albania must be questioned, as long as he is outside the territory of the Albanian state the request for his interrogation shall be transmitted, through the Ministry of Justice, to the Albanian diplomatic or consulate authority, except when they must appear by all costs.

2. For the taking of testimony from diplomats of a foreign country accredited in Albania international conventions and customary rules shall apply..

Article 164

Forcible accompaniment

1. When the witness, who is normally summoned, does not appear at the designated place, day and hour, without any lawful obstacles, the court may order the forcible accompaniment.

2. The person under forcible accompaniment cannot be held available more than the required time for his appearance and, in any case, not more than twenty-four hours.

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

Article 165

The responsibility for false evidence or refusal to give evidence

1. When during the interrogation the witness gives contradictory, not complete or sayings which run against the taken proof, the court forewarns him for false evidence. The same forewarning shall apply to the witness who unlawfully refuses to give evidence.

2. In case the witness persistently refuses to give evidence or when it is evident that the witness has given false testimony, the court requests from the prosecutor to proceed according to law.

SECTION II

INTERROGATION OF THE DEFENDANT AND THE PRIVATE PARTIES

Article 166

The request for the interrogation

1. The defendant and the civilly sued are interrogated in case they request or when this is requested to them and they give their consent. The same applies to the civilly sued, except when he must be interrogated as witness.

Article 167

Interrogation of a person who is a defendant in a connected proceeding

1 The persons held as defendant in a connected proceedings, who are being proceeding or are proceeded separately, are interrogated upon the request of the party or even ex-officio.

2. They must appear before the court which, when necessary, orders their forcible accompaniment. The provisions of summoning of the witnesses shall apply.

3. The persons indicated in the paragraph 1 shall be defended by the selected defence lawyer and, in his absence, by a defence lawyer appointed ex-officio.

4. Before the start of examination, the court reminds the persons indicated in the paragraph 1 of their right to silence.

5. The provisions of the above paragraphs shall also apply to preliminary investigations of the persons held as defendant or for a criminal offence which is connected with that under proceedings.

Article 168

The interrogation of private parties

1. The interrogation of private parties shall undergo the dispositions provided by articles 153, 154,157, paragraph 2 and 363.

2. When the party refuses to answer a question this shall be noted in the minutes.

SECTION III

CONFRONTATIONS

Article 169

The requirements of the confrontation

1. The confrontation is allowed only between persons who have been interrogated, when there are contradictions amongst them for certain facts and circumstances.

Article 170

Rules of the confrontations

1. The proceeding authority, after reminding the persons to be confronted of their previous statements, shall ask them whether confirm or change them, inviting, if necessary, to make the reciprocal objections.

2. In the minutes shall be registered the questions brought by the proceeding authority, statements made from the persons in confrontation and anything else which has occurred during the confrontation.

SECTION IV

RECOGNITION

Article 171

Recognition of persons

1. When recognition of a person is needed, the proceeding authority invites the one who must make the recognition, to describe the person by producing all the signs he remembers and asks him whether he has been asked to make the recognition before and also other circumstances which may contribute to the truthfulness of the recognition.

2. In the minutes there are noted the actions provided by paragraph 1 and the statements made by recognizing person.

3. Failure to meet the provisions of paragraph 1 and 2 is a cause to render recognition null and void.

Article 172

The performance of recognition

1. After ordering the recognising person to leave, the proceeding authority provides the appearance of at least two persons, who take after the to be recognised. It invites the latter to choose his place trying to appear, as much as it is possible, in the same circumstances in which he might have been seen by the recognising person. After the recognising person appears, the court asks him whether he knows anyone of those who are under recognition and, if the answer is positive, it invites him to show the one he recognises and to specify whether he is pretty sure of this.

2. When there are reasons to think that the person cited to make a recognition may feel scared or has any influence of the presence of the person to be recognised, the proceeding authority orders that the act is carried avoiding the first to be seen by the latter.

3. In the minutes there are noted, by sanction of nullity, the performance of the recognition.

The proceeding authority may order the recording of the process of recognition, even by photographing or filming it.

Article 173

Recognition of objects

1. When it must be proceeded in recognising material proofs or other objects connected with the criminal offence, the proceeding authority acts by observing the rules of recognition of the persons, at the extent this can be done.

2. After being found, when possible, at least two objects similar with the one to be recognised, the proceeding authority shall ask the person cited for recognition whether he knows any of them and in case the answer is yes, it invites to state which of them and to confirm that this is for sure.

3. In the minutes are kept, by sanction of nullity, the way recognition is carried out.

Article 174

Other forms of recognition

1. When it orders the recognition of voices, sounds or any other thing which may be subject to sensual perception, the proceeding authority observes the rules applicable to the recognition of persons, as far as this is possible.

Article 175

Recognition by several persons or of several persons

1. When several persons are cited to make the recognition of the same person or object, the court proceeds by separate actions, prohibiting any communication between the one who has made the recognition and the ones who must make it after.

2. When a person must recognise several persons or objects, the court orders that the person or the object to be recognised shall be put amongst the persons or the various objects.

3. There shall apply the provisions of articles 171, 172 and 173.

SECTION V

THE EXPERIMENT

Article 176

Conditions of the experiment

1. The experiment is permitted when necessary to prove whether a fact has occurred or not or whether it may have occurred in a certain way.

2. The experiment is the reproduction, as far as this is possible, of the situation in which the fact has occurred or it is deemed to have occurred, by repeating the ways of the occurring of the fact itself.

Article 177

The rules of performing the experiment

1. The decision of the proceeding authority ordering the completion of the experiment comprises a summarised information about its object and the indication of the day, time and place where the actions will take place. In the same decision or in another subsequent one a specialist to carry on the specific actions may be appointed.

2. The proceeding authority takes the adequate measures to carry out the actions ordering the photographing and the filming and also measures that the public or individual security is not threatened.

SECTION VI

EXPERTISE

Article 178

The subject of expertise

1. The expertise is permitted when necessary to carry on researches or to take evidence or evaluations, which require special technical, scientific, or cultural knowledge.

2. There shall not be allowed the expertise to figure out the professionalism in the criminal offence, criminal inclination, character and the personality of the defendant and, in general, the psychic features which are not connected with pathological

Article 179

Assignment of expert

1. The assignment of expert is made by selecting him amongst the persons registered in the special books or amongst them who have special knowledge on this matter. When expertise shall be declared null and void the, proceeding organ takes the measures, when possible, that the new assignment is trusted to another expert.

2. The order of the proceeding authority for the assignment of the expert is notified to the defendant or his defence lawyer, explaining his right to ask for the challenge of the expert, to propose other experts, to participate himself in the expertise, when possible, and to ask questions to the expert.

3. When the researches and the evaluations appear to be very complex or require various information from several subjects, the proceeding authority shall charge the task of the expertise several experts.

4. The expert is obliged to carry out his job except when there are not the cases of his challenging as an expert.

Article 180

Incompatibility in the assignment of the expert

1. There may not carry on the duty of an expert, by sanction of nullity:

a) the juvenile, the one who has a legal obstacle or is incapacitated or suffers from a mental sickness

b) the one who is suspended, even temporarily, from public duties or from the exercise of the profession

c) the one who has been imposed individual precautionary measures

ç) the one who may not be interrogated as a witness or to be cited as an interpreter or has the right to not give evidence or to not translate.

Article 181

The challenge of the expert

1. The parties may challenge the expert as in cases this law provides for the challenge of a judge.

2. When there is a reason for the challenging, the expert is obliged to declare it.

3. The statement of the reason of the challenge made by the expert himself or the demand for the challenging made by the parties may be presented until the assignment has been made and when the causes have come about on the spot or have been known later, before the expert has given his opinion.

4. The statement of the expert for the challenging or the demand for his challenge is subject to the decision of the proceeding authority that has ordered the expertise.

Article 182

The dispositions of the proceeding authority

1. The proceeding authority disposes the expertise upon a motivated decision, which include the appointment of expert, the brief introduction of the case, the indication of the day, hour and of the fixed place for the appearance of the expert.

2. The proceeding authority orders the expert and takes the measures for the appearance of the persons subjected to expertise.

Article 183

The assignment of the duty

1. The proceeding authority, after being certain of the expert's identity, asks him if there are reasons of challenge, forewarns him on the obligations and responsibilities provided by the criminal law, compiles the requirements of expertise and invites the expert to make the following statement: "Being aware of the moral and legal responsibility of the assignment I am undertaking, I shall carry it out honestly and fairly and I shall keep the secret of all the actions connected with the expertise".

2. The remuneration of the expert is determined by order of the authority which disposes of the expertise.

Article 184

The actions of the expert

1. In order to meet the requirements of the expertise, the proceeding authority may authorise the expert to look at the acts, documents and anything else in the file of the prosecutor or the court.

2. The expert may be also authorised to take part during the interrogation of the parties and the taking of the proof.

3. When the expert asks data from the defendant injured person or other persons. these data shall be used only for the completion of expertise.

Article 185

The expertise report

1. The opinion of expert is provided in writing.

2. When the appointed experts are more than one and they have different opinions, each of them shall give his own opinion by a separate act.

3. In case there are a lot of facts and the expert cannot answer immediately, the proceeding authority gives him a period of time not exceeding sixteen days. In case he needs to make some very complex verifications, this term may be prolonged more than once for periods of times not longer than thirty days, but in any case without exceeding the maximum of six months.

Article 186

Replacement of expert

1. The expert may be replaced in case he does not give his opinion within the fixed term or when the request for prolongation is not accepted or he is negligent in his duty.

2. The order of the proceeding authority regarding substitution is given after hearing the expert. The replaced expert may be punished by a fine up to ten thousand leks.

3. The expert is also substituted when the request for his challenge is accepted.

4. The replaced expert is obliged to deliver to the proceeding authority the documentation and the results of the performed acts.

SECTION VII

REAL EVIDENCE

Article 187

The meaning of real evidence

1. The real evidence comprises the objects which have been used as means in the committing of a criminal offence or which keep traces or which have been as a target for the actions of the defendant, objects which constitute the benefit from the criminal offence, as well as any other object which may contribute to the clarification of the circumstances of the case.

Article 188

The taking of real evidence

1. The real evidence are described in detail in the minutes, when there is possible they are photographed or filmed and, by order of the proceeding authority, shall be attached to the judicial file.

Article 189

The preservation of the real evidence

1. If the real evidence which are destroyable due to their nature cannot be restituted to the persons they belong to, then they shall be delivered for use to specific entities, which must give them back in the same conditions or pay back their value.

Article 190

Disposition of real evidence

1. In their final sentence or in that of the dismissal of a case the court or the prosecutor decide what must be done with the real evidence ordering:

a) the objects that have been used or were qualified as means for the commission of the criminal offence and the objects which constitute benefit resulting from the same or given or promised payment for its commission shall be retained and transferred to the state, except when they belong to persons who have been not involved in the commission of the criminal offence.

b) the objects which maintenance or circulation is prohibited shall be delivered to the respective entities or shall be destroyed

c) the objects having no value shall be destroyed

d) the other objects are restituted to the persons that they belong to and, when there are disputes regarding their ownership, shall be preserved until the disputes are resolved by the court.

2. Real evidence may be restituted to the persons they belong even before the termination of the proceedings, provided that solution of the case is not impaired.

SECTION VIII

DOCUMENTS

Article 191

The acquiring of documents

1. There shall be permitted the acquiring of the documents representing facts, persons or objects through photographing, filming, phonographing or any other means.

2. When the original of a document is destroyed, lost or disappeared the copy may be acquired.

3. The documents that constitute real evidence must be acquired whoever be the person who produced or keeps them.

Article 192

Documents regarding personality

1. There shall be permitted the acquiring of certificates regarding criminal record and of the final court sentences to judge upon the personality of the defendant and injured when the fact under proceedings must be evaluated considering their conduct or moral profile.

2. These documents may be also acquired to evaluate the reliability of a witness.

Article 193

The acquiring of minutes of other proceedings

1. There shall be permitted the obtaining of the minutes of other criminal proceedings which have a connection with the safety of evidence administered during the court examination.

2. There shall be permitted the acquiring of minutes of evidence in a civil trial which has ended with a final judgement.

3. There shall be permitted the acquiring of documents of the actions which cannot be repeated.

4. In addition to the cases provided in paragraph 1, 2, and 3 the minutes of the proof may be used in the judicial review in case the parties agree or in case of objections provided by articles 364 and 367.

5. The final decisions may be acquired for questions of evidence related with the existence of the fact, being evaluated along with other evidence.

Article 194

Anonymous documents

1. The documents which constitute anonymous information may neither be obtained nor used, except when they constitute real evidence or when they have been made by the defendant.

Article 195

False documents

1. The court, when on termination of the proceedings come to the conclusion that an acquired document is false, informs the prosecutor and also sends him the document.

Article 196

The translation of the document

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

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

Article 197

The issue of copies

1. When orders the acquiring of a document the proceeding authority, upon request of the interested person, may authorise the secretary to issue authenticated copies of the document.

CHAPTER III

THE MEANS OF SEARCHING FOR EVIDENCE

SECTION I

EXAMINATIONS

Article 198

Cases and forms of examination

1. The examination of persons, of the spot and objects is ordered by the proceeding authority when necessary to find out the traces and the other material consequences of the criminal offence.

2. When the criminal offence has left no trace or material consequences or when these have disappeared, are lost, changed or removed the proceeding authority describes the scenary and, when possible, reveals how has it been before the changes and also takes steps to specify the way, the time and the reasons of eventual changes.

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

Article 199

Examination of persons

1. The examination is made by respecting the dignity and, as far as possible, the protection of the person subjected to examination.

2. Before the start of examination, the person to be examined is noted the right to ask the presence of a reliant, provided that he may be found immediately and is proper.

3. The examination may be also conducted by a doctor. In such a case the proceeding authority may choose to not participate in the examination.

4. When necessary for the ascertainment of facts which are important for the case, blood examination and other bodily interventions even without the willingness of the person shall be allowed, provided that no danger occurs to health.

Article 200

Corpse examination

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

2. For the examination of the corpse the judge or the prosecutor may order the exhumation, informing a member of the family of the deceased to participate, except when this participation may impair the scope of examination.

Article 201

Examination of spots and objects

1. The defendant and the one having available the spot on which the examination shall be made or the object to be examined shall be delivered initially the copy of the order for the completion of the examination.

2. In case of spot examination the proceeding authority may order, for motivated reasons, that the attending persons shall not leave before the completion of the examination and to get back forcibly the ones who leave.

SECTION II

INSPECTIONS

Article 202

Circumstances for carrying on inspections

1. When grounded reasons to think that someone hides real evidence of criminal offence or objects belonging to criminal offence exist, the court renders a decision regarding completion of inspection of the person. When these objects are in a certain place inspection of the place or of the house is ordered.

2. The court which has rendered the decision may act itself or order the officers of the judicial police to complete the inspection, as specified in the inspection order.

3. In case of flagrancy or when the escaping person is being traced, which cannot wait until a decision for inspection is rendered, the officers of judicial police shall carry out the inspection of the person or of the spot following the rules provided by article 299.

Article 203

Delivery request

1. When a certain object is being searched for, the proceeding authority may ask its handing.

In case the object is handed, then the inspection is not completed, except when it is considered necessary.

2. In order to specify the objects which may be sequestrated or to reveal specific circumstances, necessary for the investigation, the proceeding authority or its authorised officers of judicial police may inspect the bank operations, documents and correspondence.

Article 204

Inspection of the person

1. Before the completion of inspection of the person, the one to be inspected shall be handed a copy of inspection order, making known the right to ask for the presence of a reliant person, provided that he is found immediately and is appropriate.

2. The inspection is made by respecting the dignity and the defence of the one under inspection.

Article 205

Inspection of spots

1. The defendant, when present, and the one who has the place available shall be handed the copy of inspection order explaining the right to ask for the presence of a reliant person.

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

3. The proceeding authority may inspect present persons when considers that they may hide real evidence or objects belonging to the criminal offence. It may order that the present persons shall not leave before the completion of inspection and the getting forcibly back of the ones who leave.

Article 206

The timing for house inspection

1. The inspection in a dwelling house or in a closed place near it may not start before seven a.m. and after twenty p.m. In case of urgency the proceeding authority may, by written order, decide that the inspection is made exceeding such time-limits.

Article 207

Sequestration during inspection

1. The objects which are found during the inspection may be sequestrated in compliance with provisions on sequestration.

SECTION III

ATTACHMENT

Article 208

The scope of sequestration

1. The judge or the prosecutor are entitled to order, by motivated writ, the attachment of real evidence and objects connected with the criminal offence, when they are indispensable to reveal the facts.

2. The attachment is carried on by the one who has issued the writ or by the officers of the judicial police being authorised by the same writ.

3. The copy of the writ of attachment is handed to the interested person, if present.

Article 209

Sequestration of correspondence

1. When the court has grounded reasons to think that in the telegraphic or mail service offices there are letters, envelopes, boxes, telegrams and other objects of correspondence sent from or to the defendant, even under other name or through another person, it orders their sequestration.

2. When the sequestration is made by an officer of the judicial police he must hand to the judicial authority the sequestrated objects of the correspondence without opening and without having got access to them by any other means.

3. The sequestrated objects that are not part of sequestrable correspondence shall be restituted to the one they belong and may not be used.

Article 210

Attachment in the banks

1. The court may order the attachment of bank documents, stock exchanges, sums deposited in current accounts and other when there are grounded reasons to think that they are connected to the criminal offence even when they do not belong to the defendant or are not in his name. In urgent cases this decision might be taken by the prosecutor.

Article 211

The obligation for delivery and secrecy

1. The persons obliged to keep the professional or state secret must immediately hand to the proceeding authority the acts and documents, even the original ones, and anything else kept by them because of duty, service or profession, except when they declare that it is a state secret or a secret related to their duty or profession. In the last case, the necessary verifications shall be completed and, when it results that the declaration has no ground, the proceeding authority orders the sequestration.

2. When the state secret is confirmed by the competent authority and the proof is essential for the solution of the case the proceeding authority decides to take the proof.

3. When within thirty days from the request the competent authority does not confirm the secret, the proceeding authority orders the attachment.

Article 212

Challenge of attachment order

1. The defendant, the person whose objects have been attached and the one who has the right to ask for them may appeal the attachment order to the court.

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

Article 213

The copies of attached documents

1. The preceding authority may order the issue of copies of attached acts and documents, restituting the originals and, when the originals must be kept, orders the secretary to issue authenticated copies.

2. In any case, the person or the office in which the attachment has been made are entitled to have a copy of the minutes of attachment.

3. When the attachment document is part of a volume or of a register and may not be separated and the proceeding authority needs the original, the volume or the register shall be available to the proceeding authority. The secretary of the proceeding authority issues to the interested

persons, when they ask, copies, excerpts, or certificates of parts of the volume or register which have been not subjected to attachment.

Article 214

Preservation of attached objects

1. The attached objects are preserved in the secretary. When this is not possible or suitable, the proceeding authority orders their preservation in another place, specifying the rules of preservation.

2. During the delivery, the keeper is forewarned of the obligation of the preservation and of the presentation of the objects when requested by the proceeding authority and also of the punishment provided by criminal law for the one who violates the obligation of preservation.

Article 215

The sealing of attached objects

1. The attached objects are kept by the seal of the proceeding authority or, depending on the nature of the objects, by other adequate means, indicating they are preserved for the needs of the justice.

2. The proceeding authority issues copies of the documents and photographs or other reproduction of attached objects which may change or which are difficult to be preserve bringing them together with the acts and orders their preservation in the secretary.

3. For the objects which may change, the proceeding authority orders, as the case requires, their alienation or extermination.

Article 216

Destruction and the putting on of seals

1. The proceeding authority, when wants to pull off seals, makes sure whether they are damaged and when ascertains any change, keeps minutes. After the action that renders necessary the putting on of seals is completed, the attached objects are sealed again, putting the date of the action close to the seal.

Article 217

The restitution of the attached objects

1. When the maintenance of attachment is not necessary for reasons of evidence, the attached objects shall be restituted to the one they belong, even before the final decision is rendered.

When necessary, the proceeding authority orders the bringing back of the restituted objects.

2. The court may order that the restitution of the objects shall be not made when, upon request of the prosecutor or the civil plaintiff, the attachment is needed to provide for the civil lawsuit.

3. After the decision becomes final, the attached objects shall be restituted to the person they belong to, except when confiscation is ordered.

Article 218

Rules of restitution of attached objects

1. The court decides the restitution of the attached objects when there is no doubt regarding their pertinence.

2. When the objects have been attached at a third party, the restitution may not be ordered in the favour of the others, unless the third party is heard by the court.

3. During the preliminary investigations the restitution of the attached objects is ordered by the prosecutor. The interested persons may challenge this order to the court.

Article 219

Dispositions in case of failure to restitute

1. After one year from the day the decision has become final, if the request for restitution is not submitted or is rejected, the court which has rendered the decision orders that the money and stock exchange shall be deposited in the bank, in a special account. For the objects their sale is ordered, but when they have scientific or artistic value, shall be transferred to the relevant institutions.

2. The sale may be ordered even before the time-limit indicated in the paragraph 1, when the objects may not be preserved without being damaged or without considerable expenses.

3. The proceeds resulting from sale shall be deposited in a special bank account.

Article 220

Expenses for attached objects

1. The expenses needed for the preservation of the attached objects shall be covered by the state, which enjoys the status of privileged against any other creditor for deposited sums resulting from objects and unrestituted values.

SECTION IV

INTERCEPTION OF CONVERSATIONS OR COMMUNICATIONS

Article 221

Limits of permission

1. The interception of conversations or telephone communication or other forms of telecommunication is permitted only when it is proceeded for:

a) intentional crimes punishable by imprisonment not less than five years maximum,

b) crimes connected with arms or explosive matters, narcotic substances and contraband,

c) criminal offences of insult and threat by phone call.

Article 222

The decision permitting the interception

1. The court authorises the interception upon request of prosecutor or injured accuser, by motivated decision for cases permitted by law and when it is indispensable for the continuation of investigations, and when there exist enough facts to prove the accuse. The decision of the court, which refuses the request for interception, can be appealed.

2. When there are grounded reasons to think that the delay may bring serious damage to the investigations, the prosecutor orders the interception by a motivated act and informs the court immediately, but not later than twenty-four hours. The judge, within twenty-four hours from the order of the prosecutor, makes the evaluation by a reasonable decision. In case this is not made within the fixed time- limit, the interception cannot continue and its results cannot be used.

3. The order for interception explains the way it shall be done and the time- limits, which cannot exceed fifteen days. The court may prolong this time- limit again to another fifteen days.

4. For the completion of the interception, the prosecutor acts himself or by an officer of the judicial police.

5. In the register which is recorded by the prosecutor are noted the acts ordering, authorising, evaluating or prolonging the supervision, as well as the starting and the termination of the action of each interception.

Article 223

Actions of interception

1. The actions of interception may be carried out only through equipment installed in designated spots and controlled by the district prosecutor.

2. The communications subject to interception are recorded and the actions are kept in the minutes. The content of the communications under interception shall be transcripted in the minutes.

3. The minutes and the records shall be immediately handed to the prosecutor and within five days from the termination of the actions they are deposited to the secretary together with the acts which have ordered, authorised, evaluated or prolonged the interception. When the investigations may be damaged by such depositing, the court authorises the prosecutor to postpone the depositing until the preliminary investigations are completed.

4. The defence lawyers and the attorneys of the parties shall be immediately informed of the depositing in the secretary and of their right to examine the acts and to listen to the records.

The court, after hearing the prosecutor and the defence lawyers, decides on the expurgation of the records and minutes, which use is prohibited.

5. The court orders the complete transcription of the records to be taken. The transcriptions shall be put in the court file. The defence lawyers may obtain copies of transcriptions.

Article 224

The preservation of documentation

1. The minutes and records are preserved in the office of the prosecutor who has ordered the interception until the decision becomes final, except those which use is prohibited. But, when this documentation is not necessary, the interested persons may request their extermination.

This request is subject to decision of the court that has made the evaluation of interception.

The extermination shall be performed under the control of the judge and the action shall be kept in the minutes.

Article 225

Use of the results of interception in other proceedings

1. The results of interception may be used in other proceedings only in case it is necessary for the investigation of the crimes, which are compulsorily arrestable in the commission. In such cases, the minutes and the records of interception shall be submitted to the other proceeding authority.

Article 226

Prohibition of use

1. The results of interception may not be used when it is not made for cases provided by law or when the provisions of this section are not observed.

2. There may not be used the interception of the conversations or communications of the persons who are obliged to keep the secret because of their profession or duty, except when those persons have testified to the same facts or they have divulged them otherwise.

3. The court shall order the extermination of the documentation of interception that may not be used, except when they constitute real evidence.

TITLE V

PRECAUTIONARY MEASURES

CHAPTER I

PERSONAL PRECAUTIONARY MEASURES

SECTION I

GENERAL RULES

Article 227

Classification of precautionary measures

1. The personal precautionary measures are classified into coercive measures and interdictive measures.

Article 228

The circumstances for imposing the precautionary measures

1. No one may be subjected to personal precautionary measures unless he is suspected of a reasonable suspect, grounded on evidence.

2. No measure may be imposed under circumstances of unpunishability or cessation of the criminal offence.

3. The personal precautionary measures shall be imposed when:

a) there are important causes which threaten the obtaining or the genuineness of evidence,

b) the defendant has escaped or the danger that he escapes is evident,

c) due to the circumstances of the fact and the defendant's personality there is a danger that he may commit serious crimes or other criminal offences, similar with that he has been proceeded for.

Article 229

The criteria for imposing personal precautionary measures

1. When imposes precautionary measures the court shall consider that any of them is proper and required by the circumstances.

2. Any measure must meet the importance of the fact and the punishment provided by law for that criminal offence. The continuity, recidivism, as well as the mitigating and aggravating circumstances provided by the Criminal Code shall be also taken into consideration.

3. When the defendant is a juvenile, the court shall take into consideration the requirement concerning uninterruption of the concrete educational programmes.

Article 230

Specific criteria for imposing jail arrest

1. The jail arrest may be ordered only when any other measure is not proper because of the special dangerousness of the offence and defendant.

2. It may not be ordered jail arrest for a pregnant or a suckling woman, of a person in a particularly grave condition of health or of a person above seventies or a narkoman or alcoholist, who is undergoing a therapeutic programme in a special institution.

3. In cases provided by point 2, jail arrest may be ordered only under circumstances of particular importance for crimes punishable to not less than a maximum of ten years imprisonment.

Article 231

Replacement or joinder of individual precautionary measures

1. In case the obligations relating with a precautionary measure are violated, the court may order its replacement or its joinder with a more severe measure, taking into consideration the importance, reasons and circumstances of the violation. In cases of violation of obligations related to a prohibitive measure, the court may decide its replacement or its joinder with a coercive measure.

SECTION II

COERCIVE MEASURES

Article 232

Types of coercive measures

1. Coercive measures consist of:

a) prohibition to leave the country,

b) compulsion to appear before the judicial police,

c) prohibition and compulsion to abode,

d) patrimonial security,

e) house arrest,

f) jail arrest,

g) temporary hospitalization in a psychiatric hospital.

Article 233

Prohibition to leave the country

1. By the decision prohibiting to leave the country the judge orders the defendant to not leave the national Albanian territory without his authorisation.

2. The court determines the necessary duties in order to guarantee the execution of the decision and to prevent the use of the passport and any other useful documents of identity required for leaving the country.

Article 234

Compulsion to appear before the judicial police

1. By the decision regarding appearance before the judicial police, the court orders the defendant to appear to a designated office of the judicial police.

2. The court shall fix the days and the time of appearance, taking into consideration the working place and domicile of the defendant.

Article 235

Prohibition and compulsion to abode

1. By the decision prohibiting to abode, the court orders the defendant to not abode and to not go there without his authorisation.

2. By decision regarding the compulsion to abode, the court orders the defendant to not leave the territory of the district or municipality where he usually stays without his authorisation.

When, due to the personality of the defendant or the particularities of the place, the settlement in this place does not meet the requirements of security, the compulsion to abode may be ordered for the territory of another district or municipality.

3. When orders the compulsion to abode, the court indicates the organ of the police where the defendant must appear without delay and declare the place where his domicile shall be located. The court may order the defendant to declare to the police authorities the time and the places he is going to stay every day.

4. The police authority shall be informed of orders of the court in order for them to supervise their execution and report to the prosecutor any eventual violation.

Article 236

Patrimonial bail

1. The bail of patrimony is the obtaining by the court of a statement from the defendant or other person to be trusted, by which they are obliged to pay an amount, deposited in bank, in case the defendant fails to appear before the proceeding authority. In case of failure to appear, the amount hereto shall, by court decision, be transferred into the favour of the state.

Article 237

House arrest

1. By the decision of house arrest, the court orders the defendant to not leave his domicile or a place he lives in, is having medical treatment or is being assisted.

2. When necessary, the court shall impose restrictions or prohibitions to the defendant regarding his communication with other persons, except with those who live with him.

3. The prosecutor and the judicial police control the execution of the orders imposed to the defendant.

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

5. The period of holding in house arrest shall be considered in the rendering of the conviction.

Article 238

Jail arrest

1. By decision of jail arrest the court orders the judicial police to capture the defendant and send him immediately to an institution of detention to be held there available to the proceeding authority.

2. The period of detention shall be considered in the rendering of the conviction.

Article 239

Temporary hospitalisation in a psychiatric hospital

1. When the person to be arrested is mentally sick and because of this reason he has been limited or lost the capacity of understanding or conscience, instead of detention, the court may order his temporary hospitalisation in a psychiatric institution imposing the necessary measures to prevent the eventual escape.

2. The hospitalisation may not continue when it results that the defendant is no longer mentally sick.

SECTION III

INTERDICTIVE MEASURES

Article 240

Types of interdictive measures

1. Interdictive measures consist of:

a) suspension from exercise of a public duty or service

b) temporary prohibition from exercise of specific professional or business activities.

Article 241

Circumstances under which the interdictive measures shall be imposed

1. The interdictive measures may be imposed only when it is proceeded for criminal offence punishable by law to imprisonment longer than a period of a year as a maximum.

Article 242

Suspension from the exercise of a public duty or service

1. By the decision ordering the suspension to exercise of a public duty or service the court prohibits temporarily the defendant, to entirely or partly the exercise the activity connected with them.

2. This measure shall not apply to the persons elected under the election law.

Article 243

Temporary prohibition from the exercise of specific professional or business activities

1. By the decision disposing the prohibition to exercise specific professions or managing duties to legal entities the judge prohibits temporarily the defendant entirely or partly to exercise activities connected with them.

CHAPTER II

IMPOSITION AND EXECUTION OF THE PRECAUTIONARY MEASURES

Article 244

The request for the imposition of precautionary measures

1. The precautionary measures are imposed upon request of the prosecutor who presents to the competent court the grounds on which the request is motivated.

2. Even when the court declares its incompetence for any reason, under the required circumstances and the urgency for the imposition of the measure it shall impose it and shall send the acts to the competent court.

Article 245

The decision of the court

1. The decision imposing the precautionary measure shall comprise:

a) the personal data of the person subject to the measure or anything else which helps to identify him and, when possible, the indication of the place he stands;

b) a summarised description of the fact, indicating the articles of the law considered to be violated;

c) the presentation of the special causes and of the data which legally justify the precautionary measure;

ç) the determination of the duration of the measure when this is ordered to secure the acquiring or the genuineness of the evidence;

d) the date, signature of the chairman of the panel, of the assisting secretary and the seal of the court.

Article 246

The execution of the precautionary measures

1. The officer or the agent of the police in charge of execution of the decision of arrest shall deliver to the person subject to the measure the copy of the decision and makes him known the right to choose a defence lawyer, gives immediate notification to the defence lawyer chosen by the defendant or the one appointed ex-officio and keeps minutes for all of the carried on actions. The minutes is sent to the court which has rendered the decision and to the prosecutor.

2. In case of doubts towards the judge who has issued the order or towards the person subjected to the measure, the officers and agents in charge do not execute it.

3. The court shall notify the defendant of the decisions imposing other precautionary measures.

4. After their notification or execution, the decisions shall be deposited in the secretary of the court which has rendered them. The depositing shall be also notified to the defence lawyer shall be also notified.

5. The copy of the decision imposing an interdictive measure is sent to the authority which is competent to impose such a measure in ordinary cases.

6. For every three months from the execution of the decision of arrest the judge must be informed from the prosecutor for the arrested. When there is the case the judge may revoke or replays the precautionary measure.

Article 247

The searching for the person who is not found

1. When the person subject to the measure is not found the officer or the agent of the judicial police keeps minutes in which shall explain the searches and sends it to the judge who has rendered the decision.

2. When the judge considers that the searches have been complete he declares the escape of the person.

3. By the act declaring the escape the judge appoints a defence lawyer to the escaped person and orders that the copy of the decision imposing the unexecuted measure is deposited in the secretary.

4. The escaped shall be equated for any effect to the one who escapes from the place under watch.

5. To facilitate the search for the escaped person the judge may order the interception of telephone conversation and of other forms of communication.

Article 248

Interrogation of the arrested person

1. Not later than three days from the execution of the measure the court interrogates the person subjected to jail or house arrest.

2. Through the interrogation the court verifies the terms of the application of the arrest and the necessities of the security. When this terms do not exist the court decides to revoke or replace the measure.

3. The interrogation shall be held with the participation of the prosecutor and the defence lawyer who are notified by the secretary of the court.

4. When the interrogation of the arrested person must be held in the district of another court, the court demands that the interrogation is made by a judge of that court.

Article 249

The appeal against precautionary measures

1. Within ten days from the execution or the notification of the decision of the court, the prosecutor, the defendant and his defence lawyer may, for violation of law, appeal directly the decision imposing precautionary measure to the Court of Cassation.

2. For the escaped defendant the time-limit starts effectively from the date of the notification made under article 141.

3. The appeal is submitted to the secretary of the court of appeal or to the Court of Cassation.

4. The date fixed for the hearing is notified to the prosecutor, defendant and his defence lawyer at least three days before.

5. The appeal is examined within ten days from its submission.

6. The court decides, as the case may be, the abrogation, the alteration or the approval of the decision even for causes different from those explained or those comprised in the reasoning part of the decision.

7. When the decision is not announced or not executed within the fixed time-limit the act under which the coercive measure has been imposed shall become not valid.

8. The decision of the court of appeal, for violation of law, is subject to appeal to the court of Cassation.

9. On expiry of six months from the execution of the decision of arrest the defendant and his defence lawyer may appeal to the Court of Cassation for the prolongation of the detention.

10. The Court of Cassation renders a decision within fifteen days from the reception of the acts.

Article 250

The assessment of the duration of the measures

1. The effects of the detention start effectively from the moment of the arrest or detention.

2. When the defendant is detained for another criminal offence the effects of the measure shall start effectively from the date of the notification of the decision.

3. The effect of the other measures start effectively from the moment in which the decision is notified.

4. When a defendant has undergone several decisions imposing the same measure for the same fact the time-limits shall start effectively from the day on which the first one has been executed or notified.

CHAPTER III

THE ARREST IN THE COMMISSION AND THE DETENTION

Article 251

The arrest in the commission

1. The officers and the agents of the judicial police perform compulsory the arrest of anyone caught the commission of an intentional crime, committed or attempted punishable by law by imprisonment not less than three years as a minimum.

2. The officers and the agents of the judicial police have the right to arrest anyone caught in the commission of an intentional crime, committed or attempted punishable by law by imprisonment not less than five years as a maximum or of a criminal offence committed by negligence punishable by law not less than ten years as a maximum.

3. In case of the very necessity, because of the importance of the fact or dangerousness of the offender, which is motivated by a special act, the officers and agents of the judicial police have the right to arrest anyone caught in the commission even when the circumstances of the paragraph 2 do not exist.

4. In cases provided by paragraph 1 any person is authorised to perform the arrest in the commission for crimes prosecutable ex-officio. The one who has performed the arrest must immediately send the arrested person to the judicial police who keep minutes for the surrender and gives him a copy.

Article 252

The state of the commission

1. There is in a state of commission the one who is caught whilst committing the criminal offence or the one who immediately after the commission of the offence is traced by the judicial police, the injured person or other persons or the one who is caught with objects and real evidence which indicate that he has committed the criminal offence.

Article 253

The detention of the person suspected to have committed a crime

1. When there are motivated grounds to think that there is a danger of escape, the prosecutor orders the detention of the person suspected to have committed a crime punishable by law by imprisonment not less than two years as minimum.

2. The judicial police performs the detention by its initiative, when it is not possible due to the situation of urgency, to wait for the order of the prosecutor.

Article 254

Prohibition to arrest and detention under specific circumstances

1. The arrest or detention are not permitted when under the circumstances of the fact it results that the action has been made on duty or on exercise of a lawful right or when a cause of unpunishability does not exist.

Article 255

The duties of the judicial police in cases of arrest or detention.

1. The officers and the agents of the judicial police that have made an arrest or a detention or have held the arrested on delivery, shall immediately inform the prosecutor of the place where the arrest or the detention has taken place. They shall explain to the arrested or the detained that they are not obliged to declare anything and that they have the right to select a defence lawyer and immediately shall notify the selected defence lawyer or the one appointed exofficio by the prosecutor.

2. The officers and agents of the judicial police shall, as quickly as possible, make the arrested or detained person available to the prosecutor in the custody, by sending the relevant minutes

3. When the arrested or the detained is sick or a juvenile, the prosecutor may order that he remains under survey in his dwelling house or in another surveyed place.

4. The judicial police, with the consent of the arrested or the detained must, without delay, notify the family members. When the arrested or the detained is juvenile it shall compulsorily be notified the parent or the tutor.

Article 256

The interrogation of the arrested or the detained

1. The prosecutor interrogates the arrested or the detained in the presence of the selected or appointed ex-officio defence lawyer. He shall notify the arrested or the detained the fact for which he is being proceeded and the reasons of the interrogation, making known the information on his charge and, when the investigation are not impaired, even the sources.

Article 257

Cases of immediate release of the arrested or the detained

1. When it is evident that the arrest or the detention are made because the person is confounded or the requirements of the law are not respected or when the measure of arrest or detention have lost their effect because of the violation of the time-limits regarding the evaluation of the measure the prosecutor orders, by motivated decision, that the arrested or the detained is released immediately. In these cases the release is ordered even by the officer of the judicial police, who informs immediately the prosecutor of the place of the arrest or detention.

Article 258

The request for the evaluation of the arrest or detention

1. When does not order the immediate release, the prosecutor, within forty-eight hours from the arrest or detention, demands the evaluation of the measure in the court of the place of the arrest or detention. Failure to meet this time-limit makes the arrest or detention null and void.

2. The court fixes the hearing for the evaluation as quickly as it can, giving notice to the prosecutor and the defence lawyer.

Article 259

The hearing for evaluation

1. The hearing for evaluation is held in the compulsory presence of the prosecutor and defence lawyer. When the selected or appointed ex-officio defence lawyer is not found or appeared the court appoints as substitute another defence lawyer.

2. The prosecutor explains the causes of the arrest or the detention. After this the court hears the arrested or the detained and the defence lawyer or only the latter, in case the arrested or the detained has refused to appear.

3. When it results that the arrest or the detention have been executed lawfully the court renders a decision on the evaluation of the measure. The decision of the court may be appealed directly or indirectly to the Court of Cassation by the prosecutor or the arrested or detained.

4. When the arrest or the detention is unlawful the court decides the immediate release of the arrested or the detained. The decision may be appealed directly or indirectly by the prosecutor.

5. The arrest or the detention shall loose the effects when the decision of the court for the evaluation is not announced within forty-eight forthcoming hours starting from the moment in which the arrested or the detained has been available to the court.

CHAPTER I V

REVOCATION AND CESSATION OF THE PRECAUTIONARY MEASURES

Article 260

Revocation and replacement of precautionary measures

1. The coercive and interactive measures are immediately revoked when it results that the requirements and the criteria for their execution are missing.

2. When the necessity of the security is smoothened or when the executed measure no longer fits with the importance of the fact or of the punishment which may be imposed the court shall commute the measure.

3. When the necessity of the security are aggravated the court upon request of the prosecutor shall replace the executed measure with a heavier one.

4. The request of the prosecutor or the defendant for the revocation or the replacement of the measure shall be examined by the court within five days from its depositing. When the case requires the court decides even ex-officio during the proceedings for the incident of proof or during the trial.

Article 261

Termination of precautionary measures

1. The precautionary measures shall cease when:

a) the same fact and against the same person has been dismissed or the person has been acquitted.

b) the imposed decision is declared dismissed or is suspended.

c) the duration of the served detention exceeds the limits of the imposed punishment

ç) after the expiry of the time-limit provided by article 245 paragraph 1 letter ç has been not ordered the renewal, within the limits provided by articles 264 and 267.

2. The detention ordered during preliminary investigations shall loose effect in case the court does not proceed with interrogation within the time-limit provided by article 248

3. The cessation of the precautionary measures does not hinder the exercise of the rights that the law recognises to the court or any other authority regarding the application of supplementary punishments or other interdictive measures.

Article 262

The consequences of the termination of precautionary measures

1. When the arrest shall loose effect, the court decides the immediate release of the person who has been subjected to the measure.

2. In cases the other precautionary measures loose effect the court decides their immediate abolition.

Article 263

The time-limit of the duration of the detention

1. The detention shall loose effect in case from its execution have expired the following timelimits without being submitted the acts to the court:

a) three months when it is proceeded for a criminal contravention;

b) six months when it is proceeded for a criminal offence,

c) twelve months when it is proceeded for organised crimes and committed by bands.

2. The detention shall loose effect in case from the day of the submission of the acts to the court have expired the following time-limits without having the sentence rendered in the first instance:

a) one month when it proceeded for criminal contraventions;

b) three months when it is proceeded for a crime;

c) six months when it is proceeded for organised crimes and committed by bands.

3. The detention shall loose effect in case from the rendering of the sentence in the first instance have expired the following the time-limits without having the sentence rendered by the court of appeal:

a) one month when it is proceeded for a criminal contravention;

b) two months when it is proceeded for a crime;

c) three months when it is proceeded for organised crimes and committed by bands.

4. In case the sentence is nullified by the Court of Cassation and the case is sent to another court, the time-limits shall start again according to the rules provided for each instanceof the proceedings.

5. In case of escape of the detained defendant the time-limits shall start again from the moment he is held detained again.

6. The entire duration of the detention, considering also the prolongation provided by article 264 paragraph 2, may not exceed the following time-limits:

a) six months when it is proceeded for a criminal contravention;

b) one year when it is proceeded for a crime;

c) two years when it is proceeded for organised crimes and committed by bands.

Article 264

The prolongation of the detention period

1. In any stage and instance of the proceedings, when it has been ordered the expertise of the mental condition of the defendant the time-limits of the detention shall be prolonged for the time provided for the completion of expertise. The prolongation is decided by the court, upon request of the prosecutor, after the defence lawyer being heard. The decision may be appealed directly or indirectly to the Court of Cassation.

2. During the preliminary investigations the prosecutor may demand the prolongation of timelimits of detention which are about expiring, under important necessity of security and the examinations specifically complex require such a prolongation. After hearing the prosecutor and the defence lawyer the court renders a decision. The prolongation may be repeated only once and may not exceed one month.

3. The duration of detention may not exceed the half of the maximum provided for the criminal offence under proceedings.

Article 265

The suspension of the time-limits of detention

1. The time-limits provided by article 263 shall be suspended in the following cases:

a) as long as the court examination is suspended or postponed because of the absence of the defendant or his defence lawyer.

b) as long as the judicial examination is suspended or postponed because of failure to appear or abandonment of one or more defence lawyers.

Article 266

Dispositions in cases of release from prison

1. The court, when there are still the requirements for which the detention was imposed, shall impose other precautionary measures to the defendant who is released from the prison because of expiry of the time-limits, in case there are the required conditions.

2. The detention, when necessary, shall become again effective:

a) When the defendant has intentionally violated the orders in relation to a precautionary measure imposed as provided by paragraph 1, but still when the necessity of the security does exist.

b) By the conviction, when the security provided by article 228, paragraph 3 calls for.

3. By the renewal of the detention the time-limits shall start again but, the previous served detention shall be assessed when the whole duration shall be calculated.

4. The officers and agents of the judicial police may hold the defendant who escapes, violating the orders related with precautionary measure imposed under the paragraph one.

There shall apply, as long as they comply with, the provisions regarding the holding of the person suspected to have committed the criminal offence.

Article 267

Maximal duration of other precautionary measures

1. The coercive measures different from detention shall loose effects when since the commencement of their execution has passed a time equal to twofold of the time-limits provided by article 263.

2. The interdictive measures shall loose effect when three months since their execution have passed. When they have been imposed in order to not damage the proofs, the court may order their repetition up to the limits provided by paragraph 1.

CHAPTER V

THE COMPENSATION FOR UNFAIR IMPRISONMENT

Article 268

The condition of application

1. The one who is found innocent by final sentence is entitled to compensation for the served detention, except when it is proven that the wrong sentence or failure to discover the unknown fact in due time has been caused entirely or partly by himself.

2. The same right shall have the punished who has been detained, when it is proven by a final decision that the act by which the measure has been imposed is issued when the requirements provided by articles 228 and 229 are inexistent.

3. The provisions of paragraph 1 and 2 shall also apply to the favour of the person for whom the court or the prosecutor has decided the dismissal of the case.

4. When it is proven by court decision that the fact is not provided as a criminal offence by law, because of abrogation of the relevant, the right to compensation is not recognized for that part of the detention served before the abrogation.

Article 269

The request for compensation

1. The request for compensation must be presented within three years from the date the decision of acquittal or dismissal of the case has become final, otherwise it is not accepted.

2. The amount of the compensation and the way of its assessment, as well as cases of compensation for the house arrest, are determined by special law.

CHAPTER VI

PATRIMONIAL PRECAUTIONARY MEASURES

SECTION I

THE PRESERVATIVE ATTACHMENT

Article 270

The circumstances and the effects of the measure

1. When motivated reasons to believe that the defendant does not guarantee the payment of fine penalty, expenses of the proceedings and any other obligation to the state patrimony exist, the prosecutor demands the preservative attachment to the real estate or movable property of the defendant or to the deposits or objects that the others owe him, within the limits permitted by law for the same.

2. The civil plaintiff may demand the preservative attachment to the property of the defendant or the civilly sued under the circumstances provided by paragraph 1.

3. The attachment imposed by request of the prosecutor shall also apply to the civil plaintiff.

Article 271

The court decision regarding attachment

1. The preservative attachment is ordered by the competent court.

2. When a decision in the first instance has been rendered, the attachment is imposed before the acts are sent to the court of appeal.

3. The attachment is executed by the court bailiff under the rules provided by Civil Procedural Code.

4. The effects of the attachment shall terminate when the decision of acquittal or dismissal of the case becomes final.

Article 272

Offer of security bond

1. When the defendant or the civilly sued offers a suitable legal means to guarantee the debt (pledge, deposit, pawn, mortgage) the court shall not impose the preservative attachment or it revokes it and shall determine the way of payments of the debt.

2. When the offer is proposed along with the lawsuit, the court revokes the attachment if considers that the offer of bond is in proportion with the value of the attached objects.

Article 273

The execution of the attachment

1. The preservative attachment is altered in executable attachment when the decision of fine penalty or the one which orders the defendant and the civilly suit to compensate the damage has become final.

2. The compulsory forfeiture of the attached property shall be made under the rules provided by the Civil Procedural Code. From incomes of sale of attached property and from those of means offered to pay the debt shall be paid, respectively, the amounts pertaining to civil plaintiff for compensation of the damage and court expenses, fine penalties, the expenses of the proceedings and any other amount in the favour of the state.

SECTION II

PREVENTIVE ATTACHMENT

Article 274

The scope of the preventive attachment

1. When there is a danger that free possession of an object related to the criminal offence may aggravate or prolong its consequences or facilitate the commission of other criminal offences the competent court, on demand of the prosecutor, orders its attachment by reasoned decision.

2. The attachment may be also ordered for objects which are permitted to be confiscated.

3. When the circumstances of execution change, the court, on demand of the prosecutor or interested person, nullifies the attachment.

Article 275

Loss of effects of attachment

1. By the decision of acquittal or dismissal of the case the court or prosecutor order the restitution of the attached objects to the one they belong, when it must not order their confiscation as being used or assigned to commit a criminal offence or because they have been produced or profited from the criminal offence.

2. When the conviction has been rendered, the effect of the attachment shall continue if the decision orders the confiscation of the attached objects.

3. The attached object shall not be restituted when the court decides that the attachment shall be held to guarantee the credits.

Article 276

The appeal against the decision

1. The decision imposing or not imposing the attachment may be appealed by any interested person.

2. The appeal is submitted within ten days from the rendering of the decision or from the day the interested has been notified the imposed attachment.

3. The appeal is submitted to the secretary of the court which has rendered the decision.

4. The appeal does not suspend the execution of the measure.

5. The appeal is subject to the decision of the court of appeal within fifteen days from the reception of the acts.

6. The court decides, as the case may be, the nullification, the alteration or the approval of the appealled decision.

7. When the decision is not announced or not executed within the fixed time-limit, the act imposing the attachment shall loose the effects.

PART II

TITLE VI

PRELIMINARY INVESTIGATIONS

CHAPTER I

GENERAL PROVISIONS

Article 277

The authorities assigned to conduct the preliminary investigations

1. The prosecutor and the judicial police conduct, within specified competency, necessary investigations connected with the criminal prosecution.

2. The prosecutor leads the investigations and avails himself of the judicial police.

Article 278

The competency of the court during the preliminary investigations

1. During the preliminary investigations, which are held on demand of the prosecutor, defendant, injured and private parties, in cases provided by law, the court is entitled to discretion.

Article 279

The obligation to keep the secret

1. The investigations are secret until the defendant has not received any information of them.

In need of continuation of the investigations the prosecutor may order the keeping of secret of special acts until the investigations go to an end.

2. The prosecutor may allow, by a motivated decision, the publication of special acts or of their parts. The published acts shall be deposited in the secretary of the prosecutor.

CHAPTER II

BECOMING AWARE OF THE CRIMINAL OFFENCE

Article 280

Becoming aware of the criminal offence

1. The prosecutor and the judicial police become aware of the criminal offence ex-officio and by others information.

Article 281

Indictment by public officials

1. The public officials, who during the exercise of the duty or due to their position or service, become aware of a criminal offence prosecutable ex-officio, are obliged to make a written indictment even when the person to whom is attributed the criminal offence has been not identified.

2. The indictment is presented to the prosecutor or an officer of the judicial police.

3. When, during the civil or administrative proceedings, it is discovered a fact which constitute a criminal offence which is prosecutable ex-officio, the relevant authority presents the indictment to the prosecutor.

4. The indictment consists of essential elements of the fact, the sources of evidence, personal details, the residence and anything else which leads to the identification of the person whom is attributed the fact, the injured person and the ones who are able to explain the circumstances of the fact.

Article 282

Indictment from the medical personnel

1. The medical personnel that is legally bound to indict, must present the indictment within forty-eight hours and send it to the prosecutor or any officer of the judicial police of the place where

he has intervened or has provided the assistance and, when the delay may bring any danger, to the officer of the nearest judicial police.

2. The indictment from medical personnel indicates the person who has been provided the assistance and, when possible, the personal details, his domicile and anything else of value to identify him, the circumstances of the fact, the means used to commit it and the consequences.

3. When several persons have provided their medical assistance for the same case, all of them are obliged to make indictment, having the right to compile and sign a sole act.

Article 283

Indictment from citizens

1. Any person that has become aware of a criminal offence prosecutable ex-officio must indict of it. In cases specified by law the indictment is compulsory.

2. The indictment is presented to the prosecutor or to an officer of the judicial police orally or in writing, personally or through an attorney.

3. Anonymous indictments may not be used except in cases provided by article 195.

Article 284

The action

1. For the criminal offences provided by articles 85, 89, 102 first paragraph, 105, 106, 130, 239, 240, 241, 243, 264, 275 and 318 of the Criminal Code, the prosecution may start only by indictment brought by the injured, who may withdraw the same at any stage of the proceedings.

2. The injured brings the indictment before the prosecutor or the judicial police by means of a statement in which, personally or through the special attorney, it is expressed the willingness to proceed for a fact provided by law as a criminal offence.

3. When the indictment is made orally the relevent minutes is signed by the plaintiff or his attorney.

4. The one who receives the indictment, after being certain of the identity of the plaintiff sends the acts to the prosecutor.

5. In cases provided by article 59, the indictment is brought before the court by the injured accuser.

Article 285

The renouncement from the right to indictment

1. The renouncement from the right of indictment is made personally or through the attorney by a signed statement or orally before the prosecutor or the officer of the judicial police who keeps minutes, which must be compulsorily signed by the author.

2. Timely or conditional renouncement is not valid.

3. The same statement may also contain the renouncement from the civil lawsuit.

Article 286

Withdrawal of the indictment

1. The withdrawal of the indictment is made personally or through the attorney by a statement presented to the proceeding authority.

2. The withdrawal of indictment may be presented in any stage of the proceedings, until the decision of the court has become final.

3. The expences of the proceedings shall be in charge of the one who withdraws the action, except when the act of withdrawal has provided, by agreement, that they are entirely or partly in charge of the one subject to action.

Article 287

The registration of the notification of the criminal offences

1. The prosecutor keeps in the register every notification of the criminal offence which is presented or obtained by him ex-officio and at the same time or from the moment of its coming out, the name of the person to whom is attributed the criminal offence.

2. It shall be prohibited the publication of the registrations made until the person to whom is attributed the criminal offence is held as a defendant.

CHAPTER III

THE REQUIREMENTS OF THE PROCEEDINGS

Article 288

Authorisation to proceed

1. When authorisation to proceed is required, the prosecutor presents a request to the competent authority. The request asking authorisation to proceed must be presented within thirty days from the registration in the register of the name of the person for which the authorisation is required. When he has been arrested in the commission the authorisation is requested immediately and, in any case, before the hearing of evaluation.

Article 289

Prohibition to proceed

1. Until the authorisation to proceed is issued, it shall not be permitted the detention, the imposition of precautionary measures, inspection, inspection of the person, recognition, confrontation, and interception of conversations and communication related to the person for whom the authorisation is required. He may be interrogated only if he desires it.

2. When it is proceeded against several persons and for some of them the authorisation is not required and the issue of this is delayed, it may be proceeded only against the defendants for whom the authorisation is not required.

Article 290

The circumstances not permitting the initiation of the proceedings

1. The prosecution may not initiate and, if initiated, must be dismissed in any stage of the proceedings when:

a) the person has died;

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

c) there is no action of the injured or he withdraws the action.;.

ç) the fact is not provided by law as criminal offence or is evident that the fact does not exist;

d) the criminal offence has ceased;

dh) an amnesty has been announced;

e) in all other cases provided by law.

Article 291

Decision for dismissing the proceedings

1. Under circumstances which does not permit the initiation of the proceedings, the prosecutor renders a motivated decision dismissing the proceedings.

2. The decision is notified immediately to those who have presented an indictment or an action, who may appeal it to the court within five days from the notification of the decision.

Article 292

Renewal of the prosecution

1. The decision for dismissing the proceedings, termination or of acquittal, rendered due to inexistence of an action to proceed or the request for authorisation to proceed do not hinder the exercise of prosecution for the same fact and against the same person, when after the action is brought, the authorisation is issued or the personal circumstance which made the authorisation necessary, no longer exist.

CHAPTER IV

INVOLVEMENT EX UFFICIO OF THE JUDICIAL POLICE

Article 293

The reporting of the criminal offence to the prosecutor

1. After receiving notice of the criminal offence the judicial police, without delay, reports, in writing, to the prosecutor, the essential elements of the fact and the other elements which are gathered until this moment. It notifies, when possible, the identity, the domicile and everything which is valid for the identification of the person who is under investigations, the injured person and they who are able to give evidence of the circumstances of the fact.

2. In case of urgency and in cases of serious crimes, the notification is made immediately even orally.

3. Through the notification, the judicial police notifies the day and hour when it has become aware of the criminal offence.

Article 294

The provision for sources of evidence

1. Even after reporting the criminal offence, the judicial police continues to carry out the functions mentioned in article 30, gathering every valid element for the reproduction of the fact and for the individualisation of the guilty. It proceeds particularly:

a) In searching and fixing of the objects and traces of the criminal offence, as well as preserving them and the scene of the crime until this is necessary;

b) In searching and interrogating the persons who are able to explain the circumstances of the fact.

c) In carrying out of the actions provided by the following articles.

2. After the intervention of the prosecutor, the judicial police carries out the actions which are particularly delegated by the prosecutor, as well as all the urgent actions to reveal the criminal offence.

3. The judicial police, when carries out the actions which require special technical knowledge, may appoint an expert, which cannot refuse the assignment.

Article 295

The identification of the person under investigation

1. For the identification of the person under investigation the judicial police carries out all the necessary actions, including the acquisition of finger-prints, photographic and antropometric examination.

2. When he refuses to identify or presents personal data or identity cards which are suspected to be false, the judicial police accompanies him to its offices and holds him there until is necessary for the identification, but not longer than twelve hours.

3. The accompaniment and the release shall be immediately informed to the prosecutor.

Article 296

Data on the person under investigation

1. The officers of the judicial police collect data on the person under investigation, in the compulsory presence of his defence lawyer.

In case the defence lawyer is not found or fails to appear, the judicial police demands the prosecutor to appoint another defence lawyer.

2. In the scene of the crime or in evident criminal offences the officers of the judicial police, even in absence of the defence lawyer, may acquire from the person under investigation, even if arrested in the commission or detained, data which are necessary to continue the investigation.

3. The judicial police may acquire statements from the person under investigation, but their use in the trial shall not be permitted, except when the content of the deposition is challenged.

Article 297

The acquiring of other data

1. The judicial police acquires summarized data from the persons who may throw light to the circumstances that go to the targets of the investigation.

2. Provisions of articles from 155 to 160 shall apply.

Article 298

Inspection

1. In case of commission or escape the officers of the judicial police carry on inspection of the person or premises when they have grounded reasons to think that the person hides objects or traces of the criminal offence which may disappear or be lost or that this objects or traces are in a said place or over the place where the person under investigation or escaped is found.

2. When a detention must be executed, a decision of arrest or a conviction to imprisonment must be enforced, the officers of the judicial police may carry on the inspection of the person or premises. When the conditions of paragraph 1 do exist and there are particular reasons of urgency that does not permit the issue of a writ of inspection. When any delay may impair the successful termination of investigation, the inspection of the premises may be carried out even out of the time-limits provided by article 206.

3. The minutes of the completed actions shall be sent, without delay, but not later than forty eight hours, to the prosecutor of the place where this inspection was made who, within forty eight consecutive hours, shall evaluate the inspection.

Article 299

The taking of sealed envelopes and correspondence

1. When the proceedings require the taking of envelopes sealed or closed by any other means, the officer of the judicial police shall send them untouched to the prosecutor for any eventual attachment. In case there are grounded reasons to think that the sealed envelopes contain data which may be lost due to delay, the officer of the judicial police informs, by the most rapid means, the prosecutor who may authorize the immediate opening.

2. For letters, envelopes, packages, patrimonial and monetary values, telegrams or other means of correspondence for which attachment is permitted, the officers of the judicial police, in case of urgency, order the person on duty in the post office to suspend the dispatching. In case within forty eight hours from the order of the judicial police the prosecutor does not order the attachment, the objects of the correspondence shall be forwarded to the destination.

Article 300

Immediate verification on the spot

1. The officers and agents of the judicial police take the steps that the traces and objects involved in the criminal offence are fixed and preserved and that the circumstances of the scene of the crime and of the objects are not changed before the intervention of the prosecutor, when he has confirmed his participation.

2. When traces and the objects may change or be lost and the prosecutor may not intervene urgently, the officers of the judicial police carry on necessary investigations and, if there is the case, seize the real evidence and objects connected with the criminal offence.

Article 301

Assessment of attachment

1. When imposes the attachment under the article 300, the judicial police notes in the minutes the reason and hands a copy of the act to the person whose objects are attached. The minutes shall be send without delay and, anyhow, not longer than forty eight hours, where the attachment has taken place.

2. The prosecutor within forty eight consecutive hours, by motivated decision, evaluates the attachment, approving it in case there are conditions or restituting the attached objects. The copy of the decision is notified to the person whose objects are attached. The decision may be appealed to the court within ten days from the defendant or his defence lawyer from the person whose objects are attached and from the one who is entitled to their restitution. The appeal does not suspend the enforcement of the attachment.

Article 302

The assistance of the defence lawyer

1. The defence lawyer of the person under investigation is entitled to be present in the inspections and immediate verifications on the spot, without necessarily being notified, except in case of immediate opening of the sealed envelope as authorized by the prosecutor.

Article 303

The documentation of the actions of judicial police

1. The judicial police records, even in summarised form, all the completed actions.

2. The judicial police keeps minutes for:

a) indictments and actions presented orally

b) summarized data and statements of the person under investigation

c) data obtained by persons who can explain circumstances that help to achieve the target of investigation

ç) surveys, recognitions, inspections and attachments

d) acts for the identification of the person under investigation, for the receiving of sealed envelopes and of correspondence and for the imposing of the attachment

dh) investigation actions authorised by the prosecutor

3. The documentation of the actions of the judicial police, of the real evidence and objects connected with the criminal offence, shall be available to the prosecutor.

CHAPTER V

THE ACTIONS OF THE PROSECUTOR

Article 304

The investigation actions of the prosecutor

1. The prosecutor leads the investigation operations and carries out personally any investigation action, which he considers necessary.

2. He may demand by the judicial police the carrying on of the actions delegated particularly, including the interrogation of the defendant and the confrontations, in the presence of the defendant and his defence lawyer. In such a case the judicial police observes the rules regarding the appointment and participation of the defence lawyer in the investigation operations.

3. For special actions to be carried out in another district, the prosecutor, when is not of the opinion to proceed himself, can authorise, under respective substantial competency, the prosecutor in the court of that district. In case of urgent and important reasons, the authorised prosecutor has the right to carry out ex ufficio any action necessary for the aims of the investigation.

Article 305

The undertaking of investigations

1. If the district prosecutor does not exercise the criminal proceedings or does not terminate within the fixed time- limits, the General Attorney, on demand of the defendant, the injured person or even ex-officio orders, by a motivated decision, the undertaking of the investigations,

2. The General Attorney carries out the necessary investigations and compiles his requests within thirty days from the decision of the undertaking of investigations.

Article 306

The relations between different prosecution offices.

1. The prosecution offices which proceed in connected investigations co-operate between them. For this purpose they exchange information and notifications on the instructions given to the judicial police. They may proceed even jointly in carrying out of special actions.

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

a) in cases of joinder of the proceedings or in case of criminal offences committed by several persons to each other_s harm;

b) when the evidence of a criminal offence or one of its circumstances influences of the evidence of another criminal offence or on another circumstance;

c) when the evidence of several criminal offences derives, even partly, from the same source.

Article 307

The appearance to make statements

1. The one who is informed to be subjected to proceedings, has the right to appear to the prosecutor and make statements.

2. When the one who appears willingly refuses the fact for which he is subjected to proceedings and is permitted to explain his innocence, the carried out actions shall be grounded on interrogation.

3. The appearance does not hinder the enforcement of precautionary measures.

Article 308

Writ of summons

1. The prosecutor summons the person subjected to investigation to appear when he is going to interrogate him or when must carryout actions which require his presence.

2. The writ of summons contains:

a) the personal data or other personal data necessary to his identification;

b) the day, hour and the place of appearance;

c) the type of the action which he is cited for;

ç) forwarning that the prosecutor may order the forcible accompaniment, in case of failure to appear without lawful excuses.

3. The writ of summons contains also the summarized introduction of the fact which results by the investigations carried until that moment.

4. The writ of summons is notified at least three days before the fixed day of appearance, except when due to eventual reasons, the prosecutor thinks to shorten the time- limit.

Article 309

The appointment and the assistance of the defence lawyer

1. The defendant who has no defence lawyer is notified by the prosecutor that he shall be assisted by a defence lawyer appointed ex-officio.

2. The defence lawyer selected or appointed ex-officio is notified at least twenty-four hours in advance when it is proceeded with interrogation, survey or confrontation. When the delay may impair the proceedings, the notification of the defence lawyer shall be made urgently.

3. The minutes of the actions carried on by the prosecutor and the judicial police, during which the defence lawyer has the right to be present, are deposited in the secretary of the prosecution offices within three days from the performance of the action, having the defence lawyer the right to examination and take copies.

Article 310

The notification of the defendant to participate in inspections and attachments

1. The prosecutor, when shall carry on inspections or attachments, notifies the defendant to appear together with the appointed defence lawyer and, when the latter fails to appear, appoints another defence lawyer ex- officio.

Article 311

The interrogation of the defendant in a connected proceedings

1. The person held as defendant in a connected proceedings shall be interrogated by the prosecutor in forms provided by article 167.

Article 312

The obtaining of data

1. The prosecutor obtains data by the injured person and the ones who can explain circumstances useful to the targets of investigation, observing the rules provided for the obtaining of testimony.

2. The citation of these persons is made by a writ of summons which comprises:

a) the personal data of the person,

b) the day, hour and the place of appearance,

c) forwarning that the prosecutor may order the forcible accompaniment in case of failure to appear, without lawful excuses.

3. The prosecutor issues, in the same way, the writ of summons for the interpreter and expert.

Article 313

Recognition of persons and objects

1. When necessary, the prosecutor proceeds with recognition of persons, objects and anything else, which can be subject to sensual perception.

2. The persons, things and other objects are presented or showed to the recogniser by means of designs.

3. When there are motivated reasons to think that the person summoned to make the recognition may be timid or influenced by the presence of the person under recognition, the prosecutor takes the steps in order to avoid the latter to see the performance of the action.

Article 314

The appointment of expert

1. The prosecutor when proceeds with actions which require technical knowledge, may appoint an expert assigning specific tasks. The expert may not refuse the assignment, unless there are lawful excuses.

2. The expert may be authorized by the prosecutor to participate in specific investigation actions.

3. When technical verifications deal with persons, objects or places which state has changed the prosecutor notifies the defendant and the defence lawyer, the injured and his attorney the date, hour and the place where the action shall take place.

Article 315

The recording of the actions of prosecutor

1. The prosecutor keeps minutes:

a) for indictments and actions presented orally

b) for examinations, inspections and attachments

c) for interrogation and confrontations with the defendant

ç) for data acquired from persons who explain circumstances useful to the targets of investigation..

d) for verifications related with persons, objects or places which state has changed.

2. The actions shall be recorded during their completion or immediately after when there are inevitable circumstances that hinder the recording on the spot.

3. The act containing the information of the criminal offence and the documentation related to investigations, such as orders to the judicial police, demands presented to the court notifications, etc, shall be kept in a special file in the secretary of the prosecution office along with the acts sent from the judicial police.

CHAPTER VII

CUSTODY OF EVIDENCE

Article 316

Cases of custody of evidence

1. During the preliminary investigation, the prosecutor and the defendant may ask from the court to proceed with the custody of evidence:

a) in the obtaining of the testimony of a person when there are grounded reasons to think that he may not be interrogated in the court examination because of disease or other serious hindrance

b) in the obtaining of the testimony, when there are grounded reasons to think that th person may be subjected to violation, threat, or may be offered money or other profits in order to not testify or give false evidence.

c) in the interrogation of the defendant in relation to facts regarding others' responsibility when one of the circumstances provided by letters a) and b) exists.

d) in the confrontation amid persons who have made contradictory statements when one of the circumstances provided by letters a) and b) exists

e) in an expertise or court examination, when the evidence relates to a person, an object or a place, which state may undergo inevitable changes. The expertise may be also requested in case that even if it is made during the court examination, it would lead to a suspension of the trial for more than sixty days.

f) in an appearance for recognition, when due to particular reasons the action may be postponed until the holding of court examination.

Article 317

The request regarding the custody of evidence

1. The request regarding the custody of evidence is submitted within the time-limits of the termination of investigations and comprise:

a) the evidence to be obtained and its importance to the court decision;

b) the persons who are under proceedings because of facts subject to proving;

c) circumstances that does not permit that the obtaining of evidence is postponed until the court examination.

2. The request made by the prosecutor shall also indicate the defence lawyers of the interested persons under the paragraph 1, letter b, the injured person and his defence lawyer.

3. Provisions of paragraph 1 and 2 are observed by consequence of non -acceptance.

4. The prosecutor may decide the prolongation of preliminary investigations for the custody< of evidence.

Article 318

The request of injured

1. The injured may ask the prosecutor to request the custody of evidence.

2. If does not accept the request, the prosecutor renders a reasoned decision and notifies the injured person who may appeal it to the court.

3. The injured accuser may ask from the court to proceed with the custody of evidence before the start of the trial.

Article 319

Submission of the request

1. The request regarding provision of evidence shall be deposited to the secretary of the court along with eventual objects and documents. It shall be notified to the parties and interested person by the one who has made it.

2. Within two days from the notification of the request the prosecutor and the defendant may present arguments in relation to the ground of the request, deposit objects and documents and also indicate other facts and interested persons.

3. The prosecutor may request from the court the postponement of the time-limit fixed for the custody of evidence requested by the defendant in case the performance of the action should damage the obtaining of the evidence. The court, after hearing the defendant and his defence lawyer, renders a decision upon the request.

Article 320

Dispositions regarding the request for the custody of evidence

1. Within two days from the reply confirming that notification of the request regarding custody of evidence has been received, the court renders a decision accepting or rejecting the request.

2. By the decision accepting the request the court determines:

a) the subject of the evidence within the limits of the request;

b) the persons who are interested to the obtaining of the evidence according to the request.

c) the date of the hearing, which may not exceed a time-limit of ten days from the date of the rendering of the decision

3. When the defendant whose presence is necessary for the provision of proof fails to appear without any lawful excuse the court orders his forcible accompaniment.

4. When there are urgent reasons and the custody of evidence may not be carried out in the district of the competent court, this may empower the court of the place where the evidence can be obtained.

Article 321

The taking of evidence

1. The hearing of the taking of the evidence is held in the compulsory presence of the prosecutor and defence lawyer of the defendant. The attorney of the injured has also the right to participate.

2. The defendant and the injured have the right to participate when a witness or another person must be interrogated. In other cases they may participate with prior authorisation of the court.

3. It is prohibited the taking of the evidence related with facts dealing with persons who are not represented by the defence lawyers in the hearing.

4. The minutes, objects and documents obtained in order to provide the custody of the evidence shall be sent to the prosecutor. The defence lawyers have the right to access and to issue copies of them.

Article 322

The use of obtained evidence

1. The evidence obtained under the rules of this chapter may be used in the court examination only against the defendant whose defence lawyers have participated in their taking.

2. The decision rendered on basis of a proof obtained under the rules of this chapter, in which the injured has been not able to participate, does not produce effects, except when the injured himself has accepted it even tacitly.

CHAPTER VII

THE TIME- LIMITS FOR THE TERMINATION OF INVESTIGATIONS

Article 323

The time- limits of preliminary investigations

1. Within three months after the date in which the name of the person, to whom is attributed the criminal offence, is noted in the register of notification of the criminal offence, the prosecutor decides the bringing of the case before the court or its dismissal or suspension.

2. When an authorisation to proceed is required, the continuation of the time- limit shall be suspended from the moment of the request until the day when the authorisation is presented to the prosecutor.

Article 324

The prolongation of the time- limit

1. The prosecutor may prolong the time- limit of investigations up to three months.

2. Further prolongation, each of them not more than three months, may be done by the prosecutor in case of complex investigations or when it is objectively impossible to terminate them within the prolongated time-limit. The time-limit of the preliminary investigations may not exceed eighteen months.

3. The decision prolonging the time- limit of investigations is notified to the defendant and the injured person.

4. The investigation operations performed after the expiry of the time- limit may not be used.

Article 325

The appeal against the prolongation of the time limit of investigation

1. The defendant and the injured have the right, within ten days from the notification, to appeal the decision of the prosecutor prolonging the investigations in the district court.

2. After hearing the defendant, the defence lawyer, the injured and the prosecutor the court, within ten days, shall examine the appeal.

3. If the court accepts the appeal, the investigations may continue or continue only for a timelimit fixed by itself.

4. The decision of the court may be appealed, but this does not suspend the execution of the decision.

Article 326

The suspension of investigations

1. In case the offender is unknown or when the defendant undergoes a grave malady which stops ulterior investigation, the prosecutor decides the suspension of investigations.

2. The suspension of investigations is decided after being carried out all the possible operations.

3. The suspended investigations restart upon decision of the prosecutor.

CHAPTER VIII

THE TERMINATION OF INVESTIGATIONS

Article 327

The actions of the judicial police and prosecutor

1. After carrying out the necessary investigation operations, the judicial police shall send the acts to the prosecutor, together with an explanatory report of the facts and evidence and suggestions how to terminate the investigations.

2. The prosecutor, after examining the acts and becoming certain that the defendant or the defence lawyer is familiar with them, decides, as the case may be, the dismissal of the case or its bringing before the court.

Article 328

The dismissal of the case

1. In any stage of the proceedings, the prosecutor decides the dismissal of the case when:

a) it is evident that the fact does not exist

b) the fact is not provided by law as a criminal offence

c) the injured has not brought an action or he withdraws the action in cases the proceedings start on his request

ç) the person cannot be considered as defendant or he may not be punished

d) a reason which renders the criminal offence null and void or does not allow the initiation or the continuation of the criminal proceedings exists

f) it results that the defendant has not committed the offence or is not proved that it is committed by him

g) the defendant is convicted by a final decision for the same criminal offence

h) the defendant dies

i) in other cases provided by law.

Article 329

The appeal against the decision dismissing the case

1. The injured and the defendant are entitled to appeal the decision dismissing the case in the district court, except when a decision has proven that the fact does not exist.

2. When does not find right the appeal of the injured, the court decides the continuation of the investigation, whereas when accepts the appeal of the defendant alters the decision of dismissal into a formula in favour of the defendant.

3. The decision of the court is subject to appeal by the prosecutor, injured and the defendant.

Article 330

The charge of appellant with expenses and damages

1. The payment of the expences of the proceedings which are covered by the state, when the case is dismissed because the fact does not exist, shall be in charge of the injured person who has engaged the proceedings by making the appeal.

2. The expences made by the defendant and the civilly sued, when thay request them and also the compensation for the damage shall be in the charge of the appellant.

3. When the case has been dismissed because of withdrawal of appeal, the expenses shall be in charge of the appellant, except when the act of withdrawal has provided by agreement that they are entirely or partly in charge of the one subject to appeal.

4. The expenses and damages shall be set by the prosecutor. His decision may be appealed to the court by the injured, defendant and civilly sued.

Article 331

The bringing of the case before the court

1. When the evidence of the guilt of the defendant is complete, the prosecutor shall submit the request for the trial to be held.

2. The request for trial contains;

a) the personal data of the defendant and the injured by the criminal offence

b) explanation of the fact, indicating the respective articles of the Criminal Code

c) the sources of evidence and the facts they refer to

d) the date and the signature of the prosecutor

3. The request is notified to the defendant and injured.

Article 332

The file of the trial

1. The request of the prosecutor for trial are enclosed;

a) the acts related with the indictment of criminal offence and of the request excepting the civil lawsuit;

b) the minutes of disclosed actions which have been carried out by the judicial police and the prosecutor;

c) the acts relating to the imposition of precautionary measures;

ç) the minutes of the actions made for the custody of evidence and of those completed abroad on basis of ordering letter;

d) the criminal record and other documents related with the personality of the defendant

dh) real evidence and objects pertaining to the criminal offence when it must not be preserved in another place;

e) minutes of search, recognition and experiment;

ë) written reports of the experts;

f) the minutes of the evidence of the other connected proceedings;

g) the minutes and the records of the interception of the conversation and communication;

gj) any other act provided by law.

2. The copies of these acts and other evidence obtained during the preliminary investigations shall remain in the file of the prosecutor.

TITLE VII

THE TRIAL

CHAPTER I

THE PRETRIAL ACTIONS

Article 333

The fixing of the hearing

1. Within ten days from the recording of the request of the prosecutor or of the injured accuser the judge who chairs the panel and who is appointed to try the case, shall fix the date for the hearing to be held.

2. The date of the hearing is notified to the prosecutor, defendant, defence lawyer, the injured, the private parties and their attorneys at least ten days before the date fixed for trial.

Article 334

The request for accelerated trial

1. Under the requirements provided by law, the prosecutor may demand the direct trial whereas the defendant the accelerated trial.

2. In these cases the rules this Code provides for special trials shall apply.

Article 335

The rights of the parties

1. Up to the date fixed for trial the parties, their defence lawyers and attorneys have the right to watch the attached objects, to examine the acts and the documents collected in the secretary for the file of the court trial and also to issue copies of them.

Article 336

Urgent actions

1. In cases that the custody of evidence requires, the chairing judge, upon request of the parties, orders the obtaining of the evidence which later cannot be obtained for sure, observing the rules provided for the court examination.

2. The day, the hour and the place of the obtaining of the evidence are notified, at least twenty-four hours beforehand, to the prosecutor, the defendant, the injured and the defence lawyer.

3. The minutes of the completed operations are put in the file of trial.

Article 337

The summons of the witnesses and experts

1. The parties that request the interrogation of the witnesses and experts must deposit in the secretary of the court, at least five days before the date fixed for trial, their roll-call.

2. The chairing judge orders, even ex-officio, the summons of the expert appointed during the preliminary investigation for the custody of the evidence.

Article 338

Efforts to reconciliate

1. In case of criminal offences prosecutable on request of the injured accuser the court summons the injured and the one subject to the request for trial proposing the solution of the case by consent. In case the injured withdraws the request and the accused accepts this, the court dismisses the case. On contrary, they shall fix the date of the hearing and explains their right to be assisted by defence lawyers.

CHAPTER II

THE COURT EXAMINATION

SECTION I

GENERAL RULES

Article 339

The publicity of the hearing

1. The hearing shall be public otherwise it shall be null and void.

2. Juveniles under sixteen and those who are drank, intoxicated or mentally disordered shall be not allowed in the hearing.

3. It is prohibited the presence of armed persons in the hearing, except members of public order forces.

Article 340

Cases of closed hearings

1. The court decides to hold the court examination or some of its actions in camera:

a) when the publicity may damage the social morality or may divulge data to be kept secret for the interest of the state, if this is requested by the competent authority

b) in case of behaviours which impair the normal performance of the hearing

c) when it is necessary to protect the witnesses or the defendant

ç) when necessary during the questioning of juveniles

2. The decision of the court holding the hearing in camera is revoked once the causes which required it no longer exist.

Article 341

The conduct of the hearing

1. The hearings are conducted by the chairman. His orders regarding the silence and the public order are compulsory for the parties and participants and they are executable by public order authorities. The ones who hinder the normal performance of the hearing shall be expelled by decision of the chairman and if they do not obey shall be punished by fine up to ten thousand leks. The order is final.

2. When a criminal offence is committed in the hearing the prosecutor proceeds according to law and, if there is the case, orders the arrest of the offender.

Article 342

Uninterrupted trial

1. When the court examination may not terminate in a sole hearing the court decides to continue it the next working day.

2. The court may interrupt the court examination, up to fifteen days, only under particular circumstances.

3. The postponement and interruption of the court examination are declared by the chairman in the hearing. The announcement is equal to notification for the ones who are present or who must deem to be present.

Article 343

The suspension of the court examination

1. When the solution of the criminal case is depended on the solution of a civil or administrative dispute for which a trial is being held, the court may decide the suspension of the court examination until the case is resolved by a final decision.

2. The decision of the suspension is subject to appeal to the Court of Cassation.

3. When the administrative or civil trial does not terminate within six months the court may revoke the decision of the suspension even ex-officio.

Article 344

The presence of the defendant in the hearing

1. The defendant participates in the hearing as a free person even when he is detained, except when it is necessary to take measures to prevent the escape or violence.

2. The defendant, who, due to his behaviour hinders the normal performance of the hearing even having been forewarned, shall be expelled from the court room by order of the chairman.

3. The expelled defendant is deemed to be present and is represented by the defence lawyer.

He can be readmitted to enter the courtroom in any time.

Article 345

The minutes of the hearing

1. The secretary keeps the minutes of the hearing which contains:

a) the place, the date, the hour of the opening or of the closer of the hearing;

b) the composition of the court;

c) the name and the family name of the prosecutor and the injured accuser;

d) personal data of the defendant or other personal data which help to identify him, the personal data of the defence lawyers, private parties and their attorneys.

2. Immediately after the closure of the hearing the minutes, signed at the foot of each page by the keeper, shall be submitted to the chairman to confirm it.

3. The minutes of the hearing shall be put in the file of the court examination.

Article 346

The content of the minutes

1. The minutes describes the actions performed in the hearing and in a summarised form describes the requests and the conclusions of the prosecutor, injured accuser, defence lawyers and attorneys of private parties.

2. The oral orders of the president are entirely reproduced. The orders announced in the hearing by means of reading are attached to the minutes.

Article 347

The request of parties regarding the minutes

1. The parties have the right to request that in the minutes are written any statement they have an interest in. The written memorial presented by the parties supporting their requests and conclusions are attached to the minutes.

2. The chairman may, even ex-officio, order that the secretary reads special parts of the minutes in order to verify its entirety and accuracy. The requests for correction or cancellation and also those provided by paragraph 1 are subject to the decision of the chairman.

SECTION II

PRELIMINARY ACTIONS

Article 348

Verification of the presence of the parties

1. Before the start of the court examination the chairman makes sure of the presence of the parties.

2. When the defence lawyer appointed ex-officio is not present the chairman appoints as substitute another defence lawyer according to article 49, paragraph 5.

Article 349

The repetition of writ of summons

1. The court, even ex-officio, orders the repetition of the summons for trial when it results that the defendant or the person subject to request for trial of the injured accuser has not received the notification or the notification is uncertain.

Article 350

The absence of the defendant or the defence lawyer

1. When the defendant, even in detention, or the person subject to request for trial of the injured accuser does not appear before the hearing and it results that the absence is caused by force major or any other obstacle which exempts from the responsibility the court, even exofficio postpones or suspends the judicial examination, fixes the date of the new hearing and orders the renewal of the summons.

2. The reading of the decision fixing the new hearing is equal to the notification for all of them who are or must be considered as present.

3. The court decides on basis of paragraph 1 even when the defence lawyer is absent, except when the defendant is assisted by two defence lawyers and the obstacle to appear is connected with one of them or when the hindered defence lawyer has appointed a substitute or when the defendant requests to be proceeded in the absence of the hindered defence lawyer.

4. When it results that the notification has not been duly, the court decides the postponement of the judicial examination and orders the renewal of the notification.

Article 351

The announcement of absence

1. When the defendant in free state or in detention fails to appear before the hearing even having been notified and there were no lawful excuses for the failure to appear the court, after hearing the parties, declares his absence. In this case he will be represented by the defence lawyer.

2. The decision stating the absence is void when it is proven that it has come because of failure to receive notification or absolute impossibility to appear.

3. In case the defendant is appeared after the announcement of the decision, the court revokes the decision declaring the absence. When the appearance is made before the start of the final discussion, the defendant may request to be interrogated. It shall be valid the previous actions, but when the defendant proves that the notification has been delayed not due to his fault, the court orders the acquiring or the reproduction of the action which thinks that are important to the sentence.

Article 352

The absence and voluntary abandonment by the defendant

1. When the defendant requests or gives the consent that the court examination is performed in his absence or, as imprisoned, refuses to participate, he shall be represented by the defence lawyer.

2. The defendant who after appearing leaves voluntarily the hearing shall be deemed to be present, provided that he is represented by the defence lawyer.

3. The provisions of paragraph 2 shall also apply when the detained defendant leaves at any time of the court examination or during its intervals.

4. The trial in absentia may be also held when proven that the defendant is absconding.

Article 353

Forcible accompaniment of the defendant

1. The court may order the forcible accompaniment of the defendant or of the person subject to a request for trial of the injured accuser when has failed to appear or is declared in absentia, in case his presence is necessary to the taking of the evidence but not to his interrogation.

Article 354

Preliminary requests

1. The request dealing with jurisdiction, competencies, jointer or separation of the proceedings, legitimation of the plaintiff and civilly sued may not be expanded later on if they have not been raised immediately after the legitimisation of the parties, except when the possibility to raise them appears only during the court examination.

2. For the preliminary requests the right to speak is enjoyed by the prosecutor, the injured accuser, the defendant or his defence lawyer and one representative of each private party.

Objections shall not be allowed.

3. The preliminary requests are subject to a decision of the court.

Article 355

The announcement of the opening of court examination

1. After carrying out the actions indicated in the article hereto, the chairman announces the judicial examination opened and explains the identity of the defendant and the accusation in his charge.

Article 356

Introductory exposition and the request for evidence

1. The prosecutor or the injured accuser exposes in summarised form the facts subject to accusation and indicates the evidence to be examined.

2. The defence lawyer of the defendant, the attorneys of the plaintiff and civilly sued respectively, indicate the facts they intend to prove and request the taking of the evidence.

3. The taking of the evidence which have been not requested beforehand shall be permitted when the requesting party claims to not having been able to request them.

Article 357

The dispositions of the court relating with evidence

1. After hearing the parties, the court renders decision for the taking of the evidence.

2. During the court examination the parties may present claims in relation to the taking of the evidence. The court may, by decision, revoke the taking of the evidence which are unnecessary or accept the taking of the evidence which have been refused.

Article 358

The statements of the defendant

1. The chairman informs the defendant that he has the right to make, in any stage of the court examination, the statements he considers adequate. When during the statements the defendant does not meet the object of the accusation the chairman forewarns him and he continues, shall deprive him from the right to speech.

2. The secretary reproduces entirely the statements of the defendant, except when the chairman orders that the minutes is kept in a summarised form.

SECTION III

THE TAKING OF EVIDENCE

Article 359

The order of taking of the evidence

1. The court examination starts by taking the evidence requested by the prosecutor or the injured accuser and continues by taking those which are required by the defendant, the defence lawyer and other parties.

Article 360

The appearance and oath of the witness

1. Before starting the questioning, the chairman forewarns the witness on his legal obligation and responsibility to say the truth, except when the witness is a juvenile up to fourteen.

2. The secretary of the court reads the statement of the witness's oath:

"I swear that I shall say the truth, all the truth and I shall say nothing which is not true".

After this, the witness declares: -I swear- and gives his identity.

3. Failure to observe the provisions of paragraph 2 and 3 renders these actions null and void.

Article 361

The questioning of the witnesses

1. The questioning of the witnesses is made directly by the prosecutor or the defence lawyer or attorney who has demanded the questioning. After this, the questioning continues by the parties, orderly.

2. The one who has demanded the questioning may ask questions even after the other parties have terminated them.

3. There are prohibited the questions which influence negatively to the impartiality of the witness or which intend to suggest the answers.

4. The president may permit the witness to look at the documents prepared by him in order to help the memory.

5. The questioning of the juvenile witnesses may be performed by the chairman, on parties requests and objections. The chairman may be assisted by a member of the juvenile' s family or by an expert of children education. When it is considered that the direct questioning of the juvenile does not harm his psychological condition, the chairman orders the continuation of the questioning according to the provisions of paragraph 1 and 2. The order may be revoked during the questioning.

6. During the questioning of the witness the chairman may ask questions and, when there is the case, intervenes to provide the order of the questioning, the truthfulness of the answers, the accuracy of the interrogations and objections, as well as to provide for the respect to the person.

Article 362

The challenge of testimony

1. In order to challenge, entirely or partly, the content of the testimony, the parties may use the sayings which are made previously by the witness before the prosecutor or the judicial police and which are in the file of the prosecutor, but only after the witness has testified to the facts and circumstances which can be appealed.

2. These sayings do not constitute evidence as far as the admitted facts are concerned, but they may be considered by the court to define the credibility of the questioned person and shall be put in the file of judicial examination.

Article 363

The interrogation of experts

1. Interrogation of the experts is performed in accordance with the provisions regarding the interrogation of the witnesses at the extent they are applicable.

2. The expert has the right in any case to consult with the documents, notes and publications which may be taken even ex-officio.

Article 364

The interrogation of witnesses and experts in their houses

1. In case of absolute impossibility to appear, upon request of the parties, the court may decide that the interrogation of the witness and expert are performed in their residing place, notifying the day, hour and place of interrogation. The interrogation may be also made by a sole judge of the panel in the presence of the defendant and his defence lawyer.

2. The interrogation is made in the ways provided by the above articles closed to the public.

The defendant and the private parties are represented by the defence lawyer and their attorneys, but may participate even in person. The court may allow the intervention of the defendant during interrogation.

Article 365

The interrogation of private parties

1. The interrogation of private parties starts by the one who has requested it and continues with the interrogation by the prosecutor, defence lawyers, attorneys of the parties and the defendant. The one who started the interrogation may make questions even after other parties.

2. The testimony may be challenged using the statements made during the preliminary investigations by the interrogated party and which are put in the file of the prosecutor, provided that the party has testified to the facts and circumstances subject to challenge.

Article 366

The appointment of the expert during the trial

1. In case the court, ex-officio or upon the request of the parties, disposes of an expertise, it shall immediately call the expert who must express his opinion during the same hearing. If this is not possible, the court shall interrupt the court examination and fixes the date of a hearing to be held, but not later than thirty days.

Article 367

The taking of new evidence

1. After the taking of required evidence the court, if necessary, may ask additional questions and, even ex- officio, disposes of the taking of additional evidence. In case there is not possible to proceed in the same hearing, the trial is interrupted and the date for the hearing to be held later is fixed.

Article 368

The minutes of the taking of evidence

1. In the minutes of the taken evidence shall be noted the identities of the witnesses, experts and interpreters, as well as the forewarning be made to say the truth and their responsibility in case of giving false evidence, expertise or interpretation.

2. The court secretary reproduces the questions asked by the parties and the president, as well as the answers of the interrogated persons.

3. In case the court decides for the minutes to be held in a summarised form, the control of its accuracy is made by the chairman.

Article 369

The permitted readings

1. The court, even ex-officio, decides to read, entirely or partly, the acts of the file of court examination.

2. Upon request of the parties, the court may decide to read the acts made during the preliminary investigations when, because of unforeseen circumstances, they cannot be remake.

3. The reading of the statements made by an Albanian or foreign citizen, residing abroad, may be made if he is summons and has failed to appear.

4. The officer or the agent of the judicial police, who is interrogated as witness, may use the acts of the judicial police to support his memory.

5. Instead of the reading, the court, even ex-officio, may present the acts connected with proceedings.

Article 370

Reading of statements made by the defendant

1. In order to object, entirely or partly, the content of statements of the defendant, the parties may use the statements made by him previously and which are in the file of the prosecutor, if he has explained the facts and the circumstances subject to objection.

2. In case the defendant is declared in absence or has failed to appear, the court decides to read the minutes of the statements made by him during the preliminary investigations.

3. In case the statements are made by persons held as defendants in a connected proceedings, the court orders the forcible accompaniment. In case the presence of the one who makes the statement cannot be provided, the court, after hearing the parties, decides the reading of the minutes which contain the statements.

Article 371

The putting of the acts in the court file

1. The minutes and the acts which are read, as well as the documents presented by the parties and accepted by the court are put, along with the minutes of the hearing, in the court file.

SECTION IV

NEW ACCUSATIONS

Article 372

The modification of the accusation

1. When during the court examination the fact results different from what is described in the request for trial and its judgement is not under the authority of a superior court, the prosecutor modifies the accusation and proceeds with the relevant one.

Article 373

The accusation for another offence

1. When during the court examination another criminal offence connected with the offence subject to trial, according to the article 79, letter b, or when an aggravating circumstance which is not presented in the request for trial comes about, the prosecutor communicates to the defendant the criminal offence or the circumstance, provided that the examination is not in the competency of another superior court.

Article 374

The accusation for a new fact

1. When during the court examination a new fact, in the charge of the defendant, which is not mentioned in the request for trial and for which must be proceeded ex-officio comes about, the prosecutor proceeds in usual way, withdrawing the file to continue the preliminary investigations. However, if the prosecutor demands, the court may allow the examination during the same hearing when the defendant agrees and the speed of proceedings is not damaged.

Article 375

The modification of qualification of the offence

1. The court may modify the qualification of a fact made by the prosecutor, provided that the criminal offence is under its competency.

Article 376

The rights of the parties

1. In cases provided by articles 372,373, and 374, the chairman makes known to the defendant that he may request a time-limit for the defence. When the defendant requests a time-limit, the chairman interrupts the court examination to perform it in due time, but not later than ten days. The other parties may also request the acquiring of new evidence.

2. The chairman orders the summons of the injured, within a time-limit not less than five days.

3. When the defendant is tried in absentia, the prosecutor requests the court to put the new accusation in the minutes of the court examination the and to notify the defendant for this. In such a case, the chairman interrupts the court examination and fixes another hearing,

respecting the time-limits provided by paragraph 1.

Article 377

The transfer of the acts to the prosecutor

1. When the prosecutor withdraws the accusation and in the state that the proofs are it is certified that the defendant is not guilty or it results that there is one of the cases of the cessation, the court decides the acquittal or the cessation. In contrary the court decides the transfer of the acts to the prosecutor.

SECTION V

FINAL DEBATE

Article 378

The holding of the debate

1. After the taking of the evidence, the prosecutor, the defence lawyer of the defendant and the attorneys of the other parties prepare and expose the relevant conclusions.

2. The civil plaintiff presents written conclusions which must comprise, when the compensation for the damage is requested, even the assessment of the missing profit.

3. The prosecutor, the defence lawyers and the attorneys of the parties can make objections.

4. In any case the defendant and the defence lawyer must be provided the final speech in case they request it.

5. The final debate may not be interrupted to obtain new evidence, unless the court considers necessary.

6. Upon termination of the debate the chairman declares the court examination closed.

CHAPTER III

THE SENTENCE

SECTION I

THE RENDERING OF THE SENTENCE

Article 379

The promptness of the rendering of the sentence

1. The sentence is rendered immediately after the closure of the court examination.

2. The rendering of the sentence may not be postponed unless there is the case of absolute impossibility. The postponement is decided by the chairman with a motivated order.

Article 380

The evidence that may be used to render the sentence

1. In the rendering of the decision the court may not use evidence other than those which are obtained or verified in the court examination.

Article 381

Collegial rendering of the sentence

1. The panel, led by the chairman, decides separately for each case connected with the fact and the law, with the execution of the precautionary measures, punishments and civil liability.

2. The judges and assistant judges expose their opinion and vote for each issue. The chairman collects the votes starting from the judge who is less experienced and votes the last himself.

Article 382

The compilation of the sentence

1. After being rendered, the sentence shall be reasoned based upon the evidence and criminal law and it shall be signed by all of the members of the panel.

Article 383

The elements of the sentence

1. The sentence shall contain:

a) the court that has rendered it,

b) the personal data of the defendant or other personal data which are useful for his identification and also the personal data of the other private parties,

c) the accusation,

d) the summarised exposition of the circumstances of the fact and the evidence on which the decision is based as well as the reasons why the court considers unacceptable the contrasting evidence.

e) disposition, indicating the articles of the law which have applied,

f) the date and the signature of the judge.

2. The sentence rendered by a panel is signed by all the members.

3. The sentence is void when the disposition or the signatures of the members of the panel are missing.

Article 384

The announcement of the sentence

1. The sentence is announced in audience by the chairman or a member of the panel by reading.

2. The announcement is considered equal to notification for the parties which are or must be deemed to be present in the hearing.

Article 385

The correction of the sentence

1. The court even ex-officio, proceeds with the correction of the sentence when any clerical error must be corrected.

Article 386

The filing of the sentence

1. The sentence is filed in the secretary immediately after the announcement. The clerk puts the signature and writes down the date of the filing.

2. The notification regarding the filing and the copy of the decision shall be communicated the defendant who is declared in absentia.

SECTION II

THE DECISION OF DISMISSAL AND ACQUITTAL

Article 387

The decision dismissing the case

1. When the prosecution should not have initiated or must not continue or when the criminal offence no longer exists, the court decides the dismissal of the case, explaining the reasons why.

2. The court decides the same way when the existence of a requirement to proceed or of a cause which makes the criminal offence non-existent is doubtful.

Article 388

The decision of acquittal

1. The court shall render a decision of acquittal when:

a) the fact does not exist or it is not proved that it exists

b) the fact does not constitute a criminal offence

c) the fact is not provided by law as a criminal offence

d) the criminal offence is committed by a person who cannot be charged or convicted

e) it is not proved that the defendant has committed the offence he is accused for.

f) the fact has been committed under lawful reasons or an non-punishable sentenced reason and also when there is doubt about their existence.

Article 389

Dispositions on the precautionary measures

1. By a decision of acquittal or dismissal the court orders the release of the defendant from the custody and declares the abolition of the other precautionary measures. The same way is disposed of when the decision has been suspended conditionally.

SECTION III

THE CONVICTION

Article 390

The sentencing of the defendant

1. When the defendant is found guilty of the criminal offence which is attributed to him, the court renders a conviction, determining the type and the duration of the punishment.

2. When the defendant has committed several criminal offences, the court defines the punishment for each of them and applies the provisions regarding competition of the criminal offences and punishments.

Article 391

The declaration for the falsity of the documents

1. The falsity of an act or document, proved by a decision of the court, is declared in the ordering part, which sets forth, as the case is, the entire or partial cancellation, reinstatement, the reproduction or modification of the act or the document, determining also how this must be done.

2. The declaration of the falsity may be appealed along with the final decision.

Article 392

The obligation to pay the fine

1. When the convicted does not have earnings or attachable properties, the court charges the one that is civilly liable for the obligations of the defendant to pay an amount equal to the fine.

Article 393

The obligation for the expenses

1. The convicted is charged with the payment of the procedural expenses connected with the criminal offence, which the punishment is referred to.

2. The persons convicted for the same criminal offence or for connected criminal offences are obliged commonly to pay the expenses. The persons convicted in the same trial for criminal offences which have no connection between them are obliged to pay jointly only the common expenses related to the criminal offences for which the conviction is rendered.

Article 394

The liability of the civilly sued

1. In the decision of punishment the court disposes even of the request for the restitution of the object and the compensation for the damage, as well as of the way of the payment of the obligation.

2. In case liability of the civilly sued is accepted, he is obliged jointly with the defendant to return the object and compensate the damage.

Article 395

Assessment of the damage

1. When the obtained evidence makes possible the assessment of the damage, the court disposes of the right of compensation of the damage in its entirety and transfers the act to the civil court.

2. Upon request of the civil plaintiff, the defendant and the civilly sued may be obliged to pay an amount approximately equal to the damage which is deemed to be proved. This obligation is executed immediately.

Article 396

The temporary execution of the civil liability

1. Upon the request of the civil plaintiff, when there are lawful reasons, the obligation for the restitution of the object and the compensation for the damage is declared temporary executable.

Article 397

The obligation of the private parties to pay procedural expenses

1. Upon decision which accepts the request for the restitution of the object or the compensation for the damage, the court obliges jointly the defendant and the civilly sued to pay the procedural expenses to the favour of the civil plaintiff, except when evaluates that it must decide the entire or partial compensation of them.

2. When the request is rejected or the defendant is found innocent, except when he is irresponsible, the court obliges the civil plaintiff to pay the procedural expenses made by the defendant and the civilly sued in relation to the civil lawsuit, but in any case when there are no reasons for the complete or partial compensation. When it is proved the gross negligence, the court may also charge with the compensation of the damages caused to the defendant or the civilly sued.

Article 398

The obligation of claimant to pay the expenses and damages

1. In case the court acquits the defendant for a criminal offence which is proceeded on complaint, because the fact does not exist or the defendant has not committed it, the claimant is charged with the payment of the expenses for the proceedings made by the state, as well as with the expenses and the compensation of the damage to the favour of the defendant and the civilly sued.

Article 399

The announcement of the decision compensating the moral damage

1. Upon the request of the civil plaintiff, the court decides the announcement of the conviction, as a method of reinstating of the moral damage arising out from by the criminal offence.

2. The announcement of the decision is made, fully or summarily, in the newspapers indicated by the court, on the expenses of the defendant or civilly sued.

3. If the announcement is not made in the fixed time-limit, the civil plaintiff may operate personally having the right to ask for the expenses to be covered by the convicted.

CHAPTER IV

SPECIAL TRIALS

SECTION I

DIRECT TRIAL

Article 400

The cases of the direct trial

1. When the defendant is arrested in the commission, the prosecutor may present before the court, within twenty-four hours, the request for the evaluation of the arrest and the simultaneous trial.

2. If the arrest is considered as being right and there is no need for other investigations, it is proceeded immediately in the trial, whereas when it is not found correct, the acts are returned to the prosecutor. But even in the last case, when the defendant and the prosecutor give the consent, the court proceeds with the direct trial.

3. The prosecutor may proceed with the direct trial even with the defendant who, during the interrogation, has confessed and his guilty is sure. In this case the defendant is summoned to appear within fifteen days from the date of the registration of the criminal offence.

4. When the criminal offence, for which is requested the direct trial, is connected with other criminal offences for which the conditions of this type of trial are missing, it is proceeded separately for other offences and other defendants, except when this separation impairs the investigations. When the jointer is necessary, the rules of the usual trial shall apply.

Article 401

The preparation of the direct trial

1. In case the prosecutor thinks that must proceed with a direct trial, he orders the appearance of the defendant in the hearing. When the latter is free the time-limit for the appearance may not be less than three days.

2. The order, along with the respective acts, are sent in the secretary of the court.

3. The defence lawyer is notified without delay by the prosecutor of the date of the trial. He has the right to read and make copies of the documentation subject to completed investigations.

Article 402

The performance of the direct trial

1. During the direct trial the provisions of the chapter for the court examination shall apply.

2. The prosecutor, the defendant and the civil plaintiff may introduce other evidence during the court examination.

3. The defendant has the right to ask for a time-limit up to three days to prepare the defence. In this case the court examination shall be postponed until the new hearing, which shall be performed after the termination of the time-limit.

4. The defendant may require the accelerated trial. The court, after taking the opinion of the prosecutor and finds the request as right, decides to continue the trial, observing the rules specified for the accelerated trial. On contrary, it continues the direct trial.

SECTION II

ACCELERATED TRIAL

Article 403

The request for the accelerated trial

1. The defendant or his special attorney may require that the case terminates until the court examination starts.

2. The request is made in writing, whereas during the hearing orally. The written request is deposited in the secretary of the court at least three days before the date fixed for hearing.

Article 404

The dispositions of the court for the request

1. When the court evaluates that the case may be resolved in the state that the acts are, decides to perform the accelerated trial. On contrary, it refuses the request.

2. The rejected request may be represented until the final conclusions of the parties are made.

Article 405

The hearing of the accelerated trial

1. The hearing is performed in the presence of the prosecutor, the defendant and his defence lawyer, as well as the private parties.

2. The court makes the verifications connected with the constitution of the parties.

3. In case the defence lawyer of the defendant fails to appear, the court appoints another defence lawyer as substitute.

4. When the defendant fails to appear in the hearing because of lawful excuses, the court fixes the date of the new hearing and orders that the defendant is given notice.

5. After the request of the defendant is read, the chairman announces the opening of the debate.

6. The prosecutor introduces in substance the results of the preliminary investigations and gives his opinion for the request of the defendant.

7. In case the civil plaintiff does not accept the accelerated trial, the civil lawsuit is not subjected to trial.

Article 406

The sentence

1. In case of conviction, the court commutes the punishment by imprisonment to one third.

The sentence by life imprisonment shall be replaced by twenty-five years imprisonment.

2. If requested, the court decides even for the civil lawsuit.

3. The prosecutor and the defendant may appeal the sentence of the court.

4. There shall be applicable the provisions of chapter I I I of this title as long as they are compatible.

TITLE VIII

COMPLAINTS

CHAPTER I

GENERAL RULES

Article 407

Cases and means of complaining

1. The law provides the cases in which the decisions and writs of the court may be complained, as well as the means of complaining.

2. The complaint of the writs of the court, unless the law otherwise provide, may be made along with the complaint of the decision.

3. The means of the complaining are: the appeal, the recourse to the Cassation Court and the request for review.

4. The right to appeal belongs to the one whom the law acknowledges expressly. When the law does not make any difference amongst the parties, this right belongs to each of them.

5. In case the appeal is made before the incompetent court, this shall transfer the acts to the competent court.

Article 408

The appeal of the prosecutor

1. The prosecutor of the district and the prosecutor in the court of appeal may appeal, in cases provided by law, despite the request made during the hearing by the representative of the prosecutor. The prosecutor in the court of appeal may appeal despite the appeal or the opinion

of the district prosecutor.

2. The appeal may be made even by the prosecutor of the hearing who, in this case, may participate in the court of appeal with the authorisation of the prosecutor in this court.

Article 409

The appeal of the injured accuser

1. The injured accuser may appeal, personally or through his attorney, either for criminal or civil matters. He may withdraw the appeal made by the attorney.

Article 410

The appeal of the defendant

1. The defendant may appeal personally or through his defence lawyer. The tutor of the defendant may make any appeal that the defendant is entitled to.

2. The sentence rendered in absentia, is subject to the appeal of the defence lawyer only in case he is provided with a power of attorney issued as provided by law.

3. The defendant may withdraw the appeal made by his defence lawyer, but when he is not legally capable the consent of the tutor must be taken.

4. The appeal of the defendant against the sentence or acquittal, extends its effects even in that part of the decision that defines the obligation for the restitution of the property, the compensation for the damage and the payment of the court procedure expenses.

Article 411

The appeal of the civil plaintiff and civilly sued

1. The civil plaintiff may appeal the points of the sentence which are connected with the civil lawsuit and, in case of acquittal, only for the effects of the civil liability.

2. The civil plaintiff may appeal the disposition of the sentence regarding the liability of the defendant and the civilly sued for the restitution of the property, the compensation for the damage and procedural expenses.

Article 412

The form of appeal

1. The appeal can be made by a written act, in which there are indicated the decision subject to appeal, its date, the court which has rendered it as well as the points of the decision subject to appeal, the reasons of appeal and what is requested.

Article 413

The submission of appeal

1. The act of appeal is submitted to the secretary of the court which has rendered the decision subject to appeal. The secretary of the court notes the day of receipt on it and the name of the person who submits it, attaches it with the acts and, when required, issues the certification of receipt.

2. The private parties, the defence lawyers and the attorneys may submit the act of appeal even to the secretary of the court of the place of their residence or to a consul abroad. In these cases, the act is sent immediately in the secretary of the court which has rendered the sentence.

3. The appeal may be sent as a registered letter to the secretary of the court which has rendered the sentence. The secretary of the court writes in the envelope the day of its reception and encloses it with the acts. The appeal is considered as made on the date of the sending of the act by the registered letter.

Article 414

The notification of the appeal

1. The act of appeal is notified to the prosecutor, the defendant and the private parties by the secretary of the court which has rendered the sentence.

Article 415

The time-limits of appeal

1. The time-limit to appeal is ten days. This time-limit starts from the next day of the announcement of the sentence or the notification of decision.

2. The one who has made an appeal has the right, up to five days before hearing, to present to the secretary of the court which shall examine the case, other grounds connected with the appeal.

3. The time-limits provided by this article may not be extended without any reason, except in cases provided by law.

Article 416

The extension of appeal

1. The appeal made by a defendant, when is not based only in personal grounds, is also valid for the other defendants.

2. The appeal made by the defendant is also valid for the civilly sued.

3. The appeal of the civilly sued shall also be valid for the defendant for criminal effects.

Article 417

The suspension of the execution

1. The execution of the decision under appeal is suspended until the trial in the court of appeal terminates. In case of recourse to the Court of Cassation or request for review, the decision may be suspended by an order, respectively, of the President of the Court of Cassation or of the court of appeal.

2. The appeal of the decisions related with the personal freedoms do not have pending effects.

Article 418

The renounce from the appeal

1. The prosecutor who has made the appeal may renounce from it until the start of the court examination, whereas the renounce of the prosecutor in the court which examines the appeal may be made until the start of the final debate.

2. The defendant and the private parties may renounce from the appeal even through the defence lawyer or the attorney.

3. The statement of renounce is made in the forms and ways provided for the submission of appeal, as the case may be, in the court which has rendered the sentence or in the court which examines the appeal.

Article 419

The sending of the acts

1. The court which has rendered the sentence shall send, within ten days, to the court which shall examine the case, the acts of proceedings and the appeal.

Article 420

The dismissal of the appeal

1. The Appeal is dismissed:

a) when it is made by the one who is not legitimated;

b) when the decision is not subject to appeal;

c) when there are not respected the provisions regarding the form, submission, sending, notification and the time-limit of appeal;

d) when it is renounced from appeal.

2. The dismissal may be declared, even ex-officio, in any state or stage of the proceedings.

3. The decision of dismissal is notified to the one who has made the appeal and it is subject of appeal to the Court of Cassation.

Article 421

The charging of expenses

1. Upon the decision rejecting or declaring the claim unacceptable, the private party who has made it is charged with the expenses of proceedings.

2. The co-defendants who have been participated in trial are charged with the expenses jointly with the defendant who has made the claim.

3. In the trials of claims made only for civil interests, the expenses shall be charged to losing private party.

CHAPTER II

THE APPEAL

Article 422

The right to appeal

1. The prosecutor, the defendant and the private parties may appeal the decisions of the first instance court.

Article 423

The counter appeal

1. The party who has not made the appeal within the time-limit, may make an opposing appeal within five days from the day he has received the notification of the appeal of the other party.

2. The opposing appeal is submitted and notified according to the general rules of appeals.

3. The opposing appeal does not produce any effect to the co-defendant who has not made any appeal.

4. The opposing appeal loses the effects in case the appeal of the other party or its renounce are not accepted to be reviewed.

Article 424

Competent court

1. The appeal of the sentences of the district court is subject to the decision of the court of appeal.

Article 425

The limits of examination of the case

1. The court of appeal examines the case thoroughly and it does not restrict itself to only the grounds presented in appeal. It examines even the part which belongs to the co-defendants who have not made appeal within the limits provided by the reasons explained in the appeal.

2. When the appellant is the prosecutor, the court of appeal:

a) may give to the fact a more serious legal qualification, alter the classification or extend the length of punishment, alter the precautionary measures and impose any other measure ordered or allowed by law;

b) may sentence the one who is acquitted, acquit him under a cause different from that accepted in the decision subject to appeal, impose the measures indicated in the< letter(a);

c) may impose, alter or exclude supplementary punishment and precautionary measures.

3. When appellant is the defendant only, the court may not impose a heavier sentence, a heavier precautionary measure, acquit under a cause less favourable than that of the decision subject to appeal.

Article 426

The preliminary trial actions

1. The president of the college of the court of appeal orders the summons of the defendant, civil plaintiff and the civilly sued, as well as the defence lawyers and their attorneys. The time-limit may not be less than ten days.

2. The writ of summons is void when the defendant is not surely identified or when the place, the day and the hour of appearance are not fixed exactly.

Article 427

Remaking of the court examination

1. When a party requests the retaking of the evidence administered during the court examination in the first instance or the taking of new evidence, the court, if evaluates it necessary, decides the entire or partly reperformance of the judicial examination.

2. The evidence found after the trial in the first instance or those which appear on the spot, are subject to the court decision which, as the case may be, orders whether they must be taken or not.

3. The reperformance of the judicial examination is decided even ex-officio when the court evaluates it as necessary.

4. The court decides the reperformance of the court examination when it is proved that the defendant has not participate in the first instance because he has been not notified or has been not able to appear due to lawful excuses.

5. For the remaking of the court examination, decided according to the above paragraphs, is proceeded immediately and when this is not possible, the court examination is postponed for a period not more than ten days.

Article 428

The decision of the court of appeal

1. The court of appeal, after examining the case, decides:

a) the unchanging of the decision;

b) the alteration of the decision;

c) the cancellation of the decision and the dismissal when there are the cases which does not permit the initiation and the continuation of the proceedings or when the guilt of the defendant is not proved;

d) the cancellation of the decision and the restitution of the acts of the first instance court when the provisions regarding the requirements to be a judge in the concrete case, the number of the judges necessary for the constitution of the colleges defined in this Code, with the exercise of the prosecution by the prosecutor and his participation in the proceedings, with the participation of the attorney of the injured accuser and the defence lawyer of the defendant, the violation of the provisions for introduction of new accusations, are not observed and also in any case when special provisions specify the nullity of the sentence.

Article 429

The restitution of the acts to the first instance court

1. When it is decided according to the point d) of the article 428, the court of appeal orders the sending of the acts to another college of the same or nearest court.

2. When a recourse to the Court of Cassation has been not made, the file with the documents is sent to the court that has rendered the decision.

Article 430

The powers related to the execution of civil obligation

1. Upon request of the civil plaintiff, the court of appeal may decide the temporary execution of the obligation when the first instance court has not expressed the opinion or has rejected the request. It may also decide the suspension of the execution of the obligation to prevent any serious and unrepairable damage that may occur.

CHAPTER III

THE RECOURSE TO THE COURT OF CASSATION

SECTION I

GENERAL RULES

Article 431

The direct recourse to Cassation

1. There shall be subject to direct recourse to the Court of Cassation the sentences and orders of the court disposing of individual freedoms, those which constitute conflicts of jurisdiction or competency, as well as the special cases provided by law.

Article 432

The recourse of final decisions

1. The recourse to the Court of Cassation against the final decisions may be presented under the following reasons:

a) non- observance or the wrong application of the criminal law or other legal provisions, which must be considered when criminal law is concerned;

b) non- observance of the procedural provisions which provide, as a consequence, the nullity, dismissal or loss of a lawful right;

c) lack of the reasoning or its illogical nature, when this comes out from the text of the decision subject to appeal.

Article 432/a*

Appeal in the interest of the law

The general prosecutor can exercise the right of appeal in order to overrule the decision in the interest of the law, against the final decision of the first instance court, Appellate Court and the Criminal Division of the Court of Cassation, for the reasons provided by article 432.

The appeal of the decision of the Criminal Division of the Court of Cassation is examined by the joint divisions of this court.

A judicial hearing of the appeal against final decisions of the Criminal Divisions of the Court of Cassation, shall be decided in the counselling chamber.

The members of this court that have deliberated the decision which is being appealed, do not have the right to take part in the counselling chamber.

Rules of judgement in the divisions of the Court of Cassation are applied to examine the appeal.

The appeal in the interest of the law is exercised within a year from the day the decision is final.

* Notice of the publisher: (Law No. 8180, dated 23.12.1996, which amends this Article, enters into force 15 days after publication in Fletorja Zyrtare (Official Gazette), which is published on 7.1.1997.)

Article 433

The dismissal of the recourse

1. The recourse must be made only in cases provided by law otherwise it shall be dismissed.

2. The dismissal of the recourse is decided by the college of the Court of Cassation in the consulting room, in absence of the parties.

Article 434

The limits for the examination in the Court of Cassation

1. The Court of Cassation examines the case within the limits of the raised causes. But, for legal issues which should be examined ex-officio by the court in any stage or instance of the proceedings, and which have been not examined, the Court of Cassation has the right to decide.

Article 435

The submission of the recourse

1. The recourse should be submitted in writing within thirty days from the date in which the sentence has become final. It must explain exactly the causes why the sentence is considered unlawful.

2. The act of recourse and the memos should be signed, with the consequence of nonacceptance, by the defence lawyer. When the defendant has not got a selected defence lawyer, the chairman of the college appoints another defence lawyer ex-officio and, in this case, the notifications are also made to the defendant.

SECTION II

THE EXAMINATION IN THE COURT OF CASSATION

Article 436

The preliminary actions

1. The president of the Court of Cassation appoints the relevant colleges for the review of the recourses.

2. The chairman of the college fixes the date of the review of the recourse.

3. The secretary of the Court notifies the prosecutor in the Court of Cassation for the depositing of the acts related to appeal and at least ten days before the date of the hearing shall post it up.

Article 437

The court review

1. The Court of Cassation tries in a college consisting of three judges.

2. The provisions related to publicity, the rules of the hearing and the right to debate in the first and second instance trial do also apply to the Court of Cassation, as far as this can be made.

3. The defendant and the private parties are represented by the defence lawyer.

4. The chairman of the college verifies the legitimacy of the parties and the correctness of the notifications.

5. The assigned judge reports the case. After the speech of the prosecutor, the defence lawyer and the attorneys of the private parties organise the defence. The reply is not permitted.

Article 438

The examination by joint colleges

1. When the presented cases have special importance or when should be resolved the contradictions amongst the decisions of different colleges, upon request of the prosecutor, the defence lawyers and the attorneys of the private parties or even ex-officio, the President of the Court of Cassation decides that the appeal is examined by the joint colleges.

2. There are respected the rules of trial as provided for the college.

SECTION III

THE SENTENCE

Article 439

The rendering of the sentence

1. The decision is rendered immediately after the termination of the hearing, except the cases when because of the complex nature or the importance of the case the president of the college evaluates as necessary to postpone the rendering of the sentence as long as this is necessary.

2. The sentence is signed by all the members of the college and is announced in the hearing< being read by the chairman or one of the judges.

Article 440

Compulsory execution of the sentence

1. The duties and the conclusions of the Court of Cassation are compulsory for the court which reviews the case.

Article 441

The holding of sentence

1. After the examination of the case, the criminal college or the joint colleges of the Court of Cassation decide:

a) the approval of the sentence subject to appeal

b) the alteration of the sentence for the legal qualification of the offence, for the type and the duration of punishment, for the civil effects of the criminal offence;

c) the cancellation of the sentence and the solution of the case without sending it back for review;

d) the cancellation of the sentence and the sending back of the acts for review.

Article 442

The cancellation of the sentence and the solution of the case without sending it back for retrial

1. The Court of Cassation decides the cancellation of the sentence and the solution of the case without sending it back for retrial when:

a) the fact is not provided as a criminal offence, the criminal offence no longer exists or the criminal proceedings must not have initiated and continued;

b) the sentence is null and void in cases provided in this Code;

c) the decision is rendered indicating a wrong person;

d) there are contradictions between the appealed decision and another previous one connected with the same person and with the same criminal offence, rendered by the same or another criminal court.

2. In cases provided by letter a) the court decides the dismissal of the case; in cases provided by letters b) and c) the decision is notified to the prosecutor in order that he takes the necessary measures; in cases provided by letter d) the court orders the execution of the decision which has imposed the lighter decision.

Article 443

Cancellation of the decision and the sending back of the acts for review

1. Except for cases provided by article 442 the Court of Cassation, when cancels a decision, sends the acts to the court that has rendered the decision subject to cancellation.

2. When the cancellation is not made for all the dispositions of the decision the Court of Cassation states in the decision which parts of it are cancelled.

Article 443

Cancellation of the decision for only civil effects

1. When cancels only the dispositions or the issues related with the civil lawsuit or when accepts the appeal of the civil plaintiff against the decision of acquittal of the defendant the Court of Cassation sends the relevant acts to the competent civil court.

Article 444

Correction of errors

1. Legal errors in the reasoning part of the decision or the wrong reference to the law text do not bring the cancellation of the decision subject to recourse unless they have had decisive influence on it. However, the court decision shall specify the errors and the corrections.

Article 445

The effects of the decision to precautionary measures

1. When on basis of a decision of the Court of Cassation the continuation of an imprisonment or of a supplementary punishment or a precautionary measure shall terminate, the secretary informs immediately the prosecutor in the relevant court of that decision.

Article 446

The retrial after cancellation

1. The debate on the competency recognised by the decision of cancellation in the retrial shall not be permitted.

2. The retrying court shall respect the decision of the Court of Cassation for any issue of the law it has decided.

3. The nullification proved in previous trials or during preliminary investigations may not be presented in the retrial.

4. The cancellation of the decision is also valid for the defendant who has not made an appeal, except when the reason of cancellation is personal.

Article 447

The appeal of the decision of retrying court

1. The decision of the retrying court is subject to recourse in the Court of Cassation when it is rendered by the court of appeal and in the court of appeal when it is rendered by the first instance court.

2. The decision of the retrying court may be appealed only for reasons which are not connected with the issues decided by the Court of Cassation or for non-observance of article 447, paragraph 2.

REVIEW

Article 449

Sentences subject to review

1. The review of final sentences is permitted in any time for cases provided by law, even when the punishment is executed or ceased.

2. The decisions of acquittal rendered for crimes may be reviewed on demand of the prosecutor, provided that from the rendering of the decision shall have not passed five years.

Article 450

The cases of review

1. The review may be requested:

a) when the facts of the grounds of the sentence do not comply with those of another final sentence;

b) when the sentence is relied upon a civil court decision which after has been revoked;

c) when after the sentence new evidence have appeared or have been found out which solely or along with those ones evaluated prove that the sentenced is not guilty;

d) when it is proved that the conviction is rendered as a result of the falsification of the acts of the trial or of another fact provided by law as a criminal offence.

Article 451

Request for review

1. There may request for review:

a) the tried or his tutor, when the sentenced has died, the successor or a relative;

b) the prosecutor in the court which has rendered the sentence.

Article 452

The form of the request

1. The request for review is made personally or through the attorney. It must comprise the evidence which motivate it and must be presented, along with the eventual documents, to the secretary of the district court that has rendered the sentence.

2. In cases provided by article 450, paragraph 1, letters a) b) d) the request must be attached the certified copies of the acts referred to in it.

3. In case of death of the sentenced after the presentation of the request for review the president of the district court appoints a tutor who exercises the rights that in the trial of review should have enjoyed the sentenced.

Article 453

Rejection of the request

1. When the request is made in absence of cases provided by article 450 or when is made by those who do not have such a right or when it evidently results unmotivated the district court, even ex-officio, decides its rejection. The decision is made in the consulting room in absence of the parties.

2. The decision of rejection is communicated to the one who has made the request and that one has the right of appeal.

Article 454

The Suspension of the execution

1. The district court of may decide the suspension of the execution of the punishment or the precautionary measure.

2. The decision suspending the execution is subject to appeal to the court of appeal by the prosecutor and the sentenced.

Article 455

The reviewing trial

1. The chairman of the panel orders the notification of the prosecutor and the appearance of the defendant and private parties.

2. The provisions of the first instance trial within the limits of the reasons presented in the request for review shall apply.

Article 456

The sentence

1. The decision is rendered in conformity to the provisions of the rendering of the decision by the first instance court.

2. When the request for review is accepted the court shall cancel the sentence. The sentence may not be rendered by only making another evaluation of the evidence taken in the previous trial.

3. When the request is rejected the court charges the expenses to the one who made it and when the suspension is ordered, shall decide the reinstatement of the execution of the sentence or the precautionary measure.

4. Upon request of the interested person the decision of acquittal is posted in summarised form in the district where the decision has been rendered and in the last residing place of the sentenced. The president of the court may order that this decision is announced in a newspaper.

Article 457

Dispositions in case of acceptance of the request

1. The district court by the decision of acquittal orders the restitution of the amounts paid for the execution of fine penalty, for the expenses of the court procedure and of the holding in prison, the cancellation of patrimonial security measures and also for the compensation of the damage in the favour of the civil plaintiff who has participated in the trial of review. It shall also order the restitution of the confiscated object except those which production, use and keeping constitutes a criminal offence.

Article 458

The appeal to the decision

1. The decision rendered in the trial of review is subject to appeal to the court of appeal.

Article 459

Compensation for miscarriage of justice

1. The one who is acquitted during the review, when has not given intentional causes or gross negligence for the wrong decision, is entitled to a compensation in proportion with the duration of the sentence and personal and familiar consequences deriving from the sentence.

2. The compensation is made by payment of an amount of money or by providing means.

3. The request for compensation is made, by effect of non-acceptance within two years from the day that the decision of review has become final and is submitted to the secretary of the< court which has rendered the decision.

4. The request is communicated to the prosecutor and to the all of the interested person.

5. The decision of compensation is subject to appeal to the court of appeal.

Article 460

Compensation in case of death

1. When the sentenced dies even before the proceedings of review the right to compensation belongs to his heirs. The undeserved heirs shall not have this right.

Article 461

The effect of dismissal or rejection of the request for review

1. The non-acceptance of the request or the decision rejecting it do not impair the right to present a new request grounded on other evidence.

TITLE IX

THE ENFORCEMENT OF SENTENCES

CHAPTER I

THE BRINGING OF SENTENCES BEFORE ENFORCEMENT

Article 462

Enforceable decisions

1. The sentence of the court is brought for enforcement immediately after becoming final.

2. The decision of acquittal, exclusion of the tried from the punishment and that of dismissal are brought for enforcement immediately after the announcement.

3. The sentenced to death is entitled to present request for petition for mercy to the President of the Republic. The submission of the request suspends the execution.

The case is reported to the President of the Republic, even ex-officio from the court where the decision has become final.

4. The way of execution of the sentences is regulated by special law.

Article 463

The actions of the prosecutor

1. The prosecutor in the first instance court which has rendered the sentence takes the measures for the execution of the sentence. He makes requests to the competent court and intervenes in all of the actions of execution.

2. The decisions of the prosecutor are notified, within thirty days, to the defence lawyers selected by the interested person or, when there is no such, to the one appointed by the prosecutor.

3. When necessary the prosecutor may demand the carring on of special actions from a prosecutor of another district.

4. When the execution starts the prosecutor notifies in writing the court which has rendered the sentence.

Article 464

The enforcement of sentences by imprisonment

1. In order to execute a sentence to imprisonment the prosecutor issues the order of execution.

2. The order of the enforcement comprises the personal data of the sentenced, the holdings of the sentence and the necessary dispositions for execution.

3. When the sentenced is detained the order is sent to the state authority which administers the prisons and is notified to the interested person, whereas when the sentenced is not held detained it shall be ordered his imprisonment.

4. The same way shall be acted in cases of the enforcement of decisions of compulsory hospitalisation in medical or educational institutions.

Article 465

The assessment of the detention and served punishment

1. In imposing the length of imprisonment the prosecutor shall assess the period of detention served for the same offence or for another criminal offence, the served period of punishment to imprisonment for another criminal offence when the punishment is revoked or when for the criminal offence has been awarded amnesty or pardon.

2. In any case the assessment shall comprise the period of detention or the punishment served after the commission of the criminal offence subject to the imposition of the punishment to be executed.

3. After making the assessments the prosecutor issues the order which is notified to the sentenced and his defence lawyer.

Article 466

The enforcement of precautionary measures ordered by the court

1. The precautionary measures ordered by the court are executed by the prosecutor in the court that has rendered the decision.

Article 467

The execution of fine penalties

1. The decisions comprising the fine penalty are executed by the bailiffs office.

2. When it is proven that the execution of the fine or of a part of it is impossible the prosecutor demands from the court that has rendered the decision to make the conversion.

Upon request of the punished the court may postpone the conversion up to six months. This period is not assessed in the time-limits of the prescription.

3. The decision of conversion is subject to appeal which suspends its execution.

Article 468

The execution of supplementary punishments

1. For the execution of the supplementary punishment the prosecutor sends the abridgement of the sentence to the judicial police authorities, to the police of public order and to other interested authorities.

Article 469

The execution of several sentences

1. When a single person is sentenced for various criminal offences the prosecutor in the court of the last decision demands from the court to determine which sentence shall be executed, observing the rules regarding the jointer of sentences.

2. The demand of the prosecutor is notified to the sentenced and his defence lawyer.

CHAPTER II

EXAMINATION BY THE COURT OF THE MATTERS RELATED TO THE ENFORCEMENT OF THE DECISIONS

Article 470

The competent court for enforcement

1. The court which has rendered the sentence is competent to examine the requests and claims related to its enforcement.

2. When the execution is related with several sentences rendered by various court the competent court shall be the one which has rendered the sentence that has been the last to become final.

Article 471

The procedure followed by the court

1. The court proceeds with the request of the prosecutor, the interested person or defence lawyer.

2. When the request is evidently groundless or it renovates a rejected request, based on the same grounds, the court, after hearing the prosecutor, declares it unacceptable by decision which is notified within five days to the interested person. The decision is subject to appeal.

3. Except for cases provided by paragraph 2 the court fixes the date of the hearing and notifies the parties and defence lawyers at least days before it.

4. The hearing is held in compulsory presence of the prosecutor and parties.

5. The court renders a decision which is notified to the parties and defence lawyers.

The decision is subject to appeal, but it does not suspend the execution except when the court which has rendered it otherwise decides.

6. The minutes of the hearing is kept in summarised form.

Article 472

Uncertainties on the physical identity of the prisoner

1. In case of uncertainty on the identity of the person arrested in order to enforce the sentence, the court interrogates him, performs the investigations necessary for his identification and takes decision which is notified to the interested person.

2. When it ascertains that he is not the person to be subjected to execution, the court orders his immediate release. In case the identity remains uncertain, it decides the suspension of the execution, the release of the prisoner and notifies the prosecutor to complete further investigations.

3. In case the error on the identity of the person is certain, the prosecutor orders his release and sends immediately the acts to the court.

Article 473

The error of the name

1. When a person is sentenced instead of another person because of error relating to the name, the court decides the correction only in case the person who should be subjected to proceedings is cited as a defendant also with another name to appear before the trial. To the contrary, it is decided the review of the case according to the article 450 paragraph 1 letter c).

In any case, the execution against the person who is victim of miscarriage of justice is suspended.

Article 474

Several decisions on the same fact

1. In case several decisions are rendered against the same person for the same fact, the court orders the execution of the decision by which is expressed the lightest punishment, declaring the others as non-executable. In case the main punishments are equal, the supplementary punishment shall be considered.

2. In case there are some decisions of dismissal or acquittal, the interested person indicates the decision to be executed and if he does not do this, the prosecutor in case of dismissal and the court in case of acquittal, order the enforcement of the most favourable decision.

3. In case of a decision of acquittal and of a sentence, the court orders the execution of the decision of acquittal, revoking the sentence, whereas in case of a decision of dismissal of the prosecutor and of a decision rendered in the trial, the court orders the execution of the decision rendered in trial.

Article 475

The jointer of sentences

1. In case of several decisions, taken in various proceedings against the same person, the injured or the prosecutor may request from the court to follow the rules of jointer of sentences.

Article 476

The postponement of enforcement of the decision

1. The court which has rendered the sentence, upon request of the sentenced, the defence lawyer or prosecutor, may decide the postponement of the execution of the decision in following cases:

a) when the sentenced suffers a grave malady which does not permit the execution of the decision. The execution shall be postponed until the sentenced is recovered.

b) when the sentenced is pregnant or she has a baby under one year old. The execution shall be postponed until the child shall reach the age of one year.

c) when the immediate serving of the punishment may bring serious consequences to the sentenced or his family. The postponement of the execution in these cases may not exceed six months

d) in any other case evaluated by the court as particular, being postponed the execution up to three months.

2. Upon submission of the request, the court has the right to suspend the execution of the decision until that is examined.

3. The decision of the court is subject to appeal.

Article 477

The release on bail

1. The court of the place of the execution orders the release on bail and revokes it, according to the criteria provided by the Criminal Code.

2. The request may not be renewed if six months have passed from the day the decision rejecting the request has become final.

Article 478

The release of the prisoner

1. The court of the place of the execution may decide the release of the prisoner when the continuation of the imprisonment may threaten his life.

Article 479

Revocation of the sentence because of abrogation of the criminal offence

1. In case of abrogation or constitutional unlawfulness of the criminal provision, the court revokes the sentence declaring that the fact is not provided as a criminal offence. The same way is acted in case of dismissal or acquittal because the criminal offence no longer exists.

Article 480

Other competencies

1. In the stage of the execution, the court is competent to decide the termination of the criminal offence after the punishment, the termination of the punishment, the confiscation or the restitution of confiscated objects, as well as for any case provided by law.

2. In case is verified that the criminal offence or the punishment have no longer exist, the court declares this even ex-officio, taking the respective steps.

CHAPTER III

CRIMINAL RECORD

Article 481

The criminal record office

1. In the criminal record office which is under the Ministry of Justice, there are deposited the abridgements of the decisions for the persons tried for criminal matters.

Article 482

The notes in the criminal record

1. In the criminal record there are registered by abbreviations:

a) the sentences, once they become final;

b) the sentences rendered by the court in the stage of execution;

c) the decisions related to the execution of supplementary sentences;

d) decisions of acquittal and dismissal.

Article 483

The cancellation of notes

1. The notes in the register are cancelled after the reception of the official notification of the death of the person to whom belong the notes or when he reaches the age of eighty.

2. There shall also be cancelled the notes related to:

a) decisions revoked due to review or abrogation of the criminal offence;

b) the decisions of acquittal or dismissal on expiry of ten years from the date on which the decision has become final;

c) decisions of punishment for contravention when a fine penalty is involved, on expiry of ten years from the day when the decision has been executed.

Article 484

Certificates of criminal record

1. The authorities of justice, state administration and entities in charge with public services are entitled to take certificates of notes of a said person when the certificate is necessary for their assignment.

2. The prosecutor may request the certificate herein for the defendant or the sentenced and, by authorisation of the court, he and the defence lawyer may also request certificate for the injured persons and witnesses.

3. The person subject to the note in the criminal record is entitled to take the respective certificate and he has no obligation to explain the reasons in the request.

CHAPTER IV

PROCEDURAL EXPENSES

Article 485

The expenses payable by the state

1. The criminal procedural expenses are paid in advance by the state, except those related to the acts requested by the private parties.

2. The procedural expenses include the expenditures during all the stages of the proceedings for examinations, experiments, expertise, notifications, for the defence lawyers appointed exofficio and any other expense duly recorded.

3. In the final decision the court defines the obligation to pay the expenses paid in advance by the state.

Article 486

The payment of the procedural expenses

1. The obligation to pay procedural expenses are executed by the bailiffs office.

2. In case of insolvency, the bailiffs office informs the financial police, which obtains data on the real financial situation of the debtor and on any changes of it.

Article 487

The solution of the claims regarding expenses

1. The claims related to procedural expenses are subject to decisions of the court which has rendered the decision and which acts under the rules provided by article 471.

TITLE X

JURISDICTIONAL RELATIONS WITH FOREIGN AUTHORITIES

CHAPTER I

EXTRADITION

SECTION I

EXTRADITION ABROAD

Article 488

The significance of extradition

1. The surrender of a person to a foreign country to execute a sentence by imprisonment or the delivery of an act which proves his proceedings for a criminal offence can be made only by means of extradition.

Article 489

The request for extradition

1. The extradition is permitted only upon request submitted to the Minister of Justice.

2. The request is presented in diplomatic channel through the Ministry of Foreign Affairs.

3. The request for extradition are attached:

a) the copy of the sentenced by imprisonment or of the act of proceedings;

b) a report of the criminal offence in charge of the person subject to extradition indicating the time and the place of the commission of the offence and its legal qualification;

c) the text of legal provisions to be applied, indicating whether for the criminal offence subject to extradition the law of the foreign country provides death penalty.

d) personal data and nay other possible information which supports to define the identity and the citizenship of the person subject to extradition.

4. When several requests for extradition compete the Minister of Justice sets forth the order of examination. He takes into consideration all of the circumstances of the case and, particularly the date of the reception of the request, the importance and the place where the criminal offence is committed, the citizenship and the domicile of the person subject to request, as well as the possibility of a re-extradition by the requesting country.

5. In case for a sole offence the extradition is requested simultaneously by several countries it shall be provided to the country subject to the criminal offence or to the country within which territory has been committed the criminal offence.

Article 490

The requirements of extradition

1. The extradition is permitted by expressed condition that the person subject to extradition shall not be prosecuted, shall be not sentenced nor shall he be surrendered to another country for a criminal offence which has occurred before the request for extradition and which differs from that which the extradition is provided for.

2. The requirements of the paragraph 1 shall be not considered when:

a) the extraditing party gives expressed consent that the extradited is prosecuted even for another criminal offence;

b) the extradited, although has been able, has not left the territory of the country he is extradited. After thirty days from his release or after has left is returned voluntarily.

3. The Minister of Justice that permits the extradition may impose even other requirements which he considers as appropriate.

Article 491

The rejection of the request for extradition

1. The extradition may not be provided:

a) for an offence of a political nature or when it results that it is requested for political reasons.

b) when there are grounds to think that the person subject to extradition shall be subjected to persecution or discrimination due to race, religion, sex, citizenship, language, political belief, personal or social state or cruel, inhuman or degrading punishment or treatment or acts which constitute violation of fundamental human rights.

c) when the person subject to the request for extradition has committed a criminal offence in Albania.

d) when he is being tried or has been tried in Albania regardless the criminal offence has been committed abroad.

e) when the criminal offence is not provided as such by the Albanian legislation;

f) the Albanian state has provided an amnesty for this offence;

g) when the requested person is Albanian citizen and there is no agreement otherwise providing;

h) when the law of the requesting state does not provide the prosecution or the punishment for the same.

Article 492

The actions of the prosecutor

1. When receives a request for extradition from a foreign country, the Minister of Justice, if does not rejects it, shall send along with the documents to the prosecutor in the competent court.

2. The prosecutor, after receiving the request, orders the appearance of the interested person in order to identify him and to obtain his eventual consent for the extradition. The interested is explained the right to be assisted by a defence lawyer.

3. The prosecutor, through the Minister of Justice, requests from the foreign authorities the documents and the information which he considers necessary.

4. Within three months from the date on which the request for extradition has arrived, the prosecutor submits the request to the court for examination.

5. The request of the prosecutor shall be deposited in the secretary of the court along with the acts and attached objects. The secretary shall take care of the notification of the person subject to extradition, his defence lawyer and the eventual representative of the requesting country who, within ten days, have the right to access to the documents and to issue copies of them as well as to examine the attached objects and to present memos.

Article 493

Coercive measures and the attachments

1. Upon request of the Minister of Justice, presented through the prosecutor, the person subject to request for extradition may be subjected to coercive measures and an order imposing the

attachment of the real evidence and of the objects related to the criminal offence for which is requested the extradition may be issued.

2. The imposing of the coercive measures shall be subjected to the provisions of the title V of this Code, as far as this can be done, considering the requirements which provide that the person subject to extradition shall not try to slip the extradition.

3. The coercive measures and the attachment shall be not imposed when there are reasons to believe that the requirements to provide a decision in the favour of extradition do not exist.

4. The coercive measures are revoked when within three months from the start of their execution it has not terminated the proceedings before the court. Upon the request of the prosecutor the time limit can be prolonged, but not longer than one month, when necessary to make particularly complex verifications.

5. The competent authority to render decision on basis of the paragraphs hereof is the district court or, during the proceedings before the court of appeal, this one.

Article 594

Temporary execution of coercive measures

1. Upon request of the foreign country, presented by the Minister of Justice through the prosecutor in the competent court, the court may impose temporarily a coercive measure before the request for extradition arrives.

2. The measure may be imposed when:

a) the foreign country has declared that the person has been subjected to a measure restricting his personal freedom or to a sentence by imprisonment and that it is going to present request for extradition;

b) the foreign country has presented circumstantial data regarding the criminal offence and sufficient elements for the identification of the person;

c) there is the eventual event of his escape.

3. The competency to impose the measure shall belong to, respectively, the court of the district where in which territory the person has the domicile, residence or the dwelling- house or the court of the district where he is. In case the competency cannot be determined by the above ways, competent shall be the court of Tirana district.

4. The court may also order the attachment of the real evidence and of the objects pertaining to the criminal offence.

5. The Minister of Justice gives notice to the foreign country of the temporary coercive measure and of the eventual attachment.

6. The coercive measures are revoked if, within thirty days from the notification hereinof, the request for extradition and the documents enclosed do not arrive to the Ministry of Justice.

Article 495

The arrest by the judicial police

1. In case of urgency, the judicial police may carry out the arrest of the person who is subject to request for temporary arrest. It also carries out the attachment of the real evidence of the criminal offence and of the objects connected with it.

2. The authority, which has carried the arrest out, shall immediately inform the prosecutor and the Minister of Justice. The prosecutor, within forty-eight days, shall make the arrested available to court of the territory where the arrest has taken place, sending also the relevant documents.

3. The court, within three days from the arrest, approves it if there are the requirements or orders the release of the arrested. The decision rendered by the court shall be informed to the Minister of Justice.

4. The arrest shall be revoked in case the Minister of Justice does not request, within ten days from the approval, its continuance.

5. The copy of the decision rendered by the court regarding the coercive measures and attachments, in accordance with these articles, shall be notified to the prosecutor, interested person and his defence lawyers who may appeal to the court of appeal.

Article 496

The hearing of the person subjected to the precautionary measure

1. In case a precautionary measure is imposed, the court, as soon as possible and anyway not later than five days after the execution of the measure or its evaluation, makes sure of the identity of the person and takes its eventual consent for extradition, noting this in the minutes.

2. The court makes known to the interested person the right to a defence lawyer and, exofficio, if he is absent, can appoint another defence lawyer. The defence lawyer must be notified, at least twenty-four hours before for the above mentioned actions and has the right to participate in them.

Article 497

The examination of the request for extradition

1. After the reception of the request of the prosecutor, the court fixes the hearing and notifies, at least ten days in advance, the prosecutor, the person subject to request for extradition, his defence lawyer and the eventual representative of the requesting state.

2. The court collects data and makes the necessary verifications and hears the persons summoned to appear before the trial.

Article 498

The decision of the court

1. The court renders the decision in favour of the extradition when it possesses important data on the guilt or when there is a final decision. In this case, when there is a request of the Minister of Justice, presented through the prosecutor, the court decides the holding into custody of the person who should be extradited and who is in free state, as well as the attachment of the real evidence and objects which belong to the criminal offence.

2. The court renders the decision rejecting the extradition in cases provided for the nonacceptance of the request for extradition.

3. When the court renders the decision against extradition, the extradition cannot be executed.

4. The decision against the extradition prohibits the rendering of a successive decision in the favour of extradition as a result of a new request presented for the same facts by the same state, except when the request is based on elements which are not evaluated by the court.

5. The decision of extradition regarding the request for extradition, may be appealed to the court of appeal by the interested person, his defence lawyer, the prosecutor and the representative of the requesting state, according to the general rules of appeal.

Article 499

The decision of extradition

1. The Minister of Justice decides for the extradition within thirty days from the date the decision of the court has become final. After the expiration of this time-limit, even in case the decision is not rendered by the Minister, the person subject to extradition, if imprisoned, shall be released.

2. The person shall be released even in case the request for extradition is rejected.

3. The Minister of Justice communicates the decision to the requesting state and, when this is favourable, the place of the surrender and the date by which it is expected to start. The timelimit of the surrender is fifteen days from the fixed date and, upon motivated request of the requesting state, it may be also extended to twenty other days.

4. The decision of extradition shall lose its effect and the extradited shall be released in case the requesting state does not act, within the fixed time-limit, to receive the extradited.

Article 500

The suspension of the surrender

1. The execution of extradition is suspended when the extradited should be tried in the territory of Albanian state and must serve a punishment for criminal offences committed before or after that subject to extradition. But the Minister of Justice, after listening the competent proceeding authority of the Albanian state or the one of the execution of sentence, must order the temporary surrender in the requesting state of the person subject to extradition, defining the time-limits and the way how to operate.

2. The Minister may agree the rest of the punishment to be served in the requesting state.

Article 501

Extension of the provided extradition and the re-extradition

1. In case of new request for extradition, submitted after the delivery of the extradited and which subject is a criminal offence occurred before the delivery, different from that subject to the provided extradition, there are respected, as far as they are applicable, the provisions of this chapter. The request must be attached to the statements of the extradited, made before the judge of the state requesting the extension of the extradition.

2. The court proceeds in absentia of the extradited.

3. It shall not be any trial in case the extradited, by his statements provided in paragraph 1, has accepted the extension of extradition.

4. The above provisions are also applied in case the requesting state, which is surrendered th person, requests the consent for extradition of the same person in another state.

Article 502

The transit

1. The transit through the territory of the Albanian state of an extradited person from a state to another, is authorised, upon request of the latter, by the Minister of Justice, if the transfer does not impair the sovereignty, the security or other state interests.

2. The transfer is not authorised:

a) when the extradition is provided for facts which are not provided as criminal offences by the Albanian law;

b) in cases provided by article 491, paragraph 1;

c) when an Albanian citizen, for whom the extradition in the state which has requested the transit transfer should not have been provided, is involved.

3. The authorisation is not required in case the transit transfer is made by plain and there is not expected the landing in the Albanian territory. But, when the landing takes place, there shall apply, as far they are in accordance with the fact, the provisions for the precautionary measures.

SECTION II

THE EXTRADITION FROM ABROAD

Article 504

The request for extradition

1. The Minister of Justice is competent to request from a foreign state the extradition of the proceeded or sentenced person, who must be subjected to a measure that restricts the individual freedom. In this case, the prosecutor in the court of the territory where the proceedings take place or the sentence is rendered, makes a request to the Minister of Justice, sending the necessary acts and documents. In case does not accept the request, the Minister notifies the authority which has made it.

2. The Minister of Justice is competent to decide about the conditions eventually imposed by the foreign country to provide the extradition, when they do not run against the main principles of the Albanian rule of law. The proceeding authority is obliged to respect the accepted conditions.

3. The Minister of Justice may decide, for the purpose of extradition, the searching abroad for the proceeded or sentenced person and his temporary arrest.

4. The detention abroad, as a consequence of a request for extradition introduced by the Albanian state, is calculated in the duration of the detention, according to the rules provided

in title V of this Code.

CHAPTER II

INTERNATIONAL LETTERS OF APPLICATION

SECTION I

FOREIGN LETTERS OF APPLICATION

Article 505

The competencies of the Minister of Justice

1. The Minister of Justice decides to grant support to a letter of application of a foreign authority regarding communications, notifications and the taking of proofs, except when evaluates that the requested actions impair the sovereignty, the security and important interests of the state.

2. The Minister does not grant support to the letter of application when it is certain that the requested actions are prohibited expressly by law or contradict the fundamental principles of the Albanian rule of law. The Minister does not grant support to the letter of application when there are motivated reasons to think that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence to the performance of the process, and when it is certain that the defendant has expressed freely his consent for the letter of application.

3. In cases the letter of application has as subject the summons of the witness, expert or a defendant before a foreign judicial authority, the Minister of Justice does not grant support to the letter of application when the requesting state does not give sufficient guarantee for the non-encroachment of the cited person.

4. The Minister has the right to not grant support to the letter of application in case the requesting state does not give the necessary guarantee of reciprocity.

Article 506

The court proceedings

1. The foreign letter of application cannot be executed unless the court of the place where he must be proceeded has rendered a favourable decision rendered.

2. The district prosecutor, after taking the acts from the Minister of Justice, submits his request to the court.

3. The court disposes of the execution of the letter of application by a decision.

4. The execution of the letter of applications not accepted:

a) in cases the Minister of Justice does not grant support to the letter of application

b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 507

The execution of the letters of application

1. The decision for the execution of the letter of application shall appoint the panel which must carry out the requested action.

2. For the performance of the requested actions the provisions of this Code shall apply, except in case the special rules requested by the foreign judicial authority, which are not in contrary with the principles of the Albanian rule of law, must be observed.

Article 508

The summons of witnesses who are requested by the foreign authority

1. The citation of the witnesses, residing in the territory of the Albanian state, to appear before the foreign judicial authority, are sent to the prosecutor of respective district, who takes measures for the notification, acting as in case of notification of the defendant in free condition.

SECTION II

LETTERS OF APPLICATION FOR ABROAD

Article 509

The sending of letters of application to foreign authorities

1. The letters of application of the courts and prosecution offices, addressed to foreign authorities for notification and the taking of the proofs, shall be sent to the Minster of Justice who takes the measures to send them through diplomatic channel.

2. When ascertains that the security or other important interests of the state could be in danger the Minister, within thirty days from the reception of the letter of application, decides to give it up.

3. The Minister communicates to the proceeding authority that has presented the request, the date of its reception and the notification that he has sent the letter of application or the order to give up the procedure in relation to the letter.

4. In case of urgency the proceeding authority may order the sending of the letter of application through diplomatic channel informing the Minister of Justice.

Article 509

The non-encroachment of the summoned person

1. The person summoned on basis of the letter of application, when appears, may not be subjected to restrictions of personal freedom due to facts occurred before the writ of summons.

2. The non-encroachment provided by paragraph 1 shall cease when the witness, the expert or the defendant, even having the possibility, has not left the territory of the Albanian state, after the expiration of fifteen days from the moment his presence is no longer requested by the judicial authority or when, after has left, he has come back voluntarily.

Article 510

The value of the acts received by letter of application

1. When the foreign country has imposed conditions for the usage of the requested acts, the Albanian proceeding authority must respect them in case they do not run against the prohibitions provided by law.

CHAPTER III

THE EXECUTION OF SENTENCES

SECTION I

THE EXECUTION OF THE FOREIGN SENTENCES

Article 512

The recognition of foreign sentences

1. The Minister of Justice, when receives a sentence rendered abroad for Albanian citizens or foreigners or persons without citizenship, but residing in the Albanian state or for persons proceeded criminally in the Albanian state shall send to the prosecutor in the district court of the domicile or residence of the person a copy of the decision and relevant documents, along with the translations in Albanian language.

2. The Minister of Justice demands the recognition of a foreign sentence when judges that in accordance with an international convention this decision must be executed or must be recognised other effects in the Albanian state.

3. The prosecutor shall submit a request to the district court for the recognition of the foreign sentence. Through the Minister of Justice he may request from foreign authorities the necessary information.

Article 513

The recognition of foreign courts sentences regarding civil effects

1. Upon request of the interested, in the same proceedings and by the same decision, may be declared valid the civil dispositions of the foreign sentence in relation to the obligation to return the property or to compensate for the damage.

2. In other cases the request is presented, by the one who has an interest, to the court where the civil dispositions of the foreign sentence should be executed.

Article 514

Terms of recognition

1. The foreign court sentence may not be recognised when:

a) the sentence has not become final according to the laws of the state in which it has been rendered,

b) the sentence contains dispositions which run against the principles of the rule of law of the Albanian state,

c) the sentence has been not rendered by an independent and impartial court or the defendant has been not cited to appeal before the trial or has been not recognised the right to be questioned in a language that he understands and to be assisted by a defence lawyer,

d) there are grounded reasons to think that the proceedings have been influenced by considerations regarding race, religion, sex, language or political beliefs,

e) the fact for which is rendered the sentence is not provided as a criminal offence by the Albanian law,

f) for the same fact and against the same person in the Albanian state has been rendered a final decision or a criminal proceeding is in course.

Article 515

Coercive measures

1. Upon request of the prosecutor the court which is competent to recognise a foreign sentence may impose a coercive measure to the sentenced who is in the Albanian territory.

2. The chairman of the court, within five days from the execution of the coercive measure, takes steps regarding the identification of the person and notifies him the right to a defence lawyer.

3. The coercive measure imposed under this article shall be revoked when from the start of its execution have expired three months without being rendered the decision of recognition from the district court or six months without becoming final the decision.

4. Revocation and replacement of the coercive measure is subject to decision of district court.

5. The copy of the decision rendered by the court is notified, after the execution, to the prosecutor, the sentenced from the foreign court and his defence lawyer who may appeal to the court of appeal.

Article 516

Imposition of the punishment

1. When recognises a foreign sentence the court determines the punishment to be served in the Albanian state. It converts the punishment imposed in the foreign sentence into one of the sentences provided for the same fact by the Albanian law. This punishment shall be similar as a nature with that which is rendered by the foreign sentenced. The duration of the sentence may not exceed the maximal limit provided for the same fact by the Albanian law.

2. When the foreign sentence does not specify the duration of the sentence, the court provides it on basis of criteria indicated in the Criminal Code.

3. When the execution of the sentence rendered in the foreign state is suspended on parole the court, by the decision of recognition, in addition to other issues, does also dispose of the suspension on parole of the sentence. The same does the court when the defendant has been released on parole in the foreign country.

4. In order to specify the punishment by fine, the sum specified in the foreign sentence shall be converted in equal value into Albanian currency, observing the exchange rate of the day on which the recognition has been provided.

5. The decision of recognition regarding the execution of a confiscation shall also order the execution of the confiscation.

Article 517

The attachment

1. Upon request of prosecutor the competent court may impose the attachment of objects that can be sequestered.

2. The decision is subject to appeal.

3. Shall be respected, as far as they are applicable, the provisions regulating the preventive attachment.

Article 518

The enforcement of a foreign judgement

1. After being recognised, the criminal sentences of foreign courts are enforced in conformity to Albanian law.

2. The prosecutor in the court which has made the recognition of a sentence takes the measures for its execution.

3. The sentence by imprisonment served in the foreign country is calculated for the effects of the execution.

4. The sum deriving from the execution of the fine penalty is paid into the bank of Albania. It may be paid into the state where the sentence is rendered, upon its request when that state, under the same circumstances should have decided the payment to be executed into the favour of the Albanian state.

5. The confiscated objects shall be delivered to the Albanian state. They are delivered, upon its request, to the state where the decision subject to recognition is rendered when this state is under the same circumstances should have decided the delivery in the Albanian state.

SECTION II

THE ENFORCEMENT OF ALBANIAN SENTENCES ABROAD

Article 519

Terms of enforcement abroad

1. In cases provided by international conventions or by article 501, paragraph 2, the Minister of justice requests the execution the execution of the sentences abroad or gives the consent when it is requested by a foreign state.

2. The execution of a sentence by a restriction of personal liberty abroad may be requested or permitted only if the sentenced has become aware of the consequences, has declared freely that he gives consent and when the execution in the foreign state is appropriate to his social rehabilitation.

3. The execution abroad is also allowed when there are conditions provided by paragraph 2, if the sentenced is in the territory of the state subject to request and the extradition is rejected or anyway is not possible.

Article 520

Court sentence

1. Before requesting the execution of a decision abroad the Minister of Justice shall send the acts to the prosecutor who presents a request to the court.

2. When it is necessary the consent of the sentenced, this should be given before the Albanian court. In case he is abroad the consent may be given before the Albanian counsellor authority or before the foreign court.

Article 521

Cases when the enforcement of the sentence abroad is not permitted

1. The Minister of Justice may not request the execution abroad of a criminal sentence by restriction of personal liberty when there are grounds to think that the sentenced shall be subjected to persecution or discrimination acts due to race, religion, nationality, language or political beliefs or inhuman, cruel or degrading punishment and treatment.

Article 522

The request for detention abroad

1. When it is requested the enforcement of a sentence restricting the personal liberty and the sentenced is abroad, the Minister of Justice requests his detention.

2. By the request fir the execution of a confiscation the minister of Justice has the right to request the attachment of attachable objects.

Article 523

The suspension of enforcement in the Albanian state

1. The execution of the sentenced in the Albanian state is suspended once the execution in the foreign state has started.

2. The sentence may no longer be enforced in the Albanian state when, according to the foreign countries laws, it has been entirely served.

Article 524

Final Provisions

1. Code of Criminal Procedure of the People's Socialist Republic of Albania, approved by the law number 6069, dated 25.12.1979, along with amendments and ulterior modifications as well as any other provision running against this Code are abrogated.

Article 525*

This Code enters into force on 1 August 1995

Regarding the criminal cases, which at the date of coming into power of this code, are still being investigated or in the process of judgement and under appeal the dispositions of the previous Code of the Criminal Procedure will be applied, prior to 1st of March 1996.

Announced with the Decree no1059, dated 5 April 1995 of the President of the Republic of Albania, Sali Berisha.

LAW

NO. 8460, DATED 11.2.1999

For some amendments to the law no. 7905, dated 21.3.1995

"Criminal Procedure Code of the Republic of Albania"

Based on Articles 81 and 83, point 1 of the Constitution, upon the proposal of a group of members of the Parliament,

THE PEOPLE'S ASSEMBLY

OF THE REPUBLIC OF ALBANIA

DECIDED:

Article 1

Point 5 is added after point 4 of Article 24 of law no. 7905, dated 21.3.1995 "Criminal Procedure Code of the Republic of Albania" as following:

"The higher prosecutor has the right to decide the change or the invalidity of the decisions rendered by the lower prosecutor."

Article 2

The paragraph with the following content is added to point 1 of Article 34:

"When after taking a person as a defendant are found new evidences which change the presented charge or make it complete, the prosecutor renders a decision, which is notified to the defendant."

Article 3

The following paragraph is added to point 2 of Article 324:

"Beyond the time limit of two years, in extraordinary cases, the term of the investigations may be prolonged only with the approval of the General Prosecutor up to one year. Each prolongation

may not exceed the period of three months without intruding the terms of the prolongation of the pre detention time limit.”

Article 4

In point 1 of Article 328, before the word “of the case” is added the word “of the charge or.”

Article 5

In point 1 of Article 329, before the word “the case” is added the word “the charge or.”

Article 6

This law enters into force 15 days after the publication in Fletorja Zyrtare (Official Gazette.)