



Criminal Justice Collection of Laws

This project is implemented by:



DEUTSCHE STIFTUNG FÜR
INTERNATIONALE RECHTLICHE
ZUSAMMENARBEIT E.V.



IRZ



Consiglio
Superiore
della Magistratura



EURALIUS
Consolidation of the
Justice System in Albania

DEUTSCHE STIFTUNG FÜR
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Criminal Justice Collection of Laws

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Disclaimer:

Please, note that the 'Criminal Justice Collection of Laws' contains several law texts elaborated or amended under the justice reform process. The laws, that were subject to amendments were consolidated; all laws were translated from Albanian into English.

The consolidated and translated texts constitute just an unofficial document and are intended to be used as documentation tools. EURALIUS does not assume any responsibilities for the content. They confer no rights and impose no obligations separate from those conferred or imposed by the legislation formally adopted and published in the Official Gazette. For legal purposes, please refer to the texts published in the Official Gazette.

The Code of Criminal Justice for Children is prepared with the assistance of UNICEF.

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LAW
No. 7895, dated 27 January 1995
CRIMINAL CODE OF THE REPUBLIC OF ALBANIA

(Amended by laws: No. 8175, date 23.12.1996; No. 8204, date 10.4.1997; No. 8279, date 15.1.1998; No. 8733, date 24.1.2001; No. 9017, date 6.3.2003; No. 9030, date 13.3.2003; No. 9086, date 19.6.2003; No. 9188, date 12.2.2004; No. 9275, date 16.9.2004; No. 9686, date 26.2.2007; No. 9859, date 21.1.2008; No. 10 023, date 27.11.2008; No. 23/2012, date 1.3.2012; No. 144, date 2.5.2013; No. 98, date 31.7.2014; No. 176/2014, date 18.12.2014; No. 135/ 2015, date 5.12.2015; No. 82/2016, date 25.7.2016; No. 36/2017, date 30.3.2017; No. 89/2017, date 22.5.2017; No. 44/2019, date 18.7.2019; No. 35/2020 date 16.4.2020, No. 146/2020, date 17.12.2020, No. 43/2021, date 23.3.2021)

Constitutional Court Decisions: No. 13, date 29.5.1997; No. 46, date 28.8.1997; No. 58, date 5.12.1997; No. 65, date 10.12.1999; No. 11, date 2.4.2008; No. 19, date 1.6.2011; No. 47, date 26.7.2012 and No. 9, date 26.2.2016

(updated)

In reliance on Article 16 of the Law No. 7491, dated 29/04/1991 “On the main constitutional provisions”, upon the proposal of the Council of Ministers

ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

GENERAL PART

CHAPTER I
CRIMINAL LAW AND ITS APPLICATION

Article 1
Criminal Law and classification of criminal acts

Criminal law defines the criminal offences, sentencing and other measures taken against the perpetrators.

Criminal offences are classified into crimes and contraventions. The distinction between them is always drawn in the provisions of the Special Part of the present Code.

Article 1/a

Basics of the criminal legislation

(added up by the law No. 8733, 24/01/2001, Article 1)

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

The criminal legislation is composed of this Code and other laws providing for criminal offences.

Article 1/b

Tasks of the criminal legislation

(added up by the law No. 8733, 24/01/2001, Article 1)

The criminal legislation of the Republic of Albania is in charge of protecting the state's dependence and the entirety of its territory, human's dignity, human rights and freedoms, constitutional order, property, environment, Albanians' cohabitation and well-understanding of Albanians with national minorities, and religious co-habitation against the criminal offences, as well as of the latter's prevention.

Article 1/c

Principles of the Criminal Code

(Added up by the law No. 8733, 24/01/2001, Article 1, Phrases added up by the law No. 144, dated 02/05/2013, Article 1)

The Criminal Code is based on the constitutional principles of rule of law, equality under the law, fairness in determining the guilt and sentence, protecting the highest interest of children, and the humanism.

The implementation of the criminal law by analogy shall not be allowed.

Article 2

No penalty without a law

No one shall be criminally punished for an offence, which is not already explicitly provided for by law as a crime or a criminal contravention.

No one shall be sentenced to a type and extent of penalty that is not provided for by law.

Article 3

Operation of the criminal law in time

No one shall be sentenced for an offence, which, according to the law at the time it was committed, did not constitute a criminal offence.

A new law not incriminating an offence has retroactive effect. If the person has been sentenced, the enforcement of the sentence shall not commence and, if it has commenced, it shall cease.

If the law in force at the time when the criminal offence was committed and the subsequent law are different, the law, the provisions of which are more favourable to the person having committed the criminal offence, shall apply.

Article 4

Ignorance of law

Ignorance of the law that punishes a criminal offence does not constitute a cause for exclusion from criminal liability, unless the ignorance is objectively unavoidable.

Article 5

Territory of the Republic of Albania

The territory of the Republic of Albania shall, in the sense of criminal law, be the land space, the width of the territorial and internal maritime waters, the air space extending over the land space and over the territorial and internal maritime waters space, as well as over any other place under the sovereignty of the Albanian State, such as the seats of the Albanian diplomatic and consular missions, the ships flying the flag of the Republic of Albania, the ships belonging to the military navy and civil and military aviation wherever they are.

Article 6

Application of the criminal law to criminal offences committed by Albanian citizens

(Amended by law No. 23, dated 01/03/2012)

Concerning criminal offences committed by Albanian citizens within the territory of the Republic of Albania, the criminal law of the Republic of Albania shall apply.

The criminal law of the Republic of Albania shall also be applicable to the Albanian citizen committing a crime within the territory of another country, as long as that crime is concurrently punishable, unless a foreign court has rendered a final decision. The condition of concurrent punishment in the territory of the other state shall not apply in the cases of corruption-related

crimes in public or private sectors and illicit trading in influence.

In the sense of this Article, the Albanian citizens shall also be considered those persons holding another citizenship apart from the Albanian.

Article 7
The applicable law on criminal offences committed
by foreign citizens

(Amended letter "d" by law No. 8733, dated 24.1.2001, Article 2; added letter "h" by law No. 9086, dated 19.6.2003, Article 1; added letter "i" by law No. 9275, dated 16.9.2004, Article 1; amended letter "c" by law No. 9686, dated 26.2.2007, Article 1; added letter "j" by law No. 10 023, dated 27.11.2008, Article 1; deleted letter "e" and amended letter "h" and "i" by law No. 23/2012, dated 1.3.2012, Article 2)

The foreign citizen, committing a criminal offence within the territory of the Republic of Albania, shall be held liable under the criminal law of the Republic of Albania.

The criminal law of the Republic of Albania shall also be applicable to a foreign citizen committing one of the following crimes against the interests of the Albanian State or citizen outside the territory of the Republic of Albania:

- a) crimes against humanity;
- b) crimes against the independence and constitutional order;
- c) crimes with terrorist purposes;
- d) organization of prostitution, illegal trafficking of human beings, children and women, illegal manufacturing and trafficking weapons, drugs, other narcotic and psychotropic substances, nuclear substances, pornographic materials, and illegal traffic of art works, and things of historic, cultural, and archaeological value;
- f) counterfeiting the Albanian state seal, Albanian currency, or Albanian securities;
- g) crimes affecting the life or health of Albanian citizens, whereof the law provides for a punishment by imprisonment of five years or any other more severe punishment;
- h) laundering the proceeds of a criminal offence or criminal activity;".
- i) corruption-related crimes in public or private sectors, and illicit trading in influence;
- j) criminal offences in the area of information technology.

Article 7/a

Universal jurisdiction

*(Added up by law No. 9686, dated 26/02/2007, Article 2;
Added letter 'dh' by the law No. 23, dated 01/03/2012, Article 3)*

The criminal law of the Republic of Albania is also applicable to the foreign citizen, being in the territory of the Republic of Albania and not being extradited, and having committed one of the following offences outside of the territory of the Republic of Albania:

- a) crimes against humanity;
- b) war crimes;
- c) genocide;
- Ⓣ) offences for terrorist purposes;
- d) torture;
- dh) financing of terrorism

The criminal law of the Republic of Albania is also applicable to the foreign citizen committing one of the criminal offenses outside of the territory of the Republic of Albania, for which specific laws or international agreements, where Republic of Albania is a party, provide for the applicability of Albanian criminal law.

Article 8

Applicable law on criminal offences committed by a stateless person

(Added up by law No. 9686, dated 26/02/2007, Article 3)

In connection with a stateless person committing a criminal offence within the territory of the Republic of Albania or a crime abroad, the provisions of Articles 7 and 7/a of this Code shall apply.

Article 9

Internationally Protected Persons

(Added up by the law No. 23, dated 01/03/2012, Article 4)

The provisions of this Code shall also apply to criminal offences committed against internationally protected persons.

An internationally protected person shall, unless international agreements ratified by the Albanian state provide for otherwise, include:

- a) the head of a state, including a member of the collegial body performing the functions of the head of state, under the constitution of that state, the head of the government or the minister for foreign affairs, where the latter are in

another state, and the family members accompanying them;

b) a representative or official of a state, or an official or agent of an international organisation having an intergovernmental character, who, at the time and venue of the commission of the offence against him, his office, private residence or means of transport, enjoys, in accordance with the international law, special protection against any assault on his person, freedom and dignity, as well as on the members of his family.

Article 9/a

Liability of foreign persons enjoying immunity

(Amended by law No. 23/2012)

The issues of liability of a foreign citizen committing a criminal offence within the territory of the Republic of Albania and enjoying immunity under the international law shall be resolved through diplomatic channels.

Article 10

Validity of criminal decisions of foreign courts

The criminal decisions entered by foreign courts against the Albanian citizens establishing the commission of a criminal offence shall, unless provided for differently by bilateral or multilateral agreements, be valid in Albania within the scope of the Albanian law, even with regard to the following:

- a) to the effect of qualifying the person having committed the criminal offence as recidivist;
- b) for enforcing the decisions containing ancillary sanctions;
- c) for implementing security measures;
- d) for the recovery of damages or other civil law effects.

Article 11

Extradition

Extradition may be granted only when explicitly provided for by international agreements where the Republic of Albania is a party.

Extradition shall be granted when Albanian law and foreign law concurrently provide for the criminal offence, constituting the subject matter of the extradition request.

Extradition shall not be granted:

- a) if the person to be extradited is an Albanian citizen, unless otherwise



provided for by the agreement;

b) if the criminal offence constituting the subject matter of the extradition request is of a political or military nature;

c) when there is reasonable ground to believe that the person requested to be extradited will be persecuted, punished or wanted because of his political, religious, national, racial or ethnic beliefs;

d) if the person requested to be extradited has been tried by a competent Albanian court for the criminal offence whereof extradition is requested.

CHAPTER II CRIMINAL LIABILITY

Article 12 Age for criminal liability

A person shall be held criminally liable if, at the time of committing the crime, he has reached the age of fourteen.

A person committing a criminal contravention shall be held liable if he has reached the age of sixteen.

Article 13 Causal connection

No one shall be held criminally liable if there is no causal connection between his action or omission and the actual consequences or probability of their emergence.

Article 14 Guilt

No one shall be sentenced for an action or omission that is provided for by law as a criminal offence, as long as the offence has not been committed due to his guilt.

A person shall be guilty if he commits the criminal offence intentionally or negligently.

Article 15 Intention

A criminal offence is committed intentionally when the person foresees the consequences of the criminal offence and wishes their occurrence or, although

he foresees and does not wish them, consciously allows them to occur.

Article 16 Negligence

A criminal offence is committed negligently when the person, although he does not wish the consequences, foresees the probability of their occurrence and recklessly hopes to avoid them, or does not foresee them, but referring to the circumstances, he should and could have foreseen them.

Article 17 Mental incapacity

No one shall be held criminally liable who at the time of committing the offence suffered from psychic or neuropsychiatric disorders ruining his mental balance entirely and, consequently, was unable either to control his actions or omissions, or to be aware of committing a criminal offence.

A person, at the time of committing the criminal offence, suffering from psychic or neuropsychiatric disorders, having lowered his mental capacity to be aware and fully control his actions or omissions, shall be liable, however, this circumstance shall be considered by the court in determining the extent and the kind of punishment.

Article 18 Criminal offence committed while drunk

A person shall not be excluded from criminal liability if he commits the offence while drunk.

Where inebriation was caused due to accidental circumstances and it has lowered the mental capacity, this circumstance shall be taken into account for mitigating the sentence.

Where inebriation was caused with intent to commit a criminal offence, this circumstance shall be taken into account for aggravating the sentence.

The above-mentioned rules are also applied when the criminal offence is committed under the effect of narcotics or other substances.

Article 19 Self-defense

No one shall be held criminally liable having committed the criminal offence while being obliged to defend his own or another's life, health, rights and interests against an unfair, real and imminent attack, provided that the defense is proportionate to the danger posed by the attack.

The obvious disproportion between them amounts to exceeding the limits of self-defense.

Article 20
Extreme necessity

No one shall be held criminally liable having committed the criminal offence due to the necessity to confront a real and imminent danger threatening him, another person or the property against a serious damage, not avoidable by other means, provided that it has not been instigated by him and the damage incurred is greater than the damage avoided.

Article 21
Exercising a right or fulfilling the duty

No one shall be held criminally liable while acting to exercise rights or fulfill duties determined by law or an order issued by a competent authority, unless the order is obviously unlawful.

Where the criminal offence was committed as a consequence of an unlawful order, then the person issuing the order shall be held liable.

CHAPTER III
ATTEMPT

Article 22
Meaning of attempt

A criminal offence is deemed to remain an attempt where, although the person undertakes straightforward actions to commit it, it is hindered and not completed due to circumstances independent of his will.

Article 23
Liability for the attempt

The person attempting to commit a crime shall be held liable for it.

The court shall, depending on the degree of imminence of the consequence, as well as on the causes due to which the crime remained an attempt, mitigate the sentence, and may lower it below the minimum provided for by law, or may determine a more lenient sentence than the one provided for by law.

Article 24

Relinquishing committing a criminal offence

No one shall be held criminally liable who, on his own will and conclusively, relinquishes to commit a criminal offence, despite the opportunity to commit it.

Where the actions performed so far contain elements of another criminal offence, the person shall be held liable for the offence committed.

CHAPTER IV

COMPLICITY OF PERSONS IN COMMITTING CRIMINAL OFFENCES

Article 25

Meaning of complicity

Complicity shall be the commission of the criminal offence by two or more persons in agreement with each other.

Article 26

Accomplices

The accomplices in committing a criminal offence shall be: the organizers, executors, instigators, and helpers.

Organizers are those persons who organize and manage the activity to commit the criminal offence.

Executors are those persons who carry out direct actions to carry out the criminal offence.

Instigators are those persons who instigate the other accomplices to commit a criminal offence.

Helpers are those persons who, through advice, instructions, provision of means, abolition of obstacles, promises to hide the accomplices, traces or proceeds stemming from the criminal offence, help to carry it out.

Article 27

Liability of accomplices

Organizers, instigators, and helpers shall be liable same as the executors for the criminal offence committed by them.

In determining the sentence for the collaborators, the court should consider the extent of participation and the role assumed in committing the criminal offence.

Article 28 Special forms of collaboration

1. The criminal organization is the highest form of cooperation that is composed of three or more persons being distinguished by the specific level of organization, structure, stability, duration, as well as by the purpose of committing one or more criminal offences to gain material or non-material benefits.

2. The terrorist organization is a specific form of the criminal organization, composed of two or more persons that have a steady collaboration extended over time, with the purpose of committing offences with terrorist purposes.

3. The armed gang is a specific form of cooperation that, by possessing military weapons and ammunition and other necessary means, aims at the commission of criminal offences provided for in Chapter V, VI and VII of the Special Part of this Code.

4. The structured criminal group is a special form of cooperation, composed of three or more persons, which have the purpose of committing one or more criminal offences, and which aim at achieving material and non-material benefits.

The structured criminal group for the commission of a criminal offence is not established spontaneously and it is not necessary to distinguish it for consistent membership, assignment of duties, elaborated structure and organization.

5. The creation and participation in a criminal organization, terrorist organization, armed gang, or structured criminal group constitute criminal offences and are punished according to the provisions of the special part of this Code or other special criminal provisions.

6. Members of the criminal organization, terrorist organization, armed gang, or structured criminal group are liable for all the criminal offences committed by them in fulfilling the aims of their criminal activity.

7. The member of the criminal organization, terrorist organization, armed gang, or structured criminal group benefits exemption from sentencing or a reduction of the sentence, as long as he makes a contribution that is deemed as decisive for obtaining information on their activity, other accomplices, on properties possessed directly or not directly by them, as well as on the investigative activities, conducted on the criminal organizations, terrorist organizations, armed gangs and structured criminal groups.

CHAPTER V PUNISHMENTS

Article 29

Principal punishments

*(Amended by law No. 8733, dated 24/01/2001, Article 79;
Last paragraph added up by law No. 9086, dated 19/06/2003, Article 2; last
paragraph repealed by Decision of the Constitutional Court No. 47, dated
26/07/2012)*

The following principal punishments shall apply to persons having committed crimes:

1. Life imprisonment;
2. Imprisonment;
3. Fine.

The following principal punishments shall apply to persons having committed criminal contraventions:

1. Imprisonment;
2. Fine.

Article 30

Ancillary punishments

*(Point 2 amended by law No. 9086, dated 19/06/2003, Article 3; Point 1 amended by
law No. 9275, dated 16/09/2004, Article 3; (Point 10 added up by law No. 23, dated
01/03/2012, Article 6)*

Besides the principal punishment, a person having committed crimes or criminal contraventions may also be subject to one or some of the following ancillary punishments:

1. Banning the right to exercise public functions;
2. Confiscation of instruments committing the criminal offence and criminal offence proceeds;
3. Prohibition to drive;
4. Deprivation of decorations, honorary titles;
5. Deprivation of the right to practice a profession or craft;
6. Deprivation of the right to assume leading positions at legal entities;

7. Prohibition of the right to stay in one or some administrative units;
8. Expulsion from the territory;
9. Compulsion to make public the court sentence;
10. Loss of Parental Responsibility.

In particular cases, when the imposition of principal punishment is deemed to be inappropriate and where the law provides for imprisonment up to three years or other more lenient punishments for the committed offence, the court may decide to apply only the ancillary punishment.

Article 31 **Life imprisonment**

*(Paragraph I, II and the title amended by Law No. 8733, dated 24/01/2001, Article 79, last paragraph repealed
by the law No. 9686, dated 26/02/2007, Article 5)*

The punishment to life imprisonment shall be entered upon the court decision in connection with the commission of a serious crime.

Life imprisonment shall not be applied to persons being at the time of committing the crime younger than eighteen years old, or to women.

Article 32 **Punishment to imprisonment**

(First paragraph amended by law No. 144, dated 02/05/2013, Article 2)

The imprisonment sentence for crimes shall be imposed for a period ranging from five days to thirty-five years.

The imprisonment sentences for criminal contraventions shall be imposed for a period ranging from five days to two years.

Article 33 **Way of serving life imprisonment and imprisonment**

Life imprisonment and imprisonment are served at special institutions set up specifically for this purpose.

The rules concerning the way of serving the sentences and the prisoner's rights and duties are defined by law.

Juveniles shall serve imprisonment sentences in locations separated from adults.

Women serve imprisonment sentences in locations separated from men.

Article 34

Punishment to fine

(Paragraph III and IV amended, paragraph V added up, paragraph VII amended by law No. 8733, dated 24.1.2001, Article 3; paragraph amended IV by law No. 9275, dated 16.9.2004, Article 4; paragraph 8 repealed by the decision of the constitutional Court No. 19, dated 1.6.2011; amended by law No. 23/2012, dated 1.3.2012, Article 8; fifth paragraph amended by law No. 144, dated 2.5.2013, Article 3)

The punishment to a fine consists in paying an amount of money to the benefit of the state within the range provided for by law.

The punishment to a fine shall be imposed on persons committing crimes or criminal contraventions.

Persons committing crimes shall be subject to a fine ranging from 100 000 up to ten million ALL.

Persons committing criminal contraventions shall be subject to a fine ranging from 50 000 up to three million ALL.

For the persons committing crimes with the motive of obtaining assets or any other material benefit, the Court shall, pursuant to Article 36 of this Code, decide to confiscate the instruments of the commission of the criminal offence and the proceeds of the criminal offence or, in their absence, a punishment to a fine ranging from 100 000 up to five million ALL.

The court shall impose the sentence to a fine, after having investigated about the solvency of a person. The solvency shall be determined based on a person's personal and property situation, and other circumstances related thereto. The fine must be paid within the deadline set out in the court decision.

The court may, taking into account the economic situation of the defendant, allow him to pay his fine by installments, setting out the instalment amounts and the payment deadlines.

If a convicted person fails to pay a fine, and that fine cannot be collected through compulsory execution, the court shall decide to replace the fine with imprisonment, where five thousand ALLs shall be equal to one day of imprisonment.

Where a convicted person fails to pay the fine in due time for no fault of his and if the criteria on which the fine was determined have changed after the decision was issued, and do not obviously justify payment of the fine, the convicted person may request:

a) postponement of the deadline for the payment of the fine for a period of up to six months;

b) performance of work in public interest.

If the court orders performance of work in public interest, the rules of Article 63 of this Code shall apply.

If the fine is not paid even after the postponement, or if the convicted person fails to perform work in public interest, the court shall decide to replace the fine with imprisonment.

When the fine is not paid in due time, the court decides on replacing the fine with imprisonment, calculating 5 000 ALL per one day of imprisonment.

When the fine is imposed for a crime committed, its replacement with imprisonment cannot exceed three years, whereas when is imposed for a criminal contravention, the replacement cannot exceed one year of imprisonment, but always without exceeding the maximum of imprisonment provided for by the relevant provision. If no imprisonment is provided for by the criminal provision, the maximum prison sentence shall be considered six months.

When the person convicted, as above, pays off his fine during the imprisonment term, the court revokes the sentence and makes the calculations under the criteria of paragraph 8 of this Article.

Article 35

Deprivation of the right to assume public functions

The deprivation of the right to assume public functions for a period of no less than five years is obligatorily imposed on a person, who has committed an office-related crime by abusing with his public function, or has committed a crime, which the courts punishes with an imprisonment sentence of no less than ten years.

The deprivation of the right to assume public functions can be applied for a period from three to five years, if the court has entered a sentence of five to ten years of imprisonment, and from one to three years, when the sentence imposed is up to three years of imprisonment.

Article 36

Confiscation of instruments for committing the criminal offence and criminal offence proceeds

(Amended by the law No. 9086, dated 19/06/2003, Article 4)

1. Confiscation is mandatorily imposed by the court and pertains to obtaining and transferring to the benefit of the state:

a assets that have been used or specified as instruments for committing the

criminal offence;

b) the criminal offence proceeds, including any kind of assets, as well as legal documents or instruments establishing other titles or interests in the assets stemming from or obtained directly or indirectly from the commission of the criminal offence;

c) the promised or given remuneration for committing the criminal offence;

ç) any other assets, the value of which corresponds to the criminal offence proceeds;

d) the assets, the production, use, possession or alienation of which consist a criminal offence, even if no conviction decision was entered.

2. If the criminal offence proceeds have been transformed or partly or fully converted into other assets, the latter shall be subject to confiscation;

3. If criminal offence proceeds are merged with assets gained legally, the latter shall be confiscated up to the value of the criminal offence proceeds;

4. Subject to confiscation shall also be other income or proceeds out of the criminal offence, out of assets that criminal offence proceeds have been transformed or altered to, or out of assets with which these proceeds have been merged, to the same amount and manner as the criminal offence proceeds.

Article 37

Ban on driving

Ban on driving is imposed by the court for a period within the range of one to five years on persons who have committed a criminal offence, when it is deemed that it will have a preventive effect or it matches the nature of the offence committed.

Article 38

Revocation of decorations and titles

The revocation of decorations and honorary titles shall be imposed by the court on persons having committed a criminal offence punishable by imprisonment and it is deemed that maintaining them does not comply with the nature of the criminal offence committed.

The revocation of decorations and honorary titles shall be permanent if the person is sentenced for a crime for more than ten years of imprisonment, and from one to five years, if he is sentenced up to ten years of imprisonment.

Article 39

Deprivation of the right to practice a profession or activity

(Amended by law No. 144, dated 02/05/2013)

The deprivation of the right to practice a profession or activity shall prevent the detainee from practicing the profession or activity for which a special permit, certificate, authorisation or licence has been issued by the competent body.

Deprivation of the right to practice an activity or profession shall be imposed from one month to five years and is a result of any sentence for criminal offences committed by abusing them, or when it is estimated that the further practicing of the activity or profession goes against the legal relation which the respective provision of the criminal offence aims to protect.

Article 40

Deprivation of the right to hold leading positions

(Last paragraph added by law No. 9275, dated 16/09/2004, Article 6)

Deprivation of the right to hold leading positions within the legal entities deprives the convict of the right to assume the duty of the director, administrator, entrepreneur, liquidator, or any other duty relevant to the capacity of the representative of a legal person.

Deprivation of the right to hold leading positions within the legal entity is a result of any punishment for criminal offences and it is imposed for a period of time ranging from one month to five years, as long as the convict has abused his functions or has acted in violation of the rules and regulations related to his duty.

When the sentence imposed by the court is no less than five years imprisonment, this right could be removed for a period of five to ten years.

Article 41

Prohibition to stay in one or more administrative units

The prohibition to stay in one or more administrative units is imposed by the court for a period of time from one to five years, as long as it is deemed that the stay of the convict in those locations constitutes a danger for the public safety.

Article 42

Expulsion from the territory

Expulsion from the territory of the Republic of Albania is imposed by the court on a foreign or stateless citizen having committed a crime and it is deemed that his further stay in the territory of the Republic of Albania should no

longer continue.

The court shall revoke the decision upon the request of the convict, if the foreign or stateless citizen obtains Albanian citizenship.

Article 43 **Publication of court decision**

The publication of the decision shall be ruled by the court sentence when it deems that the announcement of the decision content is of interest to legal and physical persons.

The publication of the court sentence consists in compelling the convict to publish the court decision, at his own expenses, in one or some newspapers or RTV stations, in its entirety or partially, according to the ruling of the court.

The court decides the publication date and duration.

The press and mass media are obliged to publish the court decision sent by the court.

The publication of court decision shall not be granted as long as it endangers the divulgence of a state secret, the violation of the privacy of people or sanctity of public moral.

Article 43/a **Revocation of Parental Responsibility** *(Added by law No. 23, dated 01/03/2012, Article 7)*

Revocation of parental responsibility shall be ruled by a court against a person assuming parental responsibility when that person has been sentenced as perpetrator or accomplice in a criminal offence against the child, or as an accomplice with the child in the commission of a criminal offence.

Article 44 **Way of serving ancillary punishments**

If the court, in addition to the imprisonment punishment, imposes one or more ancillary punishments provided for in Article 30 of this Code, their implementation commences simultaneously with the main punishment.

As for the numbers 1, 3, 5, 6, 7 and 8 of Article 30 of this Code, their implementation commences after the completion of imprisonment. The rights of the convicted affected by the ancillary punishments shall not be assumed during the period of serving the imprisonment.

Article 45

The Application of the criminal law on legal persons/entities

(Repealed by law No. 8733, dated 21/01/2001, Article 4; Added up by law No. 9275, dated 16/09/2004, Article 7)

The legal entities shall, with the exception of the state institutions, be held criminally responsible for criminal offences committed on their behalf or to their benefit by their bodies or representatives.

The local government units shall be held criminally responsible only for the actions performed during the exercise of their activity that may be exercised by delegating public services.

The criminal liability of the legal entities does not exclude that of the natural persons having committed criminal offences or being accomplices in the commission for the committal of the same criminal offences.

The criminal offences and the respective punishing measures taken against the legal entities, as well as the procedures for imposing and enforcing these measures are regulated by a special law.

Article 46

Medical and educational measures

(Amended by law No. 36/2017)

The court may impose medical sanctions on mentally incapable persons having committed criminal offences, whereas educational measures may be imposed on minors being excluded from punishment or, because of their age, not being criminally liable.

Medical measures are the following:

1. Compulsory outpatient medical treatment;
2. Compulsory medical treatment in a medical institution;

The decision on medical or educational measures can any time be revoked if the circumstances under which they were imposed cease to exist, but, in any case, the court is obliged to reconsider its decision after one year since the date of the entrance of the court sentence.

The rules revoking the court sentence containing the medical measures are foreseen in the Code of Criminal Procedure. The rules imposing or revoking medical and educational measures in relation to the child are foreseen in the Justice Code for Children.

CHAPTER VI
DETERMINATION OF PUNISHMENT

Article 47
Way of determining the punishment

The court determines the punishment in compliance with the provisions of the general part of this code and the margins of punishment on criminal offences provided for by law.

In determining the punishment against a person, the court considers the dangerousness of the criminal offence, its perpetrator, the level of guilt, as well as both mitigating and aggravating circumstances.

Article 48
Mitigating circumstances

(Two paragraphs added up by law No. 144, dated 02/05/2013, Article 5)

The following circumstances mitigate the punishment:

- a) Where the offence is committed due to motivations of positive moral and social values;
- b) Where the offence is committed under the effect of a psychiatric distress caused by provocation or the unfair actions of the victim or some other person;
- c) Where the offence is committed under the influence of wrong actions or instructions of a superior;
- ç) Where the person who has committed the offence shows deep repentance;
- d) Where the person has recovered the damage caused by the criminal offence or has actively helped to eliminate or reduce its consequences;
- dh) Where the person surrenders to the competent authorities after committing the criminal offence;
- e) Where the relationship between the person having committed the criminal offence and the victim has gone to normal.

The mitigating circumstance envisaged in letter “a” of the first paragraph of this Article shall not mitigate the sentence in the event the criminal offence is committed under the circumstances envisaged in letter “j” of Article 50 of this Code.

The mitigating circumstance envisaged in letter “e” of the first paragraph of this article, shall not mitigate the sentence of a person who commits a criminal offence against children or a criminal offence related to domestic violence.

Article 49

CC

Regardless of the circumstances mentioned in Article 48 of this Code, the court may also consider other circumstances as long as it deems them as such to justify the mitigation of the sentence.

Article 50

Aggravating circumstances

(Amended letter "b", added up letter "h" and "i" by law No. 8733, dated 24.1.2001, amended letter "dh" by law No. 9275, dated 16.9.2004, added up letter "j" by law No. 9686, dated 26.2.2007, Article 6; added up letter "ç/1" and "e/1" and amended letter "g" and "j" by law No. 144/2013, dated 2.5.2013, added letter 'f/1' by law No. 44/2019, dated 18.7.2019)

The following circumstances aggravate the punishment:

- a) When the offence committed is based upon futile motives;
- b) When the offence is committed for rendering criminally liable or hiding the criminal liability of a third person, or for avoiding the conviction for another criminal offence, or for gaining or providing wealth benefits for oneself or for third parties, or any other material benefit;
- c) When the criminal offence is committed savagely and ruthlessly;
- ç) When a crime is committed after a conviction was decided for a previously committed crime;
- ç/1) commission of a criminal offence after subjecting the person under electronic monitoring;
- d) When actions that aggravate or increase the consequences of a criminal offence are committed;
- dh) The commission of the criminal offence by abusing the public office or the religious service.
- e) When the offence is committed against children, pregnant women, or other people who, due to different reasons, cannot protect themselves;
- e/1) commission of a criminal offence during or after the issuing of a court order of protection against domestic violence;
- f) When the offence is directed against representatives of other states;
- f/1) when the offence is targeting elected persons and public functionaries because of their duty;
- g) When an offence is committed through profiting from family, cohabitation, friendship, hospitality relations;

- g) When the offence is committed incomplicity;
- h) Committing the criminal offence more than once;
- i) When the offence is committed using weapons, military ammunitions, explosives, flammable, poisonous, and radioactive substances;
- j) The commission of the offence due to motives related to gender, race, colour, ethnicity, language, gender identity, sexual orientation, political, religious, or philosophical convictions, health status, genetic predispositions or disability.

Article 51

Sentence for children

(The title, the first paragraph reworded and addendum in the first paragraph with law No. 36/2017)

For minors, who at the time they committed the criminal offence were under eighteen years old, the sentence may not exceed half of the term of punishment provided for by law for the criminal offence committed.

Rules on determining sentences against children are foreseen in the Code of Criminal Justice for Children.

Article 52

Excluding minors from punishment

The court, considering the low dangerousness of the criminal offence, the specific circumstances under which it was committed, and the previous behavior of the minor, may exclude him from punishment.

In this cases, the court may decide to place the minor to an educational institution.

Article 52/a

Exemption or reduction of the sentence for collaborators of justice and victims

(Added by Law no. 144, dated 2.5.2013, reference was amended by Law no. 146/2020, dated 17.12.2020)

The person who has promised or given a reward or other benefits, according to articles 164/a, 244, 244/a, 245, 312, 319, 319/a, 319/b, and 319/c of this Code may benefit exemption from serving the sentence or a reduction of the sentence, if he/she makes a report and assists in the criminal proceedings of these offenses. In rendering the decision, the court shall also take into account the time when the report was made, the occurrence or not of the consequences

of the offense.

CC

A person injured by a criminal offense related to trafficking in human beings may be exempted from the punishment for committing criminal offenses during the period of trafficking and to the extent that he/she has been obliged to commit those illegal acts or omissions.

A person who has committed one of the criminal offenses related to the trafficking of narcotics, weapons or ammunition, trafficking in human beings or criminal offenses committed by a criminal organization, who cooperates and assists the criminal prosecution bodies in the fight against them or, as the case may be, in the identification of other persons, who commit such crimes, may not be punished more than half of the sentence provided for the act committed by him/her. In special cases, when mitigating circumstances compete in his/her favor, this person may be exempted from punishment.

Article 52/b

Exemption from punishment for electoral crimes

(Added by Law no. 146/2020, dated 17.12.2020)

A person who has committed one or more criminal offenses provided in Chapter X of this Code, who cooperates and assists the criminal prosecution bodies for the investigation, and for the identification of other persons, accomplices in the commission of the criminal offense or perpetrators of other related offenses, shall be exempt from punishment for the criminal offense committed by him.

Article 53

Reduction of sentence under the minimum provided for by law

(Phrase added by law No. 144, dated 02/05/2013, Article 8)

In specific cases, when the court deems that both the offence and the perpetrator are of low dangerousness and there are several mitigating circumstances and no aggravating circumstance exist, the court may impose a sentence under the minimum or a more lenient punishment than the one provided for in the respective provision.

Article 53/a

Substitution of an imprisonment sentence to a monetary amount to the benefit of the state

The court may, where explicitly provided for in a provision and upon deeming that the criminal offence and its perpetrator pose a low social risk and where it imposes an imprisonment term not exceeding two years, decide to replace the imprisonment sentence to the payment of a monetary

amount to the benefit of the state, calculating one imprisonment day to five thousand ALL.

This substitution may be decided upon being sought by the perpetrator of the criminal offence.

Where the monetary amount set out by the court is not paid within 10 days since the moment that the decision becomes final, the court shall, upon the request of the prosecution office, decide to revoke the decision and substitute it to an imprisonment term.

Article 54 **Admitting to pay the fine**

Concerns criminal contraventions for which, besides the fine, an imprisonment sentence is also imposed, the court, upon the request of the perpetrator of the criminal contravention, may admit that the latter pays an amount of money to the benefit of the state budget, equal to half of the maximum fine provided for criminal contraventions in the General Part of this Code.

The request may be presented at any stage of the trial proceeding before the rendering of the final decision of first instance.

When the court rejects such a request, it shall impose the sentence for the offence committed.

The request shall not be admitted for persons previously convicted also for criminal contraventions.

Article 55 **Imposition of sentences for more than one criminal offence** *(Added second paragraph by law No. 144, dated 02/05/2013, Article9)*

When actions or omissions contain elements of more than one criminal offence, and when the person has committed more than one criminal offence for which no sentence has been rendered, the court first sentences every criminal offence separately, and, in the end, imposes a single sentence, which consists of the most severe and increased sentence.

The severe and increased sentence may exceed neither the total sum of the punishments determined separately nor the maximum provided for the type of the sentence rendered.

When the court deems that committing more than one crime does not demonstrate serious dangerousness of the culprit, it may impose as a final sentence the most severe punishment provided for one of the criminal

offences.

CC

While rendering its final decision, the court shall impose one or more of the ancillary punishments rendered separately for each particular offence.

Article 56 **Joinder of sentences**

If before serving the full sentence, the convict is sentenced for a criminal offence committed prior to the rendering of the sentence, the rules of the preceding article shall apply and the already served portion of punishment shall be calculated into the new sentence.

When the convict commits a new criminal offence after the rendering of the sentence, but before the full term of the sentence is served, the court joins the new sentence with the remaining portion of the previous term, following the rules provided for in Article 55 of this Code.

Article 57 **Calculation of pretrial detention**

(Amended paragraph III by law No. 8733, dated 24/01/2001, Article 1)

The pretrial detention period is calculated into the sentence of imprisonment or fine and as well as for performing community work as follows:

One day of pretrial detention equals to one day and a half of imprisonment.

One day of pretrial detention equals to five thousand ALL of fine.

One day of pretrial detention equals to eighteen hours as community work.

CHAPTER VII **ALTERNATIVES TO IMPRISONMENT SENTENCES**

Article 58 **Open prison**

(Amended by law No. 10 023, dated 27/11/2008, Article 2)

For sentences up to one year of imprisonment, the court may, due to the obligations of the convict in relation to work, education, qualification or professional training, essential family responsibilities or the need for medical treatment or rehabilitation, decide the execution of the sentence in open prisons.

The convict serving the sentence in open prison is obliged to return to prison, after carrying out responsibilities outside of prison, within the deadline set

out by the court.

When the convict does not fulfill the obligations according to this article, Article 62 of this Code shall apply.

Article 59

Suspension of the execution of an imprisonment sentence and placing the convict on probation

(Amended by law No. 10 023, dated 27/11/2008, Article 3) (The third paragraph added and the fourth paragraph amended by law No. 36/2017)

Due to the low dangerousness of the person, his age, health and mental condition, life style, and the needs especially of those related to the family, education or work, the circumstances under which the criminal offence was committed as well as the conduct after the commission of the criminal offence, the court may, while imposing an imprisonment sentence up to five years, order the convict to keep contacts with the probation service and be placed on probation, by suspending the sentence execution, provided that during the probation period, he shall not commit another criminal offence.

The court shall order the convict to fulfill one or more obligations, provided for in the Article 60 of this Code.

The probation period for imposed sentences of up to two years of imprisonment, suspended by the court, shall be double the period of imprisonment sentence imposed by the court.

The probation period, except for the rules foreseen in paragraph 3 of this article, is from 24 months to 5 years. The probation period starts the very next day of announcement of the court decision suspending the imprisonment sentence. The probation period may be shortened or extended depending on the manner of the execution of the probation service and the personal conditions of the sentenced persons, but without prejudice to the minimum and the maximum period foreseen in this paragraph.

If the convict doesn't keep contact with the probation service or doesn't fulfill the obligations provided for in the Article 60, as ordered by the court, the latter shall decide the replacement of the first sentence with another sentence, the extension of surveillance period, within the probationary period, or revocation of the suspension of the decision execution.

Article 59/a

Home confinement

(Added by law No. 10 023, dated 27/11/2008, Article 4; Added second paragraph by law No. 144, dated 02/05/2013, Article 10)

For up to two years imprisonment sentences or when this timing is the

remainder of the sentence, according to a decision pertaining to a longer time of imprisonment, the court may decide for the convict to serve the punishment at home, in another private house or a center of public health care, when the following circumstances exist:

- a) for pregnant women or mothers with children of under ten years of age, living with her.
- b) for fathers, who have the parental custody over the child of under ten years of age, living with him, when the mother has died or is unable to take care of the child;
- c) for persons, in severe health conditions, requiring continuous care from the medical service, outside of the prison;
- ç) for persons of age over sixty years old, whose health situation renders them incapable;
- d) for young adults, under the age of twenty one, with established medical, study, work or family responsibilities needs.

The court, under the circumstances foreseen in letter “a” and “b” of first paragraph of this Article, cannot decide serving of sentence in home confinement for persons who have committed a criminal offence against their spouse, cohabitant or child.

The court may allow the persons convicted to home confinement to leave their residing place, to fulfill their indispensable family needs, to get involved at work activities, education or rehabilitation programs, which the probation service has agreed upon.

In such case, the court defines the measures that need to be taken by the probation service.

The court shall revoke the home confinement and substitute it with another punishment, when the foreseen conditions provided for in the first paragraph of this article do not exist. If the convict leaves its residence without the authorization of the court or violates obligations assigned in the court decision, Article 62 of the Code shall apply.

Article 60

Obligations of the convict on probation

(Amended by law No. 10 023, dated 27/11/2008, Article 3)

*(Point 12 of the first paragraph amended and third paragraph added
by law No. 36/2017)*

The convict placed on probation may be obligated by the court to fulfil one or more of the following obligations:

1. To exercise a professional activity or to receive an education or a professional training;
2. To use its wage and other income, or other assets to pay for the family obligation fulfillment;
3. To compensate for the incurred civil damage;
4. To be banned on driving specific vehicles;
5. To not exercise professional activities when the criminal offence is related to such activity;
6. To not visit specific places;
7. To not visit bars serving alcoholic beverages;
8. To remain in his residence during specified hours;
9. To not associate with specific individuals, mainly convicts or accomplices in the criminal offence;
10. To not possess, carry or use weapons;
11. To be medicated or rehabilitated in a medical institution or to be subject to a treatment, medical or rehabilitation program;
12. To undergo a treatment or medical programme or rehabilitation in order to refrain from using alcoholic drinks or narcotic substances.

In imposing the obligations on the convict, the court takes into consideration the age of the convict, his mental condition, life style and needs, especially the ones related with his family, education or work, the motives for committing the criminal offence, his attitude after the commission of the criminal offence, as well as other circumstances that influence imposition of obligations according to this Article and their surveillance. The obligation foreseen in subparagraph 11 and 12 of paragraph 1 of this article shall be determined only upon consent of the sentenced person.

The period for fulfilment of an obligation foreseen in paragraph 1 of this article shall be set by the court within the defined probation period.

Article 60/a

Obligation to quit the use of alcohol or drugs

(Amended by law No. 10 023, dated 27/11/2008, Article 11)

(Addendum in the third paragraph by the law No.36/2017)

The court shall impose on a convict placed on probation and being addicted to alcohol or narcotics the obligation to undergo medical treatment to abstain from alcohol or drugs.

The medical treatment to the effect of abstaining from alcohol or drugs shall be taking place in the specialised medical institution, as decided by the Ministry of Health upon request from the Probation Service.

The Probation Service shall survey the execution of the court decision and report immediately to the prosecutor in the event the convict does not fulfil the imposed obligation according to the provisions of article 60 of this Code.

Article 61

The convict's obligations during probation

(Amended by law No. 10 023, dated 27/11/2008, Article 6)

During the probation period, the convict shall be obliged:

- a. To appear regularly and inform continuously the probation service on the fulfillment of the conditions and obligations defined by the court.
- b. To obtain consent from the probation service to relocate his residence, work location or for frequent movement within the country.

Article 62

Violation of the conditions and obligations during the probation period

(Amended by law No. 10 023, dated 27/11/2008, Article 7)

If the convict, during the term of probation, commits another criminal offence, the court may change the imposed obligations, replace the sentence rendered with another one or revoke fully or partly the suspension decision.

If the convict, during the probation term, violates the conditions or obligations that were set, the probation services shall report immediately to the prosecutor.

Due to minor violations of conditions and obligation decided by the court, which were committed for the first time, the prosecutor has the right to give a warning, which is registered in the personal file of the convict.

For severe and repeated violations, the prosecutor shall request the court to change the imposed obligation, add up other obligations, replace them with other sanctions or revoke the decision for the suspension of the sentence and get the remainder of the sentence to be served in jail.

Article 63

Suspension of enforcement of imprisonment sentence and Compulsion to perform community work

(Amended by law No. 10 023, dated 27/11/2008, Article 8)

The court may, due to low dangerousness of the person and circumstances under which the criminal offence was committed and as long as it has imposed a punishment of up to one year, decide to suspend the enforcement of

imprisonment sentence and replace it with the obligation for the convict to perform community work.

Community work means the performance of work by the convicted person upon his consent and without reward in the public interest or in the interest of the association set out in the court verdict for a period ranging from forty to two hundred and forty hours.

This obligation may not be imposed if the convict refuses the suspension during the court hearing.

Community work is performed within a six-month term.

The court shall, in its sentence, determine the number of working hours and the obligation for the convict to keep contact with the probation service. The probation service decides on the kind of work which will be performed, the place and the week days when the work will be performed, keeping in mind, to the extent possible, his regular employment or his family obligations. The duration of community work shall not exceed eight hours a day.

Following the completion of the work, the punishment shall be remitted.

If the convict does not perform community work, does not keep contact with the probation service, or violates the conditions or other obligations decided by the court, the prosecutor shall forthwith inform the court. The court shall, in such a case, follow the rules provided for in the Article 62 of this Code.

Article 64 Release on parole

(Amended by law No. 8733, dated 24/01/2001, Article 7;

Amended by law No. 10 023, dated 27/11/2008, Article 9; Words added in the third paragraph of the law No. 144, dated 02/05/2013, Article 12)

(The first paragraph, point 3 amended and the fifth paragraph added by law No. 36/2017)

The convict may be released from serving the sentence earlier on parole only for specific reasons, if his behavior and work demonstrate that, referring to the time served, the purpose of his education has been fulfilled, and he has served:

- no less than half of punishment time imposed for criminal contraventions;
- no less than two third of the punishment given for crimes punishable to imprisonment up to five years;
- no less than three fourth of the sentence imposed for crimes punished by over 5 years up to the maximum foreseen by the law, with the exemption of provisions of paragraph 3 of this article.

The time benefited based on an amnesty or pardon shall not be calculated into the served punishment.

It shall not be allowed to release on parole a recidivist for a crime committed with intent as well as a convict due to the commission of criminal offences provided for in Articles 78/a, 79/a, 79/b, 79/c or the third paragraph of Article 100.

Release on parole shall be revoked by the court, when the convict sentenced for an intentionally committed criminal offence, commits another intentional criminal offence during the parole period, applying the provisions on joining the punishments.

The court shall order the sentenced person to keep contact with the Probation Service during the probation period and fulfil one or some of the obligations foreseen in article 60 of the Code. When the sentenced person fails to contact the Probation Service, or fulfil the obligations foreseen in article 60, ordered by the court, the latter shall decide replacing the first sentence with another sentence, extending the period of monitoring during probation or revoking the decision on early conditional release.

Article 65

(Amended paragraph I, II by the law No. 10 023, dated 27/11/2008, Article 10) (The second paragraph amended and the third paragraph added by law No. 36/2017)

A convict serving life imprisonment shall not be allowed to be released on parole.

Only under extraordinary circumstances may the convict serving life imprisonment be released on parole, if:

He has served no less than thirty-five years imprisonment and during the period serving his sentence has shown excellent behavior and it is deemed that the educational aim of the sentence has been achieved.

Persons sentenced for criminal offences foreseen in articles 78/a, 79/a, 79/b, 79/c and article 100 paragraph 3 shall be exempt from this rule.

Article 65/a Security Period

(Added by law No. 23, dated 01/03/2012, Article 9)

The court may, when rendering a decision, also decide to impose a security period, during which Article 64 of this Code is not applicable, in cases where one of the following circumstances exists:

a) the criminal offence, the punishment of which is over five years;

- b) the criminal offence has been committed in a cruel and brutal manner;
- c) the offence has been committed against children, pregnant women or persons who, for various reasons, cannot be protected;
- ç) the offence has been committed by taking advantage of family or cohabitation relationships;
- d) the commission of the offence has been driven by motives related to gender, race, religion, nationality, language, political, religious or social beliefs.

The security period shall range between three-quarters of the sentence imposed by the court and entire duration of the criminal sentence.

CHAPTER VIII LAPSE OF CRIMINAL PROSECUTION, PUNISHMENTS AND THEIR NONEXECUTION

Article 66 **Statute of limitations for criminal prosecution** *(Amended by the law No. 36/2017)*

Criminal prosecution shall not be conducted when from the moment the offence was committed until the moment that the person is held defendant:

- a) forty years have lapsed in the case of crimes which punishment is foreseen to be life imprisonment;
- b) twenty years have lapsed for crimes foreseen to be punished by not less than ten years of imprisonment or another more severe punishment;
- c) ten years have lapsed for crimes, foreseen to be punished by five to ten years of imprisonment;
- đ) five years have lapsed for crimes, foreseen to be punished by up to five years of imprisonment or fine;
- d) three years have lapsed for misdemeanours foreseen to be punished by up to two years of imprisonment;
- dh) two years have lapsed for misdemeanours foreseen to be punished by fine.

Statute of limitations shall not apply to criminal offences of Chapter II, Section I, articles 76-79/c”.

Article 67

Non-applicability of statute of limitations to criminal prosecution

Not subject to the statute of limitation shall be the war crimes and crimes against humanity.

Article 68

Statute of limitations for the execution of the sentence

The sentence shall not be executed if from the day it became final have elapsed:

- a) twenty years for sentences containing between fifteen to twenty- five years imprisonment;
- b) ten years for sentences containing between five to fifteen years imprisonment;
- c) five years for sentences containing up to five years imprisonment or other lower sentences.

Article 69

Rehabilitation

Without criminal record shall be:

- a) those who are sentenced to imprisonment for less then six months or with any other lower sentence, who have not committed any other criminal offence for two years since the day of their served sentence;
- b) those who are sentenced to imprisonment ranging from six months up to five years and who have not committed other criminal offence for five years since the day of their served sentence;
- c) those who are sentenced to imprisonment ranging from five to ten years and who have not committed any other criminal offence for seven years since the day of their served sentence;
- ç) those who are sentenced to imprisonment ranging from ten to twenty five years and who have not committed any other criminal offence for ten years since the day of their served sentence.

Article 70

Pardon

The competent authority shall, through the act of pardoning, either exclude the person completely or partially from serving the court sentence or shall substitute the sentence with a more lenient one.

Article 71
Amnesty

The competent authority shall, through the act of amnesty, affect the exclusion from criminal prosecution, from serving the sentence completely or partially, or shall substitute the sentence with a more lenient one.

Amnesty includes all those criminal offences committed up to one day prior to its announcement unless otherwise provided for by the respective act.

Article 72
Applicability of provisions of the General Part

The provisions of the General Part of this Code shall also apply to other criminal offences provided for as such by special laws.

SPECIAL PART

CHAPTER I
CRIMES AGAINST HUMANITY

Article 73
Genocide

(Amended by law No. 8733, dated 24/01/2001, Article 79)

The execution of a premeditated plan aiming at the total or partial destruction of a national, ethnic, racial or religious group directed towards its members, and combined with the following offences, such as: intentionally killing group's members, serious physical and psychological harm, placement in difficult living conditions which cause physical destruction, applying birth preventing measures, as well as the obligatory transfer of children from one group to another, is sentenced with no less than ten years, or with life imprisonment.

Article 74
Crimes against humanity

(Amended by law No. 8733, dated 24/01/2001, Article 8, amended by law No. 144, dated 02/05/2013, Article 13)

Murder, enforced disappearance, extermination, enslaving, internment and expulsion and any other kind of human torture or violence committed according to a concrete premeditated plan or systematically, against a group of the civil population for political, ideological, racial, ethnical and religious motives, shall be punishable to not less than fifteen years of or life imprisonment.

Article 74/a**Computer dissemination of materials favouring genocide or crimes against humanity***(Added up by law No. 10 023, dated 27/11/2008, Article 11)*

Offering in public or deliberately disseminating to the public through computer systems materials that deny, minimize significantly, approve of or justify acts that are genocide or crimes against humanity are punishable to three to six years imprisonment.

Article 75**War crimes***(Amended by law No. 8733, dated 24/01/2001, Article 79)*

Offences committed by different persons at war time, such as murder, maltreatment or deportation for slave labor, as well as any other inhuman exploitation to the detriment of civil population or in occupied territory, the killing or maltreatment of war prisoners, the killing of hostages, destruction of private or public property, destruction of towns, commons or villages, which are not ordained from military necessity, are sentenced with no less than fifteen years, or life imprisonment.

CHAPTER II

CRIMINAL OFFENCES AGAINST THE PERSON

CRIMES AGAINST LIFE

SECTION I

CRIMES AGAINST LIFE COMMITTED INTENTIONALLY

Article 76**Murder with intent**

Murder committed with intent shall be punishable to a term of ten to twenty years imprisonment.

Article 77**Murder with intent connected to another crime***(Amended by law No. 8733, dated 24/01/2001, Article 9)*

The offence of murder, preceding, concurring or ensuring another crime, shall be punishable by imprisonment for not less than twenty years.

Article 78

Premeditated murder

(Amended by law No. 8733, dated 24/01/2001, Article 10; addendum to second paragraph by law No. 9686, dated 26/02/2007, Article 7; amended second paragraph by law No. 144, 02/05/2013, Article 14)

Pre-meditated murder is punished to imprisonment from fifteen to twenty five years.

Murder committed for interests or revenge shall be punished to not less than 20 years or life imprisonment.

Article 78/a

Murder due to blood feud

(Added by law No. 144, dated 02/05/2013, Article 15)

Murder committed due blood feud shall be punishable to not less than 30 years or life imprisonment.

Article 79

Murder committed under other qualifying circumstances *(Amended by law No. 8733, dated 24/01/2001, Article 11; amended letter 'c' by law No. 9275, dated 16/09/2004, Article 9; added up Articles 79/a, 79/b, 79/c, by law No. 144, dated 02/05/2013, Article 16; repealed letter 'c', by law No. 144, dated 02/05/2013, Article 48)*

Murder committed:

- a) against minors;
- b) against physical or mental disabled persons, seriously ill or pregnant persons, as long as the situation of the victim is evident or known;
- c) *(Abrogated by law No. 144/2013)*
- ç) against the denouncer, witnesses, impaired persons or other judicial parties;
- d) more than once;
- dh) against two or more persons;
- e) in such a manner that causes particular suffering to the victim;
- ë) in a dangerous way regarding the life of many persons, shall be punished to not less than twenty years or life imprisonment.

Article 79/a**Murder of publicofficials** (*Added by law No. 144/2013*)

Murder of a member of parliament, judge, prosecutor, lawyer, military, or other public officials inline of their duty or because of their duty, when the capacities of the victim are evident or known, shall be punished to not less than 30 years or life imprisonment.

Article 79/b**Murder of the state police officers**

(*Added by law No. 144/2013*)

Murder of state police officers in line of duty or because of duty, when the capacities of the victim are evident or known, shall be punished to not less than 30 years or life imprisonment.

Article 79/c**Murder because of family relations**

(*Added by law No. 144/2013*)

Murder of the person who is the spouse, former spouse, cohabitant, or former cohabitant, close kin or close kin of the spouse of the offender, shall be punished to less than twenty years or lifeimprisonment.

Article 80

Providing for the material conditions and means for committing the murder shall be punished up to five years imprisonment.

Article 81**Infanticide**

(*Wording changed by law No. 144, dated 02/05/2013, article 17*)

The infanticide committed voluntarily by the mother immediately after birth shall be punished up to five years imprisonment.

Article 82**Homicide committed in profound psychiatric distress**

Murder committed in a sudden state of profound psychiatric distress caused by violence or serious insult of the victim shall be sentenced up to eight years imprisonment.

Article 83

Homicide committed in excess of the necessary self-defense limits

Murder committed under the circumstances of exceeding self-defense limits shall be sentenced up to seven years imprisonment.

Article 83/a

Serious threat to retaliation or blood revenge

*(Added up by law No. 8733, dated 24.1.2001, Article 12;
Amended by law No. 9686, dated 26.2.2007, Article 8; the part foreseeing the punishment to a fine, as the main punishment, along with the imprisonment punishment, abrogated by the Law No. 144, dated 2.5.2013, Article 48)*

Serious threat to retaliation or blood revenge, against a person for him to be locked up at home, shall be punished up to three years imprisonment.

Article 83/b

Incitement to blood feud

(Amended by law No. 9686, dated 26.2.2007, Article 9; the part foreseeing the punishment to a fine, as the main punishment, along with the imprisonment punishment, abrogated by the Law No. 144, dated 2.5.2013, Article 48)

Inciting other persons to retaliation or blood revenge, when it does not constitute other criminal offence, shall be punished up to three years imprisonment.

Article 84

Threat

Serious threat to murder or serious injury to someone shall constitute criminal contravention and shall be punished up to one year imprisonment.

Article 84/a

Threat due to racist and xenophobic motives through the computer system

(Added up law No. 10 023, dated 27/11/2008, Article 12)

Serious threat to murder or serious injury to someone, through computer systems, because of their ethnicity, nationality, race or religion affiliation shall be punished to a fine or up to three years imprisonment.

SECTION II
CRIMES AGAINST LIFE CAUSED BY NEGLIGENCE

Article 85
Manslaughter

Homicide because due to negligence shall be punished to a fine or up to five years imprisonment.

SECTION III
CRIMINAL OFFENCES COMMITTED INTENTIONALLY AGAINST
HEALTH

Article 86
Torture

(Amended by law No. 9686, dated 26.2.2007, Article 10; Amended by law No. 23/2012, dated 1.3.2012, Article 56)

Intentional commission of actions, as a result of which a person was subjected to severe physical or mental suffering, by a person who exercises a public function or incited or approved by him, openly or in silence, with the purpose of:

- a) obtaining from him or from another person information or confessions;
- b) punishing him for an action committed or suspected to have been committed by him or another person;
- c) intimidating or pressuring him or another person;
- ç) any other purpose based in any form of discrimination;
- d) any other inhuman or degrading action; shall be punished from four up to ten years imprisonment.

Article 87
Torture resulting into serious consequences

Torture, like any other inhuman treatment, as long as it has inflicted handicap, mutilation or any permanent harm to the health of a person, or his death, shall be punished from ten to twenty years of imprisonment.

Article 88

Serious intentional injury

(Second paragraph amended by law No. 144, dated 02/05/2013, Article 18)

The intentional injury inflicting handicap, mutilation or any other permanent detriment to the health, termination of pregnancy, or which has been dangerous to the life at the moment of its inducement, shall be punished from three to ten years imprisonment.

The same offence, when committed against several persons, against the person who is the spouse, former spouse, cohabitant, or former cohabitant, close kin or close in-law relationship with the offender, or when it results in death, shall be punished from five to fifteen years of imprisonment.

Article 88/a

Serious wounding under the conditions of strong psychic distress

(Added up by the law No. 8733, dated 24/01/2001, Article 13)

Serious wounding, committed under the conditions of momentary strong psychic distress, caused by the victim's violence or serious insult, shall be punished up to five years imprisonment.

Article 88/b

Serious wounding in excess of the limits of necessary defense

(Added up by the law No. 8733, dated 24/01/2001, Article 13)

Serious wounding, surpassing the limits of necessary defense, shall be punished up to three years imprisonment.

Article 89

Non-serious intentional injury

Intentional injury, inflicting temporary work incapacity of longer than nine days, constitutes criminal contravention and shall be punished to a fine or up to two years imprisonment.

Article 89/a

Illegal selling of organs

(Added up by law No. 8204, dated 10/04/1997, Article 1) (Amended by the law No. 36/2017)

Selling of transplants as well as any other activity related to the illegal removal and implantation of organs shall be punished by three to seven years of imprisonment.

This offence committed by the person who abuses of his/her position in relation to a child or another vulnerable persons, shall be punished by seven to ten years of imprisonment.

This offence, when committed more than once or in collaboration shall be punished by ten to fifteen years of imprisonment.

Where the above-mentioned offence causes the death of the victim, or is committed by a structured criminal group or criminal organization, it shall be punished by fifteen to twenty five years of imprisonment.

Article 89/b
Spreading of infectious diseases
(Amended by Law No. 35/2020)

Intentional spreading of infectious diseases posing high risk to health through actions or omissions by the person diagnosed as carrier or by persons who deliberately seek to spread it, shall be sentenced from two to five years imprisonment.

If this offence is committed by negligence, it shall be sentenced from fine or up to two years imprisonment.

The same offence resulting in serious consequences to human health or posing life-threatening risk to persons, shall be sentenced from three to eight years imprisonment.

Article 90
Other intentional harm

Battering, as well as any other violent offence, shall constitute criminal contravention and shall be punished to a fine.

The same offence, when causing temporary work incapacity of up to nine days, constitutes criminal contravention and it shall be punished to a fine or up to six months imprisonment.

SECTION IV
 CRIMINAL OFFENCES AGAINST HEALTH COMMITTED DUE TO
 NEGLIGENCE

Article 91
Serious injury due to negligence

Serious injury due to negligence constitutes criminal contravention and shall be punished to a fine or up to one year imprisonment.

Article 92
Non-serious injury due to negligence

Non-serious injury due to negligence constitutes criminal contravention and shall be punished to a fine.

SECTION V
CRIMINAL OFFENCES ENDANGERING THE LIFE AND HEALTH
BECAUSE OF INTERRUPTION OF PREGNANCY OR REFRAINING FROM
PROVIDING HELP

Article 93
Interruption of pregnancy without the woman's consent

Interruption of pregnancy without the woman's consent, except those cases when interruption is imposed because of a justified health-related cause, shall be punished to a fine or up to five years imprisonment.

Article 94
Interruption of pregnancy conducted in unauthorized places by unlicensed persons

Interruption of pregnancy which is not conducted in public hospitals or specifically licensed private clinics, or by a person who is not doctor, or after the time allowed for the interruption except in the case when this is imposed because of a justified health-related cause, constitutes criminal contravention and shall be punished to a fine or up to two years imprisonment.

If the offence has caused danger to the life or resulted to death, it shall be punished to a fine or to up to five years imprisonment.

Article 95
Providing the utensils for interruption of pregnancy

Providing the utensils which serve for interruption of pregnancy of a woman in order to have either herself or with the help of somebody else interrupt the pregnancy, constitutes criminal contravention and shall be punished to a fine or to up to one year imprisonment.

Article 96
Reckless medication

(Added paragraph II upon the Law No. 8733, dated 24.1.2001, amended by law No. 44/2019, dated 18.7.2019)

Recklessness in the medical treatment of the patients by the health

professional, where this has endangered the life of the person or seriously harmed his health, shall be sentenced to a fine or imprisonment up to one year.

This very offence shall, when it has caused the death of the person, be punished up to two years imprisonment.

Article 97
Refraining from providing help

Refraining from providing help without reasonable cause by the person who either legally or because of his capacity was obliged to provide, is considered criminal contravention and shall be punished a fine or to up to two years imprisonment when, as its consequence resulted into serious harm to the health, endangerment to life or death.

Article 98
Refraining from providing help by the captain of a ship

Refraining from providing help by the captain of a ship to the people who are drowning in the sea or in other waters, when this help could have been provided without causing serious danger to the ship, crew and passengers, shall be punished to a fine or up to four years imprisonment.

Article 99
Causing suicide

(Wording amended by law No. 144/2013, Article 19)

Causing suicide or a suicide attempt to a person because of the systematic maltreatment or other systematic misbehaviors which seriously affect the dignity, committed by another person being the superior, or by the person having family or cohabitation relation shall be punished three up to seven years imprisonment

SECTION VI
SEXUAL CRIMES

Article 100
Sexual or homosexual relations with minors

(Amended by law No. 8733, dated 24.1.2001, Article 15; amended the words in the second and third paragraph by the law No. 144, dated 2.5.2013, Article 20)

Having sexual or homosexual relations with minor children, or with a female minor, who is not sexually matured, shall be punished from seven to fifteen years imprisonment.

When the sexual or homosexual intercourse was committed in complicity, more

than once or by violence, or when the child victim had serious health consequences shall be punished to not less than twenty five years of imprisonment.

When that offence brought as a consequence the minor's death or suicide, it shall be punished to not less than thirty years or life imprisonment.

Article 101

Violent sexual or homosexual intercourse with a minor who is fourteen to eighteen years old

(Amended by law No. 8733, dated 24/01/2001, Article 16)

Having sexual or homosexual relations by violence with children that are fourteen to eighteen years old, who is sexually matured, shall be punished from five to fifteen years imprisonment.

When the sexual or homosexual intercourse by violence was done in complicity, more than once, or when the child victim had serious health consequences; this shall be punished from ten to twenty years imprisonment.

When that offence brought as a consequence the minor's death or suicide, this is sentenced to not less than twenty years imprisonment.

Article 102

Sexual assault by use of force with mature/adult women *(Paragraph I, II changed by Law No. 8733, dated 24.01.2001 and Article 17; the first paragraph changes by Law No. 144, dated 02.05.2013, Article 21)*

Engagement in sexual activity by use of force with adult females or between spouses or cohabitants, without the consent of either of them, shall be punishable by three to ten years imprisonment.

When the engagement in sexual activity is done by use of force and with accomplices, more than once, or when the victim had serious health consequences; this is punishable by imprisonment from five to fifteen years.

When the act has caused the death or suicide of the victim, it is punished with imprisonment for a term of from ten to twenty years.

Article 102/a

Homosexual activity by use of force with adult males

(Added by Law No. 8733, dated 24.01.2001, article 18; Amended by law 23/2012, dated 01.03.2012, article 10)

Engagement in homosexual activity by use of force with adult males is punished by imprisonment from three to seven years.

When the engagement in homosexual activity is done by use of force in complicity, or more than once, or when the victim had serious health consequences; it is punishable by imprisonment from five to ten years.

When that act resulted in the death or suicide of the victim, it is punished by imprisonment from ten to twenty years.

Article 103

Sexual or homosexual activity with persons who are incapable of resistance

(Amended by Law No. 8733, dated 24.01.2001, article 19)

Engagement in sexual or homosexual activity by exploiting the physical or mental disability of the aggrieved person, or because of a profound consciousness disorder, is punishable by imprisonment from five to ten years.

When the engagement in sexual or homosexual intercourse is done in complicity, or more than once, or when the victim had serious health consequences; this is sentenced by imprisonment from seven to fifteen years.

When that act resulted in the death or suicide of the victim, this is punishable by imprisonment from ten to twenty years

Article 104

Sexual or homosexual assault by use of weapon

(Amended by Law No. 8733, dated 24.01.2001, article 20)

Sexual or homosexual intercourse by intimidating the person with the immediate/ instant use of a weapon is punishable by imprisonment from five to fifteen years.

Article 105

Sexual or homosexual activity by abuse of official position

(Amended by Law No. 8733, dated 24.01.2001, article 21)

Engagement in sexual or homosexual activity by abusing the relations of dependency and job position, is punishable by imprisonment up to three years.

Article 106

Sexual or homosexual activity with consanguine persons and persons in the position of trust

(Amended by Law No. 8733, dated 24.01.2001, article 22)

Engagement in the act of sexual or homosexual intercourse between parents and children, brother and sister, between brothers, sisters, between consanguine relatives in an ascending line or with persons in the position of trust or adoption, is sentenced by imprisonment up to seven years

Article 107

Sexual or homosexual activity in public places

(Added by Law No. 8733, dated 24.01.2001, article 23; Article 107/a is added by Law No. 144, dated 02.05.2013, article 22)

Engagement in the act of sexual or homosexual intercourse in public places or in places exposed to the sight of people constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 107/a

Sexual violence

Exercising sexual violence by performing actions of a sexual nature on the body of another person through the use of objects shall constitute a criminal offence and is punishable by imprisonment of from three to seven years.

When this action is committed with accomplices, against several persons, more than once or against children fourteen to eighteen years of age, it is punishable by imprisonment of from five to fifteen years.

When this action is committed against a child under fourteen years of age or a child who is not sexually matured, regardless of whether it is committed by use of violence or not, it shall be punishable with no less than twenty years of imprisonment.

When this action as a consequence has brought the death or suicide of the victim, it shall be punishable by not less than twenty five years of imprisonment.

Article 108

Immoral acts

(Amended by law No. 8733, dated 24.01.2001, article 24; Amended by law No. 23/2012, dated 01.03.2012, article 11; Paragraphs added by law No. 144, dated 02.05.2013, article 23)

Commitment of immoral acts with minors under the age of fourteen are punishable by imprisonment of from three to seven years.

The same offence, when committed against a minor who has not reached the age of fourteen, with whom the offender has family relations, shall be punishable by five to ten years of imprisonment."

Intentional involvement as a witness, in actions of a sexual nature, of a minor who has not reached the age of fourteen, or a minor who is not sexually mature yet, shall constitute a criminal offence and is punishable with one to

five years of imprisonment.

The proposal made by an adult person, by any means or form, to meet with a minor who has not reached the age of fourteen or a minor who is not sexually mature yet, with the aim of committing any of the criminal offences foreseen in this Section or in Section VIII, Chapter II of this Code, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

Article 108/a

Sexual harassment

(Article 108/a is added by law No. 144, dated 02.05.2013, article 24)

Commitment of actions of a sexual nature which infringe the dignity of a person, by any means or form, by creating a threatening, hostile, degrading, humiliating or offensive environment, shall constitute a criminal offence and is punishable with one to five years of imprisonment.

When this offence is committed in complicity, against several persons, more than once, or against children, it shall be punishable by three to seven years of imprisonment."

SECTION VII

CRIMINAL ACTS AGAINST PERSON'S FREEDOM

Article 109

Kidnapping or holding a person hostage

(Amended by law No. 8733, dated 24.01.2001, article 25; Added by law No. 9275, dated 16.09.2004, article 10; The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Kidnapping or holding a person hostage in order to gain wealth or any other benefit, to facilitate the preparation of conditions for committing a crime, helping in hiding or departure of perpetrators or collaborators of a crime, avoiding the punishment, forcing the realization of certain requests or circumstances, for political or other reasons, is punishable by imprisonment of from ten to twenty years.

This very act, committed against a minor under the age of fourteen, is punishable by imprisonment of not less than fifteen years.

Kidnapping or holding hostage a person or a minor under the age of fourteen, preceded or accompanied with physical or psychic tortures, when it is committed against several persons or more than once, is punishable by imprisonment of not less than twenty years, and when it resulted in death, is

punishable by life imprisonment.

Article 109/a

Kidnapping or holding hostage a person in lenitive circumstances

(Added by law No. 8733, dated 24.01.2001, article 26)

When the person being kidnapped or held hostage is voluntarily allowed to go before the expiry of seven days from the day he was kidnapped or held hostage, without achieving the outcome of the crime and, when against the person is not wielded any torture or there are no health damages, is sentenced by imprisonment from three to five years.

Article 109/b

Forcing through blackmail or violence to give out the property

(Added by law No. 9275, dated 16.09.2004, article 11; The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Causing a person, through blackmail or violence, to do or not do a certain action, in order to unjustly gain wealth or any other benefit, for themselves or for third persons, is sentenced with imprisonment from two to eight years.

The same act, when committed by using or by threatening to use the gun, torture, inhuman and humiliating acts which have caused harm to the health, are sentenced by imprisonment of from seven to fifteen years.

When the crime as a consequence has caused the death of the person, it is sentenced by life imprisonment.

Article 109/c

Enforced disappearance

(Added by law No.144, dated 02.05.2013, article 25)

Enforced disappearance through arrest, detention, abduction or any other form of deprivation of liberty of the person by public officials or persons acting upon their authorisation, support or approval, followed by the non-acceptance of the deprivation of liberty or by concealment of the fate or whereabouts of the person, by denying the assistance and necessary protection in compliance with the law, shall constitute criminal offence and it shall be punishable by imprisonment from seven to fifteen years.

The superior who:

a) Is aware that the dependents under his authority and effective control are or are about to commit the enforced disappearance, or who does not take into account data and information which clearly point to this fact;

b) Exercises his effective responsibility and control over the activities to which the enforced disappearance is linked with; or

c) Does not take all the necessary and reasonable measures under his/ her competence to prevent or punish the person who issues the authorisation, support, and approval of the enforced disappearance or to send the case to the competent bodies of criminal prosecution; shall be punished by three to seven years of imprisonment.

When such offence is committed against children, pregnant women, or persons who because of different reasons cannot protect themselves, or when such offence causes serious physical suffering, it is committed in complicity, against several persons or more than once, it shall be punishable by imprisonment from ten to twenty years.

When such offence causes the death of a person it shall be punishable by imprisonment of not less than thirty years or with life imprisonment.

Illegal taking of children who are subjects of enforced disappearance or of children whose father, mother or legal representative is the subject of enforced disappearance, or of children born during the period of enforced disappearance, shall constitute criminal offence and shall be punishable by imprisonment of from five to ten years.

Article 110 **Unlawful detention**

(Paragraph II is amended by law No. 8733, dated 24.01.2001, article 27)

Unlawful detention of a person constitutes criminal contravention and is punishable by fine or imprisonment of up to one year.

When this act is accompanied by severe physical suffering, committed in complicity against several persons or more than once, is punished by imprisonment of from three to seven years.

Article 110/a **Trafficking in adult persons**

(Added by law No. 8733, dated 24.01.2001, article 28; Amended by law No. 9188, dated 12.02.2004, article 1; The title, wording in the first and third paragraphs are changed and paragraph II is added by law No. 144, dated 02.05.2013, article 26; The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, article 48)

The recruitment, transport, transfer, hiding or reception of persons through threat or the use of force or other forms of compulsion, kidnapping, fraud, abuse of office or taking advantage of social, physical or psychological



condition or the giving or receipt of payments or benefits in order to get the consent of a person who controls another person, with the purpose of exploitation of prostitution of others or other forms of sexual exploitation, forced labour or services, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, both within and beyond the territory of the Republic of Albania, shall be punishable by imprisonment from eight to fifteen years.

When such offence is committed against an adult female person, it shall be punishable by imprisonment of from ten to fifteen years.

The organization, management and financing of the trafficking of persons is punished with imprisonment of from seven to fifteen years.

When such offence is committed in collaboration, more than once, accompanied with maltreatment and forcing the victim to commit various actions through the use of physical or psychological violence, causing serious consequences to the health or threatening his life, is punishable by imprisonment of no less than fifteen years

When the offence as a consequence has caused the death of the victim, it is punished by imprisonment of no less than twenty years or with life imprisonment.

When the criminal offence is committed through the utilization of a state function or public service, the punishment of imprisonment is increased by (¼) one fourth of the punishment given.

Article 110/b

Benefit from or use of services provided by trafficked persons

(Added by law No. 144, dated 02.05.2013)

The benefit from or use of services provided by trafficked persons, or services which are subject to exploitation by trafficking, being aware that the person is trafficked, shall be punishable by imprisonment of from two to five years.

When this offence is committed against a minor, it shall be punishable by imprisonment of from three to seven years.

Article 110/c

Actions facilitating trafficking

(Added by law No.144, dated 02.05.2013)

Forgery, possession, or provision of identity cards, passports, visas or other travel documents, or their retaining, removal, hiding, damaging or destruction which have served for the trafficking of adult persons, but having no knowledge of this fact,

shall constitute criminal offence and shall be punishable by two to five years of imprisonment.

The same offence, when committed in complicity, more than once, or is committed by the person who has the task to issue the ID card, passport, visa, or the travel document, or has enabled trafficking of children, shall be punishable by four to eight years of imprisonment.

The same offence, when it results in serious consequences, shall be punishable by not less than five years of imprisonment.

Article 111

Hijacking of planes, ships and other means

Hijacking of planes, ships and other means of transportation that carry people through violence or by threatening with arms or other means is punishable by ten to twenty years of imprisonment.

Article 112

Breaking and entering into someone's house

Breaking and entering into someone's house without his consent constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.

When the act is committed by force or by threat of gunpoint constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

SECTION VIII

CRIMINAL ACTS AGAINST MORALITY AND DIGNITY

Article 113

Prostitution

(Added by law No. 23/2012, dated 01.03.2012, article 12)

Exercise of prostitution is punishable by a fine or up to three years of imprisonment.

Giving a payment for personal benefit of prostitution shall be punished by a fine or imprisonment of up to three years.

Article 114

Exploitation of prostitution

(The title is changed and paragraph ii is repealed by law No. 8279, dated 15.01.1998, article 2; Amended by law No. 144, dated 02.05.2013, article 28)

Encouragement, mediation, or receipt of compensation for exercising prostitution shall be punishable by two to five years of imprisonment.

When the same offence is committed with minors, against several persons, with persons who are close kin, close kin of the spouse, who have custodial relationships or availing themselves of their official relationship, or when committed in complicity or more than once, or by state and public officials, shall be punishable by seven to fifteen years of imprisonment.

Article 114/a

Exploitation of prostitution with aggravated circumstances

(Added by law No. 8279, dated 15.01.1998, article 2, point 6 and the last paragraph changed by law No. 8733, dated 24.01.2001, article 29; Abrogated by law No. 144, dated 02.05.2013, article 48)

Article 114/b

Trafficking of Women

(Amended by law No. 9188, dated 12.02.2004, article 2; Abrogated by law No. 144, dated 02.05.2013, article 48)

Article 115

Use of premises for prostitution

Managing, utilizing, financing, renting the premises for purposes of prostitution, is punishable by a fine or up to ten years of imprisonment.

Article 116

Homosexuality

(Repealed by law No. 8733 dated 24.01.2001, article 31)

Article 117

Pornography

(Paragraph II is added by law No. 9859, dated 21.01.2008, article 1; Amended by law No. 144, dated 02.05.2013, article 29)

Production, distribution, advertisement, export, import, sale, and publication of pornographic materials in environments with children, by any means or form, shall constitute criminal contravention and shall be punishable by imprisonment of up to two years.

Production, import, offering, making available, distribution, broadcasting, use,

or possession of child pornography, as well as the conscious creation of access in it, by any means or form, shall be punishable by three to ten years of imprisonment.

Recruitment, exploitation, compulsion, or the persuasion of a child to participate in pornographic shows, as well as the participation in such shows which involve the participation of children, shall be punishable by five to ten years of imprisonment.

Article 118
Desecration of graves

Desecration of cemeteries, graves, exhumations, as well as theft of items found there in, as well as every other act of disrespect towards the dead, is punishable by a fine or up to five years of imprisonment.

Article 119
Insulting

(Paragraph II is changed by law No. 8733, dated 24.01.2001, article 32; Amended by law No. 23/2012, dated 01.03.2012, article 13)

Intentional insult of a person shall constitute a criminal misdemeanour, and is punished by a fine of fifty thousand to one million ALL.

The same act, when committed in public, to the detriment of several persons, or more than once, constitutes a criminal misdemeanour and shall be punished by a fine of fifty thousand to three million ALL.

Article 119/a
Dissemination of racist or xenophobic materials through the computer system

(Added by law No. 10 023, dated 27.11.2008, article 13)

Offering in public or deliberately disseminating to the public through computer systems materials with racist or xenophobic content constitutes a criminal misdemeanor and is punishable by a fine or imprisonment of up to two years.

Article 119/b
Insulting due to racist or xenophobic motives through the computer system

(Added by law No. 10 023, dated 27.11.2008, article 13)

Intentional insulting of a person in public, through a computer system, because of ethnicity, nationality, race or religion constitutes a criminal misdemeanor and is punishable by fine or imprisonment of up to two years.

Article 120

Libel

(Paragraph II changed by law No. 8733, dated 24.01.2001, article 33; Amended by law No. 23/2012, dated 01.03.2012, article 14)

Intentional dissemination of statements, and any other pieces of information, with the knowledge that they are false, affect a person's honour and dignity, shall constitute criminal misdemeanour, and is punished by a fine of fifty thousand to one million five hundred thousand ALL.

Where that act is committed in public, to the detriment of several persons, or more than once, it shall be punished by a fine of fifty thousand to three million ALL."

Article 121

Intruding into someone's privacy

(Amended by Law No. 44/2019, dated 18.7.2019)

Installing appliances which serve for hearing or recording words or images, the hearing, recording or recording words, fixing, taping or recording images, as well as the preservation for publication of the data which exposes an aspect of the private life of the person without his consent, constitutes criminal misdemeanour and is punishable by a fine or up two years of imprisonment.

The distribution, offering for publication or the publication with any means or form of the public communication or any other form of the data taken in the way determined in the first paragraph of this Article shall be sentenced to imprisonment up to three years.

The same offence being committed to the minor persons shall be sentenced to imprisonment from one to three years.

Where this offence is committed by way of making use of the state function or the public function of by the person being in possession of these data due to his state office or public service, shall be sentenced from one to three years imprisonment.

Article 121/a

Stalking

(Added by law No. 23/2012, dated 01.03.2012, article 15)

Intimidation or harassment of a person through repetitive actions, with the intent to cause a state of constant and severe anxiety to or fear for personal safety, of a relative or person with whom that person has a spiritual connection, or to force him or her to change his or her way of living, shall be punished by imprisonment of six months to four years.

Where that offence is committed by an ex-spouse, former cohabitant, or person who had a spiritual connection with the injured party, the punishment shall increase by (1/3) one third of the sentence imposed.

Where that offence is committed against a minor, pregnant woman or person unable to defend himself or herself, and where it has been committed by a person in disguise or accompanied with the carrying or use of weapons, the punishment shall increase by one-half of the sentence imposed."

Article 122 **Spreading personal secrets**

Spreading a secret that belongs to someone's private life, by the person who obtains that [secret] because of his duty or profession, when he is compelled not to spread it without prior authorization, constitutes criminal misdemeanor and is punishable by a fine or up to one year of imprisonment.

The same act committed with the intent of embezzlement or of damaging another person, constitutes criminal misdemeanor and is punishable by a fine or up to two years of imprisonment.

Article 123 **Obstruction or violation of the privacy of correspondence**

Intentional commitment of acts such as destruction, non-delivery, opening and reading of letters or any other correspondence, as well as the interruption, placement under control or tapping of telephones, telegraphs, or any other means of communication, constitutes criminal misdemeanor and is punishable by a fine or up to two years of imprisonment.

SECTION IX CRIMINAL ACTS AGAINST CHILDREN, MARRIAGE AND FAMILY

Article 124 **Abandonment of minor children**

(Paragraph I is changed by law No. 8733, dated 24.01.2001, article 34)

Abandonment of a child under the age of sixteen by a parent or by a person compelled to guard over him, is punishable by a fine or up to three years of imprisonment.

When from the offence is caused serious harm to the health or the death of the child, it is punishable by three up to ten years of imprisonment.

Article 124/a

Asking or reception of remuneration for adoption procedures

(Added by law No. 9086, dated 19.06.2003, article 5;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Asking, proposal, giving or acceptance of remunerations and other benefits, to commit or not to commit an action, related to the adoption process of a minor, are punished with imprisonment of up to seven years.

Article 124/b

Maltreatment of minors

(Added by law No. 9859, dated 21.01.2008, article 2; Amended by law No. 23/2012, dated 01.03.2012, article 16;

The second paragraph changed by law No. 144, dated 02.05.2013, article 30)

Physical or psychological abuse of a minor by his or her parents, sister, brother, grandfather, grandmother, legal guardian or any person who is obliged to take care of the minor, shall be punished by imprisonment of three months to two years.

Coercing, exploitation, encouragement, or use of a minor to work, to obtain income, to beg, or to perform actions that damage his/her mental and/or physical development, or education, shall be punishable by two to five years of imprisonment.

Where from the offence is caused severe health damage or the death of the minor, it is punishable by ten to twenty years of imprisonment.

Article 125 Denial of support

Denial of necessary support for the living of children, parents or spouse, from the person who is obliged, through a court order, to provide the support, constitutes criminal misdemeanor and is punishable by a fine or up to one year of imprisonment.

Article 126

Failing to inform on the changing of domicile

Failure to inform within one month on the changing of domicile to the interested party or to the law-enforcement agency, by the person who, according to the court order, is compelled to provide the necessary living support means to children, parents or his/her spouse, or by the person who is taking care of children after divorce, constitutes criminal misdemeanor and is punishable by a fine or up to three months of imprisonment.

Article 127
Taking the child unlawfully

Taking the child unlawfully away from the person exercising parental authority or entrusted to raise and educate him, as well as not giving the child to the other parent in breach of the court order, constitutes criminal misdemeanor and is punishable by a fine or up to six months of imprisonment.

Article 128
Child swapping

Babies switched because of negligence committed by the staff at the place where they are raised, cured, or at the maternity hospital, constitutes criminal misdemeanor and is punishable by a fine or up to two years of imprisonment.

Article 128/a
Deliberately hiding or swapping a child
(Added by law No. 8733, dated 24.01.2001, article 35)

Deliberately hiding or swapping a baby with another one, committed by the medical personnel, is punishable by imprisonment from three to eight years.

Article 128/b
Trafficking of Minors
*(Amended by law No. 9188, dated 12.02.2004, article 3;
Added by law No. 9859, dated 21.01.2008, article 3;
Wording in paragraph I are changed by law No. 144, dated 02.05.2013, article 31; The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)*

Recruitment, sale, transport, transfer, hiding or reception of minors with the purpose of exploitation for prostitution or other forms of sexual exploitation, forced labor of service, slavery or forms similar to slavery, putting in use or transplanting organs, as well as other forms of exploitation, shall be punishable by ten to twenty years of imprisonment.

Organization, management and financing of the trafficking of minors is punished with imprisonment of from ten to twenty years.

When this crime is committed in collaboration or more than once, or is accompanied with the maltreatment and forcing of the victim through physical or psychological violence to commit various actions, or bring serious consequences to health, it is punished with imprisonment of no less than fifteen years.

When the offence as a consequence has brought about the death of the victim

it is punished with imprisonment of no less than twenty years or with life imprisonment.

When the criminal offence is committed through the utilization of a state function or public service, the punishment of imprisonment is increased by one fourth of the punishment given.

Article 129

Inducing minors to criminality

Inducing or encouraging minors under the age of fourteen to criminality is sentenced up to five years of imprisonment.

Article 130

Coercion or obstruction of cohabitating, concluding or dissolving a marriage

(Amended by law No. 144, dated 02.05.2013, article 32)

Coercing or obstructing the initiation or continuation of cohabitation, or coercion to enter into or dissolve the marriage, shall constitute a criminal misdemeanour and is punishable with a fine or imprisonment up to three months.

Intentional request to an adult or child to leave the territory of the Republic of Albania for purposes of obliging him to enter into marriage, shall constitute a criminal misdemeanour and is punishable with a fine or imprisonment up to three months

Article 130/a

Domestic violence

(Added by Law No. 23 / 2012, dated 1.3.2012, amended last paragraph by Law No. 144/2013, dated 2.5.2013, amended upon the Law No. 35.2020)

Battering and any other act of physical or psychological violence against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative (lineal ascendants and descendants, brothers and sisters, uncles, aunts, nephews, nieces, children of brothers and sisters) or close in-law (mother-in-law, father-in-law, brother-in-law, sister-in-law, stepdaughter, stepson, stepfather and stepmother) or in intimate or former intimate relation to the perpetrator of the criminal offence, resulting in violation of his or her physical, psycho-social and economic integrity, shall be sentenced to imprisonment up to three years.

A serious death threat or serious injury, against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative (lineal ascendants and descendants, brothers and sisters, uncles, aunts, nephews, nieces, children of brothers and sisters) or close in-law law (mother-in-law,

father-in-law, brother-in-law, sister-in-law, stepdaughter, stepson, stepfather and stepmother) or in intimate or former intimate relation to the perpetrator of the criminal offence, resulting in violation of his or her psychic integrity, shall be sentenced to imprisonment up to four years.

Intentional injury committed against a person who is a spouse, former spouse, cohabitant or former cohabitant, close relative (lineal ascendants and descendants, brothers and sisters, uncles, aunts, nephews, nieces, children of brothers and sisters) or close in-law law (mother-in-law, father-in-law, brother-in-law, sister-in-law, stepdaughter, stepson, stepfather and stepmother) or in intimate or former intimate relation to the perpetrator of the criminal offence, resulting in a temporary disability for work for more than nine days, shall be punished by imprisonment of up to five years. The same offences which are committed repeatedly or in the presence of minors, shall be sentenced up to five years imprisonment.

The same offences which are committed repeatedly or in the presence of minors, shall be sentenced from one to five years imprisonment

SECTION X CRIMINAL ACTS AGAINST FREEDOM OF RELIGION

Article 131 Obstructing the activities of religious organizations

Ban on the activity of religious organizations, or creating obstacles for the free exercise of their activities, is punishable by a fine or to up to three years of imprisonment.

Article 132 Destructing or damaging places of worship

Voluntarily destructing or damaging places of worship, when it has inflicted the partial or total loss of their values, is punishable by a fine or up to three years of imprisonment.

Article 133 Obstructing religious ceremonies

Ban or creating obstacles to persons for participating in religious ceremonies, as well as for freely expressing religious beliefs, constitutes criminal misdemeanor and is punishable by a fine or up to one year of imprisonment.

CHAPTER III CRIMINAL ACTS RELATED TO PROPERTY OR IN THE ECONOMIC AREA

SECTION I
THEFT OF PROPERTY

Article 134

Theft

(Amended by law No. 9275, dated 16.09.2004, article 12; Amended by law No. 23/2012, dated 01.03.2012, article 18)

Property theft is punished by fine or imprisonment of up to three years. The same offence, when committed in complicity or more than once, is punished with an imprisonment term of six months to five years.

The same offence, when it has brought about serious consequences, is punished with imprisonment of four to ten years.

Article 135

Theft through abuse of office

*(Amended by law No. 23/2012, dated 01.03.2012, article 19;
The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)*

Theft of property, committed by the person whose duty is to protect and administer it, or through abuse of office, is sentenced up to ten years of imprisonment.

Article 136

Bank robbery and robbery of savings bank branches

(Paragraph II is added by law No. 8733, dated 24.01.2001, article 37)

Bank and savings bank robbery is punishable by imprisonment of from five up to fifteen years.

This very act, when committed in complicity, more than once, or when it brought about serious consequences, is sentenced by imprisonment from ten to twenty years.

Article 137

Theft of electrical power or phone impulses

*(Paragraph I is added by law No. 8733, dated 24.01.2001, article 38; Paragraph II is amended by law No. 10 023, dated 27.11.2008, article 14;
Amended by law No. 98, dated 31.07.2014, article 2)*

Theft of the electrical power or phone impulses, damage caused to the meter as well as any other illegal and unauthorised intervention with the measuring system or with the electoral or phone system, performed to the effect of an illegal benefit, shall consist a criminal offence and it shall be punished to an

imprisonment term of up to three years.

This criminal offence shall, upon being committed in complicity or more than once or by the non-household users of the electoral power or the phone service system, be sentenced to imprisonment from one to five years.

Article 137/a

Theft of electronic communications network

(Added by law No. 144, dated 02.05.2013, article 34)

Theft of the electronic communications network shall be punishable by imprisonment of up to three years.

The same offence, when committed in complicity, more than once, or when it results in serious consequences, shall be punishable by three to seven years of imprisonment.

Article 138

Theft of works of art and culture

Stealing works of art and culture is punishable by a fine or up to five years of imprisonment.

Stealing works of art and culture that have national importance is punishable by five to ten years of imprisonment.

Article 138/a

Trafficking of works of art and culture

(Added by law No. 8733, dated 24.01.2001, article 39)

The illegal import, export, transit, and trade of art and culture works, in order to have material or any other benefits, is sentenced by imprisonment from three to ten years.

This very act, when committed in complicity, or more than once, or when it brings about serious consequences, is sentenced by imprisonment from five to fifteen years.

Article 139

Robbery

Stealing property through the use of force is punishable by five to fifteen years of imprisonment.

Article 140
Armed Robbery

*(Amended by law No. 8733, dated 24.01.2001, article 40;
Amended by law No. 9686, dated 26.02.2007, article 11)*

Theft of property, accompanied by bearing military weapons or ammunitions, or by their use, is punished by imprisonment from ten to twenty years.

Article 141
Theft resulting in death

(Amended by law No. 8733, dated 24.01.2001, article 79)

Theft of property, when accompanied with violations resulting in the death of the person, is punishable by fifteen to twenty years of imprisonment or to life imprisonment.

Article 141/a
Trafficking of motor vehicles

(Added by law No. 8733, dated 24.01.2001, article 41)

Illegal import, export, transit, and trade of stolen motor vehicles, in order to have material or other benefits, is punishable by imprisonment of from three to seven years.

This very act, when committed in complicity, or more than once, or when it brings about serious consequences, is punishable by imprisonment from five to fifteen years.

Article 142
Providing equipment for theft

Providing the conditions and material equipment for theft of property is punishable by a fine or up to three years of imprisonment.

SECTION II
FRAUD

Article 143
Fraud

*(Paragraph II is added by law No. 8733, dated 24.01.2001, article 42) (Amended by
the law No. 36/2017)*

Appropriation of private or public property for oneself or other persons, through submission of false facts or concealing of true facts, lie or abuse of trust, shall constitute the criminal offence of fraud and it shall be punished

by up to five years of imprisonment.

This offence, when committed more than once or in collaboration, shall be punished by two to six years of imprisonment.

This offence, when causing serious consequences, shall be punished by five to ten years of imprisonment.

Article 143/a

Fraudulent and pyramid schemes

(Added by law No. 8733, dated 24.01.2001, article 43)

Organizing and putting in function fraudulent and pyramid schemes by borrowing money, in order to have material benefits, is punished by imprisonment from three to ten years.

This very act, when it brings about serious consequences, is sentenced by imprisonment from ten to twenty years.

Article 143/a/1

Manipulating the Market

(Added by law No. 23/2012, dated 01.03.2012, article 20)

Intentional inaccurate presentation of the value of a commodity, service or currency, with the intent to disrupt free and fair functioning of the market, shall be punishable by a fine or imprisonment of up to four years.

Article 143/a/2

Unauthorised Use and Divulgence of Privileged Information

(Added by law No. 23/2012, dated 01.03.2012, article 20)

A person who, in an authorised or unauthorised manner, becomes aware of privileged information, which the public is unaware of, and which he or she may use with the intent to obtain a material benefit for himself or herself or a third party, or in the detriment of the latter, in one of the following ways:

- a) Buying or selling securities traded in the territory of the Republic of Albania, or traded by an issuer based in the Republic of Albania;
- b) Aware of the nature of privileged information, communicating it, without authorisation, to a third party;
- c) Aware of the privileged nature of information, advising a third party to buy or sell securities traded in the territory of the Republic of Albania, or traded by an issuer based in the Republic of Albania, shall be punished by imprisonment of six months to three years.

Where that offence has been committed in complicity, more than once, or

has resulted in serious consequences, it shall be punished by imprisonment of up to five years.

Article 143/a/3

Manipulating Price and Disseminating False Information

(Added by law No. 23/2012, dated 01.03.2012, article 20)

Action or omission of a person, who:

- a) Signs a fictitious contract for the sale or replacement of securities;
- b) Places an order for the purchase or sale of securities, for which an order at the same price has already been placed, or uses these securities as a counter-order;
- c) Spreads information or other false facts on an increase or decrease of the price of securities, or creation of their fictitious trading, with the intent to obtain a benefit for himself or herself, or a third party, or to the detriment of the latter, shall be punished by imprisonment of six months to three years.

Where that offence has been committed in complicity, more than once, or has resulted in serious consequences, it shall be punished by imprisonment of two to five years.

Article 143/a/4

Submitting False Data and Disseminating Data without Authorisation

(Added by law No. 23/2012, dated 01.03.2012, article 20)

A person who, as member of an issuer's department or supervisory board, allows or facilitates disclosure of a prospectus, other than the one specified by law, or allows or facilitates the presentation of false data or false presentation of facts of material value in a prospectus, shall be punished by imprisonment of six months to three years.

When that offence has been committed in complicity, more than once, or has resulted in serious consequences, it shall be punished by imprisonment of up to five years.

Article 143/a/5

Unauthorised Registration of Securities in the Stock Exchange

(Added by law No. 23/2012, dated 01.03.2012, article 20)

A person who, as member of stock exchange directorate, allows registration in quotation one, quotation of public joint stock companies or other quotations of securities, which do not meet the requirements of the Law on Securities, shall be punished by imprisonment of six months to three years.

Where that offence has been committed in complicity, more than once, or has caused serious consequences, it shall be punished by imprisonment of two to five years.

Article 143/a/6
Concealment of Property

(Added by law No. 23/2012, dated 01.03.2012, article 20)

A person who intentionally fails to disclose data on his or her property to the Financial Supervisory Authority, under the Law on Securities, shall be punished by a fine or imprisonment of up to one year.

Where that offence has been committed in complicity, more than once, or has caused serious consequences, it shall be punished by imprisonment of two to five years.

Article 143/a/7
Illegal Trading of Securities

(Added by law No. 23/2012, dated 01.03.2012, article 20)

A person who engages in unauthorised brokerage for the purchase or sale of securities shall be punished by a fine or imprisonment of up to one year.

Where that offence has been committed in complicity, more than once, or has caused serious consequences, it shall be punished by imprisonment of two to five years."

Article 143/b
Computer fraud

(Added by law No. 10 023, dated 27.11.2008, article 15;

The part that provides fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Entering, modifying, deleting or omitting computer data or interfering in the operation of a computer system, in order to ensure for oneself or for other parties, through fraud, an unfair economic benefit or to cause to a third party asset reduction, are punishable by imprisonment from six months up to six years.

This very act, when committed in complicity, or more than once, or when it has brought about serious material consequences, is punished by imprisonment from five to fifteen years.

Article 144
Fraud on subsidies

Fraud on documents presented, thus fraudulently obtaining subsidies from

the state, is punishable by a fine or up to four years of imprisonment.

Article 144/a

Creation of fraudulent schemes regarding value added tax

(Added by law No. 144, dated 02.05.2013, article 35)

The organization and implementation of fraudulent schemes, with the purpose of material benefit for one's self or for others, by not paying, or benefiting credit or reimbursement of the value added tax, shall be punishable by three to ten years of imprisonment.

Article 145

Fraud on insurance

Presenting false circumstances [or false information] related to the object to be insured, or fabricating false circumstances and presenting them into documents thus fraudulently obtaining insurance, is punishable by a fine or up to five years of imprisonment.

Article 146

Loan fraud

Fraud on presented documents, thus fraudulently obtaining loan through fictitious registration in property registration offices of objects which do not exist, or which are over estimated, or which belong to someone else's property, committed with the intent of not paying back the loan, is punishable by a fine or up to seven years of imprisonment.

Article 147

Fraud on works of art and culture

(Amended by law No. 8733, dated 24.01.2001, article 44)

Theft of property through fraud by presenting a work of art or culture as being original or by an author other than the real one, is punishable by a fine or up to four years of imprisonment.

Article 148

Publication in someone's own name of the work of another person

(Amended by law No. 8733, dated 24.01.2001, article 45)

Publication or the partial or total use with his own name, of a work of literature, music, art or science which belongs to another, constitutes criminal contravention and is punishable by a fine or up to two year of imprisonment.

Article 149
Violation of copyright

(Amended by Law No. 8733, dated 24.1.2001, amended by law No. 44/2019, dated 18.7.2019)

The total or partial reproduction, distribution, communication to the public, sale, offering for sale, the use, supplying, exporting or importing the work being protected by the copyright while not having the consent of the author or of the holder of this right shall, when his personal and property rights are violated, constitute criminal contravention and is punishable by a fine or by imprisonment up to two years.

This very offence, when committed in complicity, or more than once, is sentenced to imprisonment up to three years.

Article 149/a
Violation of Industrial Property Rights

(Added by law No. 23/2012, dated 01.03.2012, article 21)

Manufacturing, distributing, possessing for commercial purposes, selling, offering for sale, supplying, distributing, exporting or importing for these purposes of:

- a) A product or process protected by a patent, without the patent owner's consent;
- b) A product that is protected by an industrial design, without the consent of the owner of industrial design;
- c) Goods or services protected by a trademark, without the consent of the owner of the trademark;
- ç) A product derived from a geographical indicator, without the consent of the owner of geographical indicator; committed intentionally, shall constitute a criminal misdemeanour and be punished by a fine or imprisonment of up to one year.

Where that offence has been committed in complicity, or more than once, it shall be punished by a fine or imprisonment of up to two years."

Article 149/b
Violations of the Rights of the Topography of Semiconductor Circuits

(Added by law 23/2012)

Production, use, possession for purposes of marketing, selling, offering for sale, supplying, distributing, exporting or importing for these purposes a product that violates the rights of registered circuit topography, semiconductor or integrated circuit, without the consent of the owner of the

topography, committed intentionally, shall constitute a criminal misdemeanour and it is punished by a fine or imprisonment of up to one year.

When this act has been committed in complicity, or more than once, it shall be punished by a fine or imprisonment of up to two years.”.

SECTION III
DESTRUCTION OF PROPERTY

Article 150
Destruction of property

Intentionally destroying or damaging the property, when material consequences are serious, is punishable by a fine or up to three years of imprisonment.

Article 151
Destruction of property by fire

Intentionally destroying or damaging the property by fire is punishable by a fine or up to five years of imprisonment.

When the criminal act has led to serious material consequences, it is sentenced up to ten years of imprisonment.

When serious consequences to the health of people have resulted, it is punishable by five to fifteen years of imprisonment.

Article 152
Destruction of property by explosives

Intentionally destroying or damaging property by explosives is punishable by a fine or up to five years of imprisonment.

When the criminal act has led to serious material consequences, it is punishable by five to ten years of imprisonment.

When serious consequences to the health of people have resulted, it is punishable by ten to twenty years of imprisonment.

Article 153
Destruction of property by flooding

Intentionally destroying or damaging property by flooding is punishable by a fine or up to five years of imprisonment.

When the criminal act has led to serious material consequences, it is

punishable by five to ten years of imprisonment.

When serious consequences to the health of people have resulted, it is punishable by five to fifteen years of imprisonment.

Article 154

Destruction of property with other means

Intentionally destroying or damaging the property with other means, which constitute danger to the environment and the health of people, is punishable by a fine or to up to five years of imprisonment.

When the criminal act has led to serious material consequences, it is punishable by five to ten years of imprisonment.

When serious consequences to the health of people have resulted, it is punishable by five to fifteen years of imprisonment.

Article 154/a

Destruction of buildings and other objects

(Added by Law no. 146/2020, dated 17.12.2020)

Intentionally committing any other action, different from those provided by the above articles of this section, which may lead to the complete or partial destruction of the building, civil facility, industrial facility, infrastructure or any other facility or that may endanger the life or health of people, if it does not constitute another criminal offense, shall be punishable by a fine or imprisonment up to five years.

When serious material consequences have come from the criminal offense, it is punishable by imprisonment of five to ten years.

When serious consequences have been caused for the life and health of people, it is punishable by imprisonment of five to fifteen years.

Article 155

Destruction of roads

Intentionally destroying or damaging automobile roads, railways and works related to them, is punishable by a fine or up to seven years of imprisonment.

When the criminal act has led to serious material consequences, it is punishable by three to ten years of imprisonment.

When serious consequences to the health of people have resulted, it is punishable by five to fifteen years of imprisonment.



Article 156
Destruction of power grid networks

Intentionally destroying or damaging power, telegraphic, telephonic, radio television network or any other communication network, is punishable by a fine or up to three years of imprisonment.

This very act, when committed in complicity, more than once, or when it brought about serious consequences, is punished by imprisonment up to three years.

Article 157
Destruction of the watering system

Intentionally destroying or damaging the watering or draining systems or the works related to them, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 158

Unfair management of water, by turning or changing the waterlines, by opening the dams, by constructing or closing draining or watering channels, waterlines or other works, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 159
Destruction of water-supply system

(Amended by law No. 10 023, dated 27.11.2008, article 17)

Connecting, or any other intervention into the water supply system conducted without prior permission, in order to get drinking water, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Intentionally destroying the water-supply system is punishable by up to five years of imprisonment.

Article 160
Destruction of works of culture

Intentionally destroying or damaging works of culture is punishable by a fine or up to three years of imprisonment.

When the criminal act has resulted into the destruction or damaging of works of culture of national importance, it is punishable by a fine or up to eight years of imprisonment.

Article 161

Destruction of property due to negligence

Destruction or damaging of property due to negligence, when serious material consequences have resulted, is punishable by a fine or up to three years of imprisonment.

Article 162

Collision of public transportation means

Colliding of trains, ships, airplanes, due to negligence, when crashing, burning, sinking, overturning, derailment, or serious material consequences accompanying the event have resulted, is punishable by a fine or up to five years of imprisonment.

SECTION IV

CRIMINAL ACTS COMMITTED IN COMMERCIAL COMPANIES

Article 163

Drafting false statements

Drafting false statements, about the increase of capital of a company, related to the distribution of shares of initial capital to the shareholders [or] its repayment or the deposit of funds, constitutes criminal contravention and is punishable by a fine.

Article 164

Abuse of powers

Abuse of powers by members of the executive board or by managers of the company with the intent of embezzlement or favoritism of another company where they have interests, is punishable by a fine or up to five years of imprisonment.

Article 164/a

Active corruption in the private sector

(Added by law No. 9275, dated 16.09.2004, article 13; Amended by law No. 23/2012, dated 01.03.2012, article 22;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

The direct or indirect promise, offer, or giving to a person, who exercises a management function in a commercial company or who works in any other position in the private sector, of any irregular benefit for himself or a third person, in order to act or not to act contrary to his duty, is punished with

imprisonment of three months up to three years.

Article 164/b

Passive corruption in the private sector

(Added by law No. 9275, dated 16.09.2004, article 13; Amended by law No.23/2012, dated 01.03.2012, article 22;

The part that provide Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Direct or indirect soliciting or taking of any irregular benefit or of any such promise, for himself or a third person, or accepting an offer or a promise that comes from the irregular benefit, of the person that exercises a managerial function or works in whatever position in the private sector, with the purpose to act or not to act contrary to his duty or function, is sentenced with imprisonment term of six months up to five years.

Article 165

Falsifying signatures

Falsifying signatures and deposits, or false statement of deposits of the company's funds, or publication of signatures and deposits of fictitious people, or assessing the contribution in kind to a bigger value than the factual one, is punishable by a fine or up to five years of imprisonment.

Article 166

Irregular issue of shares

Issuing shares irregularly before registration of the company, or when registration is made illegally, or when the formalities of the company have not yet been completed, or when the statute of the company after its increase of capital has not been changed or has not been registered or has been drafted unlawfully, constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.

Article 167

Unfairly holding two capacities at the same time

Simultaneously holding the capacities of shareholder and certified accountant constitutes criminal misdemeanor and is punishable by a fine or up to six months of imprisonment.

Article 168
Giving false information

Giving false information on the situation of a company by the certified accountant of a commercial company, or failure to report to the competent agency on commission of a crime, when cases of exclusion from criminal liability provided in Article 300 of this Code do not exist, is punishable by a fine or up to five years of imprisonment.

Article 169
Disclosure of secrets of a company

Disclosure of secrets of a company by the certified accountant of the company, except in the case when he is compelled to do so by law, constitutes a criminal misdemeanor and is punishable by a fine or up to two years of imprisonment.

Article 170
Failure to write-down mandatory notes

Failure of the administrator or liquidator of the company to write-down mandatory notes constitutes criminal misdemeanor and is punishable by a fine.

Article 170/a
Illegal employment

*(Added by law No. 8279, dated 15.01.1998, article 2;
Amended by law No. 8733, dated 24.01.2001, article 47)*

Employment without registration with the competent authorities or without guaranteeing employee's insurance according to regulations, when an administrative measure has been rendered first, constitutes criminal misdemeanor and is punishable with a fine up to 10 000 ALL for each case, or with imprisonment of up to one year.

Deliberate omission or camouflage of the infringements connected with the employment or the social insurance by persons charged with the enforcement and control of the relevant provisions, constitutes a criminal misdemeanor and is punished with a fine of up to 100 000. ALL, or imprisonment of up to two years.

Article 170/b

Illegal competition through violence

(Added by law No.9275, dated 16.09.2004, article 14; Paragraph I is changed by law No. 9686, dated 26.02.2007, article 12)

The performance, during the exercise of commercial activity, of actions of competition through threat or violence, is punished with imprisonment from one to four years.

When the acts of competition are directed towards activities financed fully or partly or in any way by the state or from the public entities, the sentence of imprisonment is added with one third.

SECTION IV/1

CRIMINAL OFFENCES RELATED TO THE CONDUCT OF BANKING AND FINANCIAL ACTIVITY

(Added up by law No. 23/2012, dated 01.03.2012, Article 25)

Article 170/c

Conducting Banking Activity without a License

(Added up by law No. 23/2012, dated 01.03.2012, Article 25)

The conduct of banking activity by a person who has not been licensed for this purpose under the banking legislation in force, shall be punished by a fine or imprisonment of up to three years.

Where that offence has caused serious consequences to state interests or those of citizens, it shall be punished by a fine or imprisonment of up to seven years.

Article 170/ç

Conducting Financial Activity without a License

(Added up by law No. 23/2012, dated 01.03.2012, Article 25)

The conduct of one or several financial activities other than banking activity, by persons who are not licensed for this purpose under the banking and/or financial legislation in force, shall be punished by a fine or imprisonment of up to three years.

Where that offence has caused serious consequences to state interests or those of citizens, it shall be punished by a fine or imprisonment of up to five years.

SECTION V
CRIMES IN THE FIELD OF CUSTOMS

Article 171

Smuggling of prohibited or restricted goods

Illegal import, export or transit of prohibited or restricted goods that enter and exit the Republic of Albania committed through any ways or means shall be punishable by up to ten years of imprisonment.

Article 172

**Smuggling of goods for which excise duty apply
or goods fully or partly exempted from customs or excise duty**

Import, export or transit of goods to which excise duty apply, passing them outside the customs area, concealing them partially or totally, failure to declare them accurately to the customs, false declaration of the nature, kind, quality, price, destination of goods or other forms intending to avoid customs duties or obtain partial or total exemption, refund or reduction of customs duties, taxes, fees, excise or any sort of an advantage that has to do with the import or export of goods shall be punishable by up to seven years of imprisonment.

Bringing for consumption goods placed in free circulation after being imported with full or partial exemption from customs duties or excise due to their final destination or end-use in order to avoid customs duties shall be punishable by up to five years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from five up to ten year of imprisonment.

Article 173

Smuggling of goods requiring license

Import, export or transit of goods for which a license is required by the competent authority, passing them outside customs crossing points, concealing them partly or totally, failure to declare them accurately to the customs, false declaration of the nature, kind, quality, price, destination of the goods or other forms intending to avoid customs duties shall be punishable by up to five years of imprisonment.

The same offence, when committed in collaboration or more than once shall be punishable by from five up to ten years of imprisonment.

Article 174

Smuggling of other goods

Import, export or transit of goods, passing them outside the customs crossing points, concealing them partly or totally, failure to declare them accurately to the customs, false declaration of their nature, kind, quality, price, destination of the goods or other forms intending to avoid customs duties or obtain partial or total exemption, refund or reduction of customs duties, taxes, fees, excise duty or any kind of an advantage that has to do with the import or export of goods, shall be punishable by up to five years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from three up to seven years of imprisonment.

Article 175

Smuggling committed by custom officials

(Amended by Law 8733, date 24.1.2001, Article 48)

Smuggling carried out by custom officials, or by other employees having a working relationship with the activity of customs, even when in collaboration with other persons, is punishable by three to ten years of imprisonment.

Article 176

Smuggling of goods with cultural value

Import, export or transit of national cultural values in contradiction with the legal provisions governing them, shall be punishable by up to ten years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from five up to ten years of imprisonment.

Article 177

Smuggling of intermediate goods

Import, export or transit of goods, presenting them as intermediate goods in order to avoid customs duties or obtain partial or total exemption, refund or reduction of customs duties, taxes, fees, excise duty or any other advantage that has to do with import or export of goods, shall be punishable by up to five years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from five up to ten years of imprisonment.

Article 178

Trade and transport in smuggled goods

(Amended by Law 8733 date 24.1.2001, Article 49)

Trade, alienation or transport in goods known to have been smuggled and any other help given to persons engaged in such kind of activities, shall be punishable by a fine or up to three years of imprisonment.

The same offence, when committed for goods for which excise duty apply or are banned or restricted, shall be punishable by up to five years of imprisonment.

When the offence provided under paragraph two of this Article is committed in collaboration or more than once, it shall be punishable by from five up to ten years of imprisonment.

Article 179

Storage of smuggled goods

Storage, depositing, keeping and processing of goods known to have been smuggled, shall be punishable by fine or up to three years of imprisonment.

The same offence, when committed for goods for which excise duty apply or goods that are banned or restricted, is punishable by up to five years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from three up to seven years of imprisonment.

Article 179/a

The non-declaration of money and of valuable objects

(Added up by Law 9086, date 19.6.2003, article 6)

The non- declaration, in entrance or exit of the territory of the Republic of Albania of amounts of money, of any type of bank check, of metals or precious stones, as well as of other valuable objects, beyond the value provided by law, constitutes penal contravention and is punished by fine or imprisonment up to two years.

Article 179/b

Breaking, removal, replacement of customs safety signs

Breaking, removal of customs seal, replacement, change or falsification of other safety signs imposed by customs authorities for the purposes of supervision or control or for the suspension of commercial activity in economic facilities, or safety signs put up on the means of transport or on goods, or counterfeiting in whatever manner the identifying number of the

means of transport in order to avoid customs control, shall be punishable by up to three years of imprisonment.

The same offence, when it has to do with excise goods or banned or restricted goods, shall be punishable by up to five years of imprisonment.

Article 179/c

Removal of goods from the customs area without paying customs duties

Removal of goods from customs area without the permission of the customs authorities and without paying customs duties that must be paid, or without guaranteed payment thereof, except for the cases of the exemption from the obligation of providing a guarantee as provided for by the customs legislation, shall be punishable by up to five years of imprisonment.

The same offence, when it has to do with excise goods, shall be punishable by up to seven years of imprisonment.

Article 179/ç

The captain, pilot or crew involved in smuggling

Transportation of goods without manifest, or the lack or refusal of submission of manifest and relevant documents, the loading, unloading or transport of goods, passengers and their luggage without permission of the customs authorities, staying in places where there is no customs office, or stopping in the vicinity of the port or airport without the permission of the customs authorities, the unloading or trans-boarding of goods in contradiction with customs legislation, the lack of goods on the board of the means of transport that should be found there according to the manifest and other customs documents, conducted, as appropriate, by the captain, pilot or crew, shall be punishable by up to seven years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from five up to ten years of imprisonment.

SECTION VI

CRIMINAL ACTS RELATED TO TAXATION AND TARIFFS

Article 180

Concealment of income

(Amended by law No. 144, dated 02.05.2013, Article 36)

Concealment or avoiding payment of taxes by not submitting documents or not declaring the necessary data envisaged by the effective legislation, by submitting forged documents, statements or false information in order to have personal material gains, for one's self or for others, by miscalculating

the amount of taxes, fees or contribution, shall constitute a criminal offence and shall be punishable up to three years of imprisonment”.

When this offence is committed with the intention of concealing or avoiding payment of a tax above five million ALL, it shall be punishable by two to five years of imprisonment.

When this offence is done with the intention of concealing or avoiding payment of a tax above eight million ALL, it shall be punishable by four to eight years of imprisonment.

Article 180/a

Failure of a person to issue a tax coupon, tax receipt or voucher, who has the obligation to issue the tax coupon, tax receipt or voucher, if an administrative measure against him has previously been taken, shall be punishable by fine or up to one year of imprisonment.

The exercise of an illegal commercial activity, or an activity which is not registered with the tax authorities, not equipped with the cash register according to legal provisions in force, or giving orders contrary to the law in order not to issue a tax coupon, tax receipt or voucher, if an administrative measure against it has previously been taken, shall be punishable by up to three years of imprisonment.

Article 181

Failure to pay taxes and tariffs

Failure to pay taxes and tariffs within the time required by law, although having the possibility of being paid by the person against whom administrative sanctions were previously taken for the same reason, is punishable by a fine or up to three years of imprisonment.

Article 181/a

Failure of the tax authorities to perform duties

(Added up by Law 8279, date 15.1.1998, Article 2)

Failure to perform duties related to collection of taxes and fees within the legally defined deadlines for taxes and fees, by employees of tax authorities and other officials charged with these tasks, when it happens because of their own fault, shall be punishable by up to seven years of imprisonment.

The same offence, when committed in collaboration, shall be punishable by from five up to ten years of imprisonment.

Article 182
Modification of measurement devices

Modification or any other intervention in measurement devices and counters, or utilizing altered measurement devices and counters, or allowing the use by others of irregular measurement devices and counters, with the intent of avoiding the full payment of taxes and tariffs, constitutes criminal contravention and is punishable up to two years of imprisonment.

Article 182/a
Destruction of seals used to block or suspend a commercial activity
(Added up by law No.144/2013, dated 02.05.2013, Article 37)

Deliberate destruction of visible signs placed by the tax administration to block or suspend the commercial activity, or the exercise of a commercial activity, after the notification of the decision of the tax administration for its blocking or suspension, shall constitute a criminal contravention and shall be punishable by imprisonment up to one year.

SECTION VII
FALSIFYING CURRENCY OR MONEY ORDERS
(BOND PAPER)

Article 183
Money counterfeiting
(Added up by Law 8733, dated 24.1.2001, Article 50)

Forging or putting in circulation counterfeit money is punishable by imprisonment up to five years.

This very act, when committed with accomplices, more than once, or when it brought about serious consequences, is punished by imprisonment from five to fifteen years.

Article 184
Forging valued papers/vouchers
(Added up by Law 8733, dated 24.1.2001, article 51)

Forging and putting in use checks, bills of exchange, credit cards, traveler's checks, or other valued papers, is punished by imprisonment up to five years.

This very act, when committed with accomplices, more than once, or when it brought about serious consequences, is punished by imprisonment from three to ten years.

Article 185

Producing instruments for forgery

(Added up by Law 8733, dated 24.1.2001, Article 52)

Manufacturing or keeping equipment for falsifying currency, checks, bills of exchange, credit cards, traveler's checks or other financial documents, is punishable by a fine or from one to three years of imprisonment.

This very act, when committed with accomplices, more than once, or when it brought about serious consequences, is punished by imprisonment from three to ten years.

SECTION VIII

FALSIFICATION OF DOCUMENTS

Article 186

Falsification of Documents

(Amended by Law No. 9188, dated 12.02.2004, Article 4; the part that provides fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

The falsification or use of falsified documents is punishable with imprisonment of up to three years.

When this crime is committed in collaboration or more than once or when it has brought serious consequences, it is punishable with imprisonment of from six months to four years.

When the falsification is done by a person who has the duty of issuing the document, it is punished with imprisonment of from one year to seven years.

Article 186/a

Computer falsification

(Added up by Law 10 023, date 27.11.2008, Article 18)

Entering, modifying, deleting or omitting computer data, unlawfully, in order to create false data aiming to submit and use them as authentic, despite of whether the created data are directly readable or understandable, are punishable by imprisonment from six months to six years.

When this very act is committed by the person whose task is to safeguard and administrate computer data, with accomplices, more than once, or has brought about serious consequence to the public interest, is punishable by imprisonment from three up to ten years.

Article 187

Falsification of school documents

Falsifying or use of falsified school documents is punishable by a fine or up to three years of imprisonment.

When the person having the duty to issue the document makes the falsification, it is punishable by a fine or up to five years of imprisonment.

Article 188

Falsification of health-related documents

Falsifying or use of falsified health-related documents is punishable by a fine or up to three years of imprisonment.

When the person having the duty to issue the document makes the falsification, it is punishable by a fine or up to five years of imprisonment.

Article 189

Falsification of Identity Documents, Passports or Visas

(Amended by Law No. 9188, dated 12.02.2004, Article 5; the part that provides fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

The falsification or use of falsified identity documents, passports or visas is punishable with imprisonment of from six months to four years.

When this crime is committed in collaboration or more than once or has brought serious consequences, it is punished with imprisonment of from six months to five years. When the falsification is done by a person who has the duty of issuing the identity document, passport or visa, it is punishable with imprisonment of from three to seven years.

Article 190

Falsification of Seals, Stamps or Forms

(Amended by Law No. 9188, dated 12.02.2004, Article 6; added by Law 9275, dated 16.09.2004, Article 15; abrogated by Decision of the Constitutional Court No. 47, dated 26.07.2012, the part that provides fine as main punishment)

The falsification or use of falsified seals, stamps or forms, or the presentation of false circumstances in the latter that are directed to state organs, is punishable with imprisonment of from six months to four years.

When this crime is committed in collaboration or more than once or has brought serious consequences, it is punishable with imprisonment of from six months to five years.

When the falsification is done by a person who has the duty of compiling them, it is punishable with imprisonment of from three to seven years.

Article 191

Falsification of Civil Status Documents

(Amended by Law No. 9188, dated 12.02.2004, Article 7; abrogated by Decision of the Constitutional Court No. 47, dated 26.07.2012, the part that provides fine as main punishment)

The falsification or use of falsified civil status documents is punishable with imprisonment of from three months to two years.

When this crime is committed in collaboration or more than once or has brought serious consequences, it is punishable with imprisonment of from six months to four years.

When the falsification is done by a person who has the duty of issuing the document, it is punished with imprisonment of from one to five years

Article 192

Production of devices for falsification of documents

Production of, or conserving, devices to falsify documents constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 192/a

Disappearance and theft of documents

(Added up by Law No. 8733, dated 24.01.2001, Article 53)

Illegal eliminating, in any way, of archive or library documents, and, disappearing and stealing documents of a particular importance, in contradiction with legal requirements, is punishable by a fine or imprisonment up to three years.

Stealing archive or library documents that are particularly important or their illegal exportation is punishable by a fine or imprisonment up to five years.

Article 192/b

Unauthorized computer interference

(Added up by Law No. 8733, dated 24.01.2001, Article 53; amended by Law No. 10 023, dated 27.11.2008, Article 19)

Unauthorized access or access in excess of the authorization to access a computer system or in a part thereof, through violation of the security measures, is punishable by fine or imprisonment up to three years.

When this very act is committed in military, national security, public order, civil protection, health computer systems or any other computer system of public importance, it is punishable by imprisonment from three up to ten years.

SECTION IX
CRIMINAL ACTS IN THE AREA OF BANKRUPTCY

Article 193
Provoked bankruptcy

Intentionally provoking of bankruptcy by a legal person is punishable by a fine or up to three years of imprisonment.

Article 194
Concealment of bankruptcy status

Entering of a legal person into an economic commercial relationship with a third party with the intent of concealing bankruptcy status is punishable by a fine or up to five years of imprisonment.

Article 195
Concealment of assets after bankruptcy

Concealment of assets by a legal person upon the act of bankruptcy with the intent of avoiding its consequences is punishable by a fine or up to seven years of imprisonment.

Article 196
Failure to comply with obligations

Failure of a legal person to comply with its obligations arising under bankruptcy constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

SECTION X
UNLAWFUL LOTTERIES AND GAMBLING

Article 197
Organizing or carrying out activities of gambling at variance with the law
(Amended by Law No. 44/2019, dated 18.7.2019)

Organizing lotteries or gambling in breach of the law shall be sentenced up to three years imprisonment.

This same offence, where involved in gambling being persons below 18 years of age, shall be sentenced to imprisonment from two to five years.

Where this offence is committed by a person being entrusted with state functions or in the public service being connected to gambling, the imprisonment sentence shall be increased by one fourth of the imposed sentence.

Article 197/a

Predetermining results in sports contests

(Added up by Law No. 10 023, dated 27.11.2008, Article 20; the part that provides fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Actions or omissions for predetermining results in national and international sports contests, contrary to fair play principles, constitute criminal contravention.

This very offence, when committed for property gains, is punishable by imprisonment from two to seven years.

Article 197/b

Distortion of competition in sports contests

(Added up by Law No. 10 023, dated 27.11.2008, Article 20)

Distortion of competition in sports contests by participants, through use of prohibited substances constitutes criminal contravention and is punishable by fine or imprisonment up to two years.

Article 198

Providing the premises for unlawful gambling

Providing the premises for organizing or playing a lottery or gambling in breach of the legal provisions constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

SECTION XI

CRIMINAL OFFENCES IMPACTING THE LEGAL REGIME OF LAND

Article 199

Misuse of land

Misuse of land in violation of its designated purpose constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

Article 199/a
Illegal construction

(Added by Law no. 10 023, dated 27.11.2008; amended by Law no. 176/2014, dated 18.12.2014, one paragraph added after the first paragraph by Law no. 146/2020, dated 17.12.2020)

Construction carried out without a permit, in a serious violation of the permit or under the conditions of a revoked permit on the land owned by him/her, is punishable by imprisonment of up to one year.

The same offense, committed to meet housing needs under the law, is punishable by a fine or up to three months of imprisonment.

The same offense, committed on public or state land or on the land of another, is punishable by imprisonment of one to five years.

The same offense, when it has serious consequences or is committed for profit purposes, is punishable by imprisonment of three to eight years.

Article 199/b
Illegal design, supervision, execution and testing of constructions

(Added by Law no. 176/2014, dated 18.12.2014 and amended by Law no. 146/2020, dated 17.12.2020)

Design, supervision, execution or testing of construction works in violation of the law, planning documents, professional standards in force or in violation of the development or construction permit by persons against whom administrative measures have been previously taken for these violations, is punishable by imprisonment from one to five years.

Encouraging with or without remuneration, or forcing the designer, supervisor, implementer or tester of construction works to violate the rules guaranteeing the completion of constructions in accordance with the law, planning documents, professional standards in force or contrary to the development permit or construction, according to the first paragraph of this article, if it does not constitute another criminal offense, is punishable by imprisonment of one to five years.

When serious material consequences have come from the criminal offense, it is punishable by imprisonment of five to ten years.

When serious consequences are caused for the life and health of people, it is punishable by imprisonment of five to fifteen years.

Article 200
Occupation of land

Unlawfully taking land constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

CHAPTER IV
CRIMINAL ACTS AGAINST ENVIRONMENT

Article 201
Air, water and land pollution

(Amended by Law No. 44/2019, dated 18.7.2019)

The air, superficial and underground waters, surface or in-depth pollution of land, the serious harm to the animals or plants by way of discharge or emission or exerting ionising radiation or a quantity of materials into the air, land or water beyond the legally permitted rates shall be sentenced to imprisonment up to three years.

This same offence being committed in specifically protected zones by law as zones of environmental, cultural, artistic, historical, architectural or archaeological values, or where it has caused or has the potential to cause serious harm to the ecosystem, biodiversity, flora and fauna shall be sentenced to imprisonment from one to five years.

Where the criminal offence provided for in the first paragraph of this Article has caused or has the potential to cause the serious injury of one or many persons shall be sentenced to imprisonment from one to seven years.

Where this criminal offence has caused or has the potential to cause the serious injury of one or many persons shall be sentenced to imprisonment from two to ten years.

Where this criminal offence has caused or has the potential to cause the death of one or many persons shall be sentenced to imprisonment from five to fifteen years.

Article 201/a
Waste management

(Amended by Law No. 44/2019, dated 18.7.2019)

The collection, transport, recovery or destruction of the waste, including the supervision of such activity, as well as the actions carried out in breach of the requirements of the effective legislation for the management of waste, where this causes or has the potential to cause serious harm to the air, land or water

quality, to animals or plants, shall be sentenced to a fine or imprisonment up to five years.

Where this criminal offence has causes or has the potential to cause the serious injury to the health of people shall be sentenced to imprisonment from two to ten years.

Where this criminal offence has causes or has the potential to cause the consequence of the death of the person, this shall be sentenced to imprisonment from five to fifteen years.

Where this offence is committed due to recklessness, it shall be sentenced to a fine or imprisonment up to two years.

Article 201/b
Waste transport

(Amended by Law No. 44/2019, dated 18.7.2019)

The transport of the waste entering into, exiting or transiting the territory of Albania, in significant quantities, having been carried out in a single transport or in many apparently connected to each other, in breach of the requirements of the effective legislation for the management of the waste or permits or authorisations issued by the competent authorities, shall be sentenced to a fine or imprisonment up to five years.

Article 201/c
Dangerous activities

(Amended by Law No. 44/2019, dated 18.7.2019)

The functioning of a utility where dangerous activity is being carried out or where dangerous substances or solvents are being stored or used at variance with the requirements of the respective legislation or of the permits or authorisations being issued by the competent bodies, causing or having the potential to cause grave damages outside the utility to the air quality, land quality or water quality, to animals or to plants, shall be sentenced to imprisonment from two to eight years.

Where this criminal offence has causes or has the potential to cause the serious injury to the health of people shall be sentenced to imprisonment from two to ten years.

Where this criminal offence has causes or has the potential to cause the death of the person, this shall be sentenced to imprisonment from five to fifteen years.

Where this offence is committed due to recklessness, it shall be sentenced to a fine or imprisonment up to five years.

Article 201/ç

Nuclear materials and dangerous radioactive substances

(Added by Law No. 44/2019, dated 18.7.2019)

The production, proceeding, treatment, use, storing, keeping, transporting, importing, exporting or destructing nuclear materials or other dangerous radioactive substances at variance with the requirements of the respective legislation or of the permits or authorisations being issued by the competent bodies, causing or having the potential to cause grave damages to the air quality, land quality or water quality, to animals or to plants, shall be sentenced to a fine or to imprisonment up to five years.

Where this criminal offence has caused or has the potential to cause the serious injury to the health of people shall be sentenced to imprisonment from two to ten years.

Where this criminal offence has caused or has the potential to cause the consequence of the death of the person, this shall be sentenced to imprisonment from fifteen to twenty years.

Where this offence is committed due to recklessness, it shall be sentenced to a fine or imprisonment up to four years.

Article 202

Damaging the protected species of wild flora and fauna

(Amended by Law No. 44/2019, dated 18.7.2019)

Killing, destructing, possessing, taking of specimen from the wild flora and fauna protected species or of part or their sub-products, violating the requirements of the effective legislation for the protection of the wild fauna and for the protected zones or of the permits and authorisations issued by the competent bodies, unless where this has occurred in connection with an insignificant quantity of these specimen and has an insignificant impact on the status of preserving the species, shall be sentenced to a fine or imprisonment up to seven years.

Article 202/a

Trading in the protected species of wild flora and fauna

(Amended by Law No. 44/2019, dated 18.7.2019)

Trading in specimen from the wild flora and fauna protected species or of part or their sub-products, violating the requirements of the effective legislation for the protection of the wild fauna and for the protected zones or of the permits and authorisations issued by the competent bodies, unless where this has occurred in connection with an insignificant quantity of these specimen and has an insignificant impact on the status of preserving the species, shall be

sentenced to a fine or imprisonment up to three years.

Article 202/b
Damaging habitats of protected environmental zones

(Amended by Law No. 44/2019, dated 18.7.2019)

The conduct violating the requirements of the effective legislation for the protected zones or of the permits or authorisations issued by the competent bodies and causing serious aggravation of an habitat which is within a protected environmental zone shall be sentenced to a fine or imprisonment up to five years.

Article 203
Ozone depleting substances

(Amended by Law No. 44/2019, dated 18.7.2019)

Producing, importing, exporting, putting into market or using ozone depleting substances, while violating the requirements of the respective legislation or of the permits or authorisations issued by the competent bodies shall be sentenced to imprisonment from one up to seven years.

Article 204
Prohibited fishing

Fishing undertaken at a prohibited time, place or method constitutes criminal contravention and is punishable by a fine or to up three months of imprisonment.

Fishing undertaken through means of public danger like explosives, poisonous substances, etc, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 205
Unlawful cutting of forests

Cutting or damaging forests without authorization or when it is undertaken at a prohibited time or place, when the act does not constitute administrative contravention, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 206
Cutting of decoration and fruit trees

Cutting decoration trees and damaging gardens and parks in the cities constitutes criminal contravention and is punishable by a fine.

Cutting trees in fruit or olive plantations and vineyards, after [the application]

for cutting permit has been previously refused by the competent authority, constitutes criminal contravention and is sentenced up to three months of imprisonment.

Article 206/a

Destruction of forests and forest environment by fire

(Added up by Law No. 10 023, dated 27.11.2008, Article 22; in the first, second, and third paragraphs the wording has been changed by law No. 144, dated 02.05.2013, Article 38)

Intentionally destroying or damaging, causing serious material consequence, the forest stock, nursery – plot, forest reserve or any other unit similar to them, through fire, is punishable by imprisonment from five to ten years.

This very same act, committed aiming to change the category and destination of land is punishable by imprisonment from five to fifteen years.

The same act, when it has caused serious consequence to the property, health or life of people or causes serious damage over an extended period of time on the environment or protected areas, is punishable by imprisonment from ten to twenty years.

Article 206/b

Destruction due to negligence of forests and forest environment by fire

(Added up by Law No. 10 023, dated 27.11.2008, Article 22; in the first, second, and third paragraphs the wording has been changed by law No. 144, dated 02.05.2013, Article 39)

Destroying or damaging from negligence, with serious material consequence, of the forest stock, nursery – plot, forest reserve or any other unit similar to them, by fire, is punishable by imprisonment from two to five years.

This very act, when it brought about serious consequence to the property, health or life of people or when it causes serious damage over an extended period of time on the environment or protected areas, is punishable by imprisonment from three to eight years.

Article 207

Breach of quarantine for plants and animals

Breach of rules of quarantine for plants or animals, when it has led to serious consequences which are either material or which bring serious danger to the life and health of people, constitutes criminal contravention and is punishable by a fine.

Article 207/a
Abandoning the pet

(Amended by Law No. 44/2019, dated 18.7.2019)

Where, due to the abandonment of the pet or due to the failure of putting the protection mask to the pet in public premises or premises accessible by the public, consequences have occurred harming the health of a person shall be sentenced to a fine or imprisonment up to six months.

Where the outcome of the criminal offence is a serious injury of a person, it shall be sentenced to imprisonment from one to five years.

Where the outcome of the criminal offence is the death of a person, it shall be sentenced to imprisonment from three to ten years.

Article 207/b
Intentionally killing the pet

(Amended by Law No. 44/2019, dated 18.7.2019)

Intentionally killing the pet shall be sentenced to a fine or imprisonment up to six months.

Article 207/c
Maltreatment of the pet

(Amended by Law No. 44/2019, dated 18.7.2019)

Maltreatment or torturing a pet, thus inflicting to it permanent health injuries, shall be sentenced to a fine or imprisonment up to three months.

When the offence has caused the death of the animal, it is sentenced to imprisonment up to six months.

Article 207/ç
Battling among animals

(Amended by Law No. 44/2019, dated 18.7.2019)

Promoting, organising or refereeing battling among the animals causing suffering and torture to animal shall be sentenced to a fine or imprisonment up to three months.

Giving out animals for battling, breeding or training the animals to the effect of being used or sold for battling shall be sentenced to a fine or imprisonment up to six months.

Betting on battling among the animals shall be sentenced to a fine or imprisonment up to two months.

When the offence has caused the death of the animal, it is sentenced to

imprisonment up to six months.

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CHAPTER V
CRIMES AGAINST INDEPENDENCE
AND CONSTITUTIONAL ORDER

SECTION I
CRIMES AGAINST INDEPENDENCE AND INTEGRITY

Article 208

The surrendering of territory

(Amended by Law No. 8733, dated 24.01.2001, Article 79)

Total or partial transfer of territory to foreign state or power, with the intent of violating the independence and integrity of the country, is punishable by no less than fifteen years of imprisonment or to life imprisonment.

Article 209

The surrendering of the army

(Amended by Law No. 8733, dated 24.01.2001, Article 79)

Total or partial surrendering of the army or handing over defense materials or supplying weapons and ammunition to a foreign state or power, with the intent of violating the independence and integrity of the country, is punishable by no less than fifteen years of imprisonment or to life imprisonment.

Article 210

Agreement on the surrendering of territory

Agreement with foreign powers or states for the total or partial transferring of territory or handing over of the army and defense materials, with the intent of violating the integrity of the country, is punishable by five to ten years of imprisonment.

Article 211

Provocation of war

Committing acts with the intent to provoke a war or make the Republic of Albania face the danger of an [military] intervention by foreign powers, is punishable by no less than fifteen years of imprisonment.

Article 212
Agreement for armed intervention

Agreements entered into with foreign powers or states to cause armed intervention against the territory of the Republic of Albania, is punishable by ten to fifteen years of imprisonment.

Article 213
Disclose of classified information

Handing over classified information of military or other character to a foreign power with the intent of encroaching the independence of the country, is punishable by ten to twenty years of imprisonment.

Article 214
Providing information

Providing classified information of military or other character, with the intention to handover to foreign power in order to encroach the independence of the country, is punishable by three to ten years of imprisonment.

Article 215
Damaging of defense objects

Destroying or damaging means, equipment, appliances, weapons, military technique or objects for military defense, with the intent of reducing the country's defensive capacity, is punishable by five to fifteen years of imprisonment.

Article 216
Providing means for destroying military technique

Production or keeping means for destroying or damaging equipment, appliances, weapons, means of military technique or objects for military defense, with the intent of reducing the country's defense capacity, is sentenced up to ten years of imprisonment.

Article 217
Receiving of bonuses

Getting paid or the agreement to get paid or to receive other material benefits, in order to commit in favor of foreign states or powers one of the crimes provided for in this section, is punishable by five to ten years of imprisonment.

Article 218

Placing oneself in the service of foreign states

Placing an Albanian citizen in the service of a foreign state or power, with the intent of committing acts against the independence and integrity of the Republic of Albania, is punishable by three to ten years of imprisonment.

SECTION II

CRIMES AGAINST CONSTITUTIONAL ORDER

Article 219

Assassination

(Amended by Law No. 8733, dated 24.01.2001, Article 79)

Assassination, kidnapping, torturing or other acts of violence [committed] against the highest representatives of the state, with the intent of overturning constitutional order, is punishable by no less than fifteen years of imprisonment or to life imprisonment.

Article 220

Conspiracy

Decision-making and creating material conditions by a group of people to commit an assassination is punishable by five to fifteen years of imprisonment.

Article 221

Rioting

(Paragraph II is amended by Law No. 8733, dated 24.01.2001, Article 79)

Participating in violent massive actions such as placing obstacles and barricades to stop the police, resisting them with arms or disarming them, forcibly occupying buildings, looting, gathering or placing under [one's] disposal weapons, ammunition and people, facilitating the rioters, committed with the intent of overturning constitutional order, is punishable by fifteen to twenty five years of imprisonment.

Participation in the above-mentioned activities with the capacity of a leader or an organizer is punishable by life imprisonment.

Article 222

Calls to take up arms or take the command unlawfully

Calls for taking up arms against constitutional order, creating or organizing the armed forces in violation to the law, unlawful taking-over of the command of the armed forces in order to conduct military actions with the intent of

opposing constitutional order, are punishable by five to ten years of imprisonment.

Article 223
Public calls for violence

Public calls to commit violent acts against the constitutional order, are punishable by a fine or up to three years of imprisonment.

Article 224
Founding unconstitutional parties or associations

Founding of or participating in parties, organizations or associations which intend to violently overturn the constitutional order is punishable by a fine or up to three years of imprisonment.

Re-founding a party, organization or association that was previously banned as unconstitutional or the continuation of their activity in an open or covert way is punishable by one to five years of imprisonment.

Article 225
Distribution of unconstitutional writings

Distribution of writings or use of symbols belonging to an unconstitutional party, organization or associations or to one previously banned on the same grounds, is punishable by a fine or up to three years of imprisonment.

Distributing or infiltrating materials, writings or symbols into the Republic of Albania from abroad, with the intent to overturn the constitutional order or affect the territorial integrity of the country, is punishable by a fine or up to three years of imprisonment.

CHAPTER VI
CRIMES ENCROACHING RELATIONS WITH OTHER STATES

Article 226
Violent Acts against Internationally Protected Persons
(Amended by Law No. 23/2012, dated 01.03.2012, Article 24)

Committing violent acts against Internationally Protected Persons is sentenced up to ten years of imprisonment.

Article 227
Insulting representatives of foreign countries
(Repealed by law No. 23/2012, dated 01.03.2012, Article 57)

Article 228

Violent acts against working-places of International Protected Persons

(Repealed by law No. 23/2012, dated 01.03.2012, Article 26)

Committing violent acts against work-places, residences, means of transportation of international protected persons constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

When the act has resulted in serious material consequences or in complications in the bilateral relations, it is sentenced up to ten years of imprisonment.

Article 229

Insulting acts against the anthem and flag

(Repealed by law No. 23/2012, dated 01.03.2012, Article 57)

CHAPTER VII

ACTS OF TERRORIST INTENTION

(The title amended by law No. 9686, dated 26.02.2007, Article 14)

Article 230

Acts of terrorist intention

(Amended by law No. 9686, dated 26.02.2007, Article 15; Amended by Law No. 23/2012, dated 01.03.2012, Article 27)

Commission of the following acts, with the intent to spread panic among the population, or compel the state bodies, Albanian or foreign, to perform or not perform a certain act, or seriously destroy or destabilize substantial political, constitutional, economic or social structures of the Albanian state, another state, international institution or organisation, shall be punishable by imprisonment of no less than fifteen years, or life imprisonment.

Offences for terrorist purposes shall include:

- a) offences against a person, which can cause death or grave injury;
- b) hijacking of aircraft, vessel, other means of transport, or fixed platforms, or unlawful exercise of control over them, by force or threat to use force, or any other forms of threat;
- c) commission of acts of violence against a person on board of an aircraft in flight, aboard a ship or on board a fixed platform, where those acts might jeopardize the safety of aircraft, ship, or fixed platform;
- d) destruction of an aircraft in operation, ship or a fixed platform, or causing such damage to aircraft, vessel or its cargo, or fixed platform,

which render impossible or endanger or might endanger the safety of flight, navigation or fixed platform;

d) planting, by any means, in an aircraft in service, ship or fixed platform, a device or substance that could destroy the aircraft, ship or fixed platform, or cause damage to aircraft, vessel or its cargo, or fixed platform, and which endangers or might endanger the safety of flight, cruise ship or fixed platform;

dh) destruction of or damage to flight hardware or marine navigational equipment or interference with their operation, where such an act could endanger the safety of aircraft or vessel;

e) dissemination of information that is known to be untrue, thereby risking the safety of an aircraft in flight or sailing ship;

ë) murdering or kidnapping an internationally protected person, under Article 9 of this Code, or any other attack against him/her or his/her freedom;

f) a violent attack against the office, private apartment or means of transport of an internationally protected person, under Article 9 of this Code, where this attack endangers his/her person or freedom;

g) taking hostage or kidnapping a person and threatening to kill, injure or continue holding him hostage;

gj) receipt, possession, use, transfer, disposal, disposition or proliferation of nuclear material, intentionally and without being legally authorised, that causes or could cause death or serious injury to any person, or serious damage to property;

h) theft, misappropriation or benefit through nuclear materials fraud;

i) soliciting nuclear materials using coercion, violence or any other form of threat;

j) manufacture, possession, purchase, transportation or marketing of explosives, firearms, biological, chemical or nuclear weapons, and research for the production of mass destruction weapons;

k) committing acts of violence, using any device, substance or weapon, against a person in an international civil aviation airport, where those acts cause or might cause serious injuries, or death of persons;

l) destruction of or serious damage to facilities or equipment in an international civil aviation airport or plane located at the airport that is not in flight, or disruption of airport services, using any device or weapon, where that act endangers or could endanger the security of the airport;

ll) proliferation, placement, discharge or setting off of explosives or other

lethal ordnance in public places, offices of a state or government, public transportation system or public infrastructure, and distribution in the environment of hazardous substances causing fires, floods, explosions, for purposes of causing death or serious bodily harm or massive destruction of the above-mentioned locations, facilities or systems, where that disaster could result in major economic loss;

m) heavy and large scale destruction of public property, public infrastructure, transportation system, information system and private property, endangering the lives of people;

n) causing interruption of supply with water, electricity or any other important utilities; or any other acts intended to cause death or serious injury to civilians or any other person who is not taking an active part in hostilities in a situation of armed conflict, committed for the purposes set out in the first paragraph of this Article.

Actions that cause the disruption of an important service, system, public or private activity, as a result of protests, civil disobedience, or strike, shall not be considered offences for terrorist purposes under the meaning of this Article.”.

Article 230/a **Financing of terrorism**

(Added up by Law No. 9086, dated 19.06.2003, Article 7; amended by law No. 23/2012, dated 01.03.2012, Article 28; the part that provided for punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Provision or collection of funds, by any means, directly or indirectly, with the intent to use them or knowing that they will be used, in whole or in part:

- a) to commit offences for terrorist purposes;
- b) by a terrorist organisation;
- c) by a single terrorist; shall be punished by not less than fifteen years of imprisonment or life imprisonment.

The provisions of this Article shall apply:

- a) to all funds, including assets of any kind, tangible or intangible, movable or immovable, irrespective of the manner of their acquisition, and legal documents or instruments of any kind, even in electronic or digital form, that demonstrate rights to or interests over such assets, including bank loans, traveller’s cheques, bank cheques, money orders, shares, securities, bonds, bank guaranteed cheques, credit cards, and any other financial instrument, similar to them;

b) regardless of whether the person who commits one of the offences enlisted in the first paragraph of this Article, is located in the same country or another country where the terrorist organisation or single terrorist is located, or the country where the offence with terrorist purposes has been committed or will be committed;

c) in the case provided for the first paragraph of this Article, regardless of whether the funds have actually been used to commit the offence or offences for which those funds were provided or collected, or whether a connection can be established between the funds and one or more of the specific offences with terrorist purposes.

Knowledge and intent, under the first paragraph of this Article, shall be derived from the objective factual circumstances”.

Article 230/b

Concealing of funds and other property that finance terrorism (*Added up by Law No. 9275, dated 16.09.2004, Article 16; the part that provides for even the punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48*)

The transfer the conversion, the concealing, the movement or the change of property of the funds and of other goods, which are put under measures against terrorism financing, in order to avoid the discovery and their location, is sentenced with imprisonment from four to twelve years.

When this crime is committed during the exercise of a professional activity in cooperation or more than one time, it is sentenced to imprisonment from seven to fifteen years and with a fine from one to eight million ALL, whereas when it causes serious consequences, it is sentenced with imprisonment for no less than fifteen years.

Article 230/c

Disclosure of information by persons who perform public functions or persons exercising a duty or profession

(*Added up by Law No. 9275, dated 16.09.2004, Article 16; the part that provides for even the punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48*)

Getting acquainted identified persons or of other persons with data regarding the verification or the investigation of funds and other goods towards which are applied measures against terrorism financing, from persons exercising public functions or in exercise of their duty or profession, is sentenced with imprisonment from five to ten years.

Article 230/ç

Performance of services and actions with declared persons

(Added up by Law No. 9275, dated 16.09.2004, Article 16; the part that provides for even the punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Issuing of funds and of other assets, the performance of financial services as well as of other transactions with identified persons towards whom are applied measures against terrorism financing is sentenced with imprisonment from four to ten years.

Article 230/d

Collection of funds for financing terrorism

(Added up by Law No. 9686, dated 26.02.2007, Article 16; abrogated by law No. 23/2012, dated 01.03.2012, Article 57)

Article 231

Recruitment of persons for committing acts with terrorist intentions or financing of terrorism

(Amended by Law No. 9686, dated 26.02.2007, Article 17)

Recruitment of one or more persons for committing acts with terrorist purposes or financing of terrorism, even when these acts are aimed at another country, international organization or institution, if it does not constitute another criminal act, is punishable by no less than ten years of imprisonment.

Article 232

Training to commit acts of terrorist intentions

(Amended by Law No. 9686, dated 26.02.2007, Article 18)

Preparation, training and giving any form of instruction even in anonymous manner or in electronic form, for producing or using explosive substances, military weapons and ammunition, other weapons and chemical, bacteriologic, nuclear or any other substance, dangerous and hazardous to people and property, as well as techniques and methodologies for committing acts with terrorist purposes and participation in such activities, even when these acts aim at another country, international organizations or institutions, if they don't constitute another criminal act, are punishable with no less than seven years of imprisonment.

Article 232/a
**Incitement, public calls and propaganda for committing acts
with terrorist intentions**

(Added up by Law No. 9686, dated 26.02.2007, Article 19)

Incitement, public call, distribution of pieces of writing or propaganda in other forms, with the aim of supporting or committing one or more acts for terrorist purposes and financing of terrorism, if they do not constitute other criminal act, are punishable by imprisonment from four up to ten years.

Article 232/b
Threatening to commit acts of terrorist intentions

(Added up by Law No. 9686, dated 26.02.2007, Article 19)

Serious threat for committing acts with terrorist purposes to a public authority, even of another country, international organization or institution, is punishable by imprisonment from eight up to fifteen years.

Article 233
Creating armed crowds

Creating armed crowds to oppose public order through violent acts against the life, health, personal freedom of the individual, property, with the intent of instilling fear and uncertainty in the public, is sentenced up to ten years of imprisonment.

Article 234
Manufacturing military weapons

Manufacturing, storing, transporting of military, chemical, biological, nuclear weapons which have a poisonous or explosive base, with the intent of committing acts of terrorism, is punishable by five to fifteen years of imprisonment.

Article 234/a
Terrorist organizations

(Added up by Law No. 9275, dated 16.09.2004, Article 17)

The establishment, organization, the leading and financing of the terrorist organizations is sentenced with imprisonment of no less than fifteen years.

The participation in terrorist organizations is sentenced to imprisonment from seven to fifteen years.

Article 234/b

Armed gangs

(Added up by Law No. 9275, dated 16.09.2004, Article 17)

The establishment, organization, the leading and financing of the armed gangs is sentenced with imprisonment from ten to fifteen years.

The participation in armed gangs is sentenced to imprisonment from five to ten years.

CHAPTER VIII

CRIMES AGAINST THE STATE AUTHORITY

SECTION I

CRIMINAL ACTS AGAINST STATE ACTIVITY COMMITTED BY [ALBANIAN] CITIZENS

Article 235

Opposing the public official that carries out a state duty or provides a public service

(Paragraph II amended by Law No. 8733, dated 24.01.2001, Article 54)

Opposing an official on state duty or public service, with the intent of hindering his fulfillment of his duty or service in compliance with law, constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

This very act, when committed in collaboration, or by wielding physical violence, or more than once, is punishable by a fine or imprisonment up to five years.

Article 236

Opposing the official of the public order police *(Paragraph II amended by Law No. 8733, dated 24.01.2001, Article 55); (Paragraph II amended by Law No. 9686, dated 26.02.2007, Article 20)*

Opposing the official of the public order police with the intent of hindering his fulfillment of duty in compliance with law, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

When the same act is committed in collaboration or through physical violence, or more than once, it is punishable up to seven years of imprisonment.

Article 237**Assault because of duty**

(Amended by Law No. 44/2019, dated 18.7.2019)

Assault or other violent acts committed against an official acting in the execution of a state duty or public service, because of his state activity or service, shall be sentenced to imprisonment from one up to three years.

Where this offence is committed against the elected person or the public functionary, because of his activity, shall be sentenced to imprisonment from one to five years.

Where this offence is committed against the police employee due to his activity and where the capacity of the person is visible or known, shall be sentenced to imprisonment from one to five years. Where this offence is committed against the health professional due to his activity and where the capacity of the person is visible or known, shall be sentenced to imprisonment from one to five years. Where this offence is committed within the premises of the institution where the person assumes the state function, the public function or public services shall be sentenced from three to five years.

Article 238**Threat because of duty**

(Amended by Law No. 44/2019, dated 18.7.2019)

The serious threat for murder or serious injury being exerted to the employee acting in the execution of a state duty or public service, because of his state activity or service, shall be sentenced to imprisonment up to two years.

Where this offence is committed against the elected person or the public functionary, because of his activity, shall be sentenced to imprisonment from one to three years.

Where this offence is committed against the police employee due to his activity and where the capacity of the person is visible or known, shall be sentenced to imprisonment from two to four years.

Where this offence is committed against the health professional due to his activity and where the capacity of the person is visible or known, shall be sentenced to imprisonment from one to three years.

Where this offence is committed within the premises of the institution where the person assumes the state function, the public function or services shall be sentenced from one to three years.

Article 239**Insulting because of duty**

(Amended by Law No. 8733, dated 24.01.2001, Article 56; Abrogated by law No. 23/2012, dated 01.03.2012, Article 57)

Article 240**Defamation because of duty**

(Paragraph II amended by Law No. 8733, dated 24.01.2001, Article 57); Abrogated by law No. 23/2012, dated 01.03.2012, Article 57)

Article 241**Defamation towards the President of the Republic**

(Abrogated by law No. 23/2012, dated 01.03.2012, Article 57)

Article 242**Disobeying orders of the public order police employee**

Disobeying the lawful orders of the public order police employee constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.

Article 242/a**Failure to comply with the measures of State authorities during the emergency state or during the epidemic situation**

(Amended by Law No. 35/2020)

Failure to comply with or actions violating the legal acts and by-laws issued by the State authorities in the context of the epidemic situation or emergency measures by a person who has already been imposed an administrative sanction shall constitute a criminal contravention and shall be sentenced to a fine or up to six months imprisonment.

The same criminal contravention when committed in conducting commercial activity that places at risk the health of persons shall be sentenced to a fine or up to two years imprisonment.

Failure to comply with the order issued by the competent authorities for quarantine or self-isolation, or violation of the quarantine or self-isolation rules by the person who is a carrier or not of the infectious disease and to whom such obligation has been notified by the relevant competent authorities, shall be sentenced from two to three years imprisonment.

Article 243

Assaulting family members of a person exercising a state duty

Assault or other violent acts committed toward the family member of a person acting in the exercise of his state duty or public service, with the intent of preventing the fulfillment of the duty or service, or which is related to this activity, is punishable by a fine or up to five years of imprisonment.

Article 244

Active corruption of persons exercising public functions

(Amended by Law No. 9275, dated 16.09.2004, Article 18; the part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, Article 48, amended by Law no. 43/2021, date 23.3.2021, Article 1)

Promising, proposal or offer, direct or indirect to a person, who exercises public functions, of any irregular benefit of a value up to 50,000 Lek or the equivalence in a foreign currency, for himself or a third person in order to act or not act in relation to his duty or his function, is punished by imprisonment from six months up to one year.

The same offence, when the irregular benefit of the person who exercises public function, for himself or a third person is over the value 50, 000 Lek or the equivalence in a foreign currency, is punished by imprisonment from one year up to three years.

Article 244/a

Active Corruption of Foreign Public Official

(Added up by law No. 23/2012, dated 01.03.2012, Article 29; the part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, Article 48)

Promising, proposing or giving, directly or indirectly, any kind of improper benefit for oneself or other persons, to a foreign public official, employee of a public international organisation, member of a foreign public assembly or member of an international parliamentary assembly, to undertake or not undertake an action, that relates to his or her office, shall be punished by imprisonment of six months to three years.

Article 245

Active corruption of the high state officials and local elected representatives

(Amended by Law No. 9275, dated 16.09.2004, Article 19; the part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Promising, direct or indirect proposal, offer, or giving, to high state officials or to a locally elected person, of any irregular benefit for himself or a third person in order to act or not act in relation to his duty, is punished by imprisonment from one up to five years.

Article 245/1

Exercising unlawful influence on public officials

(Added up by Law No. 9275, dated 16.09.2004, Article 20; Amended by law No. 23/2012, dated 01.03.2012, Article 30; the part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48, amended by Law no. 43/2021, date 23.3.2021, Article 2)

The direct or indirect promise, proposal or offer, of any irregular benefit, of a value up to 50,000 Lek or the equivalence in a foreign currency for himself or a third person, to the person who promises or guarantees that he is able to exercise illegal influence on the accomplishment of the duties and on taking of decisions by the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not or no matter whether the desirable consequences have occurred or not, is punishable with imprisonment from six months up to one year.

The same offence, when the irregular benefit is over a value of 50,000 Lek or the equivalent in foreign currency, is punishable with imprisonment from one year up to three years.

The direct or indirect soliciting, receiving, or accepting whatever irregular benefit of a value up to 50,000 Lek or the equivalence in a foreign currency for himself or other persons, by promising or ensuring the ability to exercise illegal influence on the accomplishment of the duties by the Albanian or foreign public functionaries, no matter whether the influence has been actually exercised or not the desirable consequences have occurred or not, is punishable with imprisonment from six months up to two years.

The same offence, when the irregular benefit is more than the value of 50,000 Lek or the equivalent in foreign currency, is punishable with imprisonment from two years to four years.

Article 245/2

The exemption from suffering the sentence *(Added up by Law No. 9275, dated 16.09.2004, Article 20; Abrogated by law No. 144, dated 02.05.2013, Article 48)*

Article 246

Appropriating a public title or office

Appropriating a public title or office accompanied with the actions pertinent to the holder of the title or office, constitutes criminal contravention and is

punishable by a fine or up to two years of imprisonment.

If the act is committed for embezzlement purposes or has encroached the freedom, dignity or other fundamental rights of the citizen, it is punishable by a fine or up to five years of imprisonment.

Article 246/a

Practicing the profession of the Accounting Expert and Auditing Company without Being Registered

(Added up by law No. 23/2012, dated 01.03.2013, Article 31)

Acquisition of the professional title of certified public accountant, practicing the profession of certified public accountant or using labels such as auditing company, without being previously registered in a public registry of auditors, and using any kind of title, which aims to create a similarity or confusion with these professional titles or designations, when an administrative measure has already been imposed, shall constitute a criminal offence and is punishable by a fine or imprisonment of up to two years.”.

Article 247

Wearing a uniform unlawfully

Unlawfully wearing a uniform, holding a document or a distinctive sign, which shows the capacity of an official exercising a state duty or public service, accompanied with illegal acts, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

If the act is committed for embezzlement purposes or it has encroached the freedom, dignity or other fundamental rights of the citizen, it is punishable by a fine or up to five years of imprisonment.

SECTION II

CRIMINAL ACTS AGAINST THE ACTIVITY OF THE STATE COMMITTED BY STATE OR PUBLIC OFFICIALS

Article 248

Abuse of office

(Amended by Law No. 9275, dated 16.09.2004, Article 21;

Amended by Law No. 9686, dated 26.02.2007, Article 21;

The part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, Article 48)

Deliberate accomplishment or non-accomplishment of actions or failures to

act, in violation to the law and constituting the failure of a person, who carries out public functions, to do his duties regularly, in cases when it has led to bringing him or other persons unjust material or non-material benefits or when it has brought damages to the legitimate interests of the state, citizens, and other legal entities, when it does not constitute another criminal offence, is punishable with imprisonment up to seven years.

Article 248/a

Granting Pensions or Other Income from Social Insurance Contrary to the Law

(Added by law No. 23/2012, dated 01.03.2012, Article 32;

The part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Granting of pensions in contradiction with the law on pensions, or other income from social insurance, by an employee who has a duty to grant them, is punishable by imprisonment of from six months to seven years.

Article 249

Performing a function after its termination

The continuation of the performance of the state or public service function by a person who has been informed of a decision or circumstance terminating the exercise of this function constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 250

Committing arbitrary actions

Commitment of arbitrary actions or arbitrary order-giving, by an official performing a state or public service function while exercising his duty, which affect the freedom of citizens, is punishable by a fine or imprisonment of up to seven years.

Article 251

Failure to take measures to sever illegality

Failure of a person in charge of a state or public service function to take measures, who becomes aware of the illegality due to the function or service, or failure to request a competent person to sever illegality resulting from an arbitrary action that has affected the freedom of citizens, is punishable by a fine or up to three years of imprisonment.

Article 252

Detention in custody in absence of a decision

Detention in custody without a decision of the competent body or beyond the term determined in the decision or by law, by a person charged with the task of prison administrator, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 253

Violating equality of the citizens

(Words added up by law No. 144, dated 02.05.2013, Article 40)

Discrimination by a worker holding a state function or public service conducted because of his capacity or during its exercise, when the discrimination is based upon origin, sex, sexual orientation or gender identity, health situation, religious or political beliefs, trade-union activity or because of belonging to a particular ethnic group, nation, race or religion, which consists in creating unfair privileges or in refusing a right or benefit deriving from law, is punishable by a fine or up to five years of imprisonment.

Article 254

Infringing the inviolability of residence

Entering into premises without the consent of a person living therein, committed by a person holding a state function or public service during the exercise of his duty, except the cases when it is permitted by law, is punishable by a fine or up to five years of imprisonment.

Article 255

Obstruction and violation of the secrecy of correspondence

Giving orders or committing actions for destroying, reading and disseminating postal correspondence, or which breaks, makes it more difficult, puts under control or eavesdrops phone correspondence or any other means of communication, committed by a person holding a state function or public service during the exercise of his duty, except the cases when it is permitted by law, is punishable by a fine or up to three years of imprisonment.

Article 256

Abuse of contributions given by the state

Misusing contributions, subsidies or financing given by the state or state institutions to be used in works and activities of public interest, is punishable by a fine or up to three years of imprisonment.

Article 257
Illegal benefit of interests

Direct or indirect holding, retaining or benefiting from any sort of interest by a person holding state functions or public service in an enterprise or operation in which, at the time of conducting the act, he was holding the capacity of supervisor, administrator or liquidator, is punishable by a fine or up to four years of imprisonment.

Article 257/a

Refusal for declaration, non-declaration, concealment or false declaration of assets, private interests of elected persons and public employees, or of any other person that is legally binding for the declaration.

*(Added up by Law No. 9030, dated 13.03.2003, Article 1;
Second paragraph amended by Law No. 9686, dated 26.02.2007, Article 22;
Amended by law No. 23/2012, dated 01.03.2012, Article 33;
Amended by Law No. 98, dated 31.07.2014, Article 3)*

The refusal or failure of the elected persons or public servants or any other person being subject to the legal obligation to make the declaration in accordance with the law to declare the assets shall, where disciplinary measures have previously been taken, consist a criminal offence and it shall be punished by a fine or up to 6 months imprisonment.

Hiding or false declaration of assets, private interests, by the elected persons or of the public employees is punishable by fine or imprisonment up to three years.

Article 258

Breaching the equality of participants in public bids or auctions

(Amended by law No. 23/2012, dated 01.03.2012, Article 34, amended by Law no. 43/2021, date 23.3.2021, Article 3)

Commitment by a person holding state functions or public service of actions in breach of the laws which regulate the freedom of participants and the equality of citizens in bids and public auctions, in order to create illegal advantage or benefits for third parties when the bid or the public auction has a value up to 800,000 Lek or the equivalence in a foreign currency, is punishable by imprisonment of up to one year.

The same offence, when the bid or the public auction has a value over 800,000 Lek or the equivalent in foreign currency, is punishable with imprisonment from one year to five years.

Article 259

Passive corruption by persons that exercise public functions

(Amended by Law No. 9275, dated 16.09.2004, Article 22;

The part that provides even the punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48, amended by Law no. 43/2021, date 23.3.2021, Article 4)

Soliciting or taking, directly or indirectly, by a person who exercises public functions, of any irregular benefit or of any such promise of a value up to 50,000 Lek or the equivalence in a foreign currency, for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to carry out an action or not carry out it in the exercise of his duty, is punishable by imprisonment of from two up to three years.

The same offence, when the irregular benefit or the promise of such benefit has a value over 50,000 Lek or the equivalent in foreign currency, shall be punished from three years to eight years of imprisonment.

Article 259/a

Passive Corruption of Foreign Public Officials

(Added up by law No. 23/2012, dated 01.03.2012, Article 35;

The part that provides even the punishment by fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Soliciting or receiving, directly or indirectly, any improper benefits or such a promise, for oneself or others, or acceptance of an offer or promise arising from an improper benefit, from a foreign public official, employee of a public international organisation, member of a foreign public assembly, or member of an international parliamentary assembly, to perform or not perform an act that relates to his/her function, is punishable by imprisonment of from two to eight years.

Article 260

Passive corruption by high state officials or local elected officials

(Amended by Law No. 9275, dated 16.09.2004, Article 23;

The part that provides for even the punishment by a fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, Article 48)

Soliciting or taking, directly or indirectly, by a high state official or a local elected official, of any irregular benefit or of any such promise for himself or for a third person, or accepting an offer or promise deriving from an irregular benefit, in order to act or not act in the exercise of his duty, is punishable by imprisonment of from four up to twelve years.

SECTION III
CRIMINAL ACTS AGAINST PUBLIC ORDER AND SECURITY

Article 261

Impeding the exercise of the right of expression, assembling or protest

Committing acts that impede citizens from exercising the right of expression, assembling or protest constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

When those acts are accompanied with use of physical violence, they are punishable by a fine or up to three years of imprisonment.

Article 262

Organizing or participating in illegal manifestations

(Paragraph III is added by law No. 8733, dated 24.01.2001, article 59)

Organizing the assembly of people in squares and places of public passage, without prior permission by the competent authority according to the specific provisions or when organizers breach the conditions provided in the request for permission, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Participating in an unlawful assembly even after the dispersal warning has been given, constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.

This very act, when committed more than once, or when it brought about serious consequences, does constitute a criminal contravention and is punishable by a fine or imprisonment of up to two years.

Article 263

Organization of unlawful gatherings and manifestations with the participation of armed people

Organizing unlawful assembly with the participation of armed people is punishable by a fine or up to three years of imprisonment.

Participation of armed people in unlawful assembly constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 264

Obligation to participate or not-to participate in a strike

Obligation of an employee against his will to participate or not to participate in a strike or creation of obstacles and problems for the continuation of his employment when the employee wishes to do so, constitutes criminal

contravention and is punishable by a fine or up to three months of imprisonment.

Article 265

Incitement of hatred or disputes

(Amended by law No. 144, dated 02.05.2013, Article 41)

Inciting hate or disputes on the grounds of race, ethnicity, religion or sexual orientation, as well as intentional preparation, dissemination or preservation for purposes of distributing writings with such content, by any means or forms, shall be punishable by imprisonment of from two to ten years.

Article 265/a

Involvement in military operations in a foreign state

(Added up by Law No. 98, dated 31.07.2014)

Involvement in military formations, military or paramilitary organisations in an armed conflict taking place in the territory of a foreign state or participation at any type of training conducted by these structures, without being a citizen of the foreign country, without being a member of the armed forces of one of the parties in conflict or official military missions of the armed forces of a state that is not a party in the conflict, official military missions of an international organisation, is punishable to imprisonment of from three to eight years.

This criminal offence is committed to overthrow the constitutional order or to infringe the territorial integrity of a foreign state shall be sentenced to imprisonment from five to ten years.

Article 265/b

Organising the involvement in military operations in a foreign state

(Added up by Law No. 98, dated 31.07.2014)

Incitement, recruitment, organisation, leading, training, making available equipment, establishment or the use of funds or other means for financing, material support to the persons, in any form or fashion, to commit the criminal offence provided for in Article 265/a shall be sentenced to imprisonment from eight to fifteen years.

Article 265/c

Call for involvement in violent military operations in a foreign state

(Added by Law No. 98, dated 31.07.2014)

The public call in whatever form, means or fashion to commit the criminal offence provided for in Article 265/a or 265/b shall be sentenced to imprisonment up to three years.

Article 266
Calls for national hatred

(Words added up by Law No. 144, dated 02.05.2013, Article 42)

Endangering public peace by calling for national hatred against other parts of the population, by insulting or defaming them, or by requesting the use of force or arbitrary actions against them, is punishable by imprisonment of from two to eight years.

Article 267
Dissemination of false information to cause panic

Spreading false information or news, in words, in writing, or in any other manner, in order to incite a state of insecurity or panic in people, is punishable by a fine or up to five years of imprisonment.

Article 268
Humiliation of the Republic and its symbols

(Amended by law No. 23/2012, dated 01.03.2012, Article 36)

Intentional damage to the flag or emblem of the Republic, exhibited in public institutions, shall constitute a criminal offence and is punishable by a fine or imprisonment of up to three months.

Public humiliation of the flag or national anthem, during an activity organised by state authorities, shall constitute a criminal offence and is punishable by a fine or imprisonment of up to three months."

Article 269
Obstruction by use of force of the activity of political parties

Forcible obstruction of the lawful activity of political parties, organizations or associations constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 270
Prisoner's rebellion

Use of force by prisoners against an official holding a state duty or public service, which is made in order to prevent the exercise of the duty or service or because of the activity, is punishable by a fine or up to five years of imprisonment.

When use of force is conducted by a group of persons or is accompanied with riots and disorders or threats and intimidation, it is punishable by a fine or up to ten years of imprisonment.

Article 271
Disinformation of emergency units

Intentionally providing false information to emergency units to hinder their effectiveness, committed by any means of information or communication, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 272
Providing false information to police

Providing false information to police about the commission of a criminal offence, with the intention of placing them into a state of readiness or alarm, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 273
Leaving the scene of an accident

Leaving the scene of an accident by a driver of a vehicle or of any other motorized means of transport, in order to avoid criminal, civil or administrative liability, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 274
Disturbing public peace

(Added paragraph II upon the Law No. 44/2019, dated 18.7.2019)

Throwing stones or other items into the premises of a citizen, creating disturbing loud noises such as gunshots or other blasts, illegal use of horns, or any other indecent behavior in streets, squares and public places, which clearly disturb the peace and moral or show open disregard for environmental issues, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Carrying out economic activity causing/generating noise at variance with the law or exceeding the legally permitted limits, evidently disturbing peace in inhabited zones or in public premises, shall, as long as the administrative measures has already been taken, be sentenced to a fine or imprisonment up to two years.

Article 274/a

Attacking the sportsman, trainer, referee or the sports mediator

(Amended by Law No. 44/2019, dated 18.7.2019)

Attacking or other violent acts against the sportsmen, coaches, sports mediator in connection with the sports activity by the persons outside this activity shall be sentenced to imprisonment from one up to three years.

This very offence, when committed in sports premises, or more than once or being carried out by managers or members of sports clubs, is sentenced to imprisonment of from one to five years.

Article 274/b

Violent actions in sports activities

(Amended by Law No. 44/2019, dated 18.7.2019)

Stepping onto the pitch in the course of the sports activity by unauthorised persons consists a criminal contravention and it shall be sentenced to a fine from 50 000 ALL up to 100 000 ALL. Where the outcome of this offence is the hindering of the normal conduct of the sports activity shall be sentenced to a fine or imprisonment up to three months.

Throwing solid objects onto the pitch or onto the number of people, possessing or using pyrotechnical substances, fireworks or torches in the course of the conduct of a sports activity shall be sentenced to imprisonment from seven months to three years.

Article 275

Malevolence use of phone calls

Malevolence use of telephone calls made to disturb another's peace constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

Article 276

Unlawful use of the Red Cross emblem

Unlawful use of the emblem of the Red Cross or the Red Crescent, when it has caused serious material consequences, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

When the criminal offence has led to death or serious harm to the health of an individual, it is punishable by a fine or up to ten years of imprisonment.

Article 277 Vigilantism

The exercise of a right by a person who retains the right or he thinks he retains the right which is not recognized by the other person without addressing to the competent State body, constitutes criminal contravention and is punishable by a fine or up to three months of imprisonment.

Article 278 Illegal manufacture and possession of firearms, explosives and ammunition

(Paragraph I and II added up by Law No. 8279, dated 15.01.1998, Paragraph I, II and III amended, and paragraph IV added up by Law No. 8733, dated 24.01.2001, Amended by Law No. 144, dated 02.05.2013, Added up and amended by Law No. 98, dated 31.07.2014; Added up two paragraphs by law No. 135/2015, dated 5.12.201; repealed fifth and sixth paragraph upon the decision of the Constitutional Court No. 9, dated 26.2.2016, amended by law No. 82 / 2016, dated 25.7.2016, amended paragraph I by law No. 44/2019, dated 18.7.2019)

Possession of weapons, explosive weapons or substances in vehicles or in any other self-propelling means in public premises or premises accessible to the public without the leave of the competent state authorities shall be sentenced to imprisonment from five to seven years

This very offence, when committed more than once or in considerable quantities, shall be sentenced to imprisonment of from seven to fifteen years. Possession of military ammunition without the leave of the competent state authorities shall consist a criminal contravention and it shall be punished to a fine or to imprisonment up to two years.

Possession of weapons in the residence without the leave of the competent state authorities shall be punished to imprisonment from one up to three years. Possession of explosive weapons or substances in the residence without the leave of the competent state authorities shall be punished to imprisonment from one up to four years.

The production, sale, purchase, offering for sale, trading and transporting of military weapons and ammunition, explosive substances and weapons, without the leave of the competent state authorities shall be punished to imprisonment from five up to ten years.

The same offence provided for in the fifth paragraph of this Article, where committed in considerable quantities, in complicity, more than once or having incurred serious consequences, shall be punished to imprisonment from seven to fifteen years.

Forging or deleting, displacing or illegally changing the marks on the

military weapons and ammunition shall be punished to imprisonment from one to five years.

Article 278/a

Trafficking of weapons and ammunition

(Added up by Law No. 8733, dated 24.01.2001, Article 61; Words added up by Law No.144, dated 02.05.2013, Article 44)

Importing, exporting, transiting and trading of military weapons and ammunition or their component parts in conflict with the law, with the purpose of material benefits, or any other benefits, is sentenced to imprisonment of from seven to fifteen years.

This very act, when committed in collaboration or more than once, or when it brought about serious consequences, is sentenced to imprisonment of from ten to twenty years.

Article 278/b

Production, possession, trading of nuclear or chemical weapons

(Amended by Law No. 44/2019, dated 18.7.2019)

Production, possession, trading in nuclear or chemical weapons of mass destruction to the population shall be sentenced to imprisonment from fifteen to twenty years.

Article 279

Illegal Manufacture, carrying, purchase or sale of cold weapons

(Amended by law No. 144, dated 02.05.2013, Article 45)

Manufacture, possession, purchase or sale of cold weapons such as swords, bayonets, knives, and other means prepared and intended specifically for assaulting people or for self-defence, without the permit of the competent State bodies, is punishable by fine or imprisonment of up to three years.

Carrying, purchase or sale in vehicles or any other motorized means, in public places or places open to the public, of cold weapons such as swords, bayonets, knives and other means prepared and intended specifically for assaulting people or for self-defence, without the permit of the competent bodies punishable to imprisonment from one to five years.

Article 280

Illegal manufacture and possession of hunting and sportingrifles

Manufacture, possession, purchase and sale of hunting or sporting rifles, as well as their ammunition, without the permit of the competent State bodies, constitutes criminal contravention and is punishable by a fine or up to two

years of imprisonment.

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Article 281

Breach of rules on poisonous substances

Breach of defined rules to keep, manufacture, use, store, transport or sale of poisonous substances with strong effect, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

When the criminal offence has led to death, serious harm to the health of people or other serious material consequences, it is punishable by a fine or up to ten years of imprisonment.

Article 282

Breach of rules on explosive and flammable substances

(Amended by Law No. 98 / 2014, dated 31.7.2014, changed the wording by law No. 135 / 2015, dated 5.12.2015, changed the title and wording in paragraph I by law No. 44/2019, dated 18.7.2019)

Breach of defined rules to keep, manufacture, use, store, transport and trade of explosives of flammable substances shall be sentenced to imprisonment from one to five years. When the criminal offence has led to death or has caused serious harm to the health of people or other serious material consequences, shall be sentenced to imprisonment from two up to ten years.

Article 282/a

Trafficking of explosive, flammable and poisoning substances

(Amended by Law No. 8733, dated 24.1.2001, changed the title and wording in paragraph I by law No. 44/2019, dated 18.7.2019)

Importing, exporting, transiting and trading, at variance with the law on the explosive, flammable or poisoning substances, to the effect of material profit or any other benefit shall be sentenced to imprisonment from seven up to fifteen years.

This very offence, when committed in complicity, or more than once or causing serious consequences, is sentenced to imprisonment of from ten to twenty years.

Article 282/b
Training on unlawful manufacturing and use of weapons and other dangerous substances

(Added up by Law No. 9686, dated 26.02.2007, Article 23)

Preparation, training, providing instructions in any form, anonymously or electronically, in conflict with the law, for the production or use of explosives, firearms, and military ammunition, other weapons and biologic, bacteriologic, nuclear materials or of any other kind, hazardous or dangerous to the people and property, when it does not constitute another criminal offence, is sentenced to imprisonment of from two to seven years.

Article 282/c

Import, export, transit, trade, production, possession, transport or distribution of basic chemical substances, or whatsoever other substances, technologies, equipment and materials, if it is known that they are used or will be used for the manufacture or trafficking of mass destruction, chemical and biological weapons, shall be punishable by from three up to ten years of imprisonment.

The same offence, when committed in collaboration or more than once, shall be punishable by from five up to fifteen years of imprisonment.

Organization, running and financing of this activity shall be punishable by from ten to twenty years of imprisonment.

Article 283
Production and sale of narcotics

Sale, offer for sale, giving or receiving of any form, distribution, trading, transport, sending, delivering, and keeping, besides cases when it is for personal use and in small doses, of narcotic and psychotropic substances and seeds of narcotic plants, in conflict with the law, is sentenced to imprisonment of from five to ten years.

This very offence, when committed in complicity, or more than once, is sentenced to imprisonment of from seven to fifteen years.

Organization, management or financing of this activity is sentenced to imprisonment from ten to twenty years.

Article 283/a

Trafficking of narcotics

(Added up by Law No. 8279, dated 15.01.1998, Article 2; Amended by Law No. 8733, dated 24.01.2001. Article 64)

Import, export, transit and trade of narcotic and psychotropic substances and narcotic plant seeds in contradiction with the law is sentenced to imprisonment from seven to fifteen years.

This very act, when committed in complicity, or more than once, is sentenced to imprisonment from ten to twenty years.

Organization, running or financing of such activity is punishable by imprisonment of not less than fifteen years.

Article 283/b

Facilitation of drugs intake and use

(Added by Law No. 8733, dated 24.01.2001, Article 65)

Facilitation of the intake and use of narcotic or psychotropic substances in contradiction with the respective legal provisions by the persons who because of their duty administer such substances, is punishable by imprisonment from three to seven years.

Article 284

Cultivation of narcotic plants

(Paragraph I and III are amended, Paragraph II is added up by Law No. 8733, dated 24.01.2001, Article 66)

Cultivation of plants that serve or are known to serve for the production and extraction of narcotic and psychotropic substances, without permission and authorization by law, is punishable by imprisonment from three to seven years.

The same act, when committed in complicity, or more than once, is punishable by imprisonment from five to ten years.

Organization, running or financing of this activity is punishable by imprisonment from seven to fifteen years.

Article 284/a

Organizing and leading criminal organizations

(Added by Law No. 8279, dated 15.01.1998, Article 2)

Organizing, leading and financing criminal organizations with the goal of cultivating, producing, fabricating or illegal trafficking of the narcotics is punishable by imprisonment of ten up to twenty years.

Creation of conditions or facilities for such activities by persons holding state functions is punishable by imprisonment from five to fifteen years.

Article 284/b

Supporting the disclosure of crimes

(Added by Law No. 8279, dated 15.01.1998, Article 2; Abrogated by law No.144, dated 02.05.2013)

Article 284/c

Production and manufacturing of narcotic and psychotropic substances

(Added by Law No. 8733, dated 24.01.2001, Article 67)

Production, manufacturing, extracting, refining, preparing without license or by surpassing the ingredient limits of narcotic and psychotropic substances, is punishable by imprisonment from five to ten years.

This very act, when committed in complicity, or more than once, is punishable by imprisonment from seven to fifteen years.

Organizing, running, or financing this activity is punishable by imprisonment from ten to twenty years.

Article 284/ç

Production, trade, and illegal use of precursors

(Added by Law No. 8733, dated 24.01.2001, Article 67)

Production, import, export, transit, trade and holding of precursors (that are included, based on the law, in the pertinent charts/tables) is punishable by imprisonment up to five years.

This very act, when committed in complicity, or more than once, is punishable by imprisonment from three to seven years.

Organizing, running, or financing this activity is punishable by imprisonment from five to fifteen years.

Article 284/d

Production and trade of pharmaceuticals and medical devices counterfeited or dangerous to life and health

Production, possession for commercial purposes, sale or offering for sale, supply, distribution, export, import of pharmaceuticals, active substances or auxiliary materials for their production, as well as medical products and devices, accessories, components or their materials counterfeited or dangerous to life and health, shall be punishable by from six months to five years of imprisonment.

If this offence is committed during the exercise of a professional activity, through internet, in collaboration or more than once, it shall be punishable by from three to seven years of imprisonment.

If the same offence has caused serious consequences to life and health, it shall be punishable by imprisonment of not less than ten years.

Article 285

Keeping, producing, and transporting chemical substances

(Amended by Law No. 8733, dated 24.01.2001, Article 68)

Production, keeping, transportation or distribution of basic or other kind of chemicals, equipment, materials, if it is known that they are used or will be used to illegally produce or traffic narcotic or psychotropic substances, is punishable by imprisonment from three to ten years.

Article 285/a

Adjusting of premises for drugs use

(Added by Law No. 8733, dated 24.01.2001, Article 69)

Adjusting or allowing the adaptation of premises, buildings, vehicles and any other public or private means in order to gather people; so that, they may use narcotic or psychotropic substances, is punishable by imprisonment up to five years.

Article 285/b

Throwing away or getting rid of syringes

(Added by Law No. 8733, dated 24.01.2001, Article 69)

Throwing away or leaving behind syringes used for narcotic and psychotropic substances, in public places or sites that are considered open for the public and in private premises, does constitute a criminal contravention and is punished by a fine or imprisonment up to one year.

Article 286

Inducing the use of drugs

(Amended by law No. 8733, dated 24.01. 2001, Article 70)

Urging/ other people to use narcotic and psychotropic substances or giving them for use or injecting them to other people without their knowledge or consent, is punished by imprisonment from five to ten years.

When the inducing or forced injection is conducted upon children or in penitentiary, educational, sport or any other institutions providing social activity, it is punishable not less than fifteen years of imprisonment.

Article 286/a

Illegal use of high technology

(Added by Law No. 8733, dated 24.01.2001, Article 71)

Production and running of telematics systems, equipment, and means of high technology, in cases of criminal acts provided for in the articles 283 until 286/a of this Code, or when this technology is used to facilitate or enable the consumption of narcotic or psychotropic substances, or broadcasting advertisements to promote their use, is punishable by imprisonment up to five years.

Article 287

Laundering the Proceeds of Criminal Offence or Criminal Activity

(Amended by law No. 9086, dated 19.06.2003, article 8; letter "dh" added by Law No. 9275, dated 16.09.2004, article 24; letter "a" point 1, amended; letter "ç" repealed by Law No. 9686, dated 26.02.2007, article 24; amended by Law No. 23/2012, article 37; the part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Laundering of the proceeds of a criminal offence or criminal activity, through:

- a) Exchange or transfer of property, for purposes of concealing or disguising its illicit origin, knowing that such property is a proceed of a criminal offence or activity;
 - b) Concealing or disguising the real nature, source, location, disposition, relocation, ownership or rights in relation to the property, knowing that such property is a proceed of a criminal offence or activity;
 - c) Obtaining ownership, possession or use of property, knowing at the time of its acquisition, that such property is a proceed of a criminal offence or activity;
 - ç) Conducting financial operations or fragmented transactions to avoid reporting, according to the legislation on the prevention of money laundering;
 - d) Investing money or items in economic or financial activities, knowing that they are proceeds of a criminal offence or activity;
 - dh) Advising, assisting, inciting or making a public call for the commission of any of the offences defined above;
- shall be punished by imprisonment of five to ten years.

Where that offence has been committed in the exercise of a professional activity, in complicity, or more than once, it shall be punished by imprisonment of seven to fifteen years.

Where that offence has caused grave consequences, it shall be punished by imprisonment of no less than fifteen years. The provisions of this Article shall apply where:

- a) The criminal offence, the proceeds of which are laundered, has been committed by a person who cannot be prosecuted as a defendant or who cannot be punished;
- b) Criminal prosecution for the offence the proceeds of which are laundered, has reached the statute of limitations or has been amnestied;
- c) The person who performs laundering of the proceeds is the same person who committed the offence, from which the proceeds have derived;
- ç) No criminal prosecution has been initiated, or no punishment has been imposed by a final criminal decision in relation to the criminal offence, from which the proceeds have derived;
- d) The offence, the proceeds of which are laundered, has been committed by a person, regardless of his citizenship, outside of the territory of the Republic of Albania, and is also punishable both in the foreign country and Republic of Albania.

Knowledge and intent, under the first paragraph of this Article, shall be derived from objective factual circumstances”.

Article 287/a

Opening of the anonymous accounts

(Amended by law No. 9086, dated 19.06.2003, article 9; the part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Opening of deposits or bank accounts, anonymously or in fictitious names, is punished by imprisonment of up to three years.

Article 287/b

Appropriation of Money or Goods Resulting from Criminal Offence or Criminal Activity

(Added by Law No. 9686, dated 26.02.2007, article 25; amended by law No. 23/2012, dated 01.03.2012, article 38; the part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Whoever buys, receives, conceals or, in any way, appropriates for himself or a third party, or assists in purchasing, receiving, concealing or using money or other goods, knowing that another person has benefitted the money or goods as a result of committing a criminal offence or activity, shall be punished by imprisonment of six months to three years.

The first paragraph of this Article shall be applicable despite the legal prohibition to hold the person who has committed the criminal offence criminally liable, from which appropriation of money or other goods has resulted”.

Article 288

Producing, producing, selling and storing food and othersubstances dangerous to the health and human life

(Amended by Law No. 44/2019, dated 18.7.2019)

Importing, producing, storing or selling or putting in circulation, in any other way, foods, or inserting with the production of food articles or chemicals materials or additional substances risking the human health or life, in breach of the specific legislation, shall be sentenced to imprisonment up to three years.

When this offence has caused death or serious harm to the health of a person, this shall be sentenced imprisonment from three to ten years.

When this offence has caused death or serious harm to the health of many persons, this shall be sentenced imprisonment from ten to twenty five years.

Article 288/a

Illegal production of industrial and food items/commodities

(Added by Law No. 8733, dated 24.01.2001, article 73)

Illegal production of industrial and food items/commodities constitutes a criminal contravention and is punishable by a fine or imprisonment up to two years.

This very act, when committed in complicity, or more than once, or when it brings about serious consequences, is punished by imprisonment from three to ten years.

Article 288/b

Trade and release for consumption of combustible substances contrary to legal standards of quality

Falsification, trade or release for consumption of counterfeited oil sub products, which are used as combustible substance, as provided for in the legislation in force for processing, transportation and trade of oil and sub products thereof, shall be punishable by imprisonment up to five years.

The same offence, when committed in collaboration, more than once, or has caused serious material damages and damages to health, or ecosystem destruction, shall be punishable by from three to ten years of imprisonment.

Article 288/c
Fraud with food products

(Amended by Law No. 44/2019, dated 18.7.2019)

Importing, producing, storing offering for sale, forging, selling or putting in circulation, in any other way, of foods, additional materials or substances in the production and processing of food articles, whereon the contents have been labelled which do not correspond to the contents, type, categorisation, origin, quantity or quality of the product or products missing out the above data, as provided for in the effective legislation, or putting forward false data on the labels of the food products endangering the health or life of people shall be sentenced to imprisonment up to three years.

This very offence, when committed in complicity, or more than once or causing serious consequences to the human health, is sentenced to imprisonment of from three to ten years.

Article 288/ç
**Distorting the security signs put by state bodies in the field
of food safety**

(Amended by Law No. 44/2019, dated 18.7.2019)

The intentional distortion of the safety signs having been put by the state bodies in the field of the food safety for the purpose of supervision, control or suspension of the commercial activity inside the economic premises, onto the transport vehicles or on goods, for the purpose of relocating the food products or resumption of the activity shall be sentenced to imprisonment up to three years.

Article 289
Breach of safety rules at work

Causing death or serious harm to the health of an individual because of disregard of rules related to work, production, service, provided for by laws, acts of the Council of the Ministers or in the pertinent regulations of technical safety, technical discipline, work-related protection, hygiene and fire safety by an individual designated to respect those rules and to implement them, is punishable by a fine or up to ten years of imprisonment.

When the criminal act has caused death or serious harm to the health of more than one person, it is punishable by no less than five years of imprisonment.

Article 290

Violation of road traffic regulations

(Amended by law No.144, dated 02.05.2013, article 46)

Violation of road traffic regulations, when it causes minor injuries to more than one person, shall be punishable by a fine or up to one year of imprisonment.

Violation of road traffic regulations, when it causes the serious injury of a person shall be punishable by one to five years of imprisonment.

Violation of road traffic regulations, when it causes the death of a person shall be punishable by two to ten years of imprisonment

When the criminal offence causes the death or serious injury of more than one person, it shall be punishable by five to twenty years of imprisonment.

Article 291

Driving vehicles inappropriately

(Amended by law No. 144, dated 02.05.2013, article 47;

Amended by Law No. 98, dated 31.07.2014, article 7)

Driving the vehicles or the other motor-driven means under the impact of the alcohol, under the impact of narcotics or in absence of the respective driving licence shall be sentenced to imprisonment from ten days up to three years.

The court may decide the replacement of the imprisonment sentence to the payment of an amount to the benefit of the state.

Article 292

Violation of working-standards in transportation

Violation of working-standards in railway, water, or air transportation by transport employees, which has caused death or serious harm to the health of an individual, is punishable by a fine or up to ten years of imprisonment.

When the criminal offence has caused death or serious injury to more than one person, it is punishable by no less than five years of imprisonment.

Article 293

Obstructing the movement of transport vehicles

(Amended by Law No. 44/2019, dated 18.7.2019)

Placing obstacles in the way of, or blocking by any means, the movement of any means of transportation, whether automobile, railway, water or air transport shall be sentenced to a fine or up to three years of imprisonment.

Article 293/a**Unlawful wiring of computer data**

(Added by Law No. 10023, dated 27.11.2008, article 23)

Unlawful wiring through technical equipment of non-public transmissions of the computer data from/or within a computer system including electromagnetic emissions from one computer system that contains such computer data is punishable by imprisonment from three to seven years.

When this very act is committed from/or within military, national security, public order, civil protection computer systems or in any other computer system of public importance, it is punishable by imprisonment from seven to fifteen years.

Article 293/b**Interference in computer data**

(Added by Law No. 10023, dated 27.11.2008, article 23) (Added by the law No. 36/2017)

Unauthorized damaging, distorting, modifying, deleting or suppressing of computer data is punishable with imprisonment from six months to three years.

When this very act is committed on military, national security, public order, civil protection and healthcare computer data or on any other computer data of public importance, it is punishable by imprisonment from three to ten years.

When the actions foreseen in paragraph 1 are committed by a child, the provisions of the Code of Justice for Children shall apply in relation to the child.

Article 293/c**Interference in computer systems**

(Added by Law No. 10023, dated 27.11.2008, article 23) (Added by the law No. 36/2017)

Creating serious and unauthorized obstacles in order to harm the operation of a computer system, through entering, damaging, distorting, modifying, deleting or suppressing the data is punishable by imprisonment from three to seven years.

When this very act is carried out in military, national security, public order, civil protection and healthcare computer systems or in any other computer system of public importance, it is punishable by imprisonment from five to fifteen years.

When the actions foreseen in paragraph 1 are committed by a child, the provisions of the Code of Justice for Children shall apply in relation to the child.

Article 293/ç
Misuse of equipment

(Added by Law No. 10023, dated 27.11.2008, article 23)

Manufacturing, keeping, giving for use, disseminating or any other action to place at disposal an equipment including a computer software, computer password, access code or another similar data that have been created or adjusted to access a computer system or a part thereof, aiming to commit a criminal offence envisaged by articles 192/b, 293/a, 293/b and 293/c of this Code is punishable by imprisonment from six months to five years.

Article 293/d
Unauthorised sale of SIM cards

(Added by Law No. 98, dated 31.07.2014, article 8)

The infringement of the rules set out for the distribution, sale and provision with products/SIM cards shall consist a criminal contravention and shall be punished to a term of thirty days up to six months of imprisonment.

SECTION IV
CRIMINAL ACTS AGAINST STATE SECRETS AND STATE BORDERS

Article 294

Disclosure of state secrets by a person entrusted with the information

Disclosure, dissemination and informing of facts, figures and contents of documents or materials which, according to a publicly known law, constitute state secrets, by the person entrusted with it or who became aware of such information because of his capacity, is punishable by a fine or up to five years of imprisonment.

When the same act is committed publicly, it is punishable by a fine or up to ten years of imprisonment.

Article 295
Disclosure of state secrets by citizens

Disclosure, dissemination and informing of facts, figures, and contents of documents or materials that, according to a publicly known law, constitute state secrets, by any person who becomes informed of them, is punishable by a fine or up to three years of imprisonment.

When the same act is committed publicly, it is punishable by a fine or up to five years of imprisonment.

Article 295/a

Disclosure of secret documents or data

(Added by Law No. 9686, dated 26.02.2007, article 26; Amended by law No. 23/2012, dated 01.03.2012, article 56)

Disclosing to third parties the data or assisting to disclose the data that the law provides for as secret, by a public official or a person in charge of a public service, contrary to the regular exercise of duties or abusing with official capacities, is punishable by fine or imprisonment up to five years.

Disclosing to third parties of data, that constitute industrial or professional commercial secret, by public persons that have the duty to preserve them, is punishable by fine or imprisonment up to three years.

Disclosing of secret documents or data contained in secret documents by the prosecutor of the judicial police officer, as well as the failure to comply with the obligations defined in article 103 of the Criminal Procedure Code, is punishable by imprisonment from one up to five years.

Disclosing of secret documents or data contained in secret documents by other persons that have information about a criminal proceeding and are warned by the prosecutor or the judicial police officer on the obligation not to disclose information, is punishable by imprisonment up to three years.

Disclosing of secret data related to the identity, collaboration or protection process, or location of witnesses and justice collaborators, who benefit special protection according to legislation in force, is punishable by imprisonment from two to six years.

Disclosing of a secret that resulted in death, serious injury or serious danger to life and health of witnesses or justice collaborators, their family members or police officers in charge of their protection, is punishable by imprisonment from three up to eight years.

Article 295/b

Illicit Use of Trade Data

(Added by law No. 23/2012, dated 01.03.2012, article 39)

Trading a product or providing a service through the use of information or data that constitute a trade secret or privileged information by persons who have or should have the information or data, shall be punished by a fine or imprisonment of up to four years”.

Article 296
Loss of secret documents

Loss of documents or other materials, which, according to a publicly known law, constitute state secrets, by the person in charge of their protection and use, is punishable by a fine or up to three years of imprisonment.

Article 297
Illegal crossing of the state borders
(Added by Law No. 8279, dated 15.01.1998, article 2;
Amended by Law No. 9188, dated 12.02.2004, article 8)

Illegally crossing the state borders constitutes a criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 298
Assistance for illegal crossing of borders
(Amended by Law No. 9188, dated 12.02.2004, article 9; The title and first paragraph amended by Law No. 9686, dated 26.02.2007, article 27;
Amended by law No. 23/2012, dated 01.03.2012, article 56;
The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013)

Sheltering, accompanying, putting at the disposition or use of means of sea transport, air transport or other means of transport, with the purpose of assisting in the illegal crossing of the borders of the Republic of Albania or in the illegal entrance of a person in another country without being its citizen or without residence permit for that country, is punished with imprisonment of from one to four years.

When the assistance is given for purposes of profit, it is punished with imprisonment of from three to seven years.

When this offence is committed in collaboration or more than once or has brought serious consequences, it is punished with imprisonment of from five to ten years.

When the offence has led to the death of the victim as a consequence, it is punishable with imprisonment of no less than fifteen years or with life imprisonment. When the criminal offence is committed through the utilization of a state function or public service, the punishment is increased by one fourth of the punishment given.

Article 299
Breach of flight rules

Breach of international flight rules such as entering or leaving the territory of

the Republic of Albania without a flight permit, ignoring flight lanes, landing places, flight corridors or designated flying altitude, is punishable by a fine or up to five years of imprisonment.

CHAPTER IX CRIMINAL ACTS AGAINST JUSTICE

Article 300 Failure to report a crime

Failure to report, to the criminal prosecution bodies, to the court, to the public order bodies, [or to the appropriate] authorities or administration, a crime that is being committed or which has been committed, is punishable by a fine or up to three years of imprisonment.

Lineal ascendants and descendants, brothers and sisters, spouses, stepparents and stepchildren, as well as persons obliged to keep secrecy because of their capacity or profession, are excluded from the obligation to report.

Article 301 Obstruction of justice

Committing actions to change the crime scene by spoiling, changing or removing traces or by moving, hiding, annihilating, stealing, falsifying an item or document with the intent of increasing the difficulty on preventing the discovery of a criminal act and its perpetrator, is punishable by a fine or up to three years of imprisonment.

Article 302 Supporting the Perpetrator

(Paragraph II added by Law No. 9275, dated 16.09 2004, article 25; Paragraph II added by Law No. 9686, dated 26.02.2007, article 28)

Supplying the perpetrator of a crime with food, other means of living, or providing him housing, lodging or with any other assistance with the intent of preventing his discovery from search, apprehension or arrest, is punishable by a fine or up to five years of imprisonment.

The same crime when committed in association to criminal crimes provided in articles 73, 74, 75, 79, 219, 220, 221, 230, 230/a, 230/b, 231, 232, 232/a, 234/a, 234/b, 284/a, 333, 333/a, of this Code, it is punishable with imprisonment for a term of from two to seven years.

Lineal ascendants and descendants, brothers and sisters, spouses, stepparents and stepchildren are excluded from criminal responsibility.

Article 303

Hiding or disposing of a corpse

Hiding or disposing of the corpse of a murder victim, or other violent acts, committed with the intent of assisting the perpetrator to evade from a search, apprehension and arrest, is punishable by a fine or up to five years of imprisonment.

Article 304

Obligation to report the evidence

Failing to appear promptly to report or testify before the prosecutor, court or public order bodies about the known evidence which exculpates an accused or convicted person from a criminal offence, is punishable by a fine or up to five years of imprisonment.

The perpetrator of the criminal act, as well as the individuals who become aware of the evidence because of their capacity and profession and due to this reason are compelled not to report or testify, are excluded from the obligation to report.

Article 305

False reporting

Falsely reporting a crime that has not been committed, or falsely reporting a person who is known that has not committed a crime, as well as fabricating false evidence with the intent of commencing criminal proceedings, is punishable by a fine or up to five years of imprisonment.

Article 305/a

False declarations before the prosecutor

(Added by Law No. 9686, dated 26.02.2007, article 29)

Whoever that, during investigations or criminal proceedings, is interrogated by a prosecutor to give appropriate information on the investigation, gives oral or written information knowing that this information is, completely or partially, false or hides facts or evidence is punishable by fine or imprisonment up to one year.

The provisions of this article are not applicable if the act was committed at any stage of the criminal proceedings by a suspect or defendant for the criminal offence or by a person that should have been exempted of the obligation to give information or testimony for any legal ground, or by a person that was not warned for the right not to testify or answer questions.

Article 305/b

False declarations before the judicial police officer

(Added by Law No. 9686, dated 26.02.2007, article 29)

Whoever that, during an investigation is interrogated by a judicial police officer to provide appropriate information, gives verbal or written information knowing that this information is completely or partially false, or hides facts or evidence, commits a criminal contravention which is punishable by fine or imprisonment of up to six months.

The provisions of this article are not applicable if the act was committed at any stage of the criminal proceedings by a suspect or defendant for the criminal act or by a person that should have been exempted by the obligation to give information or testimony for any legal ground, or who was not warned for the right not to testify or to answer questions.

Article 306

Perjury

(Paragraph I amended by Law No. 8733, dated 24.01. 2001, article 75; Paragraph III added by Law No. 9275, dated 16.09.2004, article 26) Paragraph III amended by Law No. 9686, dated 26.02.2007, article 30)

Perjury in front of the court constitutes a penal contravention punishable by a fine or imprisonment up to two years.

When the false testimony is given for purposes of profit or any other interest given or promised, it is punishable by a fine or up to three years of imprisonment.

When this offence is committed in relation to criminal offences provided by articles 234/a, 234/b, 284/a, 333, 333/a, of this Code, it is punishable with imprisonment for a term of two to six years.

Article 307

Refusing to testify

(Paragraph II amended, the last paragraph added by Law No. 9686, dated 26.02.2007, article 31)

Refusing to answer questions concerning knowledge of a criminal offence or its perpetrator, constitutes criminal contravention and is punishable by a fine or up to one year of imprisonment.

When the refusal to testify is made for purposes of profit or any other interest given or promised, it is punishable by imprisonment from one up to four years.

The provisions of this article are not applicable if the act was committed at

any stage of the criminal proceedings by a suspect or defendant for the criminal act or by a person that should have been exempted by the obligation to give information or testimony for any legal ground, or by a person that was not warned for the right not to testify or to answer questions.



Article 308
False translation

Intentional distortion of the content of a document or writing offered for translation by the criminal prosecution bodies or by the court, or false translation committed in front of them constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

When the false translation is made for purposes of profit or any other interest given or promised, it is punishable by a fine or up to three years of imprisonment.

Article 309
False expertise

Intentional provision of false results of reports conducted by an expert, in writing or verbally before criminal prosecution body or before the court is punishable by a fine or up to three years of imprisonment.

When false expertise is provided for purposes of profit or any other interest given or promised, it is punishable by a fine or up to five years of imprisonment.

Article 310
Failure to appear as a witness, expert or translator

Failure to appear as a witness, expert or translator, without reasonable cause, or refusal to carry out duties assigned by the criminal prosecution body or the court, constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

Article 311
Intimidation not to report

(Amended by Law No. 9686, dated 26.02.2007, article 32; Amended by law No.23/2012, dated 01.03.20012, article 56)

Intimidation of the person aggrieved by the criminal offence, with the intention to make him not denounce, complain or to withdraw the lawsuit or complaint filed, is punishable by imprisonment from one up to four years.

Article 312

Active corruption of the witness, expert or interpreter

(Amended by Law No. 9275, dated 16.09.2004, article 27;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, article 48)

Direct or indirect proposal, offer, or giving to a witness, expert or translator any irregular benefit for himself or a third party in order to secure false declarations or testimony, expertise or translation or to reject carrying out their obligation to the criminal prosecution bodies and the court is punished with a prison term of up to four years.

Article 312/a

Intimidation to issue false statements, testimonies, expertise or interpretation

(Added by Law No. 9275, dated 16.09.2004, article 28;

Amended by Law No. 9686, dated 26.02.2007, article 33)

Intimidation or other violent acts to a person to secure false declarations or testimony, expertise or translation or to reject carrying out their obligation to the criminal prosecution bodies and the court is punished with a prison term of one up to four years.

Article 313

Unlawful commencement of prosecution

Unlawful commencement of prosecution by the prosecutor against a person who is known to be innocent is punishable by a fine or up to five years of imprisonment.

Article 313/a

Disappearance or loss of files

(Added by Law No. 8733, dated 24.01.2001, article 77)

Disappearance or loss of any kind of investigation files and court case files, or removing parts of documents, or other data attached to them, when they brought about serious consequences at the detriment of citizens or the state, is punishable by a fine or imprisonment up to five years.

Article 313/b

Prohibition on providing and publishing data contrary to the law

(Added by Law No. 9275, dated 16.09.2004, article 29; Amended by law No. 23/2012, dated 01.03.2012, article 56) (Amended by the law No. 36/2017)

1. Disclosure or publication, in whatever form and contrary to the law, of classified and confidential data that endanger life, physical integrity or

freedom of the protected persons, according to the legislation in force on the protection of witnesses and justice collaborators, in order to detect these persons, shall be punished by fine or up to two years of imprisonment.

2. When commission of this criminal offence results in serious consequences on their health the punishment shall be imprisonment from 6 months to three years.

3. When this offence is committed by one of the persons who are entitled to protect the classified and confidential character of the information, it is punishable with fine or imprisonment for a term of up to three years and, when from the commitment of this offence have come serious consequences to their health, it is punishable with an imprisonment term of two to five years.

4. When the offence has caused the death as a consequence, it is punishable with imprisonment from three to ten years.

Article 314

Use of violence during investigation

Use of violence by the person in charge of an investigation to force a citizen to make a statement, give testimony or confess his guilt or someone else's guilt, is punishable by three to ten years of imprisonment.

Article 315

Unfair sentencing

(Repealed by decision of the Constitutional Court No. 11, dated -2.04.2008)

Article 316

Opposing and assaulting a judge

Violently opposing, assaulting or committing other violent acts against a judge or other members of the judicial panel, a prosecutor, defense lawyer, experts, any arbitrator assigned to a case, with the intent to prevent him from carrying out his duty or because of it, is punishable by a fine or up to seven years of imprisonment.

Article 317

Threat to a judge

A threat to a judge, other members of a judicial panel, prosecutor, defense lawyer, experts, or every arbitrator assigned to a case because of their activity, is punishable by a fine or up to three years of imprisonment.

Article 318
Insulting a Judge

(Amended by law No. 23/2012, dated 01.03.2012, article 40)

Insulting a judge or members of a judicial panel, prosecutor, defense lawyer or member of the arbitration, because of their activity in a case, constitutes criminal offence and is punishable by a fine or imprisonment of up to three months.”

Article 319

Active corruption of judges, prosecutors and other justice officials

(Amended by Law No. 9275, dated 16.09.2004, article 30; the part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Direct or indirect promising, proposal or offering of any irregular profit, for oneself or a third party, to a judge, prosecutor or any other employee of the judicial bodies in order to perform or omitting to perform an action relating to their duty, is punishable with a prison term of one to four years.

Article 319/a

Active Corruption of a Judge or Official of International Courts

*(Added by law No. 23/2012, dated 01.03.2012, article 42;
The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)*

Promising, proposing or offering, directly or indirectly, any kind of improper benefit for oneself or other persons, to a judge or official of international courts, for performing or omitting to perform an action relating to his/her duty or function is punishable by imprisonment of one to four years.

Article 319/b

Active Corruption of a Domestic and Foreign Arbitrator

*(Added by law No. 23/2012, dated 01.03.2012, article 42;
The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)*

Promising, proposing or giving, directly or indirectly, any kind of improper benefit for oneself or other persons, to a foreign or domestic arbiter, for performing or omitting to perform an action that relates to his/her duty, is punishable by imprisonment of one to four years.

Article 319/c

Active Corruption of Members of the Foreign Courts Juries

(Added by law No. 23/2012, dated 01.03.2012, article 42;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Promising, proposing or giving, directly or indirectly, any kind of improper benefit for oneself or other persons, to members of foreign courts juries, for performing or omitting to perform an action that relates to their duties, shall be punished by imprisonment of one to four years.

Article 319/ç

Passive corruption of the judges, prosecutors and other justice officials

(Added by Law No. 9275, dated 16.09.2004, article 31; Numbered by Law No. 23/2012, dated 01.03.2012, article 41;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, article 48)

Direct or indirect solicitation or reception of any irregular benefit or any such offer for oneself or a third person, by a judge, prosecutor, or other employees of the judicial bodies, or acceptance of an offer or promise deriving from an irregular benefit by the judge, prosecutor or other officials of the judicial bodies for performing or omitting to perform an action relating to their duty or function is punishable with a prison term of three up to ten years.

Article 319/d

Passive Corruption of a Judge or Official of International Courts

(Added by Law No. 23/2012, dated 01.03.2012, article 43;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Soliciting or receiving, directly or indirectly, of any kind of improper benefit or promise for oneself or other persons, or acceptance of an offer or promise of an improper benefit, by a judge or official of an international court, for performing or omitting to perform an action relating to his/her duty or function, is punishable by imprisonment of three to ten years.

Article 319/dh

Passive Corruption of a Domestic and Foreign Arbitrator

(The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Solicitation or receiving, directly or indirectly, of any kind of improper benefit or promise, for oneself or other persons, or acceptance of an offer or promise deriving from an improper benefit, by a domestic or foreign arbitrator for performing or omitting to perform an action related to his/ her duty or

function, is punishable by imprisonment of two to eight years.

Article 319/e

Passive Corruption of Members of the Foreign Court Juries

(Added by Law No. 23/2012, dated 01.03.2012, article 43;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Solicitation or receiving, directly or indirectly, of any kind of improper benefit or promise, for oneself or other persons, or acceptance of an offer or promise deriving from an improper benefit, by a member of foreign court juries, for performing or omitting to perform an action related to his/her duty or function, is punishable by imprisonment of two to eight years.

Article 320

Preventing the enforcement of court decisions

Hiding, altering, using, damaging or destroying the possessions which have been the subject of a court decision, or carrying out other acts with the intent to not execute or impede the enforcement of the court's decision, constitutes criminal contravention and is punishable by a fine or up to two years of imprisonment.

Article 320/a

The failure to execute the court decision without grounded reasons

(Added by Law No. 8733, dated 24.01.2001, article 78)

The failure to execute the criminal or civil decision of the court, with no grounded reasons, by the employee charged with the execution of the decisions, constitutes a criminal contravention and is punishable by a fine or imprisonment up to two years.

When this act is committed in order to obtain/solicit benefits or any other interests, given or promised, and when it favors persons that are interested not to see the decision being executed, it is punishable by a fine or imprisonment up to three years.

Article 321

Acts contrary to the decisions of the court

(The paragraph added by Law No. 23/2012, dated 01.03.2012, article 44)

Committing acts contrary to a court decision, in connection with duties arising from protection orders issued by it, shall constitute a criminal offence and is punishable by imprisonment of up to two years.

Article 322
Destruction of seals and signs

Intentional destruction of seals and other signs placed on different objects by the criminal prosecution and judicial bodies constitutes criminal contravention and is punishable by a fine or up to six months of imprisonment.

Article 323
Escape of the prisoner from the place of detention

Escape of a person under arrest, custody, or of a person sentenced to imprisonment from the place of (mandatory) detention or during his transportation from one place to the other, is sentenced up to five years of imprisonment.

When the criminal offence is committed violently or through the use of firearms, inflammable material, explosives or poisonous material, it is punishable by five to fifteen years of imprisonment.

Article 324
Assisting a prisoner to escape

Providing advice, information, tools for a detained, arrested or imprisoned person in order to escape from the place of mandatory detention, shall be punishable by from three to seven years of imprisonment.

When the assistance is given by a person in charge of guarding, supervising or transporting, or who, because of his capacity has the right to enter in penitentiary institutions or make contacts with detainees, arrested or imprisoned persons, it is punishable by five to ten years of imprisonment.

Article 324/a
Introduction or possession of prohibited items into institutions for enforcement of sentences of imprisonment

Introduction or possession of prohibited items into institutions for enforcement of sentences of imprisonment, which according to legislation in force are prohibited, shall be punishable by from one to three years of imprisonment.

The same offence, when committed in collaboration, more than once, or by the person whose task is to safeguard or to ensure physical safety, or because of his duty or profession has the right to enter in penitentiary institutions, shall be punishable by from five to ten years of imprisonment.

CHAPTER X
CRIMINAL ACTS AFFECTING FREE ELECTIONS AND THE
DEMOCRATIC SYSTEM OF ELECTIONS

Article 325

Obstructing Electoral Subjects

(Amended by law No. 23/2012, dated 01.03.2012, article 45) (Amended by law No. 89/2017, article 1)

Obstruction by means of threat, violence, or any other means, of electoral subjects or candidates to conduct their activities in accordance with the law during the election campaign, is punishable by imprisonment of one year up to five years”.

Article 326

Falsification of Election Material and Election Results

(Amended by law No. 23/2012, dated 01.03.2012, article 46;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No.144, dated 02.05.2013, article 48)

Counterfeiting, distributing or using voting ballots, election documents and material, for purposes of changing the election result, by presenting in them data which are known to be inaccurate, replacing accurate data with inaccurate data, or through unlawful ballot casting in the box, is punishable by imprisonment of one to five years.

Where that offence has been committed by persons who have a duty to administer the electoral process, or has caused serious consequences in the voting process, has adversely affected the integrity of election result, and caused them to be invalid, is punishable by imprisonment of three to seven years.

Article 326/a

Intentional Damaging of Electoral Material

(Added by Law by law No. 23/2012, dated 01.03.2012, article 47;

The part that provides fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Intentional damaging, deteriorating, destroying, or replacing contrary to the law equipment, seals, security codes or any other election material as provided for by law, is punishable by imprisonment of six months to five years.

Where those offences have been committed by persons responsible for electoral administration, or in complicity, or more than once, or where those offences have caused serious consequences in the elections progress, and caused

them to be invalid or adversely affected voting result, they are punishable by imprisonment of three to eight years.

Article 327

Violating voting secrecy

(Amended by law No. 23/2012, dated 01.03.2012, article 48) (Amended by law No. 89/2017, article 2)

The violation of the rules that guarantee the voting secrecy by the voter, through photographing the voting ballot or filming it or through the documentation by any means and form of the voting way, displaying them to other people, constitutes a criminal offence and is punishable by imprisonment of three months up to three years.

The violation of the rules which guarantee the voting secrecy by the people in charge of the elections constitutes a criminal offence and is punishable by imprisonment of six months up to three years.

The encouragement with or without a compensation or the constraining of the elector to violate the rules which guarantee the voting secrecy according to the first paragraph of this article constitutes a criminal offence and is punishable by imprisonment of one year up to four years."

Article 327/a

Voting More Than Once or without Being Identified *(Added by law No. 23/2012, dated 01.03.2012, article 49) (Amended by law No. 89/2017, article 3)*

Voting more than once in the same elections, voting for other persons, presenting false identification documents, or using documents of other voters is punishable by imprisonment of one to three years.

Intentional allowing by election commissioners of the commission of that offence is punishable by imprisonment of one to five years.

Intentional allowing by election commissioners of voting without identifying the citizens in compliance with the law constitutes a criminal offence and is punishable by imprisonment of six months to three years".

Article 328

Active corruption in elections

(Amended by Law no. 23/2012, dated 1.3.2012 and Law no. 89/2017, dated 22.5.2017, words removed by Law no. 146/2020, dated 17.12.2020)

Offering or giving money, material goods, promise for a job position or other favors in any form, to the voter or other related persons, in order to obtain the signature for the nomination of a candidate in the election, to vote in a certain way, to participate or not in the voting process, or to engage in illegal activities

in support of a candidate or political party, constitutes a criminal offense and is punishable by imprisonment of one to five years.

Article 328/a

Use of public function for political or electoral activities

(Added by Law no. 23/2012, dated 1.3.2012; amended by Law no. 89/2017, dated 22.5.2017, words removed in the last paragraph by Law no. 146/2020, dated 17.12.2020)

Participation of an employee who performs a state duty in the civil service or in a non-political function in the state administration, in violation of the law, in electoral activities or election campaign, of a political party or candidate in elections, constitutes a criminal offense and is punishable by imprisonment of six months to three years.

Obligation or organization to participate in the electoral activities of an electoral subject of pre-university education students by employees performing a state duty in public education, or a duty or function in non-public education, constitutes a criminal offense and is punishable by imprisonment of six months to three years.

Obligation or request addressed to citizens, by an employee performing a state duty, against his/her will or under the threat of using administrative or disciplinary measures, to participate in the electoral activities of an electoral subject, to participate or not in election, to support or not a political party or a candidate in the election, or to vote in a certain way, constitutes a criminal offense and is punishable by imprisonment of one to three years.

The use of public goods, state function or activity, or financial or human resources by an employee performing a state duty, in order to favor a political party or candidate in elections, constitutes a criminal offense and is punishable by imprisonment of one to three years.

Article 328/b

Passive corruption in elections

(Added by Law no. 89/2017, dated 22.5.2017, words removed by Law no. 146/2020, dated 17.12.2020)

Seeking or accepting money, material goods, or other favors in any form by the voter, for himself/herself or others, in order to give the signature for the appearance of a candidate in the election, to vote in a certain way, to participate or not in the voting process, or to engage in illegal activities in support of a candidate or political party, constitutes a criminal offense and is punishable by imprisonment of one to five years.

Article 329

Intimidation or Abuse against Participants in Election

(Amended by law No. 23/2012, dated 01.03.2012, article 52) (Amended by law No. 89/2017, article 7)

Intimidating a voter to vote in a certain way, or to participate or not participate in voting, constitutes criminal offence and is punishable by imprisonment of six months to three years.

Intimidating or using violence against a commissioner, observer, vote-counting staff, and any other official in charge of election, in order to prevent him or her from performing his or her duty, or due to his or her activity in electoral administration, is punishable by imprisonment of one year to four years.

When this offence is committed in complicity, or more than once, it is punishable by imprisonment of two to five years”

Article 330

Obstructing Voters

(Amended by law No. 23/2012, dated 01.03.2012, article 53) (Amended by law No. 89/2017, article 8)

Obstructing a voter to vote at his or her polling centre, in violation of the voting rules, by taking or damaging his or her identification document, or in any other form, is punishable by imprisonment of one year to five years.

Where that offence is committed more than once, against more than one voter, or by the election commissioners, it is punishable by imprisonment of three to seven years.

Article 330/a

Abandonment of Duty by Election Commission Members

(Added by law No. 23/2012, dated 01.03.2012, article 54) (Amended by law No. 89/2017, article 9)

Abandonment of duty or refusal to perform duties by persons responsible for managing the voting and counting process, constitutes criminal offence and is punishable by imprisonment of six months to three years.

Where those offences have been committed by taking with oneself or removing election materials, or caused serious consequences in the voting process, or caused the elections be invalid, it is punishable by imprisonment of two to seven years.”.

Article 331
Violating the Voting Rights

(Amended by law No. 23/2012, dated 01.03.2012, article 55;

The part that provides Fine as main punishment in addition to imprisonment is abrogated by law No. 144, dated 02.05.2013, article 48)

Intentional exclusion from the voter list of persons who have the right to vote, or intentional registration in the voter list of persons who do not have this right, is punishable by imprisonment of one to five years.

Where that offence has been committed in complicity, and has caused grave consequences to voter interests and the election process, it is punishable by imprisonment of two to five years.

Article 331/a
Obtaining or using the identification documents illegally

(Added by law No. 89/2017, article 11)

The provision of the identification document to use it illegally for elections, to guarantee the non-participation in elections, to influence on the voting way, or for any other illegal purpose that is related with the elections constitutes a criminal offence and is punishable by imprisonment of one year to three years.

Obtaining the identification document of other citizens, to use it illegally for elections, to prohibit them from voting, to influence on the voting way or for any other illegal purpose that is related with the elections constitutes a criminal offence and is punishable by imprisonment of one up to five years.

Article 332
Abuse of military authority

(Amended by law No. 89/2017, article 10)

Abuse of military authority by a military official of any rank in order to influence the voting of the other military members under his command, through orders, advice or any other propaganda, constitutes criminal offence and is punishable by imprisonment of six months to three years.

Article 332/a
Abuse of police authority

(Added by law No. 89/2017, article 12)

The abuse of police authority by the employee of the State Police or of the Police of Prisons to influence supporting a political party or a candidate in elections, through the failure to exercise the function unbiasedly according to the law, the participation in the political activity of a political party or candidate in elections, with the conduction of every action or giving orders, advice or any other type of propaganda which favours a political party or a candidate in

elections constitutes a criminal offence and is punishable by imprisonment from one year up to five years.

CHAPTER XI
CRIMINAL ACTS COMMITTED BY AN ARMED GANG OR CRIMINAL
ORGANIZATION

Article 333
Criminal organizations

(Amended by Law No. 9275, dated 16.09.2004, article 32)

The establishment, organization or leading of the criminal organizations is sentenced with imprisonment of five to fifteen years.

Participation in a criminal organization is punished with imprisonment for a term of from four to eight years

If the criminal organization is armed and its members possess weapons, explosive materials for the purpose of fulfilling its criminal activity, even if they are hidden or kept in special places, the imprisonment sentence is added with one third.

When the economic activities undertaken or controlled by the members of the criminal organization are fully or partially financed by proceeds of criminal acts, the sentence according to the above-mentioned paragraphs in this article is increased by one third to one half.

Article 333/a
The structured criminal group

(Added by Law No. 9275, dated 16.09.2004, article 33)

The establishment, the organization or the leading of a structured criminal group with the purpose of committing crimes, is sentenced with imprisonment for a term of from three to eight years.

Participation in the structured criminal group is punished with imprisonment for a term of from two to five years.

Article 334
**Commission of criminal offences by criminal organizations and
structured criminal groups**

(Amended by Law No. 8733, dated 24.01.2001, article 79;

Amended by Law No. 9275, dated 16.09.2004, article 34)

I. Commission of criminal offences by the members of the criminal organization and structured criminal group is sentenced according to the respective criminal provisions by augmenting the sentence for the offence

committed with five years of imprisonment, as well as the fine in the measure of one third but without exceeding the maximum limit of the imprisonment sentence.

II. When the respective referring criminal provision contains imprisonment or life imprisonment, it is punishable by twenty-five years of imprisonment or to life imprisonment.

III. When the respective referring criminal provision contains only life imprisonment, it is punishable by life imprisonment.

Article 334/1

(Added by Law No. 9017, dated 06.03.2003, article 1)

Regardless of article 278, the persons, who will voluntarily hand over the weapons till 5.31.2005, are excluded from the criminal prosecution for illicit possession of military weapons and munitions in accordance with the legislation in power.

In any case, the persons who have committed a criminal offence using military weapons and munitions as a tool for this purpose are not excluded from the criminal prosecution for illicit possession of military weapons,.

The persons who, after this law comes into force, declare that they do not possess military weapons or munitions and from the controls exercised in accordance with the respective provisions of the Criminal Procedure Code are found hidden weapons and munitions are not excluded from the criminal prosecution.

Article 335

The code enters into force on June 1, 1995. The legal acts that are abrogated as well as the effects and the mode this code enters into force, shall be designated by a separate law.

Provisions set by Law No. 8175, dated 23.12.1996

Article 43

“For the criminal offenses provided by this law, the bodies that detain the perpetrators of criminal offenses, within 48 hours, shall ask the prosecutor to issue an order for the arrest of detained persons, who, immediately after the submission of such a request, shall decide on their arrest or release.

The first instance court, after five days from the issuance of the arrest warrant, at the request of the prosecutor or based on the appeal of the arrested person, shall evaluate the arrest warrant.

The court, in assessing the arrest warrant, shall apply, in accordance with this rule, the provisions of the Criminal Procedure Code laying down the procedural rules for adjudicating the assessment of arrest or detention.

In the event that a direct appeal or recourse is made by the prosecutor against the decision of the court to release the arrested person, then the decision for immediate release of the arrested person is suspended until the decision is made by the court reviewing the appeal or direct recourse”.

Article 44

Until the end of two calendar months from the entry into force of this law, all persons who voluntarily hand over to the competent authorities weapons, ammunition or explosives, which they illegally possess, shall not be prosecuted under the provisions of Articles 278, 278/a, 279 and 280 of the Criminal Code.

Until the end of two calendar months from the entry into force of this law, all persons who voluntarily hand over or destroy narcotic plants, their seeds and psychotropic substances, which they illegally possess, as well as equipment, materials or substances used for their production or fabrication shall not be prosecuted under the provisions of Articles 283, 283/a, 284, 284/a, 285 and 286 of the Criminal Code.

Transitional dispositions

(Provided by Law No. 23/2012, dated 01.03.2012)

Criminal prosecution of cases under investigation, court pending cases and criminal charges submitted to these bodies and to the public order bodies for criminal offences which are nullified by the entry into force of this Law, are dismissed.

LAW**No.7905, dated 21.3.1995****CRIMINAL PROCEDURE CODE OF THE REPUBLIC OF ALBANIA**

(Amended by Laws: no. 7977, date 26.7.1995, no. 8027, date 15.11.1995, no. 8180, date 23.12.1996, no. 8460, date 11.2.1999, no. 8570, date 20.1.2000, no.8602, date 10.4.2000, no. 8813, date 13.6.2002, no.9085, date 19.6.2003, no. 9187, date 12.2.2004, no. 9276, date 16.9.2004, no. 9911, date 5.5.2008, no. 10 054, date 29.12.2008, no. 145/2013, date 2.5.2013, no. 21/2014, date 10.3.2014, no.99/2014, date 31.7.2014, no. 35/2017, date 30.3.2017, no. 147/2020, date 17.12.2020, no. 41/2021, date 23.3.2021)

Constitutional Court Decisions no. 55, date 21.11.1997, no. 15, date 17.4.2003 and no. 31, date 17.5.2012)

(updated)

Pursuant to Article 16 of Law No.7491, date 29.4.1991 “Law on main constitutional provisions”, upon the proposal of Council of Ministers,

THE ASSEMBLY OF
THE REPUBLIC OF ALBANIA

DECIDED:
GENERAL PROVISIONS

Article 1**Scope of the criminal procedure legislation**

1. Criminal procedure legislation must guarantee fair, equal and due legal proceedings, in order to protect the freedoms and lawful rights and interests of citizens, to contribute for the strengthening of the legal order and for the implementation of the Constitution and State legislation.

Article 2**Compliance with procedural rules**

(Amended by Law No. 35/2017 of 30.03.2017, article 1)

1. Procedural provisions determine the rules on the way to conduct criminal prosecution, investigations and trial of criminal offences, and the execution of judicial decisions. These rules are mandatory for parties in criminal proceedings, State authorities, legal persons and citizens.
2. Criminal procedure provisions shall apply also for minor defendants, unless otherwise provided by special legislation into force.

Article 3**Independence of the court**

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

Article 4**Presumption of innocence**

(Amended by Law No. 35/2017 of 30.03.2017, article 2)

1. The defendant shall be deemed innocent until his guilt has been established by a final judgment of the court. Any doubts regarding the charge shall be evaluated in favour of the defendant.
2. The court shall issue a decision of conviction if the defendant is found guilty of the criminal fact attributed to him beyond any reasonable doubt.

Article 5**Restrictions of the personal freedom**

1. The freedom of a person may be restricted by way of precautionary measures only in the cases and under the conditions defined by the law.
2. No one may be subjected to torture or humiliating punishment or treatment.
3. Persons convicted to imprisonment are ensured human treatment and moral rehabilitation.

Article 6**Right to defense**

(Amended by Law No. 35/2017 of 30.03.2017, article 3)

1. The defendant has the right to defend himself in person or through the legal assistance of a lawyer. If he has no sufficient means, he shall be guaranteed legal defence by lawyer, free of charge, in the cases provided for by this Code.
2. The lawyer shall assist the defendant to have his procedural rights guaranteed and his legitimate interests protected.

Article 7**Ne bis in idem**

(Amended by Law No. 35/2017 of 30.03.2017, article 4)

1. No one can be judged more than once for a criminal fact for which he has been judged by a final decision of the court, except in the cases when the competent court has decided the revision of the case.

Article 8**Use of Albanian Language**

(Amended by Law No. 35/2017 of 30.03.2017, article 5)

1. Albanian language shall be used in all phases of the proceedings.
2. Persons who do not know the Albanian language shall use their own language and, through an interpreter, shall have the right to speak and be informed on the evidence, the documents and on the state of the proceedings. Deaf and mute people have the right to use the signs language.
3. Translation and interpretation costs shall be borne by the State.

Article 8/a**Evidence**

(Added by Law No. 35/2017 of 30.03.2017, article 6)

1. In criminal proceedings facts shall be proved with any evidence, provided that they do not violate human rights and fundamental freedoms.
2. The proceeding authority shall gather and assess evidence against the defendant, as well as that in his favour.

Article 9
Restitution of rights and compensation

1. Persons who are prosecuted in violation of this Code or are unlawfully convicted shall be entitled to restitution and compensation for the damages suffered.

Article 9/a
The right of the victim of the criminal offence
(Added by law No.35/2017 of 30.03.2017, article 7)

1. During the criminal proceedings the victim shall have the rights provided for by this Code.
2. Public bodies shall guarantee that victims of criminal offences are treated with respect for their human dignity and are protected from being revictimized, in the exercise of the rights provided for by this Code.

Article 10
Application of international agreements

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

FIRST PART

TITLE I

SUBJECTS

CHAPTER I
THE COURT

SECTION I
FUNCTIONS AND COMPOSITION OF COURTS

Article 11
Role of the court

1. Court is the authority that renders justice.

2. No one may be declared guilty and convicted for committing a criminal offence without a court decision.

Article 12

Criminal Courts

Criminal justice is rendered by:

- a) Criminal courts of first instance;
- b) Courts of Appeal;
- c) the High Court.

Article 13

Criminal of first instance and their composition

(Changed by law no 9911 dated 05.05.2008, article 1) (Amended by Law No. 9911 of 05.05.2008, article 1) (Amended by Law No. 35/2017 of 30.03.2017, article 8)

1. Criminal offences shall be adjudicated in the first instance by judicial district courts and by the Anti-Corruption and Organised Crime Court, pursuant to the rules and responsibilities provided for by this Code.
2. The judicial district courts and the Anti-Corruption and Organized Crime Court of first instance rule, by a single judge, on:
 - a) the requests of the parties during the preliminary investigations;
 - b) the appeal against the prosecutor's decision on the non-initiation of the criminal proceeding or on the dismissal of the case, as concerns misdemeanours;
 - c) the request of the prosecutor to dismiss the charge or the case, as concerns crimes;
 - ç) the request of the prosecutor to send the case to trial;
 - d) the request of the prosecutor for the approval of the penal order;
 - dh) the requests related to the execution of the criminal decisions;
 - e) the requests on the reinstatement of time limits;
 - f) the requests related to jurisdictional relations with foreign authorities pursuant to Title X of this Code;
 - g) any other requests provided for by this Code or by special laws.
3. The judicial district courts examine, by a single judge, criminal offences that are sentenced with a fine or with imprisonment for, at maximum,

not more than 10 years. The other criminal offences are examined by a panel composed of three judges.

3/1. The Anti-Corruption and Organized Crime Court rules with a judicial panel composed of three judges, unless provided otherwise by this Code. This court examines with a single judge the criminal charges against public officials, pursuant to article 75/a of this Code, for criminal offences other than corruption and organized crime, punishable by fine or up to 10 years' imprisonment, in the maximum term.

4. Minors and young adults are adjudicated by the relevant court sections, established by law. These sections adjudicate also the adult defendants accused of criminal offences committed against minors.

5. Provisions of paragraph 4, of this article, do not apply in the cases referred to in paragraph 1, of article 80, of this Code.

Article 14

Courts of Appeal and their composition

(Amended by Law No. 9085 of 19.06.2003, article 1)

(Amended by Law No. 9276 of 16.09.2004, article 2)

(Paragraph 2 Repealed by law No. 9911 of 05.05.2008, article 2)

(Amended by Law No. 35/2017 of 30.03.2017, article 9)

(Amended by Law no. 41/2021, date 23.3.2021, article 1)

1. Courts of Appeal adjudicate in second instance, with judicial panels composed of three judges, on cases adjudicated by the judicial district courts.

2. Repealed

3. The Anti-corruption and Organised Crime Court of Appeal adjudicates in second instance, with judicial panels composed of three judges, on cases adjudicated by the Anti-Corruption and Organized Crime Court of first instance.

4. The proceedings on the requests provided for in par 2 of Article 13 of this Code are reviewed by a single judge.

Article 14/a

The High Court and its composition

(Amended by Law No. 35/2017 of 30.03.2017, article 10)

(Amended by Law no. 41/2021, date 23.3.2021, article 2)

The High Court adjudicates in chambers with panels composed of three judges. The High Court adjudicates on the unification and development of the judicial case-law with judicial panels of five judges and on amending the case-law in joint chambers.

SECTION II
CASES OF INCOMPATIBILITY WITH THE FUNCTION OF JUDGE

Article 15

Incompatibility on grounds of participating in proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 11)

(Amended by Law no. 41/2021, date 23.3.2021, article 3)

1. A judge who has issued [a decision] or taken part in preliminary hearings or has issued a decision in any of the instances of the proceedings, shall not exercise the judicial functions in the other instances, nor participate in the review or revision trial after the decision has been annulled.
2. A judge having reviewed the parties' requests during preliminary investigations or at a preliminary hearing for the same proceeding cannot participate in the trial, unless provided otherwise in this Code. The judge who examines the requests of the parties during the preliminary investigations may not exercise the judicial functions at the preliminary hearing of the same proceeding.
3. A person who, in the same proceedings, has acted as a prosecutor, or has carried out actions of judicial police, or has served as a lawyer, representative, guardian of one of the parties or has been a witness, expert, a victim or person who has lodged a criminal report or complaint, is barred from exercising the judicial function.

Article 16

Incompatibility on grounds of family, blood or in-laws relation

(Amended by Law No. 35/2017 of 30.03.2017, article 12)

1. Persons who, between them or to any of the parties in a trial, are spouses, cohabitants, close kinship (antecedents, descendants, brothers, sisters, uncles, aunts, nephews, nieces, children of sisters and brothers) or close in-laws (mother-in-law, father-in-law, son-in-law, daughter-in-law, sister-in-law, brother-in-law, stepson, stepdaughter, stepmother, stepfather) may not participate as judges in the same proceeding.

Article 17

Abstention

(Amended by Law No. 35/2017 of 30.03.2017, article 13)

1. A judge has the duty to abstain from the judgment of an actual case:
 - a) if he has a private interest in the proceedings or if any of the private parties or lawyers is a debtor or creditor to himself or to his spouse, cohabitant or his

children;

b) if he is a legal guardian, a representative or employer of the defendant or of any of the private parties or if the lawyer or the representative of any of these parties is his own or his spouse's close kindred;

c) if he has given advice or expressed his opinion on the object of the proceedings;

ç) if there are disputes between him, his spouse or any of his close relatives with the defendant or any of the private parties;

d) if any of his own or his spouse's relatives has been harmed or damaged by the criminal offence;

dh) if any of his relatives or of his spouse's relatives performs or has carried out prosecutor's role in the same proceeding;

e) if any of the conditions of incompatibility referred to in Articles 15 and 16 exist;

f) if any other important reasons for judge's partiality exist.

2. The abstention statement is submitted to the chairman of the court, who shall approve or reject it by reasoned decision.

3. Chairpersons of the hierarchically superior courts shall decide on the abstention statement of any courts' chairperson. A panel of the High Court composed of three judges shall decide on the abstention statement of the chairperson of the High Court.

Article 18

Disqualification of the judge

1. Parties may request the disqualification of a judge:

a) in the cases referred to in articles 15, 16 and 17 of this Code;

b) if, in the exercise of his functions and prior to the issuance of the decision, he has expressed his opinion on the facts or circumstances object of the proceedings.

2. A judge may not issue or take part in the issuance of a decision until the decision declaring the inadmissibility or rejection of his disqualification request has been issued.

Article 19

Time limits and forms for requesting disqualification

1. The request for disqualification of a judge is made in the hearing immediately after establishing the legal standing of the parties.
2. When the ground for disqualification arises or is discovered after establishing the legal standing of the parties, the request must be made within three days of the discovery. If the ground has arisen or is discovered in the course of the hearing, the request for disqualification must be addressed before the conclusion of the hearing.
3. The request shall contain the reasons and the evidence and is addressed in written form. It is submitted, along with the relevant documents, to the secretary of the competent court. A copy of the request is delivered to the judge whose disqualification is requested.
4. If not made personally by the parties, the request may be submitted by the lawyer or a special representative. The power of attorney should indicate the reasons for which the disqualification is requested, otherwise it shall not be accepted.

Article 20

Concurrence of abstention and disqualification

1. The request for disqualification is deemed as not made, when the judge, even after the request has been made, declares his abstention and it is accepted.

Article 21

Competence to decide on disqualification

(Amended by Law No. 35/2017 of 30.03.2017, article 14)

(Amended by Law no. 41/2021, date 23.3.2021, article 4)

1. The request for disqualification of a judge is examined in closed sessions by another judge of the same court.
 - 1/1. The judge whose disqualification is requested, may submit his opinion in writing on the request for disqualification.
2. Regarding the request recusing the judge of the High Court, the decision is made by another judge of this court, other than from the judges of the Chamber to which the judge, being requested to be recused, belongs. The decision shall be final.
3. No request for disqualification shall be allowed against the judge designated to decide on a disqualification request nor the repetition of the request based on the same grounds.

Article 22

Decision on the request for disqualification

(Amended by Law No. 35/2017 of 30.03.2017, article 15)

(Amended by Law no. 41/2021, date 23.3.2021, article 5)

1. When the request for disqualification is made by a person who was not entitled or has not observed the time limits or forms provided for by article 19, or when the request of abstention from the judgement of a case is approved by the chairman, or when the reasons indicated are (not) based on the law, the court examining the complaint, declares it inadmissible by a decision.
2. The court may temporarily suspend any procedural activity or may limit it to the execution of the most urgent actions.
3. The court, once gathered the necessary information, decides on the request for disqualification within 48 hours of the submission of the request.
4. The decision issued in compliance with the abovementioned paragraphs shall be notified to the judge, whose disqualification has been requested, to the prosecutor, the defendant and private parties. This can be contested along with the final decision.

Article 22/a

Sanctions pertaining to the request declared inadmissible

(Added by Law no. 41/2021, date 23.3.2021, article 6)

The decision declaring the recusal request inadmissible or not upholding the recusal of the judge shall determine the relevant judicial costs, as well as a fine of up to 50,000 ALL, against the party that, by way of abusing, has submitted an inappropriate request.

Article 23

Rulings when abstention statement and request for disqualification are accepted

1. When the statement of abstention or the request for disqualification is accepted, the judge may not conduct any procedural activities related to the case.
2. The ruling accepting the abstention or the request for disqualification shall also establish whether and to what extent are valid any prior actions conducted by the judge who has abstained or has been subject to a request for disqualification.
3. Provisions on judge abstention and disqualification shall also apply to the [judicial] secretary of the hearing and to persons in charge of transcriptions or phonographic or audio-visual recording. The court that tries the case

decides on their abstention or disqualification.

CHAPTER II PROSECUTOR

Article 24

Functions of the prosecutor

(Added by Law No. 8460, of 11.02.1999, article 1)
(Amended by Law No. 35/2017 of 30.03.2017, article 16)

1. The prosecutor exercises the criminal prosecution and represents the charge in the trial on behalf of the State, conducts and controls the preliminary investigations and the judicial police activity and conducts himself every investigatory action he evaluates as necessary, takes measures for the execution of the criminal decisions, supervises their execution and exercises the functions of the judicial cooperation with the foreign authorities pursuant to the rules stipulated in this Code.
2. The prosecutor has the right not to initiate the proceeding, to dismiss the charge or the case, to request the court the dismissal of the charge or of the case, and to request that the case is sent to trial, pursuant to the provisions of this Code.
3. The Prosecutor is entitled to enter into collaboration agreements, drafted pursuant to Article 37/a, of this Code, and to the special legal provisions on the protection of witnesses and collaborators of justice.
4. The prosecutor may reach an agreement on the conditions for pleading guilty and on the sanction imposed, pursuant to Article 406/d seq. of this Code.
5. The prosecutor may submit a request with the court for the approval of a penalty order pursuant to the provisions of this Code.
6. When the victim's criminal complaint is not required, the prosecution shall be exercised *ex officio*.

Article 25

Carrying out prosecutor's functions

(Amended by Law No. 35/2017 of 30.03.2017, article 17)

1. Prosecutor's functions are carried out:
 - a) during preliminary investigations and first instance trials, by prosecutors attached to first instance courts;

b) during trials of appealed cases, by prosecutors attached to the courts of appeal and High Court.

2. The prosecutor is independent in the exercising of his functions. Rules on the manner regarding the exercising of the prosecutor's functions are provided by the law.

3. The functions under Article 24 of this Code shall be exercised by the prosecutors of the Special Prosecution Office in all instances for criminal offences referred to in Article 75/a of this Code.

Article 26

Abstention of the prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 18)

1. A prosecutor has the duty to abstain if there exist grounds of partiality, in cases provided for by article 17.

2. On the statement of abstention shall decide, based on their respective duties, the chairperson of the Prosecution Office attached to the first instance court, the chairperson of the prosecution office attached to the Court of Appeal, the General Prosecutor and the Chief of the Special Prosecution Office. The chairperson of the prosecution office of a higher instance shall decide on the [abstention of the] chairpersons of the [lower] prosecution offices.

3. By the decision accepting the abstention statement, the prosecutor shall be replaced with another prosecutor.

Article 27

Cases for substitution of a prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 19)

1. The chairperson of the prosecution office shall substitute the prosecutor when there are serious reasons related to his duty, pursuant to the law, and also in the cases provided for by articles 16 and 17, first paragraph, points "a", "b", "ç", "d" and "dh". In other cases, the prosecutor is substituted only with his consent.

2. Repealed.

3. Rules prescribed for the abstention and substitution of the prosecutor shall also apply to the judicial police officer.

Article 28

Transfer of documents to another prosecution office

(Amended by Law No. 35/2017 of 30.03.2017, article 20)

1. If during preliminary investigations the prosecutor judges that the criminal offence is under the competence of a different court from the one where he carries out his functions, he shall promptly transfer the documents to the prosecution office attached to the competent court.
2. If the prosecutor who has received the documents judges that the prosecution office, which transferred the documents should proceed, he shall notify the General Prosecutor, who after examining the documents, shall establish which prosecution office must proceed and shall inform the prosecution offices concerned.
3. If the prosecutor deems that the criminal offence is under the competence of the Special Prosecution Office or is informed that this Prosecution Office is conducting investigation for the same fact and against the same person, he shall forward the acts to the Chief of the Special Prosecution Office, who after examining them, shall decide whether admitting the acts or resending them to the previous prosecution office. The latter has the obligation to accept the acts.
4. Investigative actions conducted before the transfer or the assignment, pursuant to paragraph 1 and 2, are valid and may be used in the cases and ways provided for by the law.

Article 29

Requesting documents from another prosecution office

(Amended by Law No. 35/2017 of 30.03.2017, article 21)

1. When a prosecutor is informed that preliminary investigations are being conducted by another prosecution office against the same person and for the same facts on which he is proceeding, he notifies without delay that prosecution office, requesting the transfer of documents.
2. If the prosecutor who has received the request does not agree with it, he shall inform the General Prosecutor, who, after receiving the necessary information, decides in conformity with the rules on the competence of the court, which prosecution office must carry on and shall notify the prosecution offices concerned. The documents are promptly transferred to the assigned prosecution office by the other prosecution office.
3. If the prosecutor of the Special Prosecution Office is informed that preliminary investigations are being conducted against the same person

and on the same fact he is proceeding with, without delays, he shall forward the acts to the Chief Special Prosecutor who pursuant to the rules on the competence, decides which Prosecution Office shall proceed. If he decides that the competence belongs to the Special Prosecution Office, he notifies the relevant Prosecution Office, which shall send the acts to him.

4. The preliminary investigations documents conducted by different Prosecution Offices are used in cases and manners provided by law.

CHAPTER III JUDICIAL POLICE

Article 30 **Judicial police functions**

(Amended by Law No. 35/2017 of 30.03.2017, article 22)

1. Judicial police must also *ex officio*, get notice of criminal offences, prevent further consequences, search for their authors, conduct investigations and gather everything that serves the application of the criminal law.
2. Judicial police conducts every investigative action that has been ordered or delegated by the prosecutor.
3. The functions stipulated in paragraph 1 and 2 of this article are conducted by the judicial police officers. The investigators of the National Investigation Bureau have the status of the judicial police officer.

Article 31 **Services and sections of judicial police**

(Amended by Law No. 35/2017 of 30.03.2017, article 23)

1. Judicial police functions are carried out:
 - a) by judicial police officers belonging to authorities, which the law entrusts with the duty to conduct investigations from the moment they get notice of the criminal offence;
 - b) by judicial police sections set up in every district prosecution office and comprising judicial police personnel;
 - c) by the National Bureau of Investigation attached to the Special Prosecution Office;
 - d) by judicial police services as provided by law.

Article 32
Judicial police officers and agents

1. Judicial police officers are:
 - a. chiefs, inspectors and other members of police of the Ministry of Public Order, to whom a special law recognizes this attribute;
 - b. military police, financial police, forest police and any other police officers, to whom a special law recognizes this attribute;
2. Judicial police agents are:
 - a. public order police personnel, to whom a special law recognizes this attribute;
 - b. military police, financial police and any other police personnel recognized by law, when on duty.
3. Persons, who are entitled by law to carry out the functions provided for by article 30, within the boundaries of the service entrusted and pursuant to the respective attributes, are also judicial police officers and agents.

Article 33
Functional subordination of judicial police
(Amended by Law No. 35/2017 of 30.03.2017, article 24)

1. Judicial police shall respond in front of the prosecutor for the activity conducted during the criminal proceeding.
2. Judicial police shall execute the tasks assigned to them by the prosecutor and shall inform him immediately on their results.
3. The officers of the sections and of the services are not excluded from the activity of the judicial police, apart from the cases provided for in the law.
4. Courts and prosecution offices have under their direct control the sections' personnel and may make use of any judicial police service.

CHAPTER IV THE DEFENDANT

Article 34 **Obtaining the defendant status**

(Added paragraph at point 1 by Law No. nr. 8460, date 11.02.1999, article 2)
(Amended by Law No. 35/2017 of 30.03.2017, article 25)

1. The person to whom a criminal offence is attributed shall obtain the defendant status with the notification of charge, which contains sufficient information [on the reasons] for taking him as a defendant. This document is notified to the defendant and to his lawyer.

If after taking a person as a defendant, new information arise that result in the modification of the charges or their completion, the prosecutor takes a decision [pursuantly] and notifies it to the defendant.

2. The defendant status shall be retained at any state and instance of the proceedings until the dismissal, acquittal or conviction decision has become final.

3. The defendant status is re-obtained if the dismissal decision is quashed or the court decides the annulment of the final decision and the review of the proceedings.

4. Repealed.

Article 34/a **Rights of the defendant**

(Added by Law No. 35/2017 of 30.03.2017, article 26)

1. The person under investigation or the defendant shall be entitled to:

a) be informed in a shortest time possible in a language he understands, on the charge for which he is investigated as well as the grounds of the charges;

b) use the language he speaks and understands or to use sign language as well as to be assisted by an interpreter, translator and facilitator in communication if his ability to speak and hear is limited;

c) to remain silent or to introduce his defence freely as well as the right not to respond to certain questions;

d) provide defence by himself or with the help of a defence lawyer elected by him;

d) have a defence lawyer provided by the state if the defence lawyer is mandatory or he cannot afford one, pursuant to the provisions of this Code and the legislation into force on legal aid;

e) meet in private and to communicate with a defence lawyer representing him;

f) have adequate time and facilities for the preparation of his defence; g) right to access to the material of the case pursuant to the provisions of this Code;

h) submit evidence supporting his defence;

j) question witnesses, experts and other defendants during the trial;

k) enjoy the other rights provided for in this Code.

2. Prior to the questioning for the first time or prior to the completion of the acts where his presence is mandatory pursuant to the law, the proceeding authority shall inform the defendant about the rights provided for in letters "a", "b", "c", "ç", "d", "dh" and "e", of paragraph 1 of this Article, providing him with the letter of rights in written form, duly signed by him.

3. The provisions and guaranties stipulated for the defendant shall also apply even to the person under investigation and to the person the criminal offences is attributed to, unless this Code provides otherwise.

Article 34/b

Rights of arrested or detained person

(Added by Law No. 35/2017 of 30.03.2017, article 27)

1. The arrested or detained person, in addition to the rights provided for in letters "a", "b", "c", "ç", "d", "dh" and "e", of paragraph 1, of Article 34/a, of this Code, shall be entitled:

a) to have a confidential meeting with his lawyer, before being questioned for the first time;

b) to access the acts, necessary evidence and the grounds for his arrest or detention;

c) to request a family member or another relative to be notified immediately about his arrest. If the arrested or the detained person is a foreign citizen, he shall be entitled to request the notification of the consular or diplomatic representation and, in case the person is

without citizenship or a refugee, he shall be entitled to request the notification of an international organisation.

ç) to be promptly provided with the necessary medical care.

2. The proceeding authority shall notify the arrested or detained person promptly about the rights provided for in letters “a”, “b”, “c”, “ç”, “d”, “dh” and “e”, of paragraph 1, of Article 34/a, of this Code, providing him the letter of the rights in writing, duly signed by him. The person is entitled to keep the letter of rights.

Article 35

Assistance provided to a minor defendant

(Amended by Law No. 35/2017 of 30.03.2017, article 28)

1. Legal and psychological assistance shall be provided to a minor defendant at any state and stage of the proceedings, in the presence of the parent, legal guardian or other persons requested by the minor and accepted by the proceeding authority.

2. The proceeding authority may carry out actions and draft documents, which require the presence of the minor, in absence of the persons stated in paragraph 1, when this is in the minor’s interest or when the delay may seriously impair the proceeding, provided that it is always done in presence of the lawyer.

Article 36

Prohibition to use the defendant’s statements as testimony

(Amended by Law No. 35/2017 of 30.03.2017, article 29)

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

Article 36/a

Statements of the collaborator of justice

(Added by Law No. 35/2017 of 30.03.2017, article 30)

1. A collaborator of justice shall be questioned as a witness. In case of false statements or testimony, he shall be held criminally liable pursuant to the law.

2. The statements of the collaborator of justice are evaluated pursuant to the criteria established by paragraph 3 of article 152 of this Code.

Article 37
Self-incriminating statements

1. If a person who is not taken as a defendant makes statements before the proceeding authority, that raise suspicion of guilt against him, the proceeding authority shall interrupt the questioning and warn him that, following such statements, an investigation may be carried out on him, and advise him to appoint a lawyer. Statements previously made by the person cannot be used against him.

Article 37/a
Cooperation with justice

(Added by Law No. 9276, date 16.09.2004, article 3) (Amended by Law No. 35/2017 of 30.03.2017, article 31)

1. The defendant accused of a crime punishable not less than 7 years' imprisonment, in the maximum term, committed in collaboration, or of any of the criminal offences referred to in letter "a" of paragraph 1, of article 75/a, of this Code, may acquire the status of collaborator of justice, by signing the collaboration agreement with the prosecutor. The agreement, which contains the terms of collaboration may be stipulated at any stage or phase of the proceedings, even after the criminal decision has become final and is put into execution.

2. The agreement is stipulated if the defendant testifies, with no reserves or conditions, on all facts and circumstances that he is aware of, due to his participation in the criminal activity. His testimony must constitute a fundamental evidence of guilt as to the prove of the facts and of their authorship, as well as for the prevention of serious crimes and for repairing the damages caused by them. The defendant, in his testimony, shall identify all assets having a criminal origin, which are in his possession and of his collaborators. The above information shall be provided within 30 days from the date of signing the agreement.

3. The collaborator of justice is entitled to request special protection for himself and his family, pursuant to the legislation on the protection of witnesses and collaborators of justice.

4. In cases of collaboration with justice, the prosecutor shall request to the court the reduction of the penalty or the exclusion of the collaborator of justice from punishment. When the agreement is reached during the execution of the decision, the authority to review the request of the prosecutor shall belong to the court which issued the decision or to the court of the place of execution. The reduction or the exclusion from punishment shall be in proportion to the contribution given by the

collaborator of justice regarding the facts and circumstances indicated in paragraph 2 of this article. The provisions of paragraph 7 of Article 28 of the Criminal Code and the rules of paragraph 1 of article 480 of this Code shall apply.

5. The collaboration agreement shall be revoked if the collaborator of justice breaches the terms of the collaboration agreement, conceals information on assets or facts of justice interest, or renders false statements or testimony. The rules of paragraph 1, of article 480 of this Code shall apply *mutatis mutandis*.

Article 37/b

Content of the agreement

(Added by Law No. 35/2017 of 30.03.2017, article 32)

1. The agreement with the collaborator of justice shall contain:

- a) the identity of the prosecutor and the personal data of the collaborator of justice;
- b) the fact that the collaborator of justice has the obligation to testify in the witness capacity;
- c) his obligation to provide full information, without any reserve or condition for all the facts and the circumstances set out in paragraph 2 of Article 37/a of this Code, no later than thirty days of the date of signing the agreement;
- ç) the warning about the revocation of the agreement and the criminal liability in cases provided for in paragraph 5 of Article 37/a of this Code;
- d) the right of the collaborator to request to reach a guilty plea agreement with the prosecutor and the imposing of the sentence, pursuant to the articles 406/d seq. of this Code
- dh) the obligation of the prosecutor to ask the court to reduce the sentence or his exclusion from punishment in proportion to the extent of his contribution in the collaboration with justice;
- e) the right of the collaborator to request special protection pursuant to paragraph 3 of article 37/a of this Code;
- ë) the signature of the prosecutor, collaborator of justice and lawyer, when present.

2. The declarations of the collaborator of justice along with the collaboration agreement shall be part of the preliminary investigation dossier.

Article 38

General rules for questioning

(Amended by Law No. 35/2017 of 30.03.2017, article 33)

1. The defendant, even if under precautionary detention measure or detained for any other reason, participates freely in the questioning, except in cases when measures must be taken to prevent the risk of escaping or violence.
2. Methods or techniques which may influence the freedom of determination or alter the capacity to recall and evaluate facts shall not be used, even with the consent of the defendant.
3. Prior to questioning, the defendant shall be asked expressly whether he has understood his rights, provided in written form, pursuant to Articles 34/a and 34/b of this Code. If the defendant is not informed, since the beginning, about his rights pursuant to the provisions of this Code, his statements may not be used.

Article 39

Questioning on the merits of the case

1. The proceeding authority shall clearly and precisely explain the defendant the fact attributed to him, communicate the evidence against him/her and, when this does not compromise the investigations, indicate him the sources [of evidence].
2. The proceeding authority shall invite him to explain everything he deems useful for his defense and asks him direct questions.
3. If the defendant refuses to answer, this shall be recorded in the minutes. The minutes shall also mention, if necessary, any physical characteristics and possible distinguishing marks of the defendant.

Article 40

Ascertainment of the personal identity of the defendant

1. When the defendant appears, the proceeding authority asks him to state his personal details and anything else which may be useful for his identification, warning him about the consequences in case of refusal or providing of false personal data, except when this statement implies self-incrimination.
2. Inability to attribute to the defendant his accurate personal details, does not prevent the proceeding authority to perform actions, when physical identity of the person is certain.

3. False personal details attributed to the defendant are corrected by a decision of the proceeding authority.

Article 41

Ascertainment of the age of the defendant

1. At any state and stage of the proceeding, when there are reasons to believe that the defendant is a minor, the proceeding authority makes the necessary ascertainment and when it is the case, orders expert examination.
2. When, after the verification and expert examination, there are still doubts on the age of the defendant, he is presumed a minor.

Article 42

Ascertainment on the character of a minor defendant

1. The proceeding authority gathers information on the living, family and social conditions of the minor defendant for the purpose of clarifying his culpability and the degree of liability, to evaluate the social importance of the fact and also to impose appropriate criminal sanction.
2. The proceeding authority gathers information from persons who had relations with the minor and hears the experts' opinion.

Article 43

Ascertainment on the liability of the defendant

1. When there are reasons to believe that, because of mental disorder caused after the event, the defendant is not able to participate in the proceedings, the court orders expert examination, even *ex officio*.
2. During the expert examination, the court, upon request of the lawyer, acquires evidence that may lead to the acquittal of the defendant and, if delay may be prejudicial [for the evidence], any other evidence requested by the parties.
3. When the need to ascertain the criminal liability arises during the preliminary investigation, the prosecutor, either *ex officio* or on the request of the defendant or his lawyer orders expert examination. In the meanwhile, the prosecutor performs only those actions, which do not require the conscious presence of the defendant. If delay may be prejudicial [for the evidence], evidence may be acquired if circumstances of pre-trial admission of evidence exist.

Article 44

Suspension of proceedings due to defendant's lack of criminal liability

(Amended by Law No. 35/2017 of 30.03.2017, article 34)

1. When it is proved that the mental condition of the defendant is as such as to impede his intentional participation in the proceedings, the proceeding authority, decides the suspension of the proceedings, but always when no decision of acquittal or dismissal must be taken. The proceeding authority, in the decision of suspension, assigns to the defendant a special guardian, who is given the rights of a legal representative.
2. Repealed.
3. The suspension does not prevent the proceeding authority to acquire evidence that may lead to the acquittal of the defendant and, when delay poses danger, any other evidence required by the parties. The special guardian has the right to participate in actions that must be performed about the character of the defendant and also in those actions that the defendant is entitled to be present.

Article 45

Revoking the decision of suspension

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

Article 46

Compulsory medical measures

1. In any case, when the mental condition of the defendant shows that he must be treated, the court decides, even *ex officio*, the hospitalization of the defendant in a psychiatric institution.
2. When it has been or should be decided a compulsory medical measure to be taken towards the defendant, the court orders that the defendant is held in a psychiatric institution.
3. During preliminary investigations, the prosecutor requests the court to decide on the hospitalization of the defendant in a psychiatric institution and, if delay may be prejudicial, orders the temporary hospitalization until the court takes a decision.

Article 47
Death of the defendant

1. When the death of the defendant is proved, the proceeding authority at any state and stage of the proceeding, after hearing the lawyer, decides on the dismissal of the case.
2. The decision does not prevent conducting criminal prosecution for the same facts and against the same person when later it is proved that he has not died.

CHAPTER V
THE DEFENDANT'S LAWYER

Article 48
Retained lawyer

1. The defendant is entitled to appoint up to two lawyers.
2. The appointment is made by means of a statement before the proceeding authority or by means of a document given to the lawyer or sent to him by registered mail.
3. The appointment of the lawyer of a person who is detained, arrested or convicted to imprisonment, may be done by his relatives in the forms provided by paragraph 2, unless he has appointed one by himself.

Article 49
Mandatory defence

(Amended by Law No. 35/2017 of 30.03.2017, article 35)

1. The proceeding authority shall provide immediately a lawyer paid by the State to the defendant, who has not appointed or no longer has a retained lawyer, if he:
 - a) is under eighteen years of age;
 - b) is deaf and mute;
 - c) has limited capabilities which hinder his ability to defend himself;
 - ç) is charged with a criminal offence, punishable by not less than 15 years' imprisonment, in the maximum term;
 - d) is charged with a criminal offence pursuant to letters "a" and "b", of article 75/a, of this Code;

- dh) has been declared escaped or in absentia upon a court decision;
 - e) the arrested or the detained person is questioned;
 - ë) in the cases provided for by paragraph 5 of article 205, or paragraph 1, of article 296 of this Code;
 - f) in every other case provided for by law.
2. If reasons for mandatory defense, exist, pursuant to this article, the proceeding authority shall assign immediately a lawyer to the defendant. The lawyer shall assist the defendant during all phases of the proceedings, as long as the conditions provided in paragraph 1 of this Article exist.
 3. The appointed lawyer, pursuant to this article, is chosen by the proceeding authority out of the list made available by the Bar Association.
 4. If the court, the prosecutor and the judicial police must carry out an action requiring the presence of a lawyer and the defendant does not have one, they shall inform the appointed lawyer on such action.
 5. If the presence of the lawyer is required and the retained or appointed lawyer has not been provided, has not shown up or has withdrawn from the defence, the court or prosecutor shall apply paragraph 4 of article 350 of this Code. If his absence is justified, the court or the prosecutor may appoint another lawyer in substitution, who shall exercise the rights and takes over the duties of the lawyer.
 6. The assigned lawyer shall cease his functions if a retained lawyer is appointed.
 7. When the defence cannot be secured pursuant to this provision and paragraph 3 of article 49, it is guaranteed by the institutions providing free legal aid, pursuant to the legislation in force.

Article 49/a

The defendant without sufficient financial means

(Added by Law No. 35/2017 of 30.03.2017, article 36)

If instances for mandatory defence do not exist and the defendant who has no sufficient financial means requests a defence lawyer, the proceeding authority appoints the defence lawyer from the list made available by the institutions of free legal aid. The expenses of the defence shall be covered by the State.

Article 49/b**Incompatibility to act as a defence lawyer**

(Added by Law No. 35/2017 of 30.03.2017, article 37)

A defence lawyer shall not be:

- a) the victim or her close relative pursuant to the article 16 of this Code;
- b) the person called as a witness in the same proceeding;
- c) the person who is or was in the same proceeding a co-defendant, judge or prosecutor.

Article 50**Extension of the defendant's rights to the defense lawyer**

1. The defense lawyer enjoys the rights the law recognizes to the defendant, except those preserved to the latter in person.
2. The defense lawyer has the right to communicate freely and in private with the detained, arrested or convicted person, to have prior notice of the investigative actions conducted in the presence of the defendant and to participate to them, to ask questions to the defendant, witnesses and experts, to have access to all the materials of the case at the conclusion of the investigations.
3. The defendant may, by an expressed statement, declare invalid an action performed by the defense lawyer, before the court has issued a decision in relation to such action.

Article 51**Replacement of the defence lawyer**

1. The defense lawyer, in case of impediment and for as long as it lasts, may with the consent of the defendant, appoint a substitute defence lawyer.
2. The substituting defence lawyer exercises the rights and undertakes the duties of the defense lawyer.

Article 52**Guarantees for the defense lawyer**

(Amended by Law No. 35/2017 of 30.03.2017, article 38)

1. Examinations and searches in the office of a defense lawyer are allowed only:

a) when he or other persons who constantly carry out their activity in the same office, are defendants and only for the purpose of proving the criminal offence attributed to them;

b) to discover traces or material evidence of the criminal offence or to search for items or persons specifically defined.

c) in cases when the defence lawyer is in the conditions of *flagrante delicti* or pursue of escaping, pursuant to paragraph 1 of article 298 of this Code.

2. Prior to conducting an examination, search or a sequestration in the defense lawyer's office, the proceeding authority notifies the Directing Board of the Bar Association so that one of its members may have the possibility to be present in these activities. Except for cases of *flagrante delicto*, the proceeding authority shall postpone the examination, search or sequestration until the arrival of the assigned member, but no longer than two hours after the Bar Association has been informed. In any case, a copy of the act shall be sent to the Directing Board of the Bar Association.

3. Searches, examinations and sequestrations in the defense lawyers' offices, pursuant to letters "a" and "b" of the first paragraph of this article, are performed by the judge in person, whereas during the preliminary investigations they are performed by the prosecutor, based on an authorizing decision of the court.

4. Interceptions of conversations or communications between defense lawyers and their assistants, or between defense lawyers and the persons they defend are not allowed.

5. Any form of inspection of the mail between the defendant and his defense lawyer is prohibited, except when they constitute material evidence of the criminal offence object of investigations.

6. Inspections, searches, sequestrations, or interceptions of conversations or communications carried out in violation of the provisions above mentioned may not be used.

Article 53

Defense lawyer interview with the defendant in pre-trial detention

1. The person arrested in flagrance or under detention has the right to speak with his defense lawyer immediately after arrest or detention.

2. The defendant under pre-trial detention has the right to speak with his defense lawyer since the moment of execution of the precautionary measure.

Article 54

The defence of the co-defendants by the same lawyer

1. The defense of more defendants may be undertaken by one defense lawyer, if there are no conflicts of interests among the co-defendants.
2. When the proceeding authority ascertains the existence of a conflicts of interest among the co-defendants, declares such conflict of interest by decision and makes the necessary [defence lawyer] substitutions.

Article 55

Refusal, withdrawal or revocation of the defense lawyer

1. The defense lawyer who does not accept the task he has been entrusted with or withdraws from it, promptly notifies the proceeding authority and the one who has appointed him.
2. Refusal is effective from the time when it is notified to the proceeding authority.
3. Withdrawal has no effects until the party is assisted with a new retained defense lawyer or with a defense lawyer assigned *ex officio* and until the time limit given to the substituting defense lawyer to examine the documents and evidence has expired.
4. Paragraph 3 is also applicable in the case of revocation.
5. The withdrawal of the representative of the civil plaintiff and civil defendant does not prevent the continuation of the proceedings.

Article 56

Responsibility for abandoning or refusing the defense

1. The proceeding authority refers to the Bar Association Directive Board cases of abandonment, refusal of the defense and defense lawyers' breaches of duty to be faithful and honest.
2. The Bar Association Directive Board has the right to take disciplinary sanctions in case of abandonment or refusal of the defense when assigned *ex officio*.
3. When the Bar Association Directing Counsel considers the abandonment or the refusal lawful on grounds of infringement of the defense rights, the disciplinary sanctions shall not be issued unless the court has found an infringement of the defense rights.

Article 57

Time limit for the substitute defense lawyer

1. In case of withdrawal, revocation and conflicts of interest among defendants, sufficient time shall be given to the new defense lawyer for the defendant or the one assigned as a substituting counsel to examine the documents and evidence.

CHAPTER VI

VICTIM, ACCUSING VICTIM, CIVIL PLAINTIFF AND CIVIL RESPONDENT

(Amended by Law No. 35/2017 of 30.03.2017, article 39)

Article 58

The rights of the victim of the criminal offence

(Amended by Law No. 35/2017 of 30.03.2017, article 40)

1. The victim of a criminal offence has the right:
 - a) to require the prosecution of the perpetrator;
 - b) to seek medical care, psychological assistance, counselling and other services provided by the authorities, organizations or institutions responsible for assisting the victims of criminal offences.
 - c) to communicate in his or her own language and to be assisted by a translator and an interpreter of the language of signs or communication facilitator for people who are not able to speak and hear;
 - ç) to choose a defence lawyer and when it is the case to receive free legal aid pursuant to the legislation into force;
 - d) to seek at any time information about the status of the proceedings, and to be acquainted about the acts and evidence, without breaching the principle of investigatory secret;
 - dh) to require to receive the evidence and submit other requests to the proceeding authority;
 - e) to be informed about the arrest of the accused person and his release under the conditions stipulated in this Code;
 - ë) to be informed for the non-initiation of the proceeding, the dismissal

of the case, the initiation and the completion of the adjudication;

f) to make an appeal in the court against the decision of the prosecutor for the non-initiation of the proceeding and the decision of the prosecutor or of the judge of the preliminary hearing to dismiss the charge or the case;

g) to ask a compensation for the damage and be accepted as a civil plaintiff in the criminal process;

h) to be excluded, in the cases provided for by the law, from the payment of every expense for receiving the acts and judicial fee for the submission of the lawsuit connected with the status of the victim of the criminal offence;

i) to be summoned in the preliminary hearing and in the first hearing;

j) to be heard by the court even when none of the parties requires him to be summoned as a witness;

k) exercise other rights provided for by this Code.

2. The proceeding authority shall immediately notify the victim on the rights referred to in paragraph 1 of this Article and record the notification about it.

3. The victim who does not have legal capacity to act shall exercise rights through his/her legal representative or the legal guardian, unless this is not in the interest of the victim. When incompatibility is noticed between the interests of the victim and the ones of the legal representative or the guardian, the court appoints a special guardian in compliance with the provisions of the Family Code.

4. Heirs of the victim defined by this Code shall have the rights provided in paragraph one, letters: a), e), ë), f), g)) and k) of this article. If the heir of the victim is a child, he shall be represented by the legal guardian.

Article 58/a

The rights of the minor victim

(Added by Law No. 35/2017 of 30.03.2017, article 41)

1. The minor victim of a criminal offence, besides the rights provided for in Article 58 and other provisions of this Code and the special legislation on the minors, shall have the right to:

a) be accompanied by one person of his/her trust;

- b) confidentiality of his/her personal data;
 - c) ask through the representative that the hearing takes place without the presence of the public.
2. The proceeding authority shall treat the minor victim of the criminal offence taking into account her age, character, and other circumstances, in order to avoid the harmful effects on her future education and development.
 3. If there is the possibility that the victim is a minor and the age is unknown, he or she will be presumed to be a minor.
 4. The minor victim shall be questioned without delay by people specialized for this purpose. When possible and appropriate, the conversation shall be recorded with audio-visual recording tools, pursuant to the provisions of this Code. This recording may be used as evidence in the criminal proceeding and shall be evaluated along with other evidence pursuant to the criteria provided by article 361/a, paragraph 4 of this Code. When the minor victim is under 14 years of age, the conversation is held in premises adjusted for him.

Article 58/b

The rights of the sexually abused victim and human trafficking victim

(Added by Law No. 35/2017 of 30.03.2017, article 42)

1. Besides the rights provided for in Article 58 and 58/a of this Code, the sexually abused victim and the human trafficking victim shall also be entitled to:
 - a) be heard without delay by a judicial police or prosecutor of the same gender;
 - b) refuse to answer questions regarding his/her private life obviously not related to the criminal offence;
 - c) request to be heard during the trial through audio-visual tools pursuant to the provisions of this Code.

Article 59

The accusing victim

(Changed by law no 10054 dated 29.12.2008, article 1)

(Amended by Law No. 35/2017 of 30.03.2017, article 43)

1. One who is aggrieved by the criminal offences provided for by articles 90, 91, 92, 112, first paragraph, 119, 119/b, 120, 121, 122, 125, 127 and 254 of the Criminal Code, has the right to submit a request in the court and to take part in the trial as a party to prove the charge and claim the reimbursement of damages.

2. The prosecutor participates in the trial of these cases and, as the case may be, request for the conviction or acquittal of the defendant.
3. If the accusing victim or his/her defense lawyer does not appear in the hearing without reasonable grounds, the court decides the dismissal of the case.
4. The accusing victim who has no legal capacity to act, shall exercise rights recognized by law through her/his legal guardian.
5. When some victims of the same case submit a request to the court pursuant to article 59 of this Code, their requests are joined in one single adjudication."

Article 60

The request of the accusing victim

(Amended by Law No. 35/2017 of 30.03.2017, article 44)

1. The accusing victim request for trial is submitted to the court secretary. The request is invalid if it does not contain:
 - a) the personal data of the accusing victim and his/her correct address;"
 - b) personal data of the accused person and his address;
 - c) name and surname of the representative and the power of attorney;
 - ç) indication of the grounds that justify the request as well as the evidence where it is based on;
 - d) endorsement of the accusing victim or his/her representative.
2. Such request shall be notified to the person accused and to the prosecutor.

Article 61

Civil lawsuit in criminal proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 45)

1. One who has suffered injury by the criminal offence or his/her heirs may file a civil lawsuit in the criminal proceedings against the defendant or the person liable to pay damages (defendant), claiming the restitution of the property and reimbursement of the injury.

Article 62

Time limit for the legal standing of the civil plaintiff

1. Legal standing of the plaintiff may be decided by the proceeding authority prior to commencing of the trial.
2. The time limit provided for by paragraph 1 may not be extended.
3. The court on the application of the parties or *ex officio* may order the severance of the civil lawsuit and its submission to the civil division (court), if its trial complicates or impedes the criminal process.

Article 63

Securing the civil lawsuit

1. Upon the request of the plaintiff, the proceeding authority may order the sequestration of assets of the defendant or of the person liable to pay damages, in order to secure the property restitution and reimbursement of damages. Such measure shall stay valid until the conclusion of the case.

Article 64

Withdrawal from the civil lawsuit

1. Withdrawal from the civil lawsuit may be done at any state and stage of the proceedings by means of a personal statement of the plaintiff or his/her representative in the hearing or through a written document filed to the court secretariat and notice served to other parties.
2. Failure of the civil plaintiff to submit his/her conclusions at the closing statement or to file a lawsuit before the civil court, is deemed as a withdrawal from the civil lawsuit.
3. In case of waiver of the civil lawsuit trial, as provided for by article 1 and 2, the criminal court may not recognize the expenses and damage caused to the defendant and the person liable to pay damages from the intervention of the plaintiff. The lawsuit to claim them can be filed with the civil court.
4. The waiver does not prevent filing the lawsuit before the civil division court.

Article 65

Summoning of the civil plaintiff

1. The one who is liable in a civil trial for the offence committed by the defendant may be summoned in the criminal proceedings on the

application of the civil plaintiff. The defendant who has been acquitted or whose case has been dismissed may be summoned as defendant for the offences of other co-defendants.

2. The application for summoning the person liable for damages must be made before the commencing of the trial.
3. The court issues summon.

Article 66

Voluntary intervention of the civil defendant

1. When the legal standing of the civil plaintiff is established, the party sued may voluntarily apply in writing to intervene in the proceedings prior to commencing of the trial. The court decides on the application after hearing the parties.
2. The time limit provided for by paragraph 1 may not be extended.
3. The intervention of the party sued loses effects when civil lawsuit is withdrawn.

Article 67

Representative of private parties

1. The accusing victim, the civil plaintiff and the civil defendant are entitled to be represented in the proceedings through a legal representative or a representative provided with a power of attorney.
2. For all procedural purposes, the address of the accusing victim, of the plaintiff and civil defendant is deemed to be that of his/her representative.
3. The representative, in case of impediment and for as long as it lasts, may assign, with the consent of the represented party, a substitute.

Article 68

Rulings on civil claim

1. The court, as the case may be, may accept the civil claim, in whole or in part, or may reject it.
2. If a decision of acquittal is issued based on the fact that the act is not provided as a criminal offence or when the criminal case is dismissed, the civil claim is not adjudicated.
3. If the civil claim is rejected during the criminal proceedings, it cannot be raised again before the civil court.

TITLE II
JURISDICTION AND COMPETENCE

CHAPTER I
JURISDICTION

Article 69
Criminal jurisdiction

1. Criminal jurisdiction is exercised by criminal courts pursuant to the rules provided for by this Code.
2. Criminal court hears everything that is necessary to take a decision and it decides pursuant to the rules provided by law.

Article 70
Consequences of a criminal decision to civil and administrative trial

1. A final criminal decision is mandatory for the court adjudicating the civil consequences of the offence only with regard to whether the criminal offence has been committed and whether it has been committed by the adjudicated person.
2. A criminal decision that incidentally settles a fact connected to a civil, administrative or criminal case has no mandatory consequences in any other proceedings.

Article 71
Consequences of civil and administrative proceedings to the criminal proceedings

1. A final civil court decision is mandatory for the court that tries the criminal case only pertaining to the fact whether the offence was committed or not, but not about the guilt of the defendant.
2. When the criminal decision depends on the settlement of a dispute pertaining to marital status or citizenship, on which proceedings have commenced before the competent court, the criminal court may even *ex officio* decide to suspend the trial until the disagreement is settled by a final decision. The suspension does not prevent the performing of urgent actions.

Article 72
Lack of jurisdiction

1. Lack of jurisdiction may be raised, even *ex officio*, at any state and instance of the trial. The court issues a decision and orders, as the case may be, the transfer of the documents to the competent authority.
2. When the lack of jurisdiction is raised during the preliminary investigations, the prosecutor of the case shall submit the documents to the competent court to rule on the matter.

Article 73
Conflicts of jurisdiction

(Amended by Law No. 35/2017 of 30.03.2017, article 46)

1. When there are conflicts of jurisdiction, the court that raises it takes a decision, which it, along with a copy of the necessary documents for its settlement, transfers to the High Court, indicating the parties and defense lawyers.
2. Provisions of section IV of Chapter II under this title shall apply. The High Court shall decide within 30 days from the arrival of acts.

CHAPTER II
COMPETENCE

SECTION I
SUBJECT MATTER COMPETENCE

Article 74
Competence of judicial district court

(Amended by law No. 9911 of 05.05.2008, article 3)
(Amended by Law No. 35/2017 of 30.03.2017, article 47)

1. Judicial district court is competent to adjudicate criminal offences, except those which fall under the competence of Anti-corruption and Organised Crime Court.

Article 75
Military Court Competence
(Repealed by law no 9911 dated 05.05.2008, article 4)

Article 75/a

Jurisdiction of the Anti-Corruption and Organised Crime Court

(Amended by Law No. 9276 of 16.09.2004, article 4)

(Amended by Law No. 9911 of 05.05.2008, article 5) (Amended by Law No. 145/2013 of 02.05.2013, article 1) (Amended by Law No. 21/2014 of 10.03.2014, article 1) (Amended by Law No. 99/2014 of 31.07.2014, article 1) (Amended by Law No. 35/2017 of 30.03.2017, article 48)
(Amended by Law no. 41/2021, date 23.3.2021, article 7)

The Anti-Corruption and Organised Crime Court shall adjudicate:

- a) offences foreseen in articles 230, 230/a, 230/b, 230/c, 230/ç, 231, 232, 232/a, 232/b, 233, 234, 234/a, 234/b, 244, paragraph 2, 244/a, 245, 245/1, paragraphs 2 and 4, 257, 258, paragraph 2, 259, paragraph 2, 259/a, 260, 312, 319, 319/a, 319/b, 319/c, 319/ç, 319/d, 319/dh, 319/e, 328 and 328/b of Criminal Code;
- b) any crime committed by structured criminal group, criminal organization, terrorist organization and armed gang pursuant to the provisions of this Code;
- c) criminal charges against the President of the Republic, Speaker of Parliament, Prime Minister, member of the Council of Ministers, judge of the Constitutional Court and the High Court, General Prosecutor, High Justice Inspector, Mayor, member of the parliament, deputy minister, member of the High Judicial Council and High Prosecutorial Council, and directors of independent and central institutions defined in the Constitution or in law;
- ç) criminal charges against above former officials, when the offence was committed on duty.

Article 75/b

(Amended by Law No. 35/2017 of 30.03.2017, article 49)

1. The High Court adjudicates appeals for violation of law, in order to ensure the uniform interpretation, the development and the revision of the judicial practice and exercises other competences, pursuant to the provisions of this Code.
2. Repealed.

SECTION II TERRITORIAL JURISDICTION

Article 76 General rules

1. Territorial jurisdiction is determined, in order, by the venue where the criminal offence is committed or is attempted to be committed or the venue where the consequence has occurred.
2. If the venue indicated in paragraph 1 is not known, the jurisdiction belongs, in order, to the court of the residing place or the domicile of the defendant.
3. If the jurisdiction cannot be determined in this way, it belongs to the court where the prosecution office which recorded the criminal offence first, is placed.
4. Rules prescribed in the above paragraphs shall also apply during preliminary investigations.

Article 77 Jurisdiction for criminal offences committed abroad

1. If the offence is committed completely abroad, the jurisdiction is determined, in order, by the residing place, domicile, and place of arrest or surrender of the defendant. In case of several defendants, the proceedings shall be carried on by the court, which is competent for most of them.
2. If it cannot be determined in the ways stipulated in paragraph 1, the jurisdiction belongs to the court of the place where the prosecution office who has recorded the criminal offence for first is located.
3. If the criminal offence is partly committed abroad, the jurisdiction is determined pursuant to the general rules pertaining to territorial jurisdiction.

Article 78 Jurisdiction on proceedings against judges and prosecutors

1. Proceedings in which a judge or a prosecutor is a defendant or a victim of the criminal offence which, pursuant to the rules of this chapter, would fall under the jurisdiction of the district court where the judge or the prosecutor exercises his/her functions or did exercise them at the

time when the offence was committed, are under the jurisdiction of the court which has territorial jurisdiction and which is located in the centre of another adjacent district, except when in this district the judge or the prosecutor has come afterwards to exercise his/her functions. In the latter case, another court, which is the closest in distance to the court where the judge or the prosecutor exercised his/her functions at the time when the criminal offence was committed, has the jurisdiction.

SECTION III JURISDICTION AS A RESULT OF JOINDER OF CONNECTED PROCEEDINGS

Article 79

Joinder of proceedings cases

1. The proceeding organ may decide to join the proceedings:
 - a) when a criminal offence under investigation has been committed by several persons in collaboration among them or when several persons have independently caused the commitment of the criminal offence;
 - b) when a person is accused of several criminal offences.
 - c) when a person is accused of more offences, some of which are committed to accomplish or conceal others or to ensure to the perpetrator or other persons unlawful benefits or impunity.

Article 80

Joinder of proceedings under the jurisdiction of different courts

(Amended by Law No. 35/2017 of 30.03.2017, article 50)

1. In cases of linked proceedings, which cannot be severed, one or more of which are under the competence of Anti-Corruption and Organised Crime Court and other proceedings under the competence of the other first instance courts, the Anti-Corruption and Organised Crime Court shall be competent. This rule shall apply also in the case of minor defendants. In such a case, the court applies the rules of the adjudication for minors."
2. Repealed.

Article 81

Boundaries on joinder of criminal offences committed by minors

(Amended by Law No. 35/2017 of 30.03.2017, article 51)

1. When some of the connected proceedings fall under the jurisdiction of the ordinary court, and the others under the relevant sections of court that tries cases against minors, the latter is competent for all the proceedings, except in cases when the court deems that they must be separated.
2. When defendant was an adult at the time of the trial, but he was a minor at the time when he committed one or more offences, the case is tried by the relevant sections that tries cases against minors.

Article 82

Territorial jurisdiction determined by the connection of proceedings

1. Territorial jurisdiction for connected proceedings, which several courts have the same subject matter jurisdiction, the competent court is the one which has jurisdiction over the most serious criminal offence and if offences are equally serious, to the competent court for the offence that was recorded first.
2. Crimes are considered more serious than misdemeanours. Amongst crimes or misdemeanours, is deemed as most serious the criminal offence which provides for the longest maximal sentence or, when maximum sentences are equal, the longest minimum sentence. If an imprisonment and fine sentence is provided, the fine sentence is taken into account only when imprisonment sentences are equal.

SECTION IV

RULINGS IN CASE OF LACK OF JURISDICTION

Article 83

Non-jurisdiction

1. Lack of subject matter jurisdiction may be raised, also *ex officio*, at any state and instance of the proceedings.
2. Lack of territorial jurisdiction, including the one resulting from joinder of connected proceedings, may be raised or challenged only before the initiation of the trial hearing.

Article 84

Non-jurisdiction declared during preliminary investigation

(Amended by Law No. 35/2017 of 30.03.2017, article 52)

1. When during the preliminary investigations or during their conclusion the prosecutor ascertains lack of jurisdiction for any reasons, he transfers the documents to the prosecutor attached to the competent court.
2. If the prosecutor declares the non-competence, he shall immediately inform both courts. The court shall, within three days upon receiving the prosecutor's notification, transmit to the competent court the acts of the preliminary investigation conducted until that moment before that court.

Article 85

Non-jurisdiction declared at the first instancel trial

1. If at the first instance trial, the court deems that the proceeding is under the jurisdiction of another court, it declares by decision its non-competence for any reason and orders the transfer of documents to the competent court.

Article 86

Court of Appeal and High Court decision on competence

(Amended by Law No. 35/2017 of 30.03.2017, article 53)

1. If the court of appeal ascertains that the court first instance had no subject matter competence, it quashes the appealed decision and transfers the case to the competent court.
2. The High Court decision on the competence is mandatory, except when new facts arise that lead to a different legal definition, which makes competent another court of a higher level.

Article 87

Evidence obtained by a non-competent court

(Amended by Law No. 35/2017 of 30.03.2017, article 54)

1. Failure to comply with the provisions on competence does not result in evidence non-utility.
2. Statements made before a court, which did not have subject matter competence, if repeated, may only be used to rebut the content of the deposition.

Article 88

Precautionary measure issued by a non-competent court

1. Precautionary measures issued by a court, which at the same time or afterwards is declared as a non-competent court on any ground, lose their effects, if the competent court does not decide on the precautionary measures within ten days of receiving the documents.

SECTION V

CONFLICTS OF JURISDICTION

Article 89

Cases of conflicts

(Amended by Law No. 35/2017 of 30.03.2017, article 55)

1. There is a conflict, in any state and instance of the proceedings, if two or more courts concurrently take or refuse to admit for adjudication the same charge attributed to the same person.

2. Conflicts among prosecution offices of the general jurisdiction during the phase of the preliminary investigations shall be settled by the higher-ranking prosecutor. In cases of conflicts during the preliminary investigations between the Special Prosecution Office and another prosecution office, the competence and the jurisdiction of the first shall prevail. The provisions of articles 28 and 29 of this Code shall apply.

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

Article 90

Presentation of the conflict

1. The conflict may be presented by the prosecutor before any of the courts in conflict or by the defendant and the private parties. A written and reasoned request is submitted to the secretary of any of the courts in conflict, to which all necessary documentation is attached.

2. The court which raises the conflict case takes a decision, by which it submits to the High Court a copy of the necessary documents for its settlement, indicating the parties and their defense lawyers.

3. The court that has issued the decision promptly notifies the court in conflict. expedition

Article 91
Settlement of the conflicts

1. The conflicts are settled by decision of the High Court. The court obtains all information, acts and documents that are deemed necessary.
2. Notice of the decision is immediately served to the courts in conflict, to the respective prosecution offices, to the defendant and the private parties.
3. Conflicts on subject matter competence within the same court are not allowed.

SECTION VI
JOINDER AND SEVERANCE OF CASES

Article 92
Joinder of cases

1. Cases which are before the same court and in the same state and instance may be joined, if this does not prejudice the expedition of their settlement:
 - a) in cases provided for by article 79;
 - b) in cases of criminal offences committed by more persons against each other;
 - c) in cases when the evidence of a criminal offence or its circumstance impacts the evidence of another criminal offence or its circumstance.

Article 93
Severance of proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 56)

1. The severance of the proceedings may be decided also *ex officio* only if this does not result in a prejudice to the proving of facts, in the following cases:
 - a) when proceedings have been suspended for a defendant or more, or for one or more charges;
 - b) when one or more defendants have not appeared in court because of the invalidity of the summoning, their inculpable lack of knowledge of the summons or because of lawful impediments;

c) Repealed;

ç) when the judicial examination for one or more defendants or for one or more charges is complete, whereas for the other defendants or for the other charges it is necessary to conduct other activities, exception made for the case of a charge for criminal offence in collaboration.

2. In addition to the cases provided for by paragraph 1, the severance of cases may also be decided with the consent of the parties, when the court deems it useful for the purposes of expedite trial.

SECTION VII TRANSFER OF PROCEEDINGS

Article 94 Reasons for transferring

1. At any at any stage and instance of the proceedings, if the public security or the freedom of determination of any of the parties is impaired by serious local conditions, which may prejudice the hearing of the trial and are unavoidable in any other ways, the High Court, on the reasoned request of the prosecutor attached to the court at issue or on the request of the defendant, shall transfer the proceedings to another court.

Article 95 Request for transfer

1. The request for transfer is submitted, along with the related documents, to the secretary of the competent court and notice is served to other parties within seven days of submission.

2. The defendant's request is signed by him in person or by his/her special representative.

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

4. Failure to comply with the forms and time limits provided for by paragraphs 1 and 2 constitute grounds for request rejection.

Article 96

Consequences of the request

1. The submission of the transfer request does not suspend the trial, but the court may not conclude the case until a decision for the acceptance or the rejection of the request is issued.
2. The High Court may decide to suspend the trial. The suspension does not prevent the performance of any urgent activities.

Article 97

Decision on the request for transfer

1. The High Court, after obtaining the necessary information, decides on the request in closed session, without the participation of the parties.
2. The decision accepting the request shall be notified to the court, which was holding the trial and the to the one assigned to adjudicate it. The court, which was proceeding, transfers the documents immediately to the assigned court and orders that notice of the High Court decision is served to the prosecutor, to the defendant and private parties.
3. The court assigned by the High Court declares by decision whether and to what extent the actions performed will stay valid.

TITLE III

DOCUMENTS, NOTIFICATIONS AND TIMELIMITS

CHAPTER I DOCUMENTS

SECTION I

GENERAL RULES

Article 98

Language of the documents

(Amended by Law No. 35/2017 of 30.03.2017, article 57)

1. Criminal procedural documents are drafted in Albanian language.
2. A person who does not speak Albanian shall be questioned in his/her native language or in another language he understands, selected by him. The minutes shall be kept in Albanian.

3. Breach of these rules results in documents invalidity.

Article 99

Signature of documents

1. If a document is required to be signed, handwriting at the end of the document of the signee's name and surname will suffice, unless otherwise provided by the law.
2. Signature by means of mechanical instruments or signs other than writing is not valid.
3. If the person is not able to sign, the official receiving a written document or recording an oral deed, makes sure about the identity of the person and reflects this fact at the bottom of the document, in the presence of a third person.

Article 100

Date of the documents

1. If law requires the date of a document, the documents shall indicate the day, month, year and the place where the document is drafted. Time indication is mandatory only when expressly required.
2. If a document's date is required under penalty of invalidity, this rule is valid only in case the date cannot be accurately determined based on the elements contained in the document itself or in any other related documents.

Article 101

Replacement of original documents

1. If an original procedural document is damaged, lost or has disappeared and for any reasons cannot be found, a certified authentic copy shall have the value of the original and shall be placed where the latter was.
2. To this purpose, the court, even *ex officio*, shall order by decision the person holding the copy to deliver it to the court secretary.

Article 102

Redrafting of documents

1. If a document cannot be replaced, the court even *ex officio* verifies the content of the missing document and orders if and how it should be redrafted.

2. If the concept of the missing document exists, such document is redrafted based on the concept, provided that one of the judges who has signed it certifies that it is the same as the concept.

Article 103

Prohibition to publish a document

1. It is prohibited to publish, even in part, of confidential documents related to proceedings or of their sole contents by means of press or mass media.
2. It is prohibited to publish, even in part, of non-confidential documents until the conclusion of the preliminary investigations.
3. It is prohibited to publish, even in part, trial documents when hearings are closed to public. Prohibition on publication is removed when the time limits provided for by the law on the State archives expire or after ten years of the date when the decision has become final, provided that such publication is authorized by the Minister of Justice.
4. It is prohibited to publish personal data and photographs of minor defendants and witnesses, accused or injured by the criminal offence. The court may allow the publication only when the interest of the minor requires so.

Article 104

Violation of the publication prohibition

1. Breach of the prohibition to publish by a State official or a public entity employee constitutes a disciplinary infringement, unless it constitutes a criminal offence. In this case, the prosecutor notifies the authority entitled to adopt disciplinary sanctions.

Article 105

Obtaining copies, extracts and certificates

(Amended by Law No. 35/2017 of 30.03.2017, article 58)

1. Whoever is interested may obtain on his/her own expenses, during proceedings and after its conclusion, copies, extracts or certificates of specific documents or audio and audio-visual recording.
2. The request is examined by the prosecutor, for the documents concerning preliminary investigation or by the court, which has issued the decision, for documents related to the trial.

3. Issuance of copies, extracts or certificates does not remove the prohibition on publication.

Article 106

Prosecutor's request to obtain copies of documents and information

1. When it is necessary for the purposes of the investigation, the prosecutor is entitled to request from the court copies of documents concerning other criminal proceedings under his prosecution, as well as written information regarding their content, even in cases where a confidential obligation exists.
2. The court, within five days, shall respond to the request or reject it by reasoned decision.
3. Provisions of paragraph 1 and 2 shall apply also to requests made by the Minister of Public Order and the Chief of the Intelligence Service, if they need copies of documents and information to prevent criminal offences.

Article 107

Participation of deaf, mute and deaf-mute person in the drafting of procedural documents

1. When a deaf, mute or deaf-mute person wishes or are required to give explanations, it is acted in this way:
 - a) questions and warning are given to the deaf person in writing and he answers orally.
 - b) questions and warnings are given to the mute person orally and he answers in writing.
 - c) questions and warning are given to the deaf-mute person in writing and he answers in writing.
2. If the deaf, mute or deaf-mute person does not know how to read or write, the proceeding authority shall assign one or more interpreters selected amongst persons who are used to communicate with them.

Article 108

Witnesses in procedural acts

(Amended by Law No. 35/2017 of 30.03.2017, article 59)

1. The following persons cannot testify on the contents of a procedural document:

a) minors up to fourteen years old and persons who suffer from manifest mental disorders or who are in a serious state of drunkenness or intoxication by narcotic or psychotropic substances.

b) Repealed.

Article 109

Power of attorney for certain procedural documents

1. When the law allows a document to be drafted through a special representative, the power of attorney is issued by a notary public or by a private written document, certified by the competent authorities, otherwise it is not accepted, and must contain, in addition to information specifically required by law, the determination of the subject for which it is granted and the facts it refers to. The power of attorney is attached to documents.

2. The power of attorney issued by State authorities must have the director's signature and the seal of the institution.

Article 110

Memoranda and requests of the parties

1. Parties and their representatives have the right, at any stage and instance of the proceedings, to present memoranda and written requests.

2. The proceeding authority shall render a decision within fifteen days, unless otherwise provided by this law.

Article 111

Statements and requests from persons in pre-trial detention

1. A defendant detained by way of precautionary measures is entitled to present complaints, requests and statements through the director of the institution, who issues a document to acknowledge their receipt. They are recorded in a special book and promptly communicated to the competent authority and have the same effect as if they were accepted directly by that body.

2. A defendant who is in house arrest or under supervision in a treatment facility is entitled to present complaints, requests and statements to the judicial police officer, who certifies their receipt and takes care to promptly send them to the competent authority.

3. These rules shall also apply to criminal reports, complaints, requests and statements presented by the private parties or the victim.

SECTION II COURT'S DOCUMENTS

Article 112

Forms of court rulings

(Amended by Law No. 35/2017 of 30.03.2017, article 60)

1. Court rules by decisions and orders.
2. Decision is given in the name of the Republic.
3. Decisions and orders must be reasoned, otherwise they are invalid.
4. Decision is taken in closed session, without the presence of the secretary and the parties.
5. If a member of the judicial panel votes against an intermediate decision, he shall reason his/her opinion in written form and such opinion shall be attached to the minutes of the hearing.
6. If a member of the judicial panel votes against a final decision, he shall reason his/her opinion in written form and the document remains in the judicial file.
7. Orders are issued without observing any particular formalities and, if not otherwise provided, they are also issued orally.

Article 113

Filing court documents

1. Original court documents are filed with the secretary within five days of their issuance. The prosecutor and the other persons entitled by law to appeal shall be notified about decisions that can be appealed.

Article 114

Correction of material errors

1. Correction of decisions and orders containing material errors may also be carried out *ex officio* by the court, which has issued the document. When against this document an appeal is made, and this is accepted, then the correction is made by a decision of the court that adjudicated the appeal, following which, a note is made in the original document.

SECTION III
RECORDING OF ACTIVITIES

Article 115
Minutes of the hearing

(Amended by Law No. 35/2017 of 30.03.2017, article 61)

1. When it is possible, the activities carried out during the hearing and any other activity conducted outside of it, shall be recorded by audio or audio-visual tools. Recording shall start and end simultaneously with the judicial hearing.
2. Recording of the hearing shall be carried out from the judicial secretary, under the instruction and supervision of the panel presiding judge.
3. If it is not possible to keep the minutes by means of audio or audio-visual recording, they shall be kept, in accurate summary form, by means of typewriting or handwriting, under the supervision of the presiding judge of the panel.
4. The minutes shall contain
 - a) the venue, year, month, day and time when it was started and terminated;
 - b) the composition of the court;
 - c) the name of the prosecutor;
 - c) the personal data of the defendant or other personal data which are useful to identify him, the personal data of the defense lawyers, of the accusing victim, private parties and of their representatives.
 - d) personal data of the persons who take part in the trial;
 - dh) if appropriate, the reasons for the absence of parties, of their representatives and persons summoned to participate in the court hearing.
5. The minutes shall describe any activity carried out during the hearing and shall reproduce in summary form:
 - a) requests and claims of the parties;
 - b) the exact indication of the name of each submission, memoranda or final discussion submitted in writing by the parties, indicating also the number of pages;

- c) questions and statements of the persons who take part in the trial, including witnesses and experts;
 - ç) evidence obtained;
 - d) decisions and orders issued by the court during the trial;
6. If the minutes are kept in a summary form by type writing or handwriting and one of the parties requires to include in it, parts of its statements or statements of the other party, the court shall consider this request.
7. The written memoranda submitted by parties in support of their claims and conclusions, shall be attached to the minutes.
8. If the minutes are kept in a summary form typewriting or writing, they shall be signed at the end of each page by the secretary and the end of the document by the presiding judge of the jury. The minutes are a component of the judicial file and they are preserved for as long as the judicial file is preserved.
9. If kept by audio or audio-visual recording, the recording is preserved in the relevant electronic program for as long as the court file is preserved.
10. The parties shall be entitled at any time to obtain copies of the recordings and minutes kept by printing or handwriting by paying the respective fees."

Article 116

Transcript of minutes kept by means of audio or audio-visual recording

(Amended by Law No. 35/2017 of 30.03.2017, article 62)

1. The transcript of the minutes kept by means of audio or audio - visual recording shall be made by the court secretary or, under his/ her supervision, by technicians contracted by the court to this purpose, reflecting accurately all the contents of the recording.
2. The transcript shall be signed by the judicial secretary and by the person who prepared it.
3. The transcript of the minutes shall be conducted when:
 - a) it is requested by the members of the judicial panel;
 - b) it is requested in writing by the parties at trial and this request is approved by the presiding judge, after the relevant fees for such

purpose, as defined by order of the Minister of Justice, are paid. If the transcript of the minutes is requested after the trial conclusion, the court chairman shall decide on this request.

4. The transcript of the recording can be carried out for all hearings of a proceeding, for specific sessions or for parts of them, upon the request of the party who asks for the transcript. If carried out during the trial, the transcript materials shall be attached to the court file and constitute part of it.

5. For documenting the procedural actions during the preliminary investigation the provisions above shall apply *mutatis mutandis*.

Article 117

Signature of the minutes

(Amended by Law No. 35/2017 of 30.03.2017, article 63)

1. The minutes, kept in written form, except for the ones kept during trial hearing, after being read, are signed at the bottom of each page by the person who kept them, the person who proceeds and the persons who have participated.

2. If any of the participants is not willing or is not able to sign it, a note is made indications also the relevant reason.

Article 118

Transcription of records kept by stenographic means

(Repealed by Law No. 35/2017 of 30.03.2017, article 64)

Article 119

Phonographic or audio-visual reproduction

(Repealed by Law No. 35/2017 of 30.03.2017, article 65)

Article 120

Forms of recording in particular cases

(Repealed by Law No. 35/2017 of 30.03.2017, article 66)

Article 121

Oral statements of parties

1. If the law does not require a document in written form, the parties may make personally or through special representatives, oral requests or statements. In this case, the court secretary drafts the minutes and records the statements. The power of attorney is attached, when the case is so, to the minutes.

2. A certificate or a copy of the statements rendered may be issued to the party that requests it, on its own expenses.

Article 122

Invalidity of the minutes and of therecording

(Amended by Law No. 35/2017 of 30.03.2017, article 67)

1. The minutes kept in typewriting or handwriting shall be null and void when there are doubts regarding the identity of the persons who have participated in it or the signature of the personnel who drafted it is missing.
2. Apart from paragraph 1 of this article, the minutes kept by audio and audio-visual tools shall be invalid for the part in which the content of the recording is not understandable.

SECTION IV

TRANSLATION OF ACTS

Article 123

Interpreter appointment

(Amended by Law No. 35/2017 of 30.03.2017, article 68)

1. A defendant who does not know Albanian language, is entitled to be assisted by an interpreter, free of charge, to understand the charge and follow actions where he takes part. If the defendant declares that he knows Albanian language, he may waive from such right.
2. The proceeding authority shall also appoint an interpreter when a written document must be translated into a foreign language, as well as in the cases referred to in article 107 of this Code.
3. An interpreter shall be appointed even if the court, the prosecutor or the judicial police officer, know the language to be translated.
4. The provisions on the appointment of the interpreter for the defendant shall also apply to the victim.

Article 124

Incapacity and incompatibility of the interpreter

(Amended by Law No. 35/2017 of 30.03.2017, article 69)

1. The interpreter role may not be carried out by the following:
 - a) a minor, a person who is prohibited to interpret, a person whose

legal capacity to act has been removed, a person mentally ill, a person who has been prohibited or suspended from the right to exercise public duties or a profession;

- b) a person under precautionary measures;
- c) a person who may not be questioned as a witness, a person who has been summoned as a witness and expert in the same or a joined proceeding. However, when a person who cannot hear, cannot speak or who cannot hear nor speak, is questioned, the interpreter may be one of his/her relatives, provided they do not have any incompatibility.

Article 125

Request for interpreter's exclusion and withdrawal

1. Parties are entitled to request the interpreter's exclusion for the reasons provided for in Article 124.
2. If there is a reason to request the exclusion or the withdrawal of the interpreter, he/she is obliged to declare such reason.
3. The request for exclusion or withdrawal must be submitted prior to the assignment of the tasks and, for reasons discovered afterwards, before the interpreter has completed his/her task.
4. The proceeding authority shall decide on the exclusion or withdrawal request.

Article 126

Assignment of the task to the interpreter

1. The proceeding authority shall verify the interpreter's identity and ask him whether there are grounds for his/her exclusion.
2. The interpreter shall be warned of his/her obligation to perform an accurate interpretation and to keep all the acts that are carried out in his/ her presence confidential. He is then invited to fulfil the task.

Article 127

Time limits for written translations. Substitution of the interpreter

1. The proceeding authority shall assign a time limit to the translator in case a long time is required for the translation of written documents. The translator may be substituted if he does not present the written translation within the set time limit.

2. The substituted translator, after being summoned to present the reasons for failing to accomplish his/her task, may be sanctioned by the court with a fine of up to ten thousand AL.

SECTION V INVALIDITY OF ACTS

Article 128 Invalidity of acts

(Amended by Law No. 35/2017 of 30.03.2017, article 70)

1. The procedural acts shall be invalid only in the cases expressly provided by this Code.

Article 128/a Absolute invalidity

(Added by Law No. 35/2017 of 30.03.2017, article 71)

1. The procedural acts shall be absolutely invalid (null and void) when the provisions concerning the following are not observed:

- a) requirements to be a judge in an actual case and the minimum number of judges to establish judicial panels pursuant to the provisions of this Code;
- b) the prosecutor's prerogative to conduct the criminal prosecution and to participate in the proceeding;
- c) summoning the defendant, victim or the presence of the defense lawyer when it is mandatory.

2. A procedural act qualified by law as absolutely invalid (null and void) cannot become valid.

Article 129 Relative invalidity

(Amended by Law No. 35/2017 of 30.03.2017, article 72)

1. Invalidities, other than those provided for by Article 128, may be declared upon the request of the parties

2. If the party is present, the invalidity of an act must be challenged before it is performed and, when this is not possible, immediately after it has been performed.

3. Invalidity related to the acts of the preliminary investigations and of the acts concerning the pre-trial admission of evidence must be challenged in the preliminary hearing or in trial hearing, before the judicial examination starts, pursuant to article 355 of this Code.
4. The invalidity ascertained during the trial may be challenged together with the appeal against the final decision.
5. Time limits to raise or challenge invalidity may not be extended.

Article 130

Evaluation of relative invalidity

(Amended by Law No. 35/2017 of 30.03.2017, article 73)

1. Unless otherwise provided by law, invalidity shall not be considered:
 - a) when the interested party has expressly withdrawn the invalidity request or accepted the consequences of the procedural act;
 - b) when the party has benefited from the right, the exercise of which the invalid act intends to protect;
 - c) when it is caused by the party itself, or when the party has no interest in raising it.
2. The invalidity of communications and notifications shall not be considered if the interested party has appeared or has refused to appear.
3. A party declaring that he/she has appeared only to raise the invalidity of a procedural act shall be entitled to a period, of not less than three days, to prepare the defense.
4. During preliminary investigations, the evaluation of the invalidity shall be done by the prosecutor, and if not done by the latter, it shall be evaluated by the judge of the preliminary hearing.

Article 131

Effects of invalidity declaration

1. The invalidity of a procedural act shall result in the invalidity of all subsequent acts, which depend on the one declared invalid.
2. The court which declares the invalidity of a procedural act shall order its repetition, when this is necessary and possible, charging the relevant expenses to the party who has intentionally or by serious negligence caused the invalidity.

CHAPTER II NOTIFICATIONS

Article 132

Bodies and forms of notifications

1. Notifications of acts shall be served by the court dispatcher or by the postal service.
2. The judge, when he considers it necessary, may order the judicial police to serve the notifications.
3. If a copy of a document is delivered to the interested person by the court secretary, it shall have the value of a served notification. In such case, the court secretary shall make a note on the original document for the delivery and the date.
4. Notifications served by the court to the interested parties, in their presence, shall be recorded in the minutes.

Article 133

Special notifications and notifications with other technical means

(Amended by Law No. 35/2017 of 30.03.2017, article 74)

1. In situations of urgency, the court may order that the persons requested by the parties, except for the defendant, are served notification via telephone by the court secretary or the judicial police. On the original copy of the notification the requested telephone number, the name and job of the person who receives the notification, his/her relationship with the one the notification is addressed to, as well as the date and time of the telephone call shall be reflected.
2. The notification by telephone shall be valid since the moment is made, provided that its receipt is documented.
3. Repealed.
4. The court, when deems it appropriate, except for the defendant, may decide the notification of the person, by other technical means guaranteeing the notification, provided that their receipt is documented.
5. The notification of the witness with hidden identity, of the protected witness and of the collaborator of justice, shall be served by delivering a copy of the act to the prosecutor.

Article 134

Notification of the prosecutor's documents

1. Notification of prosecutor's documents during preliminary investigations shall be served by the judicial police or through the postal service, in the ways provided for by Article 133.
2. The delivery of a copy of a document to the interested person by the court secretary shall have the value of a served notification. The person delivering the document shall note in the original document its delivery and the date.
3. Oral notifications made by the prosecutor shall replace notifications, provided that such fact is reflected in the minutes.

Article 135

Notifications from private parties

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

Article 136

Notification addressed to the prosecutor

1. Notifications to the prosecutor may also be directly served by the parties, their defense lawyers or representatives, by delivering a copy of the act to the secretary. The person receiving it, notes on the original act and on its copy the personal data and the date.

Article 137

Notifications to the victim and private parties

(Amended by Law No. 35/2017 of 30.03.2017, article 75)

1. Notifications to the victim of the criminal offence are served in the same way as done for the notification of the free defendant for the first time. If places mentioned in Article 140 are not known, notification shall be done by filing the document in the secretary. If documents indicate that his/ her residence or domicile is abroad, he is invited by registered mail with acknowledgment of receipt, to declare or elect his/her domicile within the Albanian territory. If the statement or election of domicile is not made, within twenty days of receipt of the registered mail, notification shall be served by filing the document to the secretary.
2. Notification of the first summon to the civil defendant shall be served in the forms established for the first notification of a free defendant.
3. Notifications to the civil plaintiff and to the civil defendant shall be served

to their representatives.

Article 138

Notifications through public announcement for the victims

(Amended by Law No. 35/2017 of 30.03.2017, article 76)

1. If the notification of the victims is difficult due to their number, to the inability of identifying some of them or when the notification is impossible because the places indicated in Article 140 are not known, the court may order that it is made through the public announcement at its posting corner and on the internet site. The notification shall stay posted for not less than 10 days.
2. The notification shall be deemed as served when court dispatcher submits to the secretary a copy of the act together with the documents proving the public announcement.

Article 139

Notification to the imprisoned defendant

1. Notification to the imprisoned defendant shall be served to the detention premises by handing him over the act.
2. If the defendant refuses to receive copy of the act or when the defendant is missing for justified reasons, the act shall be delivered to the person in charge of the institution who, in such case, shall notify the interested person with the fastest means.
3. The abovementioned provisions shall also apply in case the defendant is in pre-trial detention due to any other charge or is serving an imprisonment sentence.
4. If a detained person is released due to a change of the precautionary measure, he shall be obliged to declare or elect his/her domicile. This shall be noted in the release document and notified to the proceeding authority. If notification in the declared or elected domicile is not possible, the act shall be delivered to the defense lawyer.

Article 140

Serving the notification to a defendant in free state for the first time

(Amended by Law No. 35/2017 of 30.03.2017, article 77)

1. The notification for the first time to a defendant in free state is made by personally delivering to him a copy of the document along with the letter of rights pursuant to Article 34/a of this Code. When it cannot be delivered to him in person, the notification is served to his/her residence or working place, by delivering the document to a cohabitee or to a neighbour, or to a person who works with him. The notification act must indicate the personal data of the person receiving the notification and his/her relationship with the defendant.

2. Where the places mentioned in paragraph 1 are not known, the notice is served to the temporary residence of the defendant or to a venue where he frequently resides, by delivering it to one of the persons mentioned in paragraph 1.

3. The copy of the notification may not be delivered to a less than 14 year of age or to a person with manifest intellectual disabilities.

4. If the defendant is a minor, he shall normally be notified through his/ her parents or his/her legal guardian, as well as pursuant to the special legislation on minors.

5. Where the persons mentioned in paragraph 1 are absent or are not suitable, or refuse to accept the document, then the defendant is searched in other places. If even in this way the notice cannot be served, the document is delivered to the administrative centre of the neighbourhood or village where the defendant lives or works.

The notice of depositing [the act/document] is posted on the door of defendant's house or working place, on posting corner and on the website of the court. The court dispatcher notifies him on the depositing [of the act] through registered mail with acknowledgment of receipt. Effects of the notification start to run from the time of receipt of the registered mail.

6. Notification of the defendant who is serving in the military service is made by delivering him the document and if the delivery cannot be made, the document is notified to the command, which is obliged to promptly notify the concerned person.

7. By the act of notification for the first time, the proceeding authority shall invite the defendant to declare or elect the residence or domicile and the form of upcoming notifications for the purposes of proceedings.

The defendant is obliged to notify in written form or declare before the proceeding authority any of their change.

Article 140/a

Notification of the legal entity as a defendant

(Added by Law No. 35/2017 of 30.03.2017, article 78)

1. The notification of the legal entity as a defendant shall be done at its registered office. The person who receives the notification shall note in the act of notification his/her identity, the function he is performing with the legal entity and the date of receipt of the notification.
2. If the notification pursuant to the paragraph above is not possible, it shall be done by posting the notification at the declared address of the registered office, at the posting corner of the court, on its webpage and through the announcement on the website of the Business National Centre in cases of the legal persons being registered in the commercial register.

Article 141

Serving notification to a defendant who cannot be found

1. In cases where notice cannot be served pursuant to the rules on serving notification to the defendant in free state, the proceeding authority shall order the conduct of a search operation for the defendant. If the search does not give any positive result, a decision of failure to find shall then be issued, by which after appointing a defense lawyer for the defendant, it shall be ordered that a copy of the notification is delivered to such defense lawyer. The person who cannot be found shall be represented by the defense lawyer.
2. The decision of not being found shall cease to have effects when the preliminary investigations are concluded or a ruling has been issued by the court.
3. The notification addressed to the defendant who is hiding or escaping shall be served by delivering a copy of the document to his/her defense lawyer and when he does not have a defense lawyer, the proceeding authority shall appoint a defense lawyer *ex officio*, to represent the defendant.

Article 142

Notification of a defendant abroad

(Amended by Law No. 35/2017 of 30.03.2017, article 79)

1. In cases where the defendant's domicile or residence abroad is known, the proceeding authority shall send him a registered mail with acknowledgment of receipt, by which he notifies him for the criminal offence he is charged with and asks him to state or choose a domicile in Albanian territory. If, after three days from receiving the registered mail, no domicile statement or election is made or is not so notified, the notification shall be served by delivery to the defense lawyer.
2. Where the defendant is notified pursuant to paragraph 1, he shall be invited to declare or to elect the domicile in the Albanian territory. The notification effected at the declared address shall be considered accomplished.
3. If it results that there is no sufficient information to act pursuant to paragraph 1, the proceeding authority, before issuing a decision of intractability, shall order that searches are conducted even outside of the territory of the State, pursuant to rules established in international agreements.

Article 142/a

Notification of foreign persons enjoying immunity

(Amended by Law No. 35/2017 of 30.03.2017, article 80)

1. Unless otherwise provided by international agreements, the notification of foreign persons enjoying immunity under the international law shall be done through the ministry responsible of foreign affairs.

Article 143

Invalidity of notifications

1. Notification shall be invalid:
 - a) if the act has not been notified in full, except for the cases where the law allows for a service of notification through an extract;
 - b) if in the copy of the notified document, the signature of the person who has served the notification is missing;
 - c) if the specific provisions on the person to whom the copy shall be delivered, are breached;
 - d) if the posting of the notification for the defendant in free state

has not been carried out;

d) if in the original copy of the notified document, the signature of the person who has undertaken the notification pursuant to Article 140, paragraph 1, is missing;

dh) if the methods of notification by means of special technical instruments have not been observed and as a result the recipient of the notification did not receive the act.

CHAPTER III TIME LIMITS

Article 144 **General rules**

1. The procedural time limits are established in hours, days, months or years.
2. The time limits are calculated pursuant to the regular calendar.
3. The time limit established in days when it expires on a non-working day or a public holiday, shall be postponed until the next working day or non-public holiday.
4. Unless otherwise provided by the law, the hour or day, in which the time limit starts to run, shall not be included in the calculation of the established time limit. The last hour or day shall be calculated.
5. The time limit for making statements, submitting documents or performing other actions at court shall be deemed expired when, pursuant to the rules, offices are closed to the public.

Article 145 **Time limits which may not be extended**

1. Time limits which may not be extended are those provided by law for specific cases. Such time limits may only be extended when the law provides so.
2. The party in whose favour a time limit has been established, may request or allow its reduction by submitting a statement to the secretary of the proceeding authority.

Article 146
Extension of time limits to appear

1. If the defendant's domicile, resulting from the acts, or the declared or elected residence is outside the district where the proceeding authority has its premises, the time limit to appear shall be extended for as many days as needed for travelling. In any case, the extension of time limits may not exceed three days. For the defendant residing abroad, the time limit extension shall be determined by the proceeding authority considering the distance and the means of communication to be used.
2. Such rules shall also apply regarding the time limits designated for the appearance of any other person to whom the proceeding authority has issued an order or a summons.

Article 147
Reinstatement in the time period

(Amended by Law No. 35/2017 of 30.03.2017, article 81)

1. The prosecutor, the defendant, the victim, the accusing victim and the private parties shall be reinstated in the time period if they prove that they were not able to observe the time period due to specific circumstances or force majeure.
2. The reinstatement in the time period is not permitted more than once for each party, for each instance of the proceeding.
3. The request for the reinstatement in the time period shall be submitted within ten days from the disappearance of the fact which constituted specific circumstance or force majeure. The proceeding authority at the time of submission shall decide on the request.
4. A complaint may be filed against the decision rejecting the request for reinstatement in the time period, within 5 days. The court shall examine the complaint in closed session within 10 days of the acts being obtained.

Article 148
Consequences of time limit reinstatement

(Amended by Law No. 35/2017 of 30.03.2017, article 82)

1. The court which has ruled for a time limit reinstatement shall, upon request of the party and to the extent possible, order the repetition of the actions in which the party was entitled to participate.
2. Repealed.

TITLE IV
EVIDENCE

CHAPTER I
GENERAL PROVISIONS

Article 149
Meaning of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 83)

1. Shall be considered as evidence the information on the facts and circumstances related to the criminal offence, which are obtained from sources provided for by the criminal procedural law, as well as in compliance with the rules defined by it, and serve to prove whether the criminal offence was committed or not, its ensuing consequences, the guilt or innocence of the defendant the level of his/her accountability.
2. If evidence is requested and it is not regulated by law, the court may introduce it if it is deemed suitable to determine the facts and does not compromise the moral freedom of the person. After hearing the parties on the methods for gathering evidence, the court shall decide on the admission of evidence.

Article 150
Facts in issue

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

Article 151
Gathering of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 84)

1. During preliminary investigations, evidence shall be admitted by the proceeding authority, in compliance with the rules provided for by this Code.
2. In trial, evidence shall be admitted upon request of a party. The court shall promptly decide, excluding any evidence that is not allowed by law or manifestly irrelevant.
3. Evidence gathered in violation of the prohibitions set out by law shall

not be used. The exclusion of evidence may be declared also ex officio at any stage and instance of the proceedings.

Article 152
Evaluation of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 85)

1. No evidence shall have a value predetermined by law. After examining evidences in their entirety, the court shall evaluate their authenticity and proving value, specifying the reasons at the grounds of its judgement.
2. The existence of a fact cannot be inferred from circumstantial [indicial] evidence, unless such evidence is serious, precise and consistent.
3. The statements made by the co-defendant charged with the same offence or by a person accused in a joined proceeding shall be evaluated in unity with the other evidences confirming their reliability.

CHAPTER II
TYPES OF EVIDENCE

SECTION I
TESTIMONY

Article 153
Object and limits of testimony

1. The witness shall be questioned on the facts constituting the object of evidence. He shall not testify on the morality of the defendant, unless such testimony concerns facts that may be suitable for qualifying his/her character relating to the criminal offence and his/her social dangerousness.
2. The witness questioning may also be extended to relations of kinship and any interests that exist between the witness and the parties or other witnesses and to circumstances that need to be ascertained to assess his/ her reliability. The testimony on the facts that may be useful in defining the victim's character shall be admitted only if the charge against the defendant must be evaluated relating to the victim's behaviour.
3. The witness shall be questioned on specific facts. He shall not testify on public rumours nor give his/her personal opinions, unless they are an inseparable part of the testimony on facts.

Article 154
Indirect (hearsay) testimony

1. If a witness refers to facts he has been told of by other persons, the court, upon request of a party or *ex officio*, shall order to summon these persons to testify.
2. Failure to comply with the provisions of paragraph 1, results in the non-usability of the statements related to the facts of which the witness has been informed by other persons, unless the questioning of these persons is impossible because they are dead, seriously ill or untraceable.
3. A witness shall not be questioned on facts heard from the persons who are obliged to keep their professional or state secret, unless the aforementioned persons have made statements on the same facts or have disclosed them in some other way.
4. The testimony of persons who refuse or are not able to indicate the person or source that informed them of the facts under questioning shall not be used.

Article 155
Capacity to testify

1. Every person has the capacity to testify, with the exclusion of those are not able to testify because of their mental or physical disabilities.
2. If the physical or mental suitability to testify needs to be assessed to evaluate one's statements, the court may order, also *ex officio*, the appropriate ascertainment.

Article 156
Incompatibility with the witness's role
(Amended by Law No. 35/2017 of 30.03.2017, article 86)

1. The following persons shall not be questioned as witnesses:
 - a) persons who, due to physical or mental disabilities, are not able to render regular testimony;
 - b) persons co-accused of the same offence or accused in joint proceedings, if a decision of non- initiation of the proceedings, dismissal or conviction has been issued against them, including the cases of plea bargaining and criminal order of conviction, except for the cases when the decision of acquittal has become final;
 - c) the persons who in the same proceedings perform or have performed the function of judge or prosecutor;

ç) the civil defendant and the person with civil liability for the damages caused by the defendant.

2. The rule provided for under letter “b”, of paragraph 1, does not apply for the collaborator of justice, who is always questioned as a witness, pursuant to Article 36/a of this Code.

Article 157
Obligations of the witness

1. The witness is obliged to appear before the court, to observe its orders and answer truthfully to the questions addressed to him.

2. The witness shall not be obliged to testify on facts which may unravel his/her own criminal liability.

Article 158
Exemptions from the obligation to testify
(Amended by Law No. 35/2017 of 30.03.2017, article 87)

1. The following persons shall not be obliged to testify:

a) the next of kin of the defendant, pursuant to definitions referred to under Article 16, unless they have submitted a criminal report or complaint or if they or one of their next of kin are the victims of the criminal offence;

b) the spouse, in relation to the facts that were learnt by the accused person during marriage;

c) the spouse separated from the defendant, in relation to the facts that were learnt by the accused person during marriage;

ç) the cohabitee or former cohabitee of the defendant, even if not a spouse;

d) the person who is related to the accused by adoption ties.

1/1. The exemption from the obligation to testify shall not apply if the persons listed under paragraph 1 of this article, have submitted a report or a complaint or if they or a member of their family are the victims of the criminal offence.

2. The court shall inform the abovementioned persons of their right to abstain from testifying and ask them if they intend to exercise such right. Failure to comply with such rule shall result in the invalidity of the testimony.

Article 159
Protection of the professional secret

1. The following persons shall not be obliged to testify on information they know because of their profession, except in cases where they have a duty to report to proceeding authorities:

- a) representatives of religious entities, whose articles of association do not conflict with the Albanian legal order;
- b) awyers, legal representatives and public notaries;
- c) doctors, surgeons, pharmacists, obstetrics and anyone who performs a medical profession;
- ç) those who perform other professions, who are entitled by law to abstain from testifying on matters related to professional secret.

2. If there are reasons to doubt that allegations made by these persons to avoid testimony are not grounded, the court shall order the necessary ascertainment. Where such allegations result to have no grounds, the court shall order the witness to testify.

3. Rules provided for in paragraph 1 and 2 shall also apply to professional journalists with regards to the names of persons they have received information from, during the exercise of their profession. However, if such is essential to prove the criminal offence and the truthfulness of such information can only be ascertained through the identification of the source, the court shall order the journalist to disclose the source of his/her information.

Article 160
Protection of the State secret

(Amended by Law No. 35/2017 of 30.03.2017, article 88)

- 1. State employees, public officials and persons in charge of a public service are prohibited to testify on facts which constitute state secret.
- 2. If a witness alleges that a fact constitutes state secret, the proceeding authority shall request a written confirmation from the competent state authority.
- 3. If the secret is confirmed and the evidence is not essential for the conclusion of the case, the witness shall not be questioned, whereas, if the evidence is essential, the proceeding authority shall suspend the case until the highest authority of the state administration provides an answer

then the witness shall be obliged to testify.

4. If the competent state authority fails to confirm the State-secret status within thirty days of receiving notification of the request, the witness shall be asked to testify.

5. The judicial police officers and agents and members of the security intelligence services cannot be obliged to disclose the names of their informants. Information disclosed by them may not be acquired nor used if these officials are not questioned as witnesses in relation to such information.

6. If informants accept to testify, the testimony shall be taken observing the rules on the protection of the anonymity of their identity. The provisions of Articles 165/a and 361/b of this Code shall apply *mutatis mutandis*.

Article 161 **Exclusion of secrecy**

1. Information or documents concerning criminal offences aimed at subverting the constitutional order cannot have the state secrets status. The type of criminal offence shall be established by the proceeding authority.

2. If the exclusion of secrecy is not accepted, the competent state authority shall be informed.

Article 162 **Gathering the testimony of the President of the Republic and of other high State officials** *(Repealed by Law No. 35/2017 of 30.03.2017, article 89)*

Article 163 **Gathering the testimony of diplomatic officials**

1. If a diplomatic official or a consular officer of the State abroad need to be questioned while outside the Albanian territory, the request for questioning shall be transmitted through the Ministry of Justice to the Albanian diplomatic or consular authority, except when their appearance is deemed essential.

2. International treaties and customs shall be observed for gathering the testimony of the diplomatic officials of a foreign country accredited with the Albanian State.

Article 164

Forced accompaniment

(Repealed by Law No. 35/2017 of 30.03.2017, article 90)

1. If a witness who has been duly summoned, does not appear at the established place, date and time, in absence of any legal impediment, the court may order his/her forced accompaniment or impose him a fine up to 30.000 ALL.
2. The court may revoke the decision issued under paragraph 1 of this Article or reduce the fine, if it proves that there are reasonable grounds.
3. The person subject to forced accompaniment shall not be held beyond the time necessary for his/her presence and, in any case, no longer than twenty-four hours.
4. The provisions of paragraphs 1, 2 and 3 of this article shall also apply to experts and interpreters.
5. The provisions of paragraphs 1, 2 and 3 of this article shall not apply to minor witnesses.

Article 165

Liability for false testimony or refusal to testify

(Repealed by Law No. 35/2017 of 30.03.2017, article 91)

1. If during the questioning a witness makes contradictory or incomplete statements or statements which are in contrast with the evidence taken, the court shall note this fact, warning him of the criminal liability for false testimony.
2. The same warning is made by the court also to the witness refusing to testify. If the witness insists on his/her refusal to testify, the court shall request the prosecutor to proceed pursuant to the law.
3. If the witness refuses to testify on the grounds that he invokes protection measures or enrolment in a witness protection program, pursuant to the law, the prosecutor shall not register the criminal charge for false testimony until a decision on his/her request has been issued.
4. If by a final judgment, the court deems that the witness has made a false testimony, the court shall transmit the documents to the prosecutor to proceed pursuant to the law.

**Article 165/a Witness
with hidden identity**

(Added by Law No. 35/2017 of 30.03.2017, article 92)

1. Where giving testimony might put the witness or his/her family members in a serious risk for his/her life or health, and the defendant has been charged of any of the crimes provided for in Articles 230, 230/a, 230/b, 230/c, 230/ç, 231, 232, 232/a, 232/b, 234, 234/a, 234/b, 265/a, 265/b, 265/c, and the witness protection program is not applicable, the court may, upon the request of the prosecutor, decide the application of special questioning techniques pursuant to Article 361/b of this Code.
2. The request of the prosecutor shall be submitted to the presiding judge of the panel in a closed envelope, with the note: "Confidential: witness with hidden identity". In the request, the prosecutor shall present the reasons why the use of one or more of the special questioning techniques are needed.
3. In the envelope with the above note, the prosecutor shall insert also the sealed envelope containing the full identity of the witness with hidden identity. Only the presiding judge shall be entitled to know the real identity of the witness with hidden identity and he shall verify the capacity and incompatibility with the witness role pursuant to this Code. The date, name, signature and function of persons having opened the envelope and those becoming aware of the data contained in the envelope shall always be noted evidently on the envelope. Following the accomplishment of verifications, the envelope with the real identity of the witness with hidden identity shall be returned to the prosecutor.
4. The court shall examine the request of the prosecutor in closed session and decide by reasoned decision within forty-eight hours of the request submission.
5. The prosecutor may file a complaint against the court decision within forty-eight hours of the decision being notified. The appeal court shall examine the complaint in closed session and decide on the complaint within forty-eight hours of the file being obtained. This decision shall not be subject to appeal.
6. If the court admits the request of the prosecutor, it shall decide on the pseudonym of the witness and the procedures for hiding the identity, notification, appearance and participation in proceedings. The questioning of the witness shall be conducted pursuant to the rules referred to in Article 361/b of this Code.

7. The witness shall participate in all stages of the proceeding only with the pseudonym ascribed by the court, unless otherwise provided for in paragraph 8 of this Article.

8. The questioning of the person with hidden identity and the assignment of the pseudonym during the investigation shall be done by the prosecutor. The acts where he takes part shall be signed by his/her ascribed pseudonym.”

SECTION II

QUESTIONING OF THE DEFENDANT AND OF THE PRIVATE PARTIES

Article 166

Request for questioning

1. The defendant and the civilly liable person shall be questioned if they make request or give their consent when asked to testify. The same applies to the civil party, unless he must be questioned as a witness.

Article 167

Questioning of a person accused in a joined proceeding

(Amended by Law No. 35/2017 of 30.03.2017, article 93)

1. Persons accused in a joined proceeding, who are being or were prosecuted separately, shall be questioned upon request of a party or *ex officio*.

2. They shall be obliged to appear before the court, which, if necessary, shall order their forced accompaniment. Provisions regulating summoning of witnesses shall apply.

3. Persons described in paragraph 1 shall be assisted by a retained lawyer and, in his/her absence, by an *ex officio* appointed lawyer.

4. Before questioning, the court shall inform the persons described in paragraph 1 that they are entitled to refuse answering.

4/1. If a person accused in a joined proceeding needs to be questioned and any of the conditions referred to in letter “b”, of paragraph 1, of Article 156 of this Code exists, the court shall guarantee him defense against self-incriminating statements on the facts he has been prosecuted for. If he renders self-incriminating statements for any new facts, the court shall inform him about the rights provided for in Article 37 of this Code.

5. Provisions of the above paragraphs shall also apply during preliminary investigations regarding persons who are accused for a joined criminal offence.

Article 167/a
**Distance questioning of a defendant in a joined proceeding
 or serving a sentence abroad**

(Added by Law No. 9276 of 16.09.2004, article 5)

The defendant in a joined proceeding, who is being prosecuted or is serving a sentence abroad for a different criminal offence, whose extradition has been denied, may be questioned in distance, by means of audio-visual link, pursuant to international agreements, provided that the foreign State ensures the presence of the defendant's lawyer in the venue of questioning.

Article 168
Questioning of private parties

(Amended by Law No. 35/2017 of 30.03.2017, article 94)

1. Provisions of Articles 153, 154, 157, paragraph 2 and 361 shall apply for the questioning of private parties.
2. If a party refuses to answer a question, such fact shall be reflected in the minutes.

SECTION III
 CONFRONTATIONS

Article 169
Grounds for confrontation

(Amended by Law No. 35/2017 of 30.03.2017, article 95)

1. Confrontations shall be allowed only between persons who have already been questioned and there are inconsistencies among their statements for certain facts or circumstances.
2. The confrontation of the adult defendant with the minor victim or minor witness is prohibited.

Article 170
Rules on confrontation

1. The proceeding authority, after reminding the persons to be confronted of their previous statements, shall ask them whether they confirm or alter them, inviting them, if needed, to make their respective objections.
2. The questions asked by the proceeding authority, statements made by the

persons confronted and anything else which happened during the confrontation shall be recorded in the minutes.

SECTION IV RECOGNITION

Article 171 **Recognition of persons**

(Amended by Law No. 35/2017 of 30.03.2017, article 96)

1. When the need for proceeding with the recognition of a person emerges, the proceeding authority shall invite the one who is to make the recognition to describe the person indicating all the signs he remembers and ask him whether he has been called earlier to make the recognition and about the other circumstances that might have an impact on the authenticity of the recognition.
2. Noted down in the minutes shall be the actions provided for in paragraph 1 and the statements made by the person making the recognition. When possible, the recognition procedure shall be photographed or recorded.
3. Where the recognition is made by a minor or to a minor, the presence of the psychologist shall be mandatory. The proceeding authority shall carry out the recognition in such a way that the person to be recognised does not see or hear the minor.
4. The recognition shall occur at the presence of the defence lawyer.
5. Failure to observe the provisions provided for in this Article shall result in the invalidity of the recognition.

Article 172 **Carrying out a recognition procedure**

1. After taking away the person who will do the recognition, the proceeding authority shall ensure at least two persons resembling as much as possible to the person to be recognised. It invites the latter to choose his/her location in relation to the others, and ensuring that he is presented as much as possible, in the same conditions under which he would have been seen by the person called to make the recognition. After the person to make the recognition appears, the court shall ask him whether he knows anyone of those presented for recognition, and if yes, invites him to show the one he knows and to specify whether he is sure.
2. Where there are reasons to believe that the person being called to make the recognition might be intimidated or have other impacts from the presence of the person to be recognised, the proceeding authority shall order the procedure to be conducted without the latter seeing the former.

3. The recognition method is indicated in the minutes, under penalty of invalidity. The proceeding authority may order that the recognition procedure be documented also through pictures or video footages.

Article 172/a

Obligation to be involved in recognition

(Added by Law No. 35/2017 of 30.03.2017, article 97)

1. The persons being summoned shall be obliged to participate at the procedure of recognition.
2. The proceeding authority may order the forced escorting for the person summoned duly and not appearing at the venue, day and time set out for the recognition without having reasonable grounds.
3. The forced accompaniment of a minor is prohibited when proceeding pursuant to paragraph 3, of Article 171, of this Code.

Article 173

Recognition of items

1. When the recognition of material evidence or other items related to the criminal offence is needed, the proceeding authority shall act in compliance with the rules for recognition of persons to the extent they are applicable.
2. After finding out, where possible, at least two similar things to the one to be recognised, the proceeding authority shall ask the person called to make the recognition whether he recognises any of them and, if yes, invite him to state which of them he recognises and to specify whether he is sure.
3. The recognition method is indicated in the minutes, under penalty of invalidity.

Article 174

Other recognitions

1. In case where the recognition of voices, sounds or any other things that may be subject to perception by senses is ordered by the proceeding authority, it shall act in compliance with the rules on identification of persons to the extent they can be applied.

Article 175

Recognition of or by more persons

(Amended by Law No. 35/2017 of 30.03.2017, article 98)

1. If more persons are called to make the recognition of the same person or thing, the proceeding authority shall conduct actions separately, by prohibiting any communication between the one who has completed the

recognition and those who must do it afterwards.

2. If a person must carry out the recognition of more persons or items, the proceeding authority shall order that the person or item to be recognised is placed among the different persons or items.
3. Provisions of Articles 171, 172, 172/a and 173 shall apply.

SECTION V THE EXPERIMENT

Article 176 Requirements for the experiment

1. The experiment is admitted when it is necessary to be ascertained whether a fact did occur or could have occurred in a certain way.
2. The experiment consists of the reproduction, to the extent possible, of the situation in which a fact has occurred or it is believed to have occurred, by repetition of the way the fact itself occurred.

Article 177 Rules on conducting experiments

1. A ruling of the proceeding authority for conducting an experiment shall contain summarised information on its object including the day, time and venue where the actions will take place. In the same ruling or a later one, an expert may be assigned to perform the designated actions.
2. The proceeding authority shall adopt appropriate measures to conduct actions, including ordering the taking of photographs and video recordings, and to prevent any risks to the personal or public security.

SECTION VI EXPERT EXAMINATION

Article 178 Scope of expertise

1. An expert examination shall be allowed where it is necessary to carry out researches or acquire information or evaluations which require special technical, scientific or cultural knowledge
2. Expert examinations to determine the level of competence in the commission of the criminal offence, the criminal orientations, the defendant's character and personality and in general, the psychical features which do not depend on pathological causes, shall not be allowed.

Article 179

Appointment of the expert

(Amended by Law No. 35/2017 of 30.03.2017, article 99)

1. The expert is designated among persons registered in the register kept for this purpose or among those who have special knowledge on a relevant topic. In case where the expertise is declared invalid or a new one is needed to be performed, the proceeding authority shall take measures, where possible, that the new task is entrusted to another expert.
2. The ruling of the proceeding authority to appoint an expert shall be served to the defendant or his/her defense lawyer, informing him about his/her right to ask for exclusion of the expert, to propose other experts, to participate in the expert examination, when possible, and to ask present questions to the expert.
3. Where the demands and the evaluations appear to be very complex or they require respective knowledge from different fields, the proceeding authority shall assign the accomplishment of the expertise to many experts. In specific instances, where the expertise cannot be provided from the list of experts registered with the court, the proceeding authority shall, after taking the opinion of the parties in advance, assign other, foreign or local, experts, from outside the list.
4. The expert shall be obliged to perform the entrusted task, except for the cases where grounds which exclude him from being an expert exists, or when he claims not to be competent or not to be able to carry out the expert examination and his/her request is accepted by the proceeding authority.

Article 180

Incompatibility with the expert status

1. The task of an expert may not be carried out by:
 - a) a minor, the one who is legally denied or whose legal capacity to act has been removed or the one who suffers from a mental illness;
 - b) the one who is suspended, even temporarily, from public duties or from practising a profession;
 - c) the one against whom personal precautionary measures have been ordered;
 - ç) the one who may not be questioned as a witness or taken as an interpreter or is entitled to decline to testify or interpret.

Article 181

Exclusion of the expert

1. The parties may request the exclusion of an expert in the circumstances

foreseen by this Code for the judge disqualification.

2. In case where any reason for exclusion exists, the expert shall be obliged to declare it.
3. The declaration of the reasons for exclusion by the expert himself or the request for his/her exclusion by the parties may be set forth before the tasks have been assigned and in case the grounds have arisen on the spot or have become known later, before the expert has given his/her opinion.
4. The exclusion statement of the expert or the parties' request for exclusion shall be resolved by the proceeding authority who has ordered the expert examination by means of an order.

Article 182

Rulings of the proceeding authority

1. The proceeding authority shall dispose of an expert examination by means of a reasoned decision, which shall contain the appointment of the expert, a summarized presentation of the case, the day, time and venue designed for the appearance of the expert.
2. The proceeding authority shall summon the expert and take the necessary measures for the appearance of persons subject to expert examination.

Article 183

Assignment of the tasks

1. After being ensured on the expert's identity, the proceeding authority shall ask him whether there are any grounds for expert exclusion, warn him on the obligations and responsibilities deriving from criminal law, elaborates the expert examination questions and invites him to make the following statement: "Aware of the moral and legal responsibility concerning the task I am undertaking, I shall perform it with honesty and fairness and keep the secrecy of all the actions related to the expert examination".
2. Remuneration for the expert shall be determined by the proceeding authority having disposed of the expert examination.

Article 184

Expert actions

1. To meet the requirements of the expert examination, the expert may be authorized by the proceeding authority to look into procedural acts, documents and everything else included in the prosecutor's or court file.
2. The expert may also be authorised to take part during the questioning of parties or collection of evidence.
3. In cases where the expert seeks information from the defendant, victim or

other persons, such information shall be used only for expert examination purpose.

4. If for the expert report needs, the destruction or change of the substance of an item is indispensable, the experts, where possible, are obliged to preserve such part of the item, and to document the part used for the expert report, by informing the proceeding authority and the parties.

Article 185
Act of expertise

1. The opinion of the expert shall be provided in writing.
2. Where there is more than one expert being appointed and they have different opinions, each of them shall present his/her opinion in a separate report.
3. Where the facts are complex and the expert cannot give an immediate answer, the proceeding authority shall grant him a time period of time no more than sixty days. In case of need for especially complex verifications, such time period may also be extended for more than once for periods of time no more than thirty days, but at any case no more than the maximum time period of six months.

Article 186
Expert substitution

1. An expert may be substituted if he does not give his/her opinion within the determined time period or the request for time limit extension is not accepted or he performs his/her tasks with negligence.
2. An order of the proceeding authority for the expert substitution shall be issued only after the latter is heard. The substituted expert may be sanctioned up to a fine of 10.000 ALL.
3. An expert shall be substituted also in cases where a request for his/her exclusion is accepted.
4. The substituted expert shall be obliged to deliver to the proceeding authority the documents and results of the actions being performed.

SECTION VII
MATERIAL EVIDENCE

Article 187
Meaning of material evidence

(Amended by Law No. 9085 of 19.06.2003, article 2)

1. Items which have served as tools for the commitment of the criminal offence, those on which traces are found or which have been the object of the defendant's actions, the products of the criminal offence and any other asset for which confiscation is allowed, pursuant to Article 36 of the Criminal Code, and any other item which may contribute to the clarification of the circumstances of the case, constitute material evidence.

Article 188

Collection of material evidence

1. Material evidence shall be described in detail in the minutes, and where possible photographed or video recorded and, with the order of the proceeding authority, is included into the judicial file.

Article 189

Storage of material evidence

(Amended by Law no. 147/2020, dated 17.12.2020)

Material evidence, which due to its nature may change, if it cannot be returned to the persons to whom it belongs, it shall be stored and administered according to special legislation by the state administrative body, which is obliged to return the same or give its value.

Article 190

Rulings on material evidence

1. In its final decision or decision for terminating the case, the court or the prosecution office shall also rule about what should be done with the material evidence, by ordering:

a) items which have served or were defined as a tool for committing a criminal offence as well as the items constituting proceeds or compensation given or promised for its commission shall be taken over and transferred to the state, except for cases where they belong to persons who have not been involved in the commission of the criminal offence;

b) items whose possession or circulation is prohibited shall be delivered to the relevant entities or shall be destroyed;

c) items which do not have any value shall be destroyed;

d) other items shall be returned to the persons they belong to and, where a dispute exists regarding their ownership, they shall be kept until that issue is resolved by the court.

2. The physical evidence may also be returned to the persons whom they belonged prior to the conclusion of the proceedings, provided this does not jeopardise the solution of the case.

SECTION VIII DOCUMENTS

Article 191 **Taking of documents**

1. The collection of documents which represent facts, persons or items through picturing, filming, recording or any other means shall be permitted.
2. In cases where the original copy of a document is destroyed, lost or vanished, its copy may be obtained.
3. Documents which constitute material evidence must be acquired, despite the person producing or keeping them.

Article 191/a **Obligation to disclose computer data** *(Added by Law No. 10054 of 29.12.2008, article 2)*

1. When trying IT related criminal cases, the court, upon request of the prosecutor or the accusing victim, shall order the one keeping or supervising them to hand over the computer data stored in a computer-system or in another means of storage.
2. In such proceedings, the court shall also order the service provider to disclose any information on the subscribers and on the services provided by it.
3. When there are grounded reasons that delay may result in a serious impairment for the investigations, the prosecutor, by a reasoned resolution, shall order the obligation to disclose the computer data as defined in paragraphs 1 and 2 of this Article and immediately notify the court. The court shall evaluate the prosecutor resolution within 48 hours from notification.

Article 192 **Documents on personality**

1. The collection of criminal record certificates and final court decisions with the purpose of evaluating the defendant's or victim's personality, when the fact being examined is to be assessed in relation to their conduct or moral qualities shall be permitted.
2. Such documents may also be obtained to assess the reliability of a witness.

Article 193

Collecting minutes from other proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 100)

1. The minutes of evidence from other criminal proceedings may be collected, if they concern pre-trial admission of evidence or evidence administered during the trial.
2. The minutes of evidence taken in a civil trial for which a final decision has been issued can be collected.
3. In the cases referred to in paragraphs 1 and 2, the minutes of the statements may be used against the defendant only if the lawyer has taken part during their collecting.
4. Records of unrepeatable actions may be collected, including defendant's statements, if it is proved the objective impossibility of their taking, unforeseeable at the time when the action took place.
5. Except for the cases provided for in the above paragraphs, the minutes of evidence may be used in the trial only if the defendant gives his/ her consent. If this is not the case, they may be used for the challenges provided for in Articles 362 and 365 of this Code.
6. The parties are entitled to request the questioning of the persons, whose statements have been taken under the provisions of this Article.
7. The final decisions may be collected as evidence of the existence of the facts, and shall be evaluated together with the other evidence.

Article 194

Anonymous documents

1. Documents which constitute anonymous notifications shall be neither acquired nor used, except for cases where they constitute material evidence or are created by the defendant.

Article 195

False documents

1. When the court considers that a document which is already acquired is false, it shall, after the conclusion of the proceedings, inform the prosecutor and also deliver him such document.

Article 196
Translation of documents

1. When a written document has been acquired in a foreign language, the proceeding authority shall order for its translation.
2. When necessary, the proceeding authority shall also order for the transcription of the magnetic tape.

Article 197
Issuing of copies

1. In case the acquisition of a document has been decided, the proceeding authority, upon request of an interested party, shall be allowed to authorise the secretariat to issue certified copies of that document.

CHAPTER III
TOOLS FOR SEARCHING EVIDENCE

SECTION I
EXAMINATIONS

Article 198
Cases and forms of examination

1. Examination of persons, places and items shall be decided by the proceeding authority when it is necessary to discover the traces and other material effects of a criminal offence.
2. Where the criminal offence has left no traces or material effects or when those have been destroyed, lost, altered or moved, the proceeding authority shall describe their state and, where possible, verify the state they were prior to changes and also take measures to ascertain the method, time and causes for the changes which might have possibly occurred.
3. The proceeding authority may order photography or video recording and or any other technical act.

Article 199
Examination of persons

(Amended by Law No. 35/2017 of 30.03.2017, article 101)

1. The examination shall be conducted in appropriate locations, observing, to the extent possible, the personal dignity and integrity of

the person being examined.

2. Before the examination takes place, the person to be examined shall be notified about his/her right to request the presence of a person of his/her trust, provided that he can be found immediately and be suitable.

3. The examination may be accomplished by a doctor with the consent of the person. In such a case, the proceeding authority may not take part in the examination. If the consent is not granted or the person is a minor, the examination shall be conducted following the procedure provided for in Article 201/a of this Code.

Article 200 **Examination of corpses**

1. The examination of a human corpse shall be carried out by the proceeding authority in presence of a forensic doctor.

2. With the purpose of carrying out the examination of a dead body, the judge or prosecutor may order for its exhumation, by informing a member of the dead person's family to participate, except for when the participation may harm the purpose of the examination.

Article 201 **Examination of places and items**

(Amended by Law No. 35/2017 of 30.03.2017, article 102)

1. Initially, a copy of the ruling ordering for an inspection shall be provided to the defendant, when present, and to the one possessing the place where the examination is to be performed or the item to be examined.

2. In case of examination of places, the proceeding authority may order, for motivated reasons, that the persons present do not leave before the examination is completed and use coercion to prevent them from leaving.

Article 201/a **Forced taking of biological samples or conducting forced medical procedures**

(Added by Law No. 35/2017 of 30.03.2017, article 103)

1. Forced taking of biological samples from the defendant or any other persons, or forced medical procedures shall take place only pursuant to the provisions of this Article.

2. The prosecutor may, after obtaining the consent of the defendant or other persons, seek taking of biological samples to the effect of establishing the DNA profile. The same provision shall be implemented for the accomplishment of the medical procedure.

3. The consent of the person shall be provided in writing. The person who is going to be taken the sample or subject to a medical procedure shall sign a statement before the prosecutor, that he grants the consent and confirming that he has been notified with regard to the reason the biological samples being taken or the medical procedure being conducted.

4. For the minor, the consent shall be provided by the parent or the legal guardian.

5. Based on the request of the prosecutor, the court may decide that the taking of biological samples or the medical procedure be conducted without the consent of the person, if it is necessary, and by way of restricting his/ her freedom, if health is not impaired and if it is indispensable for proving facts in the proceedings. No medical procedures can be conducted if they pose a risk to the life of the person, his/her physical integrity and health, which may harm the unborn child or, pursuant to the medical protocols, may cause unjustified pain.

6. The court decision on taking the biological sample or the medical procedure shall contain:

a) the personal data of the person subject to the taking of biological sample or to a medical procedure or necessary information for his/ her identification;

b) the criminal offence whereof the proceeding has started and a summarised description of the respective facts;

c) a detailed description of the type of biological sample to be taken or of the medical procedure which shall be conducted as well as the reasons why the evidence cannot be taken in another way;

ç) the right of the person being subject to the biological sample taking or other medical procedure to be assisted by a defence lawyer or a person of his/her trust;

d) the venue, date, time and accurate way of taking the biological sample or conducting the other medical procedure;

dh) notification that the person subject to the taking of biological sample or the other medical procedure is obliged to appear and the warning for forced accompaniment, if he does not appear without legitimate reasons;

e) where the defendant or the person having granted the consent for the

biological sample taking or medical procedure, the prosecutor shall enclose the written consent to the file.

7. At least three days prior to the taking of biological sample or conduct of medical procedure, the decision provided for in the paragraph 5 of this Article shall be notified to the respective person.

8. When the person being subject to the biological sample taking or to the medical procedure is the defendant or the victim, the decision shall be notified to the defendant, the defence lawyer and the victim. If the person is not the defendant or the victim, the decision shall be notified to the person, the defendant, the victim and his/her defence lawyer. In case the person is a minor, the decision shall be notified to the parents or his/ her legal guardian.

9. If the person being subject to the above procedures does not appear at the appropriate venue without legitimate reasons, the prosecutor may immediately request the court to order his/her forced accompaniment and decide taking of sample or accomplishment of the medical procedure. The judicial police shall enforce the court order.

10. In urgent cases, where there is reason to believe that the delay may cause the loss or harm to the authenticity of the evidence, the decision shall be taken by the prosecutor, who may order the forced accompaniment of the person.

11. Within 48 hours of the action being carried out, the prosecutor shall ask the court to validate the orders issued under paragraph 9 of this Article. The court shall validate the prosecutor's actions, within 48 hours, notifying the prosecutor and the defence lawyer.

12. In the event of taking a biological sample or conducting the medical procedure on the suspect or defendant, the presence of the defence lawyer shall be obligatory.

13. In the event of taking a biological sample or conducting the medical procedure on the minor, the presence of the parent, legal guardian or a person of his/her trust shall be mandatory.

14. The outcome of the biological samples tests or medical procedure taken in defiance of the provisions of this Article are non-usable.

Article 201/b

Destruction of biological samples

(Amended by Law No. 35/2017 of 30.03.2017, article 104)

1. The biological samples shall be preserved as long as they serve the purposes of proceedings. Their destruction shall occur pursuant to the rules of this Code.
2. Where the defendant is acquitted by final decision, the court shall order the destruction of biological samples taken from him.
3. The prosecutor, the victim or the legal representative of the victim may, within 60 days of the acquittal, request the court to order the maintenance of the biological samples taken from other persons, other than the defendant, as long as the samples shall be used in another criminal case. Otherwise, the court shall order the destruction.
4. Where the defendant is convicted, the biological samples taken from him shall be preserved for 20 years from the date the decision has become final.
5. The court may order the maintenance of the samples up to 40 years as long as the defendant has been declared guilty of criminal offence whereof the Criminal Code provides for an imprisonment sentence of not less than 10 years maximum.
6. The profiles of DNA samples taken at the crime scene and which are not attributed to a certain person shall be kept until prescription of the time limits for criminal prosecution is completed.
7. If the taking of samples is carried out in defiance of the provisions of this Code, the proceeding authority shall order their destruction.
8. The way of conservation of the samples, the procedure and the competent body for their destruction, shall be established by a joint instruction of the minister responsible for public security and minister responsible for health.

SECTION II SEARCHES

Article 202

Conditions for conducting searches

(Amended by Law No. 35/2017 of 30.03.2017, article 105)

1. When there are reasonable grounds to believe that someone is concealing material evidence of the criminal offence or items belonging to the criminal offence in his/her body, the court shall issue a body search warrant. When these items are located at a certain place, the place or house search warrant shall be issued.
2. The court which has issued the search warrant may act itself or order judicial police officers, specified in the search warrant, to conduct the search.
3. In case of flagrancy or chasing of a person fleeing, where it is not possible to obtain a search warrant, the judicial police officers shall conduct a search of a person or place, in compliance to the rules provided for in Article 298.

Article 202/a

Decision for permitting the search

(Added by Law No. 35/2017 of 30.03.2017, article 106)

1. The decision permitting the search shall indicate the type of search, the person being searched and his/her personal data, location or residence being bound to control, exhibits or things being searched, reasons permitting the search, as well as the authority to perform it.
2. Where there are grounded reasons that the data, information, IT programs or their traces are in an IT or telematics system, and this is protected by precautionary measures, the court shall make a decision on the search, by way of ordering the appropriate technical measures, which ensure the preservation of the original data and do not allow their modification. The decision imposing the search shall determine the type of information being required and the way of obtaining it.
3. The court shall make a substantiated decision in closed session, within 24 hours of the request of the prosecutor being filed. Against the decision rejecting the search request, a direct complaint may be filed with the appeal court within 24 hours. The appeal court shall decide within 48 hours of the acts being taken.

4. The search has to be completed within 72 hours from the moment the decision for its accomplishment has been made.

Article 203

Request for handing over

(Amended by Law No. 35/2017 of 30.03.2017, article 107)

1. Where a certain asset is being required, the proceeding authority may seek the handover. If the thing is handed over, the search shall not occur, except for the cases where behind the handover of the item there are reasonable grounds to believe that the search may discover trails or other things connected to the criminal offence.
2. To determine the items which could be sequestered or verify certain circumstances necessary for the investigation, the proceeding authority or its authorized judicial police officers shall be permitted to search bank operations, documents or correspondence.

Article 204

Search of persons

(Amended by Law No. 35/2017 of 30.03.2017, article 108)

1. Prior to conducting a body search, a copy of the search warrant shall be provided to the person subject to the search, informing him for the right to request the presence of a trusted person of him, provided that he can be found immediately and is appropriate.
2. The search shall occur abiding by the personal dignity of the person being searched. The search of the person shall be conducted by a person of the same gender, except in cases when this is not possible due to the circumstances.

Article 205

Search of places

(Amended by Law No. 35/2017 of 30.03.2017, article 109)

1. The defendant, if the latter is present, and the person possessing the premises, shall be handed over the search decision, while making them aware of the right to seek the presence of a person of their trust, who is there and appropriate under Article 108 of this Code, or his/her defence lawyer.
2. Where the defendant seeks the presence of the defence lawyer while conducting the search, the proceeding authority shall postpone the conduct of the search to the moment of arrival of the defence lawyer,

however, not more than 2 hours from the moment that the defence lawyer has been informed about the search. During this period, the proceeding authority may restrict the movement of the interested person or other persons being at the location where the search shall be conducted.

3. The postponement of the search, under paragraph 2 of this Article, shall extend the respective time period provided for in paragraph 4 of Article 202/a of this Code.

4. The proceeding authority may search the persons being present, upon deeming that they may hide the exhibit or the things belonging to the criminal offence. It may order the persons being present not to leave prior to the search being completed and get those leaving coercively turned back.

5. Where the owner or the possessor of the item is not found, the proceeding authority shall carry out the search at the obligatory presence of the defence lawyer being appointed ex officio.

Article 206

Time for house searches

1. The search of a house or in closed places next to it cannot begin before 07:00 hours nor after 20:00 hours. In urgent cases, the proceeding authority can order in writing that the search is conducted outside these limitations.

Article 207

Sequestration during searches

(Amended by Law No. 35/2017 of 30.03.2017, article 110)

1. Items found out during a search shall be seized, provided that they are indicated in the decision authorizing the search.

2. Other items found during the search and not included in the respective decision, yet, connected to the same criminal offence, may be seized abiding by the provisions regulating sequestration.

3. When during the search items are discovered bearing no connection with the criminal offence wherefore the search decision has been issued, however, connected to another criminal offence being prosecuted ex officio, the discovered items shall be seized.

4. Regarding the sequestration carried out under the conditions of paragraphs 2 and 3 of this provision, the criteria of Article 301 of this Code shall apply."

SECTION III SEQUESTRATIONS

Article 208

Scope of the sequestration

(Amended by Law No. 35/2017 of 30.03.2017, article 111)

1. A judge, or prosecutor, shall order by reasoned decision the sequestration of material evidence and items related to the criminal offence, when they are needed for evidencing the facts.
2. Sequestration shall be carried out by the person who has issued the sequestration order or the judicial police officer authorised by the same order.
3. A copy of the sequestration decision shall be delivered to the interested person.

Article 208/a

Sequestration of computer data

(Added by Law No. 10054 of 29.12.2008, article 3) (Amended by Law No. 35/2017 of 30.03.2017, article 112)

1. In cases of proceedings against crimes concerning information technology, the court upon request of the prosecutor, shall order the sequestration of computer data or systems. With the same decision, the court shall establish the right to access, search and take computer data from the computer system as well as the prohibition to perform further actions or the securing of the computer data or system.
2. If there are reasonable grounds to believe that the computer data have been stored in another computer system or in any parts of it, and such data may be legally obtained by, or in the availability of, the initial computer system being controlled, the court upon request of the prosecutor shall immediately order the search or access to such computer system.
3. In executing the court decision, the prosecutor or the judicial police officer authorized by the prosecutor shall adopt measures:
 - a) to prevent any further action being taken or to secure the computer system or part of it or of another data storage device;
 - b) to take out and obtain copies of computer data;
 - c) to prevent the access to computer data, or to remove such data from accessible computer systems;

ç) to ensure the inviolability of the relevant stored data.

4. For the executions of such actions, the prosecutor may order the summoning of an expert who is competent in the field of computer system functioning or the measures applied for the protection of the computer data. The summoned expert may not refuse to conduct the tasks assigned to him without reasonable grounds.

Article 209

Sequestration of correspondence

(Amended by Law No. 9085 of 19.06.2003, article 3)

1. When the court has grounded reasons to think that in the postal or telegraphic offices there are letters, securities, envelopes, parcels, telegrams and other items of correspondence which have been sent by or to the defendant, even under another name or through another person, it shall order for their sequestration.
2. When sequestration is performed by a judicial police officer, he must deliver to the judicial authority the correspondence items sequestered without opening and without having access to their content in any other way.
3. The sequestered items which do not classify as correspondence which may be sequestered shall be returned to their possessor and may not be used

Article 210

Sequestration at bank offices

(Amended by Law No. 9085 of 19.06.2003, article 4)

1. The court may order the sequestration of banks documents, securities, amounts deposited in current accounts and any other things, even if they are in safety boxes, 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 under his/her name. In urgent cases, such decision may be taken by the prosecutor.

Article 211

Obligation to hand over and maintain secrecy

(Amended by Law No. 35/2017 of 30.03.2017, article 113)

1. Persons bound to maintain professional or State secrecy must immediately hand over to the proceeding authority acts and documents, even in the original copies, and anything else being kept by them because

of their duty, service or profession, except when they declare in writing that it is a State secret or a secret related to their duty or profession. In the latter case, the necessary verifications shall be conducted and, when it results that the declaration is groundless, the proceeding authority shall order for the sequestration.

2. When the competent authority confirms the state secrecy status, the proceeding authority shall inform the competent authority asking for confirmation to be given, and evidence is crucial to the solution of the case, the proceeding authority shall decide to acquire the evidence.

3. When within thirty days from the request the competent authority does not confirm the secrecy status, the proceeding authority shall order the sequestration.

Article 211/a

Sequestration at the offices of the intelligence services

(Added by Law No. 35/2017 of 30.03.2017, article 114)

1. Where it is necessary to perform sequestrations of documents, acts or other items at the offices of the intelligence services, the activity of which is connected to the national security, the court shall, in the reasoning of the sequestration decision, indicate in a detailed manner as possible, the acts or items being subject to sequestration.

2. The court shall authorise the prosecutor for examining the documents, acts and items to be sequestered, who he shall take only those which are indispensable for the purposes of the investigation.

3. Where there are reasonable grounds to believe that the documents, acts or items are not made available or are not complete, the court shall inform the competent body, which shall proceed to the delivery of the documents, acts or other items or to confirm their absence.

4. Where the need emerges for obtaining the original or the copy of the document, act or item created by a foreign intelligence service, having been given on the condition of non- dissemination, the examination and handover shall be suspended. In this case, the competent authority is promptly notified to communicate with the foreign authority for deciding on the further maintenance of secrecy. Within 60 days, the competent body shall authorise the handover of the document, act or item, or confirm the need to preserve the State secrecy.

5. If the competent body does not respond within the time limit provided for in paragraph 4, of this article, the court shall order the taking of the document, act or item subject to sequestration.

Article 212

Challenging the sequestration decision

(Amended by Law No. 35/2017 of 30.03.2017, article 115)

1. The defendant, the person whose items have been sequestered and the one who has a claim on them, may lodge a complaint at the court, which rules by reasoned decision within 10 days.
2. An appeal may be proposed against the court decision within 5 days. The court of appeal shall issue a reasoned decision within 10 days of the receipt of the relevant acts.
3. The appeal does not suspend the execution of the decision.

Article 213

Copies of the sequestered documents

1. The preceding authority may order the issuing of copies of the sequestered acts and documents, returning the original copies and, when the original copies must be retained, order the secretariat to issue certified copies.
2. In any case, the person or office where the sequestration took place shall be entitled to hold a copy of the minutes of the sequestration.
3. If the sequestered document is part of a book or register from which it cannot be separated, and the proceeding authority needs the original document, the book or register shall remain at the disposal of the proceeding authority. The secretary of the proceeding authority shall issue to the interested persons upon their request, copies, extracts or certificates of parts of the book or register which have not been sequestered.

Article 214

Storage of sequestered items

(Paragraph 1, the second sentence, was amended; Paragraph 2 was amended by Law no. 147/2020, dated 17.12.2020)

1. Sequestered items shall be stored in the secretariat. When this is not possible or appropriate, the proceeding body shall order that they be stored with the state administrative body, specifying the manner of storage.
2. The state administrative body has the duty to store and administer the sequestered items, according to the special legislation for the administration of sequestered assets and material evidence, and to present the items when requested by the proceeding body.

Article 215

Sealing of sequestered items

(Paragraphs 4, 5 and 6 were added by Law no. 35/2017, dated 30.3.2017, paragraph 3 was amended by Law no. 147/2020, dated 17.12.2020)

1. Sequestered items shall be secured with the seal of the proceeding authority or, depending on the nature of the items, with other adequate means which indicate that they are kept for justice needs.
2. The proceeding authority shall issue copies of the documents and pictures or other reproductions of sequestered items which might change or are difficult to be preserved, which shall be attached to the documents and orders that they are filed with the secretariat.
3. For the items that may change, at the request of the state administrative body or *ex officio*, the proceeding body shall order, as the case may be, their alienation or destruction.
4. Upon the request of proceeding authority, the court may order the destruction of items that are prohibited to be produced, possessed, kept, traded when their safeguarding is difficult, especially costly, or is risky for the public security, public health or hygiene. In this case, the court orders the taking of samples and their preservation for proceeding purposes.
5. The proceeding authority informs the retained or *ex officio* appointed defense lawyer of the place and date when the samples will be taken, at least 24 hours in advance. Failure of the defense lawyer to attend the taking of samples does not prevent the proceeding authority from their taking.
6. The procedure for the destruction of the sequestered items, the time limit and the competent authority shall be established by a joint instruction of the Minister responsible for public order and security and the Minister of Justice. When possible, actions shall be documented by means of audio-visual tools and in any case minutes shall be kept, a copy of which shall be sent to the prosecution office at the court deciding the destruction.

Article 216

Opening and closing of seals

1. The proceeding authority, when it wants to open seals, verifies whether they are damaged and if it ascertains any changes, it shall record that in minutes. After the action which required the opening of seals is performed, the sequestered items shall be re-sealed, providing the date of intervention close to the seal.

Article 217

Return of sequestered items

1. When keeping the sequestration is not necessary any more for any evidence purpose, the sequestered items shall be returned to the one they belong to, even before a final decision is issued. When necessary, the proceeding authority shall order that such returned items are re-brought again at its disposal.
2. The court may also rule that the sequestered items are not returned if upon request of prosecutor or civil plaintiff the sequestration must be retained to secure the civil claim.
3. After the decision issued becomes final, the sequestered items shall be returned to the person they belong to, unless a confiscation order has been issued on them.

Article 218

Rules on returning of sequestered items

1. The court shall rule for the return the sequestered items where there is no doubt regarding their belonging.
2. When items are sequestered from a third party, their return may not be ordered in favour of other parties, without the third party being heard by the court.
3. During the preliminary investigations, the return of sequestered items shall be ordered by the prosecutor. Interested parties may appeal against such order at court.

Article 219

Disposal in case of non-restitution

1. If in a year from the day the decision becomes final the restitution request has not been filed or has not been admitted, the court which issued the decision shall order for the money or securities to be deposited in a bank, in a special account. Regarding the items, an order for their sell out shall be issued, while those which have a scientific or artistic value shall be transferred to the relevant institutions.
2. The sale may be ordered also before the time period indicated in paragraph 1, when the items may not be preserved without incurring the risk of being perished or with considerable expenses.
3. The amounts raised as a result of the sale shall be deposited in a special bank account.

Article 220
Expenses related to sequestered items

1. Expenses needed for maintaining sequestered items, shall be covered by the state, which shall have priority over any other creditor towards the amounts deposited from the non-returned items and values.

SECTION IV
INTERCEPTIONS

Article 221
Limits of authorisation

(Amended by Law No. 9187 of 12.02.2004, article 2) (Amended by Law No. 35/2017 of 30.03.2017, article 117)

1. Interception of communications of a person or of a telephone number, by means of telephone, fax, computer or any other kind of means, the secret interception by technical means of conversations in private place, the interception by audio and video in private places and the recording of incoming and outgoing telephone numbers, shall be allowed only where there is a proceeding:

- a) for crimes committed by intent, punishable by not less than seven years' imprisonment, in the maximum term;
- b) for each intentional criminal offence, if committed by telecommunication means or with the use of information or telematics technology.
- c) for criminal offences referred to in letter "a", of paragraph 1, of Article 75/a, of this Code;

2. The secret photographic, film or video recording of persons in public places or the use of tracing means of the location is allowed only for the intentional criminal offences, punishable by not less than three years' imprisonment, in the maximum term.

3. An interception may be ordered against:

- a) a suspect for a criminal offence;
- b) a person who is believed receiving or transmitting communications to the suspect person;
- c) a person who takes part in transactions with the suspect;

ç) a person whose surveillance may lead to the discovery of the location or the suspect identity.

4. The result of the interception is valid towards all persons involved in the communication.

5. Preventive interceptions shall be regulated by special law. The results of preventive interceptions cannot be used as evidence.

Article 222

Decision for authorisation of interception

(Amended by Law No. 9187 of 12.02.2004, article 3) (Amended by Law No. 35/2017 of 30.03.2017, article 118)

1. Upon the request of the prosecutor, in the instances conceded in paragraph 1 of Article 221, the court shall authorise the interception upon a grounded decision, as long as it is indispensable for continuing with the initiated investigation and where a reasonable doubt exists against the person and based on evidence that he has committed a criminal offence.

2. When there are reasonable grounds to believe that the delay may bring a serious damage to investigations and the conditions of paragraph 1 of this article, are met, the prosecutor shall establish the interception, by a reasoned act, and shall inform the court immediately, but not later than twenty-four hours of the decision taken. When the validation is not done within the due time limit, the interception cannot continue and its outcome cannot be used.

3. If any of the two persons to be intercepted is available to carry out and register the relevant action, pursuant to the agreement with the judicial police officer, such action can be carried out upon authorised by the prosecutor.

4. In the cases provided for in paragraphs 1, 2 and 3, of this article, the court shall rule by reasoned decision in closed session within 24 hours of the submission of the prosecutor's request. Against the decision for the rejection of the interception's request, a special appeal may be lodged with the court of appeal within 24 hours. The appeal court shall decide within 48 hours of the receipt of acts. Submission of the request for the validation of interception does not result in its suspension.

5. The interception decision shall indicate the method and time limit for their execution, which cannot exceed fifteen days. Such time limit can be extended by the court for a period of 15 days, upon the reasoned request of the prosecutor, whenever it is necessary, provided that conditions

provided for in paragraph 1 of this Article exist and the outcome of the interception dictate the need for extending the timeperiod.

6. In the court decision on the secret photographic or video interception or on the interception of conversations in private locations, the judicial police officer or the qualified specialist may be authorised to access these locations secretly, acting in accordance with the decision. This authorisation shall be implemented within 15 days.

7. Any acts ordering, authorising, validating or extending interceptions, as well as the initiation or ending of any interception action shall be indicated in the register kept at the prosecution office.

8. In the cases referred to in Article 221, paragraph 2, the action is authorised by the prosecutor.

Article 222/a

Appeal against the decision authorising the interception

(Added by Law No. 9187 of 12.02.2004, article 4) (Amended by Law No. 35/2017 of 30.03.2017, article 119)

1. An appeal may be made against a decision authorising an interception within ten days from the date the interested party learns about the interception, on the grounds of violation of the criteria referred to in Article 221.

2. The appeal shall be examined in closed session by the court of appeal. If the appeal is found grounded, the appeal court shall revoke the decision authorising the interception and order to erase all materials obtained through the interception.

Article 223

Actions of interception

(Amended by Law No. 9187 of 12.02.2004, article 5) (Amended by Law No. 35/2017 of 30.03.2017, article 120)

1. The interception actions may be performed only through equipment installed in designed locations, authorised and controlled by the prosecutor. The interception and the transcript minutes shall be done by the judicial police officers, under the direction and supervision of the prosecutor of the case.

1/1. If any of the interception requirements no longer exists, the judicial police officer shall immediately notify the prosecutor, who shall order the interruption of the interception and inform the court, if the interception order has been issued by it.

2. Intercepted communications shall be recorded and minutes shall be kept for all actions carried out. The minutes shall include transcription of the contents of intercepted communications.
3. The minutes and the recordings shall be immediately handed over to the prosecutor and within five days of the conclusion of the actions, they shall be submitted to the secretary alongside with the rulings which have ordered, authorised, validated and extended the interception. When such submission may impair the investigations, the court shall authorise the prosecutor to postpone the submission until the conclusion of the preliminary investigations.
4. Defence lawyers or representatives of the parties shall immediately be informed on the submission with the secretary and on their right to examine the documents and to listen to the recordings. The court, after hearing the prosecutor and the defence lawyers, shall decide to remove the recording and minutes, whose use is prohibited.
5. The court shall order the full transcription of the recordings that need to be obtained. Such transcriptions shall be inserted in the judicial file. Defence lawyers can make copies of the transcriptions.

Article 224

Custody of documents

(Amended by Law No. 9187 of 12.02.2004, article 6)

1. Minutes and recordings shall be kept under the custody of the prosecution office which has ordered the interception until the decision becomes final, except for those of which use is prohibited. But, when these documents are not necessary, the interested persons may request their destruction. The court which has made the interception validation shall decide on such request. The destruction shall be made under the control of the judge and for the action performed minutes shall be kept.
2. When the prosecutor decides to terminate the case, he shall inform the court in writing on this decision. The court shall decide for destroying the minutes and recording within the time designated by it and inform the intercepted person. Upon the request of the prosecutor, such notification may not be served if there is a danger to the life or health of others or when a commenced investigation is endangered.

Article 225

Use of interception results in other proceedings

1. Interception results may be used in other proceedings only if they are indispensable for the investigation of crimes. In these cases, the minutes and recordings of the interception shall be filed with the other proceeding authority.

Article 226

Prohibition of use

1. The interception results may not be used when they are made outside of the cases permitted by law or if the provisions of this section have not been observed.

2. Interception of conversations or communications of those who are obliged to keep the secrecy because of their profession or duty may not be used, except when such persons have already testified on the same facts or have disclosed such information in any other way.

3. The court shall order the destruction of the documents of interceptions which are prohibited to be used, except when they constitute material evidence.

TITLE V

PRECAUTIONARY MEASURES

CHAPTER I

PERSONAL PRECAUTIONARY MEASURES

SECTION I

GENERAL PROVISIONS

Article 227

Classification of personal precautionary measures

1. Personal precautionary measures are classified in coercive and interdicted measures.

Article 228

Requirements for the application of personal precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 121)

1. No one may be subjected to personal precautionary measures unless there exists a reasonable suspect against him, based on evidence.

2. No measure can be applied if there are reasons for impunity or

extinction of the criminal offence or of the penalty.

3. Personal precautionary measures shall be adopted:

- a) when important reasons exist that put in danger the obtainment or the authenticity of evidence, based on factual circumstances that must be expressly set out in the reasoning of the decision;
- b) when the defendant has fled or there is a risk that he might do so;
- c) when, by reason of the particular circumstances of the fact and of the defendant's character, there exists the risk that he would commit serious criminal offences similar to the one he is being prosecuted for.

Article 229

Criteria for establishing personal precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 122)

1. In establishing any precautionary measures, the court shall consider the suitability of each of them with the level of precautionary needs in the actual case.
2. Each measure must be proportionate to the seriousness of the facts and to the sanction foreseen for the concrete criminal offence. The continuity, repetition and as well as mitigating or aggravating circumstances provided for by the Criminal Code shall also be considered. A pre-trial detention measure cannot be ordered if the court deems that, for the crime committed, a conditional sentence could be issued.
3. If the defendant is a minor, the court shall consider his/her highest interest and the request for an uninterrupted concrete educational process.

Article 230

Special criteria for establishing the pre-trial detention

(Amended by Law No. 35/2017 of 30.03.2017, article 123)

1. Pre-trial detention may be ordered only when all other measures are found inadequate because of the particular danger of the criminal offence and of the defendant.
2. Pre-trial detention cannot be ordered against a woman who is pregnant or has a child under the age of 3 years living with her, a person being in a particularly serious health state or who is older than seventy years or a drug-addicted or alcoholic person, who is undergoing a therapeutic programme by a special institution.
3. In the cases referred to in paragraph 2, pre-trial detention may be ordered only where there are reasons of a special importance and for crimes, which are punishable not less than ten years' imprisonment in the maximum term.

4. Minors accused of a criminal misdemeanour may not be arrested.

Article 231

Replacement or joining of personal precautionary measures

1. In case of breach of the obligations concerning a precautionary measure, the court may order its replacement or joining with another more severe precautionary measure, considering the seriousness, reasons and circumstances of the breach. For the breach of obligations related to an interdicted measure, the court may decide its replacement or joining with a coercive measure.

SECTION II COERCIVE MEASURES

Article 232

Types of coercive measures

1. Coercive measures are:
 - a) prohibition to expatriate;
 - b) duty to appear at the judicial police;
 - c) prohibition and duty to reside in a certain place ç) bail;
 - d) house arrest;
 - e) precautionary detention in prison;
 - f) temporary hospitalisation in a psychiatric hospital.

Article 233

Prohibition to expatriate

1. By a decision prohibiting to leave the country the judge shall order the defendant not to leave the Albanian territory without his/her authorization.
2. The court shall establish the necessary duties to ensure the enforcement of the decision and prevent the use of a passport and any other identifying documents valid for expatriation.

Article 234

Duty to appear at the judicial police

1. By a decision to appear before the judicial police, the court shall order the defendant to appear to a designated judicial police office.
2. The court shall determine the days and hours for appearance, taking into account the job and residence of the defendant.

Article 235

Prohibition and obligation to reside in a certain place

(Amended by Law No. 35/2017 of 30.03.2017, article 124)

1. By a decision prohibiting to reside, the court shall order the defendant not to reside in a certain place and not to go there without its authorization.
2. By a decision ordering the obligation to reside, the court shall order the defendant not to leave the municipality territory where he usually resides without its authorization. When, due to the character of the defendant or the landscape conditions, residing in such location does not satisfy the security needs, the obligation to reside another municipality territory may be ordered to.
3. When ordering the obligation to reside, the court shall also indicate the police authority where the defendant must appear without delay and declare the location where he will elect his/her residence. The court may order the defendant to declare to police authorities, the timing and places where he may be found each day.
4. Police authority shall be informed on court orders in order to supervise their observance and to report to the prosecutor any breach.

Article 236

Bail

(Amended by Law No. 35/2017 of 30.03.2017, article 125)

1. When the precautionary measure of pre-trial detention or house arrest has been established because of an escape risk, the court may decide its replacement, ordering the release of the person, if a bail has been offered by the person himself or another person to guarantee that he/she will not escape until the conclusion of the proceedings.
2. The court shall accept the bail at the conditions set out in the above paragraph even if the precautionary measure of pre-trial detention or house arrest has to be imposed to the person due to the existence of a risk of escape, thus allowing him to be in free state.
3. The bail amount shall be determined by the court after hearing the opinion of the parties, based on the real securing needs, the personal and familiar conditions of the defendant, as well as on his/her financial situation.
4. When accepting the bail request, the court shall determine the amount to be deposited and the time within which the deposit should be done and, if deemed appropriate, it shall impose also one of the coercive measures provided for in letters "a", "b" and "c" of Article 232 of this Code. The defendant shall be held under the precautionary measures of pre-trial detention or house arrest until the bail amount is deposited. The prosecutor

shall be notified immediately on the depositing.

5. Immediately after the depositing notice and, in any case no later than 24 hours of the notification for the depositing of the bail amount, the prosecutor shall verify the relevant documentation, ordering as appropriate the immediate release of the defendant or confirming the precautionary measure of pre-trial detention or house arrest.

6. If the defendant infringes the bail conditions, the court shall order the confiscation of the amount deposited as bail and establish the precautionary measure of pre-trial detention.

Article 237

House arrest

(Amended by Law No. 35/2017 of 30.03.2017, article 126)

1. By the decision of house arrest, the court shall order the defendant not to leave his/her residence or a certain location where he is domiciled, is being cured or taken care of.

2. When ordering this measure, the court establishes also the procedure for its execution and supervision,

3. The prosecutor and the judicial police shall supervise the observance of the orders issued to the defendant.

4. The duration of the house arrest shall be subject to the rules applicable to the precautionary detention in prison.

5. The period of stay under house arrest shall be calculated as part of the imposed sentence.

Article 238

Precautionary detention in prison

1. By a decision for the precautionary detention in prison, the court shall order the judicial police to get the defendant and immediately bring him to the precautionary detention premises to be held at the disposal of the proceeding authority.

2. The period of precautionary detention in prison shall be calculated as part of the imposed sentence.

Article 239

Temporary accommodation in a psychiatric institution

(Amended by Law No. 35/2017 of 30.03.2017, article 127)

1. When the person who must be arrested is mentally ill and by this reason his capacity to understand or express his/her will is totally lost or diminished, the court, in lieu of the precautionary detention in prison, may

order his/her temporary accommodation in a psychiatric institution, establishing the necessary measures to prevent his/her escape.

2. Hospitalisation may not continue when it results that the defendant is no longer mentally ill.
3. Provisions of paragraph 2, of Article 238 of this Code shall apply.

SECTION III INTERDICTIVE MEASURES

Article 240 Types of interdicted measures

1. Interdicted measures are the following:
 - a) the suspension from exercising a public duty or service;
 - b) the temporary prohibition to practice certain professional or business activities.

Article 241 Conditions for the application of interdicted measures

1. Interdicted measures may only be applied in proceedings concerning criminal offences punishable by law by more than one year imprisonment, in the maximum term.

Article 242 Suspension from carrying out a public duty or service

1. By a decision ruling the suspension from carrying out a public duty or service, the court shall impose to the defendant the total or partial prohibition to conduct activities related to such duties or services.
2. Such precautionary measure shall not apply to persons elected pursuant to the electoral law.

Article 243 Temporary prohibition of carrying out certain professional or business activities

1. By the ruling disposing of the prohibition to carry out certain professions or managing duties in legal entities, the court shall totally or partially prohibit the defendant temporarily, to carry out activities connected to them.

CHAPTER II
ISSUANCE AND ENFORCEMENT OF PRECAUTIONARY
MEASURES

Article 244

Request for application of a precautionary measure

(Amended by Law No. 35/2017 of 30.03.2017, article 128)

1. Precautionary measures shall be ordered upon request of the prosecutor who presents to the competent court the reasons supporting his/her request. The decision shall be taken in closed session and issued in reasoned form.
2. Even if the court declares its lack of competence for any reason, in case the conditions and urgent need for the adoption of a precautionary measure exist, the court shall order the adoption of such precautionary measure and transfer the acts to the competent court.
3. The court cannot establish a precautionary measure that is more severe than the one requested by the prosecutor.

Article 245

Court decision

(Amended by Law No. 35/2017 of 30.03.2017, article 129)

1. The decision establishing a precautionary measure shall contain, under penalty of invalidity:
 - a) the personal data of the person subject to the precautionary measure or anything else suitable to identify him and, where possible, indication of the place where he is;
 - b) a summary description of the facts, indicating the legal provisions considered as violated;
 - c) presentation of the specific reasons and data legitimating the precautionary measure;
 - d) presentation of the reasons for not accepting defense claims and, in case any of the coercive precautionary measures referred to in Articles 237, 238 and 239 of this Code has been adopted, presentation of the reasons for deeming inadequate the other precautionary measures;
 - e) determination of the measure duration, when it has been ordered to ensure the collection or the securing of evidence;
 - f) the date and signature of the presiding judge, those of the assisting secretary and the seal of the court.
2. Where the criminal offence has been committed by two or more persons, the court shall rule by the same decision, providing reasons for the conditions and

criteria for each of them.

Article 246

Enforcement of the precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 130)

1. The police officer or agent entrusted with the execution of an arrest decision shall deliver copy of the relevant decision to the person subject to such measure and shall promptly inform him on the letter of rights, pursuant to paragraph 2, of Article 34/b of this Code. The judicial police shall keep minutes for all actions performed. Such minutes shall be then sent to the court which has issued the decision and to the prosecutor.
2. In case there is a doubt on the authenticity of the decision ordering the precautionary measure or the real identity of the person subject to such measure, the responsible judicial police officers and agents shall not execute it.
3. Decisions on other precautionary measures are notified to the defendant by the court.
4. After their notification or execution, decisions are filed with the secretary of the court, which has issued them. Defence lawyers are also notified on the filing.
5. A copy of the decision establishing an interdictive measure is sent to the authority that is competent to decide on the establishment of such a measure in the regular cases.
6. Every two months starting from the execution of an arrest decision, the prosecutor shall inform in writing the court establishing the precautionary measure on the conducted investigation activity and the security needs. The information shall contain data on the status of the proceedings, on the questioning of the defendant and other persons, a description of the information obtained and shall be accompanied by copies of the file's acts. If the prosecutor fails to provide information in due time, the court shall verify the security needs upon request of the defendant or *ex officio*. The court, after hearing the parties, decides to continue the application of, or to replace or revoke the precautionary measure. Provisions of Articles 248 and 249 of this Code shall apply.

Article 247

Search of the person who cannot be found

(Amended by Law No. 35/2017 of 30.03.2017, article 131)

1. When the person against whom a measure has been issued is not found, the judicial police officer or agent shall keep minutes to indicate the searches conducted and shall send it to the court that has issued the decision.

2. When the court believes that the searches are complete, declares the person escaped.
3. With the act declaring the person escaped, the court assigns a defense lawyer to the escaped person and orders that a copy of the decision applying the enforced measure, be filed with the secretary.
 - 3/1. Escaped person shall be considered whoever, despite being aware, voluntarily avoids the execution of the precautionary measures referred to in Articles 233, 235, 237 and 238 of this Code, or of the imprisonment sentence.
 - 3/2. The procedural consequences of the escape shall operate only within the proceedings wherein it has been declared. The escape state shall be preserved until the precautionary measure has been enforced, revoked or has lost its effects, or when the criminal offence or penalty for which such measure was adopted has been extinguished.
4. The person leaving the place where he is being held under custody, shall be considered equal, for all purposes, to the escaped person.
5. To facilitate the search of the escaped person, the court may order the interception of telephone conversations and other forms of communication.

Article 248

Questioning of the arrested person

(Amended by Law No. 35/2017 of 30.03.2017, article 132)

1. Not later than three days of the execution of the measure, the court shall question the person held in house arrest or pre-trial detention. The court shall proceed with the questioning within five days of the execution of the measure in case of other coercive or interdicted precautionary measures. The defence is entitled to be informed on the acts and obtain copies thereof.
2. The court shall, by way of questioning, verify the requirements and criteria for the application of the measure and the security needs provided for in Articles 228, 229 and 230 of this Code. If these conditions do not exist, the court decides to revoke or replace the measure. Otherwise, the court decides the continuation of its application. The court shall deposit its reasoned decision within 48 hours.
3. During the questioning of the arrested person, the prosecutor and defense lawyer shall take part, notified by the court secretary.
4. In the course of the judicial trial, the parties shall be entitled to submit evidence, except testimony evidence.
5. When the questioning of the arrested person must be made in the court of another district, the court shall ask that the questioning be made by a judge of such other court.

6. The prosecutor may not question the arrested person before the court has proceeded pursuant to paragraph 1 of this Article.

Article 249

Appeals against precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 133)

(Amended by Law no. 41/2021, date 23.3.2021, article 8)

1. Against the decision of the court for the application of a precautionary measure on nonacceptance or its rejection, under Article 244 of this Code, an appeal may be lodged within five days of the notification of the court decision.

1/1 The prosecutor, the defendant and his/her defense lawyer may file an appeal against the court decision for the continuation, revocation or replacement of the precautionary measure under Article 248 of this Code within five days.

2. For the defendant who has escaped, the time limit starts to run from the date of the notification rendered pursuant to article 141.

3. The appeal is filed with the secretary of the court that issued the decision, which is obliged to deliver the documents to the court hearing the appeal, within 3 days of the notifications.

4. The prosecutor, defendant and his/her defense lawyer are notified on the date of the hearing at least 3 days in advance.

5. The appeal shall be examined within ten days of the acts being received.

6. The court decides, as appropriate, the annulment, amendment or approval of the decision, even on different grounds from those presented or indicated in the reasoning part of the decision. The court shall deposit its reasoned decision within 10 days.

7. When the decision is not announced or enforced within the set time limit, the act based on which the coercive precautionary measure has been issued becomes void.

8. Against the decision of the court of appeal, an appeal may be lodged before the High Court on the grounds of law infringement, within its competence.

9. After six months of the execution of the arrest decision, the defendant and his/her defense lawyer may file and appeal to the court of appeal concerning to the duration of the precautionary detention in prison.

10. The court of appeal shall decide within fifteen days of the receipt of the acts.

Article 250

Calculation of time limits for the duration of measures

1. The effects of the precautionary detention in prison shall start to run from the moment of the arrest or detention.
2. If the defendant is held in pre-trial detention for another criminal offence, the effects of the measure shall start to run from the day on which the decision is notified.
3. The effects of the other measures shall start to run from the moment in which the decision is notified.
4. When against a defendant more decisions have been issued which establish the same measure for the same fact, the time limits shall start to run from the day on which the first decision has been executed or notified.

CHAPTER III

ARREST IN *FLAGRANTE DELICTO* AND DETENTION

Article 251

Arrest in flagrante delicto

1. Judicial police officers and agents shall arrest on a mandatory basis whoever is caught in *flagrante delicto* committing or attempting to commit a crime with intent, punishable by law by not less than five years' imprisonment in the maximum term.
2. Judicial police officers and agents shall be entitled to arrest whomever is caught in *flagrante delicto* committing or attempting to commit a crime with intent, punishable by law not less than two years' imprisonment as a maximum term or committing a criminal offence by negligence punishable by law not less than ten years' imprisonment as a maximum term.
3. In case of necessity, due to the importance of the fact or danger posed by the offender, substantiated by a separate document, judicial police officers and agents shall be entitled to arrest anyone in *flagrante delicto*, even if the requirements under paragraph 2 are not met.
4. In the cases provided for under paragraph 1, any person is authorised to arrest in *flagrante delicto* for crimes subject to prosecution *ex officio*. The person who has carried out the arrest shall immediately deliver the arrested to the judicial police, who shall keep the delivery minutes and provide a copy thereof.

Article 252
State of *flagrante delicto*

1. A person shall be considered in a state of *flagrante delicto* when caught in the act of committing a criminal offence or who immediately after committing the offence is chased by the judicial police, the injured person or other persons or who is caught with items and evidence from which it appears that he has committed the criminal offence.

Article 253
Detention of the suspect of a crime
(Amended by Law No. 35/2017 of 30.03.2017, article 134)

1. When founded reasons exist to believe that there is a risk of escape, the prosecutor shall order the detention of the person suspected of having committed a crime, punishable by law by not less than four years' imprisonment, in the maximum term.

2. The judicial police shall perform the detention *ex officio*, in cases where, due to urgency reasons, it is not possible to wait for the prosecutor's order.

Article 254
Prohibition of arrest or detention under certain circumstances

1. No arrest or detention shall be allowed if according to the circumstances of the fact it appears that the action was carried out during the execution a duty or the exercise of a legitimate right or an impunity reason exists.

Article 255
Duties of the judicial police in case of arrest or detention
(Amended by Law No. 35/2017 of 30.03.2017, article 135)

1. The judicial police officers and agents who performed the arrest or detention or had the arrested person delivered into their custody must promptly inform the prosecution office of the place where the arrest or detention was carried out. They shall immediately inform the arrested or detained person that he/she is not obliged to make statements and if he/ she decides to speak, everything he/she might say, shall be used against him/her in trial. The judicial police officers and agents shall inform the detained or arrested person of the right to choose a defence lawyer and shall then promptly notify the retained lawyer or, as appropriate, the one appointed by the prosecutor. The date, hour and the name of judicial officer that carried out the arrest or detention shall be noted in the minutes.

2. The judicial police officers and agents shall immediately place the arrested or detained person in the availability of the prosecutor, in the precautionary detention premises, as soon as possible, by sending the relevant minutes.

3. When the arrested or detained person is ill or a minor, the prosecutor may order that he is kept under custody at his/her house or in another surveilled place. If the letter of rights has not been provided to the arrested or detained person yet, he/she shall receive it immediately upon arrival at the pre-detention premises. If the arrested or detained person cannot read, one of the persons present shall read to him/her the letter of rights. This fact shall be recorded in the minutes and a signature shall be affixed.

4. Judicial police, with the consent of the arrested or detained person, shall promptly notify their family members. In cases when the arrested or detained person is a minor, the parent or legal guardian shall be notified, and the provisions of the code for minors shall apply.

Article 256

Questioning of the arrested or detained person

(Amended by Law No. 35/2017 of 30.03.2017, article 165)

1. The prosecutor shall question the arrested or detained person in the presence of his/her retained or *ex officio* - appointed defense lawyer. He shall inform the arrested or detained person on the facts he is being prosecuted for and the reasons for his questioning, indicating any information against him/her and, when this does not compromise the investigations, also the sources [of such information].

2. The prosecutor shall firstly ask the arrested or detained person whether he/she has been provided with the letter of rights and shall ensure that they have understood their rights. When the arrested or detained person has not been provided with the letter of rights, the prosecutor shall provide them with it prior to their first questioning and shall explain their rights.

3. Statements made by the arrested or detained person prior to receiving their letter of rights or prior to meeting with their defense lawyer, cannot be used.

Article 257

Cases of immediate release of the arrested or detained person

1. When it clearly appears that the arrest or detention was performed because of a mistake concerning a person's identity or in infringement of the law requirements or when the arrest or detention order have already lost their effect due to expiry of the time limit for the request of court validation, the prosecutor shall order, by reasoned decision, that the arrested or detained person be immediately released. In such cases, the release shall also be ordered by the judicial police officer, who immediately notifies the prosecutor of the place where the arrest or detention took place.

Article 258

Request for the validation of the arrest or detention

1. When not ordering the immediate release, the prosecutor, no later than forty-eight hours of the arrest or detention, shall request the validation of the precautionary measure to the court of the place where the arrest or detention was carried out. Failure to comply with such time limit shall result in the invalidity of the arrest or detention.
2. The court shall schedule the validation hearing as soon as possible and shall notify the prosecutor and the defense lawyer.

Article 259

Validation hearing

(Amended by Law No. 35/2017 of 30.03.2017, article 137)

1. The validation hearing shall be conducted with the necessary presence of the prosecutor and defense lawyer. When the retained lawyer or the ex officio - appointed defense lawyer has not been found or has not appeared, the court shall appoint a substitute defence lawyer.
2. The prosecutor shall indicate the grounds for the arrest or detention. The court then hears the arrested or detained person and his/her defense lawyer, or only the latter, if the arrested or detained person has refused to appear. Evidence obtained in such hearing shall be considered as obtained during the trial, but, upon request of the parties, it may be subject to trial hearing, during the examination of the merits of the case.
3. When it appears that the arrest or detention has been carried out illegally, the court shall issue a decision on its validation. When there is a request by the prosecutor, the court shall assign a precautionary measure. An appeal may be filed against the decision of the court pursuant to article 249 of this Code.
4. When the arrest or detention has not been lawfully conducted, the court shall order the immediate release of the arrested or detained person. An appeal may be filed by the prosecutor against such decision pursuant to article 249 of this Code.
5. The arrest or detention shall lose its effect, if the court decision for the validation is announced within forty-eight hours of the submission of the prosecutor's request to the court.

CHAPTER IV

REVOCATION, REPLACEMENT AND EXTINCTION OF PRECAUTIONARY MEASURES

(Amended by Law No. 35/2017 of 30.03.2017, article 138)

Article 260

Revocation, replacement and joining of precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 139)

1. Precautionary measures shall be immediately revoked if it results that the requirements and criteria for their application do not exist.
2. If the security needs are mitigated or when the implemented measure is no longer respondent to the seriousness of the facts or to the sentence that might be issued, the court shall replace the measure with a less severe one.
3. If the security needs increase or the person infringes the obligations related to the precautionary measure, the Court, upon request of the prosecutor, may replace it with a more severe measure or order an additional coercive or interdictive precautionary measure. If obligations related to an interdictive measure are violated, the court may replace it with a coercive measure or impose an additional interdictive measure.
4. The request of the prosecutor or defendant for the revocation, replacement or joining of precautionary measures is adjudicated by the court where the acts were submitted, within five days of their filing. When appropriate, the court shall decide also ex officio on the revocation or replacement of the precautionary measure, during the questioning of the arrested person, pursuant to Article 248 of this Code, and in the cases referred to in paragraph 6 of Article 246, during the hearing for the pre-trial admission of evidence, the preliminary hearing or the trial hearing.

Article 261

Extinction of precautionary measures

(Amended by Law No. 35/2017 of 30.03.2017, article 140)

1. Precautionary measures cease their effect:
 - a) when, for the same act and against the same person, the case has been dismissed or a decision of acquittal has been issued;
 - b) when the sentence is declared extinct or suspended on condition;
 - c) when the period served in precautionary detention in prison is longer than the sentence issued;
 - ç) when after the expiry of the time limit provided for under letter “d”, of paragraph 1, of Article 245, of this Code, a repetition has not been ordered within the limits provided for under Articles 264 and 267.
2. Precautionary detention in prison that is ordered during preliminary investigations shall cease its effects if the court does not proceed with the questioning within the time limit provided for under Article 248.
3. The request for the extinction of the precautionary measure shall be

presented together with relevant documents to the court where the acts are, at the moment the request is filed. The court shall decide on the request within 48 hours, after notifying the parties. Failure of the parties to appear, without any founded reason, shall not prevent the court from taking a decision in their absence. Time limits for decision reasoning and appeal, shall be subject to the rules set out under articles 248 and 249 of this Code.

4. Extinction of the precautionary measures does not prevent the court or any other authority to exercise the rights attributed to them by the law for the enforcement of the supplementary punishments or of the other interdictive measures.

Article 262

Consequences of the extinction of precautionary measures

1. When a precautionary detention measure ceases to have effects, the court shall order the immediate release of the person subject to such measure.
2. In cases when other precautionary measures cease to have effect, the court shall decide their immediate removal.

Article 263

Time limits for the precautionary detention in prison

(Amended by Law No. 35/2017 of 30.03.2017, article 141)

1. Precautionary detention in prison ceases to have effect, if from the beginning of its execution, the following time limits have lapsed without the acts being filed to court:
 - a) three months, when proceeding for criminal contraventions;
 - b) six months, when proceeding for crimes punishable by up to ten years' imprisonment, in the maximum term;
 - c) twelve months, when proceeding for crimes punishable by not less than ten years' imprisonment, in the maximum term, or with life imprisonment.
2. Precautionary detention in prison ceases to have effect, if from the date of submission of the documents to court, the following time limits have lapsed without a conviction decision being issued in the first instance:
 - a) two months when proceeding for criminal contraventions;
 - b) nine months, when proceeding for crimes punishable by up to ten years' imprisonment, in the maximum term;
 - c) twelve months, when proceeding for crimes punishable by not less than ten years' imprisonment, in the maximum term, or with life imprisonment.
3. Precautionary detention in prison ceases to have effect, if from the date of issue of the sentence in the first instance, the following time limits have lapsed, without a decision being issued in the court of appeal:

- a) two months, when proceeding for criminal contraventions;
 - b) six months, when proceeding for crimes punishable by up to ten years' imprisonment, in the maximum term;
 - c) nine months, when proceeding for crimes punishable not less than ten years' imprisonment, in the maximum term, or life imprisonment.
4. In case where the decision is quashed by the High Court and the case is returned to the court of first instance or court of appeal and also when the decision is quashed by the court of appeal and returned to the court of first instance, time limits provided for each instance of the proceedings start to run again from the day of issuance of the decision of the High Court or the court of appeal.
5. In case where the defendant under precautionary detention in prison escapes, time limits start to run again from the moment he is placed in detention in prison again.
6. The entire time period for the precautionary detention in prison, taking also into account the extension provided for under Article 264, paragraph 2, shall not exceed the following time limits:
- a) ten months, when proceeding for criminal contraventions;
 - b) two years, when proceeding for crimes punishable by up to ten years' imprisonment, in the maximum term;
 - c) three years, when proceeding for crimes punishable by not less than ten years' imprisonment, in the maximum term, or life imprisonment.
7. When at the end of the time limit for the precautionary detention in prison, the prosecutor notified to the defendant a new charge, which provides for longer precautionary detention time limits, he/she asks the court to assign a new time limit for the precautionary detention in prison. The court shall decide in judicial hearing, after hearing the parties.
8. When the new charge relates to a new fact, which was unknown at the beginning of the proceedings, the court shall assign a new time limit, which starts to run from the beginning, whereas in cases where only the legal qualification of the offence changes, the court shall apply the precautionary measure, and the time limit shall start to run at the same moment of the previous precautionary measure.

Article 264

Extension of the precautionary detention in prison

(Amended by Law no. 41/2021, date 23.3.2021, article 9)

1. At any stage and instance of the proceedings, when the examination of the defendant's mental state has been ordered, the time limits for the precautionary detention in prison shall be extended for the time assigned to

conduct the examination. The extension is decided by the court, upon request of the prosecutor, and after hearing the defense lawyer. A complaint against the decision may be filed before the appeal court.

2. During preliminary investigations, the prosecutor may request the extension of the time limits of the precautionary detention in prison, that are expiring, when there are serious security needs and special complex verifications which render such extension indispensable. The court shall take a decision after hearing the prosecutor and defense lawyer. Extension may be done only once for a period of time not exceeding three months.

3. The time limits for precautionary detention in prison may not exceed half of the maximum punishment provided for the criminal offence under proceeding.

Article 265

Suspension of time limits for the precautionary detention in prison

1. Time limits provided for under article 263 may be suspended by a court decision subject to appeal:

a) for the time the judicial hearing is suspended or postponed because of the unjust acts or requests of the defendant or his defense lawyer, except in cases where the request is made to obtain evidence;

b) for the time the judicial hearing is suspended or postponed by reason of the non-appearance or withdrawal of one or more defense lawyers, who leave one or more defendants without legal assistance.

Article 266

Decisions in case of release from prison

1. When the defendant has been released from prison because of the expiry of the time limits, the court, if the reasons under which the precautionary detention in prison was ordered still exist, shall establish another precautionary measure, provided the required conditions exist.

2. Precautionary detention in prison, when necessary, may be renewed:

a) when the defendant has intentionally breached the orders issued relating to a precautionary measure adopted pursuant to paragraph 1, but always when the security needs exist.

b) with the conviction decision, when the security needs provided for under Article 228, paragraph 3, exist.

3. With the renewal of the precautionary detention in prison, the time limits start to run again but, for the purposes of the calculation of the total precautionary detention period, the time served under the previous precautionary detention measure is also taken into account.

4. The judicial police officers and agents may arrest a defendant who has escaped, infringing the orders related to a precautionary measure issued pursuant to paragraph 1 of this article. Provisions on the detention of a suspect for committing a criminal offence shall be apply, *mutatis mutandis*.

Article 267

Maximum time limits for other precautionary measures

1. Coercive measures other than precautionary detention in prison shall cease to have effect, when a period corresponding to twice the length of the time limits provided for under article 263 has lapsed, from the time of their execution.

2. Interdictive measures cease to have effect, when three months have lapsed since they started to be executed. When they have been issued to preserve the evidence, the court may order their renewal up to the limits provided by paragraph 1.

CHAPTER V COMPENSATION FOR UNJUST IMPRISONMENT

Article 268

Requirements for application

1. Whoever is declared innocent by a final decision is entitled to compensation for the precautionary detention served in prison, except in the cases when it is proven that the wrongful decision or failure to discover the unknown fact in due time, is caused, wholly or in part, by the person himself.

2. The same right belongs to a convicted person, who has been placed in precautionary detention in prison, when it is proven by a final decision that the act by which the precautionary measure was established, has been issued in absence of the requirements provided for by Articles 228 and 229.

3. Provisions of paragraphs 1 and 2 shall also apply in favour of the persons whose cases have been dismissed by the court or the prosecutor.

4. When it is proven by a court decision that the act is not provided under the law as a criminal offence, due to the abrogation of the relative provision, the right of compensation is not recognized for the part of precautionary detention in prison served before the abrogation.

Article 269

Request for compensation

1. The request for compensation must be submitted, under penalty of inadmissibility, within three years of the day in which the judgment of acquittal or dismissal has become final.

2. The compensation amount, the method for its calculation, and the cases of house arrest compensation, are established by special law.

CHAPTER VI PROPERTY PRECAUTIONARY MEASURES

SECTION I PROPERTY SEQUESTRATION ORDER

Article 270 **Conditions and effects of the order**

1. When there are founded reasons to believe that there no guarantees exist for the payment of a fine sentence, of the proceedings expenses and of any other obligation to the State property, the prosecutor shall request the conservative sequestration of the defendant's movable or immovable assets, or of the sums of money or items that others owe him, within the limits allowed by the law for their sequestration.
2. The plaintiff may request the conservativesequstration of the property of the defendant or of the civil defendant, when the conditions provided for by paragraph 1 exist.
3. The sequestration established upon the request of the prosecutor is also valid for the civil plaintiff.

Article 271 **Court decision on sequestration**

1. Conservative sequestration is established by decision of the competent court.
2. When the decision has been issued by the first instance court, the sequestration is executed before documents are sent to the court of appeal.
3. The sequestration is executed by the court bailiff pursuant to the rules established by the Civil Procedure Code.
4. The sequestration ceases its effects when the decision of acquittal or dismissal of the case becomes final.

Article 272 **Offer to secure the obligation**

1. When the defendant or the civil defendant offers a suitable legal means to guarantee the obligation (pawn, guarantee, deposit, mortgage), the court shall not order the conservative sequestration or shall revoke it and establish

the method for fulfilling the obligation.

2. When the offer is proposed with the appeal, the court shall revoke the sequestration if it deems that the guarantee offer is proportionate to the value of the sequestered items.

Article 273

Execution of the sequestration order

1. The conservative sequestration is converted into enforceable sequestration when the fine sentence or the decision for the obligation of the defendant and of the civil defendant to compensate damages become final.

2. Mandatory execution of the sequestered property is carried out pursuant to the rules provided for under the Civil Procedure Code. The proceeds of sale of the sequestered property and of the instruments offered to guarantee the obligation shall be used to pay off, in order, the amounts due to the plaintiff as compensation for damages and legal expenses, fine sentences, proceedings expenses and any other amounts in favour of the State.

SECTION II

PREVENTIVE SEQUESTRATION

Article 274

Object of the preventive sequestration

(Amended by Law No. 9085 of 19.06.2003, article 5)

1. When there is a danger that free possession of an item related to the criminal offence may aggravate or prolong its consequences or facilitate the commission of other criminal offences, the competent court, upon request of the prosecutor, shall order its sequestration by reasoned decision.

2. Sequestration may also be ordered for items, proceeds of the criminal offence and for any other kind of property that can be confiscated under Article 36 of the Criminal Code.

3. When the conditions for its implementation change, the court, upon request of the prosecutor or interested persons, shall remove the sequestration.

Article 275

Cessation of sequestration

1. The court or prosecutor that issues the decision of acquittal or dismissal of the case, orders the return of sequestered items to the one to whom they belong, unless they [the items] must be confiscated because they have served or were assigned to commit a criminal offence or because they are a product or profit of the criminal offence.

2. When a decision of conviction has been issued, the sequestration shall continue its effects if the confiscation of the sequestered items has been ordered.
3. The sequestered items are not returned if the court decides to maintain the sequestration to guarantee the receivables.

Article 276

Appeal against the decision

1. Whoever has an interest may appeal against the issuance or rejection of the sequestration order.
2. The appeal may be filed within ten days from the issuance of the decision or from the day the interested person receives notice of the sequestration.
3. The appeal is filed with the secretary of the court which has issued the decision.
4. The appeal does not suspend the execution of the order.
5. The court of appeal rules on the appeal within fifteen days from receiving the documents.
6. The court decides, as appropriate, the annulment, amendment or approval of the appealed decision.

PART II TITLE VI PRELIMINARY INVESTIGATIONS

CHAPTER I GENERAL PROVISIONS

Article 277

Authorities entrusted with the preliminary investigations

(Amended by Law No. 35/2017 of 30.03.2017, article 142)

1. The prosecutor and the judicial police conduct, within their respective competences, the necessary investigations in relation to the criminal prosecution.
2. The prosecutor leads the investigations and shall have judicial police at his/her disposal.
3. Repealed

Article 278
Competences of the first instance court during preliminary investigations

(Amended by Law No. 35/2017 of 30.03.2017, article 143)

1. During preliminary investigations, in cases provided for by the law, the Court shall rule on the requests of the prosecutor, the defendant, the victim and private parties.
2. Requests of parties during the preliminary investigations, pursuant to paragraph 1 of this Article, shall be adjudicated by the same judge.

Article 279
Obligation to keep secrecy

(Amended by Law No. 35/2017 of 30.03.2017, article 144)

1. Investigation documents are secret until the defendant has not received any information about them. When it is necessary for the continuation of the investigations, the prosecutor may order that particular documents be kept secret until the conclusion of the investigation.
2. The prosecutor may allow, by reasoned decision, the publication of particular documents or parts thereof. The documents made public are filed with the prosecutor's secretary office.
3. Even when the acts are no longer bound by secrecy, pursuant to paragraph 1 of this Article, in cases when this is necessary for the continuation of the investigations, the prosecutor may rule, by reasoned decision:
 - a) the obligation to preserve secrecy on specific acts, when the defendant gives his/her consent or when the content of the act might jeopardise investigations against other persons;
 - b) the prohibition of the publication of the contents of specific acts or data related with certain investigative actions.

Article 279/a
Victim's right to information

(Amended by Law No. 35/2017 of 30.03.2017, article 145)

1. For legitimate reasons, the victim, its legal representative or defense lawyer, are entitled to request information on the state of the proceedings, and to have access and receive copies of acts and evidence contained in the prosecutor's file.
2. The prosecutor may refuse the request if:
 - a) the interest of preserving the secrecy of the investigation exceeds the victim's interest;

- b) the interest of the defendant exceeds the victim's interest;
- c) the victim has not yet been examined as a witness.

2. The victim, its legal representative or defense lawyer are entitled to request information concerning the application, extension, replacement or revocation of precautionary measures against the defendant, unless the notice on these facts could endanger the life or health of the defendant.

CHAPTER II RECEIVING NOTICE OF THE CRIMINAL OFFENCE

Article 280 Receiving notice of the criminal offence

1. The prosecutor and the police receive notice of criminal offences on their own initiative and upon notice made by others.

Article 281 Criminal report by public officials

1. Public officials, who during the course of their work or because of their functions or service, receive notice of a criminal offence that is prosecuted *ex officio*, are obliged to lodge a written criminal report even if the person to whom the criminal offence is attributed is not identified.
2. The criminal report is presented to a prosecutor or judicial police officer.
3. If, during a civil or administrative proceeding, an act which constitutes a criminal offence prosecuted *ex officio* is discovered, the relevant body files a criminal report with the prosecution office.
4. The criminal report shall contain the essential elements of the act, the sources of evidence, personal data, address and anything else which serves to identify the person whom the act is attributed to, the victim and those who are able to clarify the circumstances of the act.

Article 282 Criminal report from medical personnel

1. The medical personnel that is legally obliged to lodge a criminal report, must present it within forty-eight hours and send it to the prosecutor or any judicial police officer of the place where he/she has intervened or provided the medical assistance and, when the delay may result in a danger, to the nearest judicial police officer.
2. The criminal report filed by the medical personnel shall provide information as to the person to whom the assistance was given and, when it is possible, his/her personal data, residence and anything else that serves to identify him,

the circumstances of the act, the means used to commit it and its consequences.

3. When several persons have provided their medical assistance in the same case, all of them are obliged to file a criminal report and being entitled to draft and sign one single document.

Article 283

Criminal report from citizens

(Amended by Law No. 35/2017 of 30.03.2017, article 146)

1. Any person that has received notice of a criminal offence which is prosecuted ex officio must lodge a criminal report of it. In cases specified by law, lodging of a criminal report is compulsory.
2. The criminal report shall be lodged in oral or written form to the prosecutor or to a judicial police officer, in person or through a representative.
3. Anonymous criminal reports cannot be used, except in cases provided for by Article 194. The content of the anonymous criminal report may be verified by the prosecutor or the judicial police in order to ensure elements of evidence which corroborate their truthfulness.

Article 284

The criminal complaint

(Paragraph 1 amended by Law No. 8813 of 13.06.2002) (Amended by Law No. 35/2017 of 30.03.2017, article 147)

1. For the criminal offences referred to in Articles 84, 89, 102 paragraph 1, 105, 106, 130, 148, 149, 243, 254, 264, 275, 290, paragraph 1, and 318 of the Criminal Code, prosecution shall commence only upon complaint of the victim, who may withdraw it at any stage of the proceedings.
2. The complaint shall be lodged by the victim to the prosecutor or the judicial police by means of a declaration expressing, either personally or through a special representative, the will to proceed in relation to an act provided for by the law as criminal offence.
3. If the complaint is made orally, the minutes kept for this purpose shall be signed by the complainant or his representative.
4. The person who receives the complaint ensures about the identity of the complainant and submits the documents to the prosecutor.
5. In the cases referred to in Article 59, the complaint is submitted at the court by the accusing victim.

Article 285

Waiver of the right of complaint

1. Waiver of the right to lodge a complaint is made personally or through a representative, by means of a signed or oral statement before the prosecutor or a judicial police officer, who keeps minutes, to be mandatory signed by the person making the statement.
2. Provisional or conditional waiver is not valid.
3. The same statement may also contain the waiver in respect of the civil claim.

Article 286

Withdrawal of the complaint

1. The withdrawal of a complaint is made personally or through a representative by means of a statement submitted to the proceeding authority.
2. The withdrawal of a complaint may be made at any stage of the proceedings, until the court decision has become final.
3. The proceedings expenses shall be borne by the person who withdraws the complaint, except when the withdrawal statement provides, by agreement, that they shall be borne, in whole or in part, by the one against whom the complaint has been lodged.

Article 287

Recording a notice of criminal offence

(Amended by Law No. 35/2017 of 30.03.2017, article 148)

1. The prosecutor shall enter into the register every notice of criminal offences brought to him or received by him upon his own initiative and, simultaneously or since the moment it is found out, the name of the person to whom is attributed the criminal offence.
2. When, during preliminary investigations there are changes in the legal qualification or any circumstances related to the criminal offense, the prosecutor shall order their registration, pursuant to paragraph 1 of this Article.
3. It is prohibited to make public these registrations, until the person to whom is attributed the criminal offence is taken as a defendant.

CHAPTER III PROCEEDING REQUIREMENTS

Article 288

(Amended by Law No. 35/2017 of 30.03.2017, article 149)

1. The prosecutor shall file a request for authorisation with the Parliament if any of the precautionary measures of pre-trial detention or house arrest, any restriction of personal freedom in any form, or a personal or house search, must be established against a member of Parliament.
2. The request for authorisation shall be filed when the legal requirements provided for in the Criminal Procedure Code are met, for carrying out the actions foreseen in paragraph 1 of this Article. The request shall be supported by a reasoned report, accompanied by the evidence supporting his request.
3. If a member of the Parliament has been arrested in flagrante delicto, the Chief of the Special Prosecution Office shall immediately notify the Parliament. If the Parliament decides to revoke the order of arrest in flagrante delicto, the member of the Parliament shall be immediately released.

Article 289

Permission to carry out actions

(Amended by Law No. 35/2017 of 30.03.2017, article 150)

1. Failure to obtain authorization, pursuant to Article 288 of this Code, shall not prevent the prosecutor from requesting another precautionary measure, pursuant to Article 244 nor to proceed against him/her or other persons under investigation for the same act.
2. In case the needs for precautionary measures aggravate or when new facts or circumstances result from investigations, the prosecutor may request to the Parliament an authorisation, pursuant to paragraph 1 of Article 288, of this Code.
3. The revocation of the measure of arrest *in flagrante delicto*, pursuant to paragraph 3 of Article 288, of this Code, shall not prevent the prosecutor from filing a request for authorisation with the Parliament, pursuant to paragraph 1 of Article 288.

Article 290

Circumstances that do not allow the initiation of proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 151)

1. Criminal proceedings shall not commence when:
 - a) the person has died;
 - b) the person has no criminal responsibility or has not reached the criminal liability age;
 - c) the complaint of the victim is lacking or he/she withdraws the complaint;
 - ç) the act is not provided by law as a criminal offence or when it is clearly proven that the act does not exist;
 - d) the criminal offence has been extinct;
 - dh) an amnesty has been issued;
 - e) in all other cases provided for by the law.

Article 291

Decision not to initiate proceedings

(Amended by Law No. 35/2017 of 30.03.2017, article 152)

(Amended by Law no. 41/2021, date 23.3.2021, article 10)

1. When the circumstances that do not allow the initiation of proceedings exist, the prosecutor issues a reasoned decision not to initiate the proceedings, within 15 days of the filing of the criminal report.
2. Notice of the decision is served promptly to those who have lodged a criminal report or a complaint, to the victim or the victim's heirs, who may file a complaint with the court, within 10 days of the notification of the decision.
- 2/1 The appeal shall be notified immediately to the prosecutor and the other parties.
3. The complaint shall be examined by the judge who adjudicates the requests of the parties during the preliminary investigation in the consultative chamber, within 30 days from the lodging of the copy of the acts contained in the file of the decision not initiating proceedings with the court secretarial office. The prosecutor shall, no later than 15 days from the lodging of the appeal, send to the court a copy of the acts contained in the file of the non-initiation decision and is entitled to make submissions in writing regarding the basis of the appeal.
4. When the complaint is found to be grounded, the court orders the

obligation of the prosecutor to register the proceeding and to carry out the necessary investigations, indicating also their direction.

5. The parties may file a complaint against the decision in the appeal court within 10 days of the following day when the decision was served. The court of appeal shall examine the appeal in a consultation chamber within 30 days from the date of receipt of acts.

Article 292

Resumption of investigations

(Amended by Law No. 35/2017 of 30.03.2017, article 153)

1. The decision to not initiate or dismiss the proceedings, issued due to lack of a complaint, shall not prevent the conduction of investigations for the same act and against the same person, if a complaint is subsequently lodged.

CHAPTER IV

EX OFFICIO ACTIVITIES OF THE JUDICIAL POLICE

Article 293

Reporting a criminal offence to the prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 154)

1. Upon receiving notice of a criminal offence, the judicial police shall, without delay, but not later than 72 hours, report in writing to the prosecutor the essential elements of the act and the other elements gathered until that moment, indicating the sources of evidence, the actions taken, and makes available to the prosecutor, for evaluation, all acts and evidence collected.

2. In urgent cases and for serious crimes, the report is made immediately, also orally, which does not exclude the obligation to report in writing.

3. Judicial police also indicates in the report the date and time when they received notice of the criminal offence.

Article 294

Preserving sources of evidence

(Amended by Law No. 9276 of 16.09.2004, article 6) (Amended by Law No. 35/2017 of 30.03.2017, article 155)

1. The judicial police, even after a report of a criminal offence, shall continue to perform the functions provided for under Article 30, gathering and recording every element valid for the reconstruction of the fact and for identifying the perpetrator. In particular, it proceeds:

a) in searching for and recording items and traces of the criminal offence, as well as in preserving them and the crime scene for as long as this is

necessary;

b) in searching for and questioning the persons who can indicate the circumstances of the act.

c) in performing the actions provided for in the following articles.

2. After the prosecutor has intervened, the judicial police shall carry out all actions ordered or delegated specifically by the prosecutor and shall carry out by initiative any other necessary investigative action and obtain new sources of evidence.

3. When performing actions which require special technical knowledge, on its own initiative or delegated by the prosecutor, the judicial police may engage experts, who cannot refuse the assigned tasks, without legitimate reasons.

Article 294/a
Simulated actions

(Added by Law No. 9187 of 12.02.2004, article 7) (Amended by Law No. 35/2017 of 30.03.2017, article 156)

1. A judicial police officer or an authorized person, may be engaged to make a simulated purchase of items that are prohibited to be produced, owned, held or traded, or items that derive from a crime or the simulation of a corruptive act or to carry out other simulated acts, in order to detect and collect evidence on persons suspected of committing a crime, by concealing the cooperation with the police or their duty as police employees.

2. These actions are carried out with the authorization and under the supervision of the prosecutor, overseeing the investigations, or of the prosecutor who has territorial competence on the place where the action will take place. After carrying out such actions, the judicial police must submit to the prosecutor all the evidence collected and a summary report.

3. A criminal act should not be provoked, by abetting a person to commit a crime, which he would not have committed, if police had not intervened. Where provocation is proven, the results cannot be used.

Article 294/b
Infiltration in criminal groups

(Added by Law No. 9187 of 12.02.2004, article 7) (Amended by Law No. 35/2017 of 30.03.2017, article 157)

1. For the purposes of detecting serious crimes, a judicial police officer or agent may, with the authorization and under the supervision of the prosecutor, be infiltrated into a criminal group in order to identify

the members of the group and collect information necessary for the investigation, concealing his cooperation with the police or his duty as police employee.

2. The infiltrated judicial police employee should not provoke a criminal act that would not have been committed without his intervention. When provocation has been proven, the results cannot be used.

3. The authorization of the prosecutor must specify the time period of the infiltration, which may be extended by the prosecutor for up to six months and the permitted scope of the infiltrated employee, indicating, as appropriate, the illegal actions that he may commit, without endangering the life of others.

4. The infiltrated judicial police employee may be questioned as a witness. If the testimony received from infiltrated persons is essential to resolving the case, the testimony shall be taken by observing the rules on the preservation of anonymity of the informant. When the latter are not summoned as witnesses, information provided by them cannot be used.

Article 294/c
Controlled delivery

(Added by Law No. 35/2017 of 30.03.2017, article 158)

1. Controlled delivery shall be authorised by the prosecutor directing the preliminary investigations, upon request of competent authorities.

2. Controlled delivery may be authorized in the following cases:

a) when the persons suspected of being involved in the transportation of narcotic substances, weapons, stolen items, nuclear or explosive materials, radioactive materials, amounts of money or other proceeds [which are] products of a criminal offence, or items used to commit criminal offenses, cannot be identified or arrested by other means, or when their identification or arrest would harm investigations or would jeopardize the safety of persons or [cause] the damage or loss of the items being transported;

b) when the detection of criminal offences and obtaining of evidence is impossible or extremely difficult to carry out by other means.

3. Controlled delivery is made according to conditions set by the prosecutor, who orders it by a reasoned act after ensuring that the authorities of foreign countries:

a) have given their consent for illegal or suspected items to enter, transit or exit from their territory;

b) guarantee constant supervision of the entry, transit or exit of items from their territory;

4. Prosecutor's order authorising controlled delivery should contain:
 - a) the name of the suspect or defendant, if known;
 - b) evidence proving the illegal nature of the items that need to enter, transit or exit the territory of the State and the way their control or supervision shall be carried out.
5. Where appropriate, the prosecutor's order shall be attached to the act authorising the full or partial replacement of illegal items and the place where the samples received are placed.
6. Controlled delivery shall be executed by the judicial police, under the supervision and control of the prosecutor.

Article 295

Identification of the person under investigation and of other persons

(Amended by Law No. 35/2017 of 30.03.2017, article 159)

1. Judicial police shall identify the person under investigation as well as persons who may provide useful data for the reconstruction of facts.
2. Judicial police shall carry out all necessary actions for the identification of the person under investigation, including fingerprints, photographic and anthropometric examinations.
3. When the identification includes the collection of biological samples, the judicial police shall proceed pursuant to Article 201/a of this Code.
4. When the person refuses to identify himself or presents personal data or identity cards that are suspected to be false, judicial police shall accompany him/her to its offices and hold him there for as long as it is indispensable for his identification, but not longer than twelve hours.
5. The prosecutor shall be immediately informed on the person's accompaniment or release as well as on any action taken pursuant to this article.

Article 296

Information from the person under investigation

(Amended by Law No. 35/2017 of 30.03.2017, article 160)

1. Judicial police officers shall collect information from the person under investigation in the mandatory presence of his lawyer, except in the cases of a person arrested in flagrante delicto or placed under temporary detention, who shall be questioned following the rules provided for by article 256. If the defense lawyer has not been found or has not appeared, the judicial police shall require the prosecutor to appoint another lawyer. In any case, before proceeding with the questioning, he shall be provided with the letter of rights. Rules provided for by articles 34/a and 38 of this Code shall apply.

2. At the crime scene or immediately after the offence has been discovered, judicial police officers may, even in the absence of the defense lawyer, obtain information from the person under investigation, necessary for the continuation of the investigation, even if he/she is arrested in flagrante delicto or under detention. The obtained information shall not be documented and their use as evidence is prohibited.

3. If the person under investigation appears and requests to provide statements, the judicial police shall proceed by receiving them. Their use is not allowed at trial, except when used to rebut a statement made before the court.

Article 297

Gathering other information

(Amended by Law No. 35/2017 of 30.03.2017, article 161)

1. Judicial police shall gather information from persons who may indicate useful circumstances for the purposes of investigation.

2. Provisions of articles 155 to 160 shall apply.

3. If information needs to be obtained from a minor, the parent or legal guardian or an adult person, chosen by the minor, as well as a psychologist, should be present.

Article 298

Searches

(Amended by Law No. 35/2017 of 30.03.2017, article 162)

1. In the cases of flagrante delicto or pursue of a person escaping, the judicial police officers shall perform a search on the person or premises when they have reasonable grounds to believe that the person conceals items or traces of a criminal offence, which may disappear or be lost or that these items or traces are in a certain place or where the person under investigation or escaping is located.

2. When a detention must be carried out, an arrest or sentence by imprisonment decision be executed, the judicial police officers may carry out a search of the person or premises, where there exist the conditions stipulated in paragraph 1 and there are particular reasons of urgency that does not permit the issue of a search decision. When delay may compromise the successful conclusion of investigations, the house search may be carried out even outside the time limits provided for under article 206.

3. In cases of *flagrante delicto* or pursuit of an escaping person or when a detention must be carried out, or an arrest decision or a sentence by imprisonment must be executed, judicial police shall take all technical measures aimed at ensuring the preservation of the original computer data and preventing their loss, damage, and alteration and shall carry out all further searches of computer data, when there are reasonable grounds [to

believe] that they contain information, software or traces of the criminal offence.

4. The minutes of the acts carried out shall be sent immediately, but not later than forty-eight hours, to the prosecutor of the place where the search was conducted, who, within the next forty eight hours, shall proceed pursuant to the Article 301 of this Code.

Article 299

Acquiring of boxes/parcels and correspondence

1. When it is necessary for the purposes of proceedings to obtain sealed parcels or parcels closed in any other way, judicial police officers shall send them intact to the prosecutor for any eventual sequestration. If there are reasonable grounds to believe that the parcels contain information that may be lost because of delay, the judicial police officer shall inform, by the fastest means, the prosecutor who may authorize the immediate opening (of parcels).

2. In cases of letters, envelopes, parcels, monetary and property values, telegrams or other means of correspondence that are allowed to be sequestered, judicial police officers, in urgent cases, shall order the person at the postal service to suspend dispatching. If within forty-eight hours from judicial police order, the prosecutor does not order the sequestration, the correspondence objects are dispatched to their destination.

Article 299/a

Accelerated preservation and computer data maintenance

(Added by law No. 10054 of 29.12.2008, article 4)

1. The prosecutor may order the accelerated preservation of certain computer data, including data traffic, in cases where there are sufficient reasons to believe that the data might get lost, damaged or changed.

2. In the case where the computer data are in possession or control of a person, the prosecutor may order such person to preserve and maintain such computer data for a period up to 90 days with the aim of uncovering and extracting them. Such term may be extended only once for founded reasons.

3. The person in charge for the computer data preservation and maintenance is obliged to keep secrecy on the procedures and actions carried out, as per paragraph 2 of this Article until the end of the investigations.

Article 299/b

The accelerated preservation and partial uncover of the computer data

(Added by law No. 10054 of 29.12.2008, article 4)

1. The person in charge of the accelerated preservation of the data traffic is obliged to take all necessary measures, in order to ensure that the preserved

data are valid, regardless of whether one or more service providers have been involved in the transmission of the communication, as well as to provide to the prosecutor or the authorized judicial police officer the uncover of a sufficient amount of data traffic in order to enable the identification of the service provider and the gate throughout which the communication has been transmitted.

Article 300

Immediate on-site verifications

1. Judicial police officers and agents take measures so that traces and items pertaining to the criminal offence are recorded and preserved and the crime scene and items are not altered until the prosecutor intervenes, when he/she has confirmed his participation.
2. When there is a risk that traces and items might alter or get lost and the prosecutor may not intervene urgently, judicial police officers shall conduct the indispensable investigation actions and, if it is the case, shall sequester the material evidence and items connected to the criminal offence.

Article 301

Sequestration validation

(Amended by Law No. 35/2017 of 30.03.2017, article 163)

1. When carrying out a sequestration pursuant to Article 300, the judicial police shall indicate the relevant reasons in the minutes and give a copy of the act to the person whose items were sequestered. The minutes are sent without delay, in any case, not later than forty-eight hours, to the prosecutor of the place where the sequestration was enforced.
2. The prosecutor, within the next forty-eight hours, shall validate the sequestration by reasoned decision, if the conditions exist, or decide the return of the sequestered items. A copy of the decision is notified immediately, but not later than 72 hours, to the defendant, the prosecutor and to the person whose items were sequestered. Against such decision, an appeal may be lodged at the court, within ten days, by the defendant and his defense lawyer, by the person whose items were sequestered and by the one who has a right to their return. The appeal does not suspend the execution of the sequestration.

Article 302

Assistance of the defense lawyer

1. The defense lawyer of the person under investigation has the right to attend, without the right of prior notice, to searches and urgent verifications on site, except in cases of immediate opening of parcels authorized by the prosecutor.

Article 303
Records of judicial police activities

1. The judicial police shall keep records, even summarily, of all activities that they have carried out.
2. The judicial police shall keep minutes of the following:
 - a) reports and complaints submitted orally;
 - b) summary information and statements provided by the person under investigation;
 - c) information obtained from persons who may provide useful circumstances for the purposes of investigation;
 - ç) inspections, recognitions, searches and sequestrations;
 - d) acts for the identifications and recognition of the person under investigation, the obtaining of parcels or mail, and for orders of sequestration;
 - e) investigation actions delegated by the prosecutor.
3. The records of the judicial police activities, the material evidence and items connected to the criminal offence shall be made available to the prosecutor.

CHAPTER V
ACTIVITIES OF THE PROSECUTOR

Article 304
Investigation activity of the prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 164)

1. The prosecutor directs the investigation activities and carries out personally all investigation action that he deems necessary. He/she carries out investigations also to ascertain any facts and circumstances in favour of the person under investigations.
2. He/she may request the judicial police to carry out actions specifically delegated, including questioning of the defendant and confrontations, in the presence of the defendant and his defense lawyer. In such a case, the judicial police shall follow the provisions regulating the appointment and participation of the defense lawyer in investigative actions.
3. In case of particular actions to be carried out in another district, when the prosecutor does not proceed personally, he/she can delegate, as per the relevant subject matter competence, the prosecutor of such other district. In urgent cases or for serious reasons, the delegated prosecutor has the right to carry out by his own initiative any action indispensable for the purposes of

the investigation.

Article 305

Taking over of investigations

Repealed

(Repealed by Law No. 35/2017 of 30.03.2017, article 165)

Article 306

Relations between different prosecution offices

1. Prosecution offices proceeding in connected investigations coordinate the work between them. For this purpose, they exchange documents and information and notifications on the instructions provided to the judicial police. They may also proceed jointly in carrying out special actions.
2. Investigations of two different prosecution offices are deemed to be connected:
 - a) in case of joinder of proceedings or in respect of criminal offences committed by more persons against each other;
 - b) when the evidence of a criminal offence or of any circumstances, impacts the evidence of any other criminal offence or any other circumstance;
 - c) when the evidence of more criminal offences arises, even in part, from the same source.

Article 307

Spontaneous appearance to make statements

(Amended by Law No. 35/2017 of 30.03.2017, article 166)

1. Anyone knowing that an investigation is being conducted against him, shall be entitled to appear before the prosecutor and make statements.
2. If the person appearing spontaneously rebuts the fact for which he is being prosecuted and is allowed to present his exculpations, such activity shall correspond to a questioning.
3. Articles 34/a and 38 of this Code shall apply.
4. The spontaneous appearance shall not interfere with the application of precautionary measures.

Article 308

Invitation to appear

(Amended by Law No. 35/2017 of 30.03.2017, article 167)

1. The prosecutor invites the person under investigation to appear when he/she intends to question him or carry out actions that require his presence.
2. The invitation to appear contains:

- a) the personal data or any other personal information suitable for his identification;
 - b) the day, hour and venue for appearing;
 - c) the type of action for he/she is being invited;
 - ç) the warning that the prosecutor may order his forced accompaniment, in case of non-appearance without lawful impediments.
 - d) the written letter of rights pursuant to Article 34/a of this Code.
3. The invitation to appear contains also a summary of the facts resulting from the investigations carried out up to that moment.
 4. The invitation to appear is notified at least three days prior to the set day of appearance, except in urgent cases.

Article 309

Appointment and assistance of the lawyer

(Amended by Law No. 35/2017 of 30.03.2017, article 168)

1. The defendant who does not have a lawyer shall be informed by the prosecutor that he shall be assisted by a lawyer appointed *ex officio*, as per the cases provided for by this Code.
2. The retained lawyer or the *ex officio*-assigned lawyer shall be informed, at least twenty-four hours in advance, when proceeding with questioning, examination or confrontation. If the delay may compromise investigations, the lawyer shall be promptly informed.
3. The minutes of the activities performed by the prosecutor and the judicial police, in which the defense lawyer has the right to intervene, shall be submitted with the secretary of the prosecution office within three days of the date of execution of the activity, with the right of the lawyer to review them and make copies.

Article 310

Notification of the defendant to take part in searches and sequestrations

1. The prosecutor, when proceeding to carry out a search or sequestration, notifies the defendant to be present together with his retained lawyer and, if he does not have one, shall appoint him a lawyer *ex officio*.
2. If the defendant and his defense lawyer have been duly notified, but are not present without any reasonable cause, a lawyer shall be appointed *ex officio*. This fact is reflected in the relevant minutes.

Article 311

Questioning of the defendant in a joined proceeding

1. The person who is a defendant in a joined proceeding shall be questioned by the prosecutor in the forms provided for by Article 167.

Article 312

Obtaining of information

(Amended by Law No. 35/2017 of 30.03.2017, article 169)

1. The prosecutor receives information from the victim and from those who can indicate circumstances useful for the purposes of the investigation, observing the rules established for the assumption of testimony.

2. These persons are summoned by means of an order, which contains:

a) the personal data of the person;

b) the day, time and the venue for appearing;

c) the warning that the prosecutor may order the forced accompaniment in case of non- appearance without lawful impediments.

3. The prosecutor orders in the same way the summons of the interpreter and expert.

4. The summons is served at least three days prior to the day of appearance, except in urgent cases.

Article 313

Identification of persons and items

1. The prosecutor, if necessary, proceeds with the identification of persons, items or anything else, which can be subject to sense perceptions.

2. Persons, items and other objects shall be visually presented or shown to the person that has to make the identification.

3. When there are founded reasons to believe that the person summoned to make the identification may be hesitant or influenced by the presence of the person under identification, the prosecutor takes measures for carrying out such activity without being seen by the one under identification.

Article 314

Assignment of the expert

(Amended by Law No. 35/2017 of 30.03.2017, article 170)

1. The prosecutor, when proceeding with actions that require technical

knowledge, may appoint an expert, pursuant to Article 179 of this Code. The expert cannot refuse this assignment, without lawful reasons.

2. The expert may be authorized by the prosecutor to participate in specific investigation actions.

3. When technical verifications concern persons, items or places, the state of which has changed, the prosecutor shall notify the defendant and defense lawyer, the victim and his representative about the date, time and venue, where such action will take place.

Article 315

Recording of the prosecutor's acts

1. The prosecutor shall keep minutes:

- a) of reports and complaints submitted orally;
- b) of examinations, searches and sequestrations;
- c) of questionings and confrontations involving the defendant;
- ç) of any information gathered from persons who provide useful circumstances for the purposes of investigation;
- d) of ascertainment regarding persons, items or places, the state of which has been subject to modifications.

2. The activities shall be minuted either while they are being carried out or immediately afterwards, if the simultaneous drawing up of the minutes is hindered by insuperable circumstances.

3. The document containing the *notitia criminis* and the documentation pertaining to the investigations, such as orders and instructions addressed to the judicial police, requests at the court, notices, etc. shall be kept in a special file at the secretary of the prosecution office, together with the acts sent by the judicial police.

CHAPTER VI

PRE-TRIAL ADMISSION OF EVIDENCE

Article 316

Cases of pre-trial admission of evidence

1. During the preliminary investigations, the prosecutor and the defendant may request that the court proceed with the pre-trial admission of evidence in the following cases:

- a) to the assumption of the testimony of a person, if there are reasonable grounds to believe that he may not be questioned at the trial hearing, because

of an illness or any other serious impediment;

b) to the assumption of a testimony of a person, if there are reasonable grounds to believe that he may be subject to force, to threats, to promise of money or other utilities, in order for him not to testify or make false testimony;

c) to the questioning of the defendant on facts concerning the liability of others, when one of the circumstances provided for by letters “a” and “b” exists;

ç) to the confrontation between persons who have rendered conflicting statements before the prosecutor, when one of the circumstances provided for by letters “a” and “b” exists;

d) in an expert report or judicial test/simulation, if evidence concerns a person, an item or a place, the state of which is subject to unavoidable modification. The expert report may also be requested when, if done during the trial, it would result in the suspension of the trial for more than sixty days.

dh) to an identification, when the act may not be postponed to the trial hearing date, due to specific reasons.

Article 317

Request for pre-trial admission of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 171)

1. The request for pre-trial admission of evidence shall be submitted within the time limits set for conclusion of the investigations or at the opening of the preliminary hearing and shall contain:

a) the evidence to be obtained and [the reasons for] its importance for the trial decision;

b) the persons being prosecuted for the facts in issue;

c) the circumstances that prevent the deferral of evidence to the trial stage.

2. The request submitted by the prosecutor shall also indicate the defense lawyers of the interested persons under paragraph 1, letter “b”, the victim and his lawyer.

3. The provisions of paragraphs 1 and 2 must be observed under penalty of inadmissibility.

4. The prosecutor may decide an extension of the time limit for investigations for the purposes of the pre-trial admission of evidence.

Article 318
Request of the victim

(Amended by Law no. 41/2021, date 23.3.2021, article 11)

1. The victim may request from the prosecutor to request the pre-trial admission of evidence.
2. When the prosecutor does not accept the request, they shall make a reasoned decision and shall notify the victim, who may file an appeal with the court within 5 days from the notification of the decision. The appeal shall be notified to the prosecutor immediately.
- 2/1. The appeal shall be reviewed by the judge who adjudicate the claims of the parties during the preliminary investigations in the counselling chamber, within 5 days after filing the appeal with the secretary of the court. The prosecutor may, not later than 2 days from the notification of the appeal, file submissions in writing regarding the basis of the appeal and lodge evidence supporting them.
3. The accusing victim may request from the court to proceed with the admission of evidence before the start of the trial.

Article 319
Submission of the request

(Amended by Law No. 35/2017 of 30.03.2017, article 172)

1. The request for pre-trial admission of evidence shall be filed with the court secretary office together with other possible items and documents. The notice shall be served to the parties and interested persons by the one who has submitted the request.
2. Within two days from serving the notice on the request, the prosecutor and the defendant may present their arguments pertaining to the merits of the request, to submit items and documents, as well as provide other facts that should constitute subject of proof and other interested persons, pursuant to letter "b" of paragraph 1, Article 317 of this Code.
3. The prosecutor may request from the court to postpone the time determined for pre-trial admission of the evidence requested by the defendant, when such an action would damage the investigations. The court rules on the request, after hearing the defendant and his defense lawyer. The request to extend the time limit shall not be granted when it can compromise the gathering of evidence.

Article 320

Rulings on the request for pre-trial admission of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 173)

(Amended by Law no. 41/2021, date 23.3.2021, article 12)

1. Within two days from the reply confirming the service of notice on the request for pre-trial admission of evidence, the court decided in the consultative chamber on whether accepting or rejecting the request for pre-trial admission of evidence. The decision can be appealed in the court of appeal within 5 days. The appellate court examines the appeal in consultative chamber within 10 days from the submission of the acts to this court. No appeal is allowed against this decision.

2. By the decision accepting the request the court determines:

a) the subject of proof and the persons who are interested in obtaining it, pursuant to Article 319 of this Code;

b) repealed;

c) the date of the hearing, which shall not exceed a period of ten days from the date of the rendering of the decision.

2/1. The Court shall notify the prosecutor, the defendant, the victim and their defense lawyers at least two days before the date of the hearing and shall inform them of the right to review and receive copies of the statements to be secured.

3. When the defendant, whose presence is necessary for the admission of evidence, fails to appear without a legitimate reason, the court orders his forced accompaniment.

4. When there are urgent reasons and the admission of evidence may not be carried out in the district of the competent court, the latter must delegate the district court, where the evidence can be obtained.

Article 321

Taking of evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 174)

1. The hearing on the taking of evidence shall be held with the compulsory participation of the prosecutor and defense lawyer of the defendant. The representative of the victim has also the right to participate.

2. The defendant and the victim have the right to participate when a witness or another person must be questioned. In other cases, they may participate with the prior authorisation of the court.

3. Evidence is taken pursuant to the rules provided for trial examination, by the same court that will adjudicate the case. Except for cases provided for by

Article 321/1, the taking of evidence on facts pertaining to persons who are not represented by defense lawyers in the hearing, is prohibited.

4. The minutes, items and documents obtained to secure evidence, shall be sent to the prosecutor. The defense lawyers have the right to review and make copies of them.

Article 321/1

Extension of admission of evidence

(Added by Law No. 35/2017 of 30.03.2017, article 175)

1. When the prosecutor or the defendant's defense lawyer request that the taking of evidence be extended over facts pertaining to persons not represented by defense lawyers in the hearing, whenever possible, the court shall make the notifications and shall postpone the hearing, if necessary, but not longer than three days. The request shall not be accepted if the postponement of the hearing would harm the taking of evidence.

Article 322

Use of obtained evidence

(Amended by Law No. 35/2017 of 30.03.2017, article 176)

1. Evidence obtained under the rules of this chapter may be used in trial only against the defendants, whose defense lawyer have participated in taking the evidence.

2. The decision issued based on evidence obtained under the rules of this chapter, in which the victim has been not able to participate, does not produce effects in a civil or administrative trial, unless the victim himself has accepted it even tacitly.

CHAPTER VII

TIME LIMITS FOR COMPLETION OF INVESTIGATIONS

Article 323

Time limit of preliminary investigations

(Amended by Law No. 35/2017 of 30.03.2017, article 177)

1. Within the time limit set for the termination of investigations, the prosecutor shall decide pursuant to paragraph 6, of Article 327, of this Code.

2. The time limit for termination of investigations is three months, from the date that the name of the person whom the criminal offence is attributed to has been written in the register of notification of criminal offences, and six months for criminal offences provided for in letters "a" and "b" of Article 75/a of this Code.

Article 324
Prolongation of time limit

(Amended by Law No. 8460 of 11.02.1999, article 3) (Amended by Law No. 35/2017 of 30.03.2017, article 178)

(Amended by Law no. 41/2021, date 23.3.2021, article 13)

1. A prosecutor may prolong the period of investigations up to three months. For the Special Prosecution Office, this time limit is up to six months.
2. Further prolongations, 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 prolonged period. The period for the preliminary investigations may not exceed two years. Beyond the period of two years, for organized crime and for crimes that are adjudicated by a judicial panel, the term of the investigations may be prolonged only with the approval of the Prosecutor General or Chief of Special Prosecution Office, up to one year, not more than three months for every prolongation, without prejudice to the time limits of the precautionary detention in prison.
3. The decision to prolong the time limits of investigations shall be provided reasoned and shall be notified to the defendant and to the victim.
4. Evidence taken after the expiry of the time limit, cannot be used.

Article 325

Request for prolongation of investigation time limits

(Amended by Law No. 35/2017 of 30.03.2017, article 179)

(Amended by Law no. 41/2021, date 23.3.2021, article 14)

1. The defendant and the victim are entitled, within ten days of notification, to appeal the decision of the prosecutor prolonging the investigations in the district court. The appeal shall be notified to the other parties immediately.

1/1 Within 5 days from the notification of the appeal, the prosecutor, the defendant or the victim, accordingly, may present submissions in writing regarding the basis of the appeal and may file evidence supporting them.
 2. The appeal shall be reviewed by the judge who adjudicates the requests of the parties during the preliminary investigations in the counselling chamber, within 10 days from the submission of the appeal with the secretary of the court.
 3. If the court accepts the appeal and the investigations must not continue, the court shall order the Prosecutor to complete investigations within a time limit of 15 days.
- 3/1. When the appeal is accepted, but investigations must continue, the court

orders the prosecutor to conclude them within a time limit established by the same court. Evidence collected within this time limit may be used.

4. An appeal may be filed against the decision of the court, which does not suspend its implementation. The court of Appeal reviews the appeal in a counselling chamber within 10 days from the submission of the appeal with the court secretary.

Article 326

Suspension of investigations

(Amended by Law No. 35/2017 of 30.03.2017, article 180)

1. In case the defendant is unknown, or when the defendant suffers from a serious illness which prevents further investigations, the prosecutor shall decide the suspension of investigations.
2. Suspension of investigations shall be decided after all possible actions have been carried out.
3. The reasoned decision shall be notified to the victim or the person who has lodged the criminal report, who may submit an appeal within 10 days of notification before the judge of preliminary hearing. The appeal is examined in closed session within 30 days. The decision is not subject to appeal.
4. Where the complaint is accepted, the court shall decide on resuming the investigation.
5. Except the case provided for in paragraph 4 of this Article, the suspended investigation shall be resumed upon prosecutor's decision.

CHAPTER VIII

COMPLETION OF INVESTIGATIONS

Article 327

Actions of judicial police and prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 181)

1. After carrying out the necessary investigation actions, the judicial police shall send the acts to the prosecutor, together with an explanatory report on the act and evidence, as well as his/her suggestions on the conclusion of investigations.
2. The prosecutor shall, within the time limit provided for in Article 324 of this Code, notify the defendant, their defense lawyer, as well as the victim or their heirs, when their identity and domicile result from the proceedings acts, of the termination of the preliminary investigations.
3. The notice shall consist of a summarized description of the criminal act

under proceedings, the time and location it has been committed, its legal qualification, the notice for depositing acts with the secretary and their right to access the acts and receive copies.

4. The defendant shall also be notified of their right to submit information and documents, within ten days, to request the prosecutor to carry out additional investigations, to make statements or ask to be questioned. In cases when the defendant asks to be questioned, the prosecutor has an obligation to proceed with their questioning.

5. When the prosecutor accepts the defendant's request to carry out additional investigations, they should be completed within 30 days from the date the request was submitted. This time limit may be extended only once, and no more than 2 months, but in any case, without exceeding the overall investigation time limits. When the request of the defendant is not accepted, the prosecutor issues reasoned decision, pursuant to paragraph 2, of article 110, of this code.

6. Upon termination of preliminary investigations, the prosecutor shall proceed as follows:

a) decide on dismissing the charge or case in the instances provided for in paragraph 1 of Article 328, or shall request the court to dismiss the charge or case, in the instances provided for by Article 329/a of the Code;

b) request the court to send the case to trial, when it does not proceed under articles 400, 406/a and 406/dh of this Code.

Article 328

Dismissal of charge or case

(Amended by Law No. 8460 of 11.02.1999, article 4) (Amended by Law No. 35/2017 of 30.03.2017, article 182)

1. Upon termination of preliminary investigations, where it is proceeded against criminal misdemeanours, the prosecutor shall decide on dismissing the charge or case when:

a) it is clear that the fact does not exist;

b) the fact is not provided for by law as a criminal offence;

c) the victim has not lodged a complaint or waives it, in cases where the proceedings are initiated on his request;

ç) the person cannot be taken as defendant or he may not be punished;

d) there exists a reason that extinguishes the criminal offence or for which the criminal proceedings should not be initiated or continued;

dh) it is proven that the defendant has not committed the offence or it is not proven that the defendant has committed the offence;

- e) the defendant has been adjudicated by a final court decision for the same act;
- ç) the defendant dies;
- f) in other cases provided for by the law.

2. The prosecutor shall, within 5 days of the decision on dismissal being made, notify the defendant, his defense lawyer, the victim and their heirs, when their identity and domicile results from the proceeding acts, as well as the person having filed the criminal report or complaint, thus making known the right to get to know the acts, to take copies thereof and to file an appeal before the court.

Article 329

Appeal against the decision for the dismissal of charge or case

(Amended by Law No. 8460 of 11.02.1999, article 5) (Amended by Law No. 35/2017 of 30.03.2017, article 183)

1. The decision of dismissal of charges or case can be appealed to the judge of the preliminary hearing, within 10 days of being noticed. In cases where the prosecutor has filed a request to send the case to trial, but he/ she has decided to dismiss one or more of the charges, the appeal against the decision of dismissal shall be reviewed together with the request to send the case to trial.
2. Copies of all acts and evidence contained in the preliminary investigation file, shall be deposited with the secretary of the court, including decisions issued by the judge of preliminary investigations, as well as material evidence, except in cases when they are stored elsewhere.
3. The appeal shall be examined in closed session, within 15 days of receiving the acts. The court shall decide, as appropriate, on:
 - a) upholding the decision of dismissal when it considers that the conditions laid down in paragraph 1 of Article 328 of this Code, exist;
 - b) turning the acts back to the prosecutor to continue with investigations, when it deems that investigations are incomplete, determining directions of further investigations and, where appropriate, the actions to be performed, and sets a deadline within which investigations must end;
 - c) returning the acts to the prosecutor, ordering the prosecutor to formulate the charges and file a request for the case to be sent to trial, when it considers that investigations are complete and it turns out that there is sufficient evidence to support the accusation in court.
4. The court cannot order the prosecutor to compile charges for other persons, whose names are not registered pursuant to Article 287 of this Code. When from the acts emerges information for other criminal offenses, prosecuted *ex officio* or against other persons, the court may decide to carry

out investigations, even in cases when it decides pursuant to letter “c”, of paragraph 3, of this Article.

5. In the cases provided for in paragraph 3, letters “b” and “c”, and paragraph 4 of this Article, the chairperson of the prosecution office shall also be notified on the decision.

6. Against the decision of the judge of the preliminary hearing, under letter a) of paragraph 3 of this Article, an appeal can be filed to the court of appeal by the defendant and the victim, while under letters “b” and “c” of paragraph 3, of this Article, an appeal can be filed by the prosecutor.

7. The court of appeal shall examine the appeal in closed session within 15 days from the date of receiving the acts.

8. When accepting the appeal of the defendant, the court of appeal shall decide on changing the dismissal decision with a more favourable formulation to him. When it accepts the appeal of the victim, the court shall order the investigations be continued or the case be sent to trial. When it accepts the appeal of the prosecutor, the court decides on upholding the dismissal decision.

Article 329/a

Request for dismissal of a charge or case

(Added by Law No. 35/2017 of 30.03.2017, article 184)

1. Upon termination of the preliminary investigations, when it is being proceeded for crimes and when any of the cases provided for in paragraph 1 of Article 328 of this Code occurs, the prosecutor asks the judge of the preliminary hearing to dismiss the charge or the case.

2. In cases where the prosecutor has filed a request to send the case to trial, the request for dismissal of the charge or case, shall be adjudicated jointly with the request for sending the case to trial.

3. All acts and documents contained in the investigation file shall be attached to the request of the prosecutor, including also the acts carried out before the judge of preliminary investigations, as well as material evidence, unless they are stored in another location.

4. The request is notified to the defendant, their defense lawyer, the victim or their heirs, when their identity and residence emerge from proceedings acts, as well as to the person who has filed the criminal report or the complaint. They have the right to have access to the acts and evidence, and to take copies of them.

Article 329 / b
Examination of the request

(Added by Law No. 35/2017 of 30.03.2017, article 184)

1. Within ten days of filing of the request, the court shall inform the defendant, their defense lawyer, the victim or their heirs, when their identity and residence emerge from proceedings acts, as well as the person who has filed the criminal report or the complaint on the date and time of trial.
2. The request shall be adjudicated by the judge of the preliminary hearing, in closed session, in the presence of the parties. When a party fails to appear, although duly notified, or refuses to appear without submitting reasonable cause, the trial shall take place without their presence.
3. When there exist the conditions provided for in paragraph 1 of Article 328, the court shall decide on dismissing the charge or the case. Otherwise, the court shall decide pursuant to the provisions of letter “b” or “c” of paragraph 3 of Article 329 of this Code.
4. If the court decides pursuant to letter “b” of paragraph 3 of Article 329 of this Code, it sets a deadline to the prosecutor for conducting investigations.
5. Where appropriate, the rules provided for in paragraph 4, of Article 329 of this Code shall apply.
6. The decision of the preliminary hearing judge may be appealed to the court of appeal. The rules provided for under Article 329 of this Code shall apply, mutatis mutandis.

Article 329 / c
Revocation of the dismissal decision

(Added by Law No. 35/2017 of 30.03.2017, article 184)

1. Where after the decision to dismiss the charge or case, new information or evidence is discovered, which show that the decision was not founded, it can be revoked by the preliminary hearing judge, at the request of the prosecutor. The request, along with new acts and evidence, shall be filed with the secretary of the court.
2. The request shall be accompanied with new evidence, under penalty of inadmissibility.
3. The request is examined in closed session. When deciding to accept the request, the court revokes the dismissal decision and turns the acts to the prosecutor, who decides on resuming the investigation.
4. Upon termination of investigations, when failing to act pursuant to Articles 328, 329/a, 406/a or 406/dh of this Code, the prosecutor shall submit

to the court a request to send the case to trial.

Article 329 / ç
Appeal against decision

(Added by Law No. 35/2017 of 30.03.2017, article 184)

Against the decision of inadmissibility or the rejection of the request for revocation of the dismissal decision, the prosecutor, the victim or his/ her heirs, have the right to file a complaint to the court of appeal, which examines the appeal in closed session.

Article 330

Charging complainant with the expenses and damages

1. When the case is dismissed because the fact does not exist, the injured person whose criminal complaint has initiated the proceedings, shall be charged with the payment of the proceedings expenses made by the State.
2. The complainant shall be charged with the expenses made by the defendant and the civil defendant and also with the compensation for damages, when they have requested it.
3. When the case has been dismissed because of withdrawal of the complaint, the expenses shall be charged to the complainant, except when the act of withdrawal has foreseen, by agreement, that they are, entirely or partly, to be charges to the person against whom the complaint has been filed.
4. Expenses and damages amounts shall be set by the prosecutor. Against such decision an appeal may be filed to the court by the victim, the defendant and the civil defendant.

Article 331

Request to send the case to court

(Amended by Law No. 35/2017 of 30.03.2017, article 185)

1. When not proceeding pursuant to articles 328, 329/a 400, 406/a or 406/ dh of the Code, the prosecutor shall request to send the case to trial.
2. The request to submit the case to court is invalid if provisions of paragraphs 2, 3 and 4 of Article 327 of this Code are not complied with.
3. The request to send the case to trial shall contain:
 - a) the personal data of the defendant and the victim, when possible, as well as any other element useful to identify them.
 - b) description of the criminal act and the legal qualification of the criminal offense.
 - c) sources of evidence and the facts they refer to;

c) the request that the preliminary hearing judge decides to send the case to trial;

d) the date and the signature of the prosecutor.

4. All acts and evidence contained in the investigation file shall be attached to the prosecutor's request, including acts conducted before the judge of preliminary investigations, as well as material evidence, unless they are stored elsewhere.

CHAPTER IX PRELIMINARY HEARING

(Added by Law No. 35/2017 of 30.03.2017, article 186)

Article 332

Scheduling a preliminary hearing

(Amended by Law No. 35/2017 of 30.03.2017, article 187)

(Amended by Law no. 41/2021, date 23.3.2021, article 15)

1. The request for sending the case to trial shall be examined in a preliminary hearing by the single judge. The requests for sending the cases to trial being separated from the same criminal proceedings shall be reviewed by the same judge of the preliminary hearing.

1/1. Within five days from the filing of the request for sending the case to trial, the preliminary hearing judge sets the date for its holding. In cases when the defendant has not chosen a defense counsel, the rules of Article 49 of this Code shall apply.

2. A period of no longer than 10 days shall pass from the date of the submission of the request to send the case to trial until the date of the hearing.

3. The court shall decide on the request to send the case to trial within 30 days from the filing of the request.

Article 332/a

Preparatory actions

(Added by Law No. 35/2017 of 30.03.2017, article 188)

(Amended by Law no. 41/2021, date 23.3.2021, article 16)

1. The preliminary hearing judge shall notify the defendant and the victim or victim's heirs, when their identities and domiciles are known because of proceeding acts, informing them about the date, time and location where the hearing will take place. The judge shall also warn the defendant that the hearing will take place in their absence, if they fail to appear.

2. The hearing date shall also be notified to the Prosecutor and the defense lawyer of the defendant, informing the latter of the right to be acquainted

with the deposited acts, as well as to submit information or documents. The prosecutor shall be invited to deposit all acts carried out after submitting the request to send the case to court.

3. The notifications pursuant to paragraphs 1 and 2 shall be made at least 10 days before the hearing date.
4. Where, despite the searches according to Articles 140 -142 of this Code, the defendant at large does not appear in the preliminary hearing and it turns out that he has not been personally informed about the trial, the court shall decide according to paragraphs 1, 2, 3 or 4 of Article 352 of this Code.

Article 332/b

Verification of attendance of parties

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. The hearing will take place in closed session, with the obligatory participation of the Prosecutor and defense lawyer of the defendant.
2. The Court shall verify that parties are present and shall order the notifications to be repeated if the parties have not been notified or when the notification is dubious or has been declared invalid.
3. When the defendant's defense lawyer is not present, the Court shall decide pursuant to paragraph 5, of Article 49 of this Code.
4. In cases when the defendant who is in free state or under precautionary detention in prison, has failed to appear despite having received notification or refuses to appear, the Court shall declare through a decision his absence. In these cases, the defendant shall be considered present, provided that he is represented by his defense lawyer. A defendant shall also be considered present when, after appearing, he/she leaves the hearing or only appears for one hearing and not for the subsequent ones.
5. The decision to declare the defendant absent may also be revoked ex officio when the defendant appears.
6. In cases when the failure of the defendant to appear for the hearing is the result of a legitimate reason, the Court, even ex officio, shall postpone the hearing and shall order that notifications be repeated.
7. Rules provided for in Article 265 of this Code shall apply.

Article 332/c

The hearing

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. After verifying the attendance of the parties, the court declares the judicial trial open.

2. The prosecutor presents briefly the results of the preliminary investigations and the evidence on which the request for sending the case to the trial is based on.
3. The defendant may submit requests for the invalidity of the acts of the preliminary investigations, the non-usability of evidence, the need to obtain new evidence, request for abbreviated trial and can make all statements he deems necessary or request to be questioned, applying the rules provided for in articles 38 and 39 of this Code.
4. After the defendant, the victim and other private parties, when present, shall present their claims.
5. The parties may submit agreements on the conditions for plea bargaining and the determination of the sentence, and the request for pre-trial admission of evidence or the civil lawsuit in the criminal process.
6. When the parties submit a request for the pre-trial admission of evidence, the judge of the preliminary hearing decides on obtaining such evidence and, in case of acceptance of such request, he/she shall transmit it to the competent court and establish the date of the new hearing.
7. When the parties do not have other requests or claims concerning additional evidence, the court declares the judicial trial closed.
8. The parties shall submit their discussion on the value of the evidence and the request of the prosecutor for sending the case to the trial.

Article 332/ç

Decision to complete investigations

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. When preliminary investigations are deemed to be incomplete, the court orders their completion, determining the relevant direction and, as appropriate, the acts that must be conducted. When finding out invalid acts or non-usable evidence, the court shall declare them by means of a decision and, when possible, shall order their repetition. The court determines the time limit within which investigations must be completed and the date of the new hearing.
2. The decision shall be notified to the chairperson of the prosecution office.

Article 332/d

Changing the charge in the preliminary hearing

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. If during the preliminary hearing, the fact appears to be different than it is described in the request to send the case to trial, if another criminal offence is ascertained, pursuant to letter "b", of paragraph 1, of Article 79, or if an aggravating circumstance emerges, which had not been mentioned, the

prosecutor shall modify the charge and shall communicate this to the present defendant. When the defendant is not present, the new charge is communicated to his/her defense lawyer who is given not more than 10 days to communicate with the defendant.

2. If during the preliminary hearing, a new criminal fact emerges against the defendant which had not been mentioned in the request to send the case to trial and for which a proceeding must be carried out *ex officio*, the court shall allow the communication of the charge for the new fact, when the prosecutor submits a request and the defendant consents. Otherwise, the court returns the acts concerning the new charge to the prosecutor and notifies the chairperson of the prosecution office.

3. If during the preliminary hearing, it appears that the legal qualification of the fact is wrongful, or that the charge has not been clearly and accurately formulated, the court shall invite the prosecutor to make the necessary corrections or clarifications. If the prosecutor does not take action, the court shall decide to return the acts. Such decision is notified to the chairperson of the prosecution office.

Article 332/dh

Decision of the preliminary hearing judge

(Added by Law No. 35/2017 of 30.03.2017, article 188)

(Amended by Law no. 41/2021, date 23.3.2021, article 17)

1. After hearing the discussions of the parties, the court decides to:

a) accept the request of the prosecutor and send the case to trial when it considers that there is sufficient evidence supporting the charge.

b) resumption of the adjudication by the same court, if the parties submit an agreement on the conditions of admitting the guilt and setting out the punishment;

c) to invite the parties to submit the final statement, if the defendant has requested the summary proceedings, after performing the verification on the state of the acts, according to the provisions of Article 332/c of this Code. The parties have the right to request a time period for preparation, not longer than 15 days.

When the defendant is charged with committing a criminal offense wherefore an imprisonment sentence of up to 10 years has been foreseen, the court shall set the date of the hearing and notify the presiding judge to complete the adjudication panel, in accordance with the law;

ç) dismiss the charge or the case, in case the conditions under paragraph 1 of Article 328 of this Code, exist;

d) Declaration of its lack of competence and referring the case to the competent

court, in cases provided by law.

2. The decision shall be submitted to the secretary within 10 days of its announcement. Parties are entitled to take copies of it.
3. The trial procedure in the preliminary hearing does not replace the judgment of the case on the merits nor does prejudice its final decision.

Article 332/e

Elements of the decision

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. The decision to send the case to court shall contain:
 - a) the personal data of the defendant and other personal data useful for his/her identification, as well as personal data of private parties and their defense lawyers;
 - b) the personal data of the victim, if he/she has been identified;
 - c) a description of the criminal fact and its circumstances, indicating the relevant provisions of the law;
 - ç) the sources of evidence and facts they refer to;
 - d) the dispositive, indicating the competent court to adjudicate the case;
 - dh) the address of the defendant, the victim or the victim's heirs and other parties in the proceeding, to the effect of further notifications;
 - e) the date and signature of the judge and of the hearing secretary.
2. The decision shall be invalid if the defendant is not identified accurately, or the requirements provided for under letter "c", paragraph 1 of this Article are missing or are insufficient.

Article 332/ë

Trial file

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. When the Court decides to send the case to trial, it shall, after hearing the parties, determine the acts that the trial file must contain.
2. The trial file shall contain:
 - a) acts related to conditions for carrying out the prosecution and the requests for accepting the civil lawsuit;
 - b) minutes of unrepeatable actions, carried out by the judicial police and the prosecutor;
 - c) minutes of the actions carried out for the pre-trial admission of evidence and those performed abroad in execution of the rogatory letter;

- c) criminal records and other documents related to the character of the defendant and his/her identity;
- d) material evidence and items pertaining to the criminal offence, unless they must be safeguarded elsewhere;
- dh) minutes of searches, examinations, recognitions and investigation experiments;
- e) expertise acts;
- ë) minutes of evidence from other connected proceedings;
- f) minutes and recordings of interception of conversations and communications;
- g) any other act, which is important for the trial.

3. Copies of such acts and other evidence obtained during the preliminary investigations shall remain in the prosecutor's file.

4. In the cases provided for under letters "b" and "c" of paragraph 1, of Article 332/dh, the file contains all acts carried out during preliminary investigations and those conducted in the preliminary hearing.

Article 332/f
Filing of the trial file

(Added by Law No. 35/2017 of 30.03.2017, article 188)

The decision to send the case to trial, together with the trial file and the acts concerning precautionary measures shall be filed without delay and, in any case, no later than 10 days, with the secretary of the competent court.

Article 332/g
Prosecutor's file

(Added by Law No. 35/2017 of 30.03.2017, article 188)

Acts which are not included in the trial file, together with the acts and the minutes of the preliminary hearing shall be sent to the prosecutor.

Article 332/gj
Appeal

(Added by Law No. 35/2017 of 30.03.2017, article 188)

1. No appeal is allowed against the decision for sending the case to the trial.
2. The prosecutor, the defendant and the victim or the victim's heirs may lodge an appeal with the appeal court against the decision for the dismissal of the charge or case.

TITLE VII
THE TRIAL

CHAPTER I
PRE-TRIAL ACTIONS

Article 333
Establishment of the hearing date

1. Within ten days of the submission of the request of the prosecutor or of the accusing victim, the presiding judge of the panel designated to adjudicate the case, shall establish the hearing date.
2. The date of the hearing is notified to the prosecutor, defendant, defence lawyer, victim, the private parties and their representatives at least ten days before the date set for the trialhearing.

Article 334
Request for expedite trial

1. When the requirements provided by law exist, the prosecutor may request the summary trial, while the defendant the abbreviated trial.
2. In such cases, the rules of this Code regulating special trials shall apply.

Article 335
The rights of the parties

1. Up to the date set for trial hearing, the parties, the victim, their defence lawyers and representatives have the right to view the sequestered items, to examine at the secretary all acts and documents collected contained in the trial file and also to make copies thereof.

Article 336
Urgent actions

1. In cases when securing of evidence is necessary, the [court] chairperson, upon request of the parties, shall order the obtaining of evidence whose obtainment might be compromised at a later moment, by observing the rules provided for court trial.
2. The day, the hour and place for obtaining of evidence are notified, at least twenty-four hours before, to the prosecutor, the defendant, the victim and the defence lawyer.
3. The minutes of the carried-out actions are inserted in the trial's file.

Article 337**Summons of witnesses and experts**

1. The parties that request the questioning of witnesses and experts must deposit in the secretary of the court, at least five days before the date set for trial hearing, their roll-call.
2. The presiding judge orders, even *ex officio*, the summons of the expert appointed during preliminary investigation for the pre-trial admission of evidence.

Article 338**Efforts for reconciliation**

1. In case of criminal offences prosecutable on request of the accusing victim, the court summons the victim and the one subject to the request for trial, proposing them the solution of the case by consent. In case the accusing victim withdraws the request and the accused accepts this, the court dismisses the case. In the opposite case, the court shall establish the date of the hearing and inform the parties on their right to be assisted by defence lawyers.

**CHAPTER II
THE COURT TRIAL****SECTION I
GENERAL RULES****Article 339****The publicity of the hearing**

1. The judicial hearing is public, otherwise it shall be null and void.
2. Minors aged under sixteen years of age and those who are drunk, intoxicated or mentally disordered shall not be 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**

(Amended by Law No. 35/2017 of 30.03.2017, article 189)

1. The court decides to hold the judicial trial or any of its actions with closed doors:
 - a) when the publicity may damage the social morality, or may divulge data

which must 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 defendants;
- c) when necessary during the questioning of minors as witnesses;
- d) when a victim, as defined in the article 58/b, asks that the hearing be held with closed doors.

2. The hearing shall always be held with closed doors in cases of:

- a) adjudication of minors;
- b) adjudication of adult defendants who are charged for offences committed against minor victims, regardless of the age of the victim during the adjudication proceedings;

3. The decision of the court for holding the hearing with closed doors is revoked when the reasons supporting such decision cease to exist.

4. The presiding judge of the panel shall inform the persons attending a closed doors trial that they are obliged to keep confidential all information they learnt at the trial hearing.

Article 341

Directing the hearing

(Added by Law No. 35/2017 of 30.03.2017, article 190)

1. The hearing is directed by the panel presiding judge. His/her orders to maintain silence and order during the hearing are binding for the parties and all participants to trial.

2. The presiding judge is obliged to take measures to guarantee respect for court dignity and solemnity of adjudication and security in the courtroom and to avoid any insult, threat or attack against other parties and other participants in the trial.

3. When the defendant, the defense lawyer, the victim, the witness, expert or interpreter do not observe the court orders to maintain order and silence, offend the dignity of the court or act in a way that threatens the solemnity of adjudication, the presiding judge shall warn them of the consequences. Where the person continues to break the order and silence and fails to obey, the court may impose him a fine up to 30,000 ALL. The repetition of such breach shall constitute grounds for the removal from the courtroom.

4. A written appeal may be submitted against the above order within 3 days. The appeal is reviewed in closed session by the same court. When the court considers it reasonable, the court may decide to revoke the fine. No appeal is allowed against the decision for the revocation of the fine.

5. The order to impose a fine constitutes an executive title.
6. The court shall notify the bar association, or the relevant institution or entity on the improper behaviour of experts and interpreters.
7. When the prosecutor with his/her actions infringes the rules of the court hearing, the court shall warn him/her and, in case of repetition, notify the chairperson of the prosecution office.
8. In case of other participants at a court hearing, who do not obey to court orders for maintaining order and silence or offend the dignity of the court, the presiding judge shall warn them and, if they do not observe the court order, the presiding judge shall order them to leave the hearing and, when he/she deems it necessary, shall impose them a fine up to 30.000 ALL.

Article 342
Uninterrupted trial

(Amended by Law No. 35/2017 of 30.03.2017, article 191)

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 presiding judge in the hearing. The announcement is equal to notification for the ones who are present or who must deem to be present.
4. When due to the lawful reasons, the trial panel changes, the new member must become acquainted with the content of the judicial process, except in cases when he/she requests that the case be examined from the beginning. When more three members of a trial panel consisting of five judges changes, the trial starts from the beginning.

Article 343
The suspension of the court trial

1. When the solution of the criminal case depends 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 High Court.
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**

(Amended by Law No. 35/2017 of 30.03.2017, article 192)

1. The defendant participates in the hearing as a free person even when he is detained, except when it is necessary to take measures indispensable to prevent the risk of escaping or of violence.
2. When a defendant with his behaviour hinders the regular performance of the hearing, despite the measures taken under paragraph 3 of the Article 341 of the Code, the court may order the removal of the defendant from the courtroom for a definite period of time. If, even after returning to the court room, the defendant continues to obstruct the regular performance of the hearing, the court may order that he is removed until the decision is announced.
3. When possible, the defendant removed, pursuant to paragraph 2 of this Article, shall attend the hearing through audio and/or video links.
- 4 The defendant expelled from the hearing in compliance with paragraph 2 of this Article shall be considered to be present and shall be represented by the defence lawyer. He/she can be readmitted into the courtroom at any time.
5. The absence of the defendant who has left the courtroom and who has not accepted to have a defense lawyer, does not prevent the hearing to be held. In this case a defense lawyer is assigned ex officio and the trial continues. The defendant or the defense lawyer chosen by him may be admitted in the courtroom at any time.

Article 345**The minutes of the hearing**

(Repealed by Law No. 35/2017 of 30.03.2017, article 193)

Article 346**The content of the minutes**

(Repealed by Law No. 35/2017 of 30.03.2017, article 194)

Article 347**Requests of the parties regarding the minutes**

(Repealed by Law No. 35/2017 of 30.03.2017, article 195)

SECTION II
PRELIMINARY ACTIONS

Article 348**Verification of the presence of the parties**

(Amended by Law No. 35/2017 of 30.03.2017, article 196)

1. Before the start of the court examination the presiding judge makes sure of the presence of the parties. If the parties are not present, the presiding judge shall verify whether the summons were duly notified and whether absence is justified.
2. When the defence lawyer appointed ex officio is not present, paragraphs 5 and 6 of article 49 of this Code shall apply.
3. If the prosecutor does not appear at a trial the court shall postpone the hearing and shall notify the chairperson of the prosecution office.

Article 349**The repetition 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 accusing victim has not received any notification or the notification is uncertain.

Article 350**The absence of the defendant or of the defence lawyer**

(Amended by Law No. 35/2017 of 30.03.2017, article 197)

1. When the defendant, even if held under precautionary detention in prison, or the person subject to request for trial of the accusing victim does not appear at the hearing and it results that the absence is caused by force majeure or any other impediment which exempts him from liability, the court even ex-officio postpones or suspends the judicial trial, established the date of the new hearing and orders the repetition 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 shall decide pursuant to paragraph 1 of this article even when the defence lawyer is absent and such absence is caused by force majeure, unless when the defendant requests to be adjudicated in absence of the defence lawyer and his presence is not mandatory. When the defendant is assisted by two defence lawyers and the obstacle to appear concerns only to one of them, the summons is considered valid and the trial shall be held in the presence of one of the defence lawyers.
4. When a duly summoned defence lawyer fails to appear in the hearing and there exist no impediments exempting him from the responsibility to appear, or if the defence lawyer leaves the hearing without any permission, the court may impose a fine from 5.000 ALL to 100.000

ALL and order him/her to pay the expenses of the hearing.

5. The abovementioned decision may be appealed in written form within 3 days. The appeal shall be reviewed in closed session by the same court. The court, when deems it appropriate, shall decide to revoke the fine. No appeal is allowed against the decision revoking the fine.

6. When the notification has not been duly made, the court decides the postponement of the trial hearing and orders the repetition of the notification.

Article 351

Absence of or voluntary abandonment by the defendant

(Amended by Law No. 35/2017 of 30.03.2017, article 198)

1. When the defendant in free state or under precautionary detention in prison fails to appear in the hearing, despite being notified, and has no legitimate reasons for not appearing, the court shall postpone the hearing and order his forced accompaniment, unless he has declared, before a notary public or before the competent State authority, his will not to attend the trial. In this event, the trial shall continue in his absence.

2. If the defendant who is present at the hearing, expressly renounces from his right to participate to trial, the trial shall continue in his absence.

3. In cases provided for by paragraphs 1 and 2 of this article, the defendant shall be considered present, provided that the trial is conducted with the presence of the defence lawyer.

4. The same rule shall apply if the defendant leaves at any moment of the judicial trial or during its intervals.

Article 352

Trial in absentia

(Amended by Law No. 35/2017 of 30.03.2017, article 199)

1. When the defendant in free state, despite the searches pursuant to articles 140-142 of this Code, fails to appear in the hearing and it turns out that he has not been personally informed of the trial, the court shall decide its suspension and shall order the judicial police to continue the search of the defendant. After one year from the date of suspension of the trial for this reason and, at any time, when there is information on the location of the defendant, the court shall resume the trial, by ordering the repetition of the notification. The court shall declare the absence of the defendant if, even after the newly conducted searches, the defendant is not found. In this event, the trial shall be held in the presence of the defence lawyer.

2. The court shall declare absence of the defendant, if it is proved that the defendant is escaping from. In this event, trial shall be held in the presence

of the defence lawyer.

3. The court shall declare absence even when it is proven that the defendant is abroad and it is impossible to extradite him.

4. The decision declaring absence is invalid when it is proven that such absence is due to his/her the absolute impossibility to appear.

5. When the defendant appears after the decision declaring his absence has been announced, the court shall revoke it. When the defendant appears after the judicial trial is declared closed, he may ask to be questioned. All actions performed before this moment shall remain valid, but if the defendant requests and the court deems it necessary for the decision to be taken, it may decide the re-opening of the judicial trial and the obtaining of the evidence requested by the defendant or the repetition of procedural actions.

6. Trial in absentia shall not be held in the case of a minor defendant. In such event, the court, after conducting the searches pursuant to articles 140-142 of this Code, shall decide the suspension of the trial. The rules of paragraph 1 of this article shall apply, to the extent they are compatible.

Article 353

Forced accompaniment of the defendant

(Amended by Law No. 35/2017 of 30.03.2017, article 200)

1. The court may order the forced accompaniment of the defendant or of the person subject to a request for trial from the accusing victim, when he has failed to appear or has renounced from participation in trial, pursuant to Article 352 of this Code, provided that his presence is indispensable for the taking of the evidence but not for his questioning.

Article 354

Preliminary requests

(Amended by Law No. 35/2017 of 30.03.2017, article 201)

1. The request dealing with jurisdiction, competence, joinder or separation of the proceedings, with the legal standing of the plaintiff and of the civil defendant, may not be presented later, if they have not been raised immediately after the legal standing of the parties, except when the possibility to raise them arises only during the court trial.

2. Before the court trial is declared open, parties have the right to file requests for the declaration of invalidity of certain acts, or the non-usability of evidence.

3. The court rules on the preliminary requests, by decision, immediately after hearing the parties. The court, where deemed necessary, may postpone the decision-making until the next hearing.

Article 355

Announcement of the opening of court examination

1. After carrying out the actions indicated in the above articles, the presiding judge declares the judicial trial open.

Article 356

Opening statement and the request for evidence

1. The prosecutor or the accusing victim exposes in summarised form the facts subject to accusation and indicates the evidence to be examined, describing the relation of each criminal act with its supporting evidence.
2. The defence lawyer of the defendant, the representatives of the plaintiff and of the civil defendant, in this order, shall indicate the facts they intend to prove and request the obtaining of evidence.
3. The obtaining of the evidence which have been not requested before shall be permitted when the requesting party claims not having been able to request them.

Article 357

Court rulings concerning evidence

1. After hearing the parties, the court renders decision on the obtaining of evidence.
2. During the court trial, parties may present claims in relation to the obtaining of evidence. The court may revoke by decision the obtaining of evidence which is not necessary or accept the obtaining of evidence which have been refused.

Article 358

Statements of the defendant

1. The presiding judge informs the defendant that he has the right to make, at any stage of the court trial, the statements he considers appropriate. When, during the rendering of statements, the defendant does not limit his declarations to the object of the charge, the presiding judge shall warn him and, if he continues, shall deprive him from the right to speech.
2. The statements of the defendant are reproduced in full by the secretary, unless the panel presiding judge orders that the minutes are kept in a summarized form.

SECTION III OBTAINING OF EVIDENCE

Article 359

Order of obtaining evidence

1. The court trial starts by obtaining the evidence requested by the prosecutor or the accusing victim and continues by taking those, which are required by the defendant, the defence lawyer and other parties.

Article 360

Appearance and oath of the witness

1. Before starting the questioning, the presiding judge warns the witness on his legal obligation and liability to say the truth.

2. The secretary of the court reads the witness' 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 provides his personal details.

3. Failure to observe the provisions of paragraphs 2 and 3 shall render the performed actions null and void.

Article 361

Questioning of witnesses

(Amended by Law No. 9276 of 16.09.2004, article 7) (Amended by Law No. 35/2017 of 30.03.2017, article 202)

1. The questioning of the witnesses is made initially by the prosecutor or the defense lawyer or representative who has requested the questioning. Then, the questioning continues by the parties, in order.

2. The one who has requested the questioning may ask questions even after the other parties have terminated theirs.

3. The party requesting the questioning shall not be allowed to make questions that influence negatively on the impartiality of the witness or that intend to suggest the answers.

4. The presiding judge may allow the witness to look at the documents prepared by the witness in order to help his memory.

5. Repealed

6. During the questioning of the witness, the presiding judge may ask questions and, when appropriate, intervene to insure orderly questioning, truthfulness of the answers, the accuracy of questions and objections, as well as to guarantee respect for the person.

7. The witness may be questioned at distance, within the country or abroad, through audio-visual links, in compliance with rules provided by international agreements and provisions of this Code. The person authorized by the Court shall remain at the witness's location, certifies his/her identity, and ensures the correct process of questioning and of the implementation of protective measures. These actions are reflected in the minutes.

8. The victims of the sexual criminal offences, trafficking or other domestic violence offences, upon their request, may be questioned as witnesses through audio and audio-visual tools.

Article 361/a

Questioning of the minor witness

(Added by Law No. 9276 of 16.09.2004, article 8)

(Amended by Law No. 35/2017 of 30.03.2017, article 203)

1. A minor witness under the age of 14 is questioned without the presence of the judge and the parties, at the premises where the minor is located, when possible, by means of audio-visual tools. Questioning is conducted through a psychologist, an educator or another expert and, if this is not contrary to the interests of the trial or interests of the child, the parents or the legal guardian may be present during the questioning. The parties may request and the court may decide *ex officio* that the minor be questioned by the judge in the presence of an expert. The minor may be questioned again only in specific cases and at the same way.

2. The questioning of a minor witness aged 14 to 18 years is conducted by the panel presiding judge. During the questioning, special care is given to avoid harmful consequences on his mental health, especially if the minor is a victim of the criminal offence. In compliance with the circumstances, the questioning may be conducted as foreseen in paragraph 1 of this article.

3. The panel presiding judge, when questioning a minor witness up to 14 years of age, shall not observe the rule on the warning on the obligation and legal responsibility of the minor to tell the truth. This exemption shall apply also to other minor witnesses, if the presiding judge deems that he is not capable of understanding the consequences of oath-taking. In such cases, the panel presiding judge shall give to the minor the possibility to tell the truth and the court shall proceed with the hearing of the minor's testimony.

4. When the minor is heard during investigations and his statements are recorded, pursuant to paragraph 4 of article 58/a of this Code, they are used as evidence in trial, if the defendant and the defence lawyer give their consent. The statements of the minor may be used as evidence even if the defence lawyer has been allowed to question the minor through experts and the expert deems that the repetition of questioning may harm the psychological conditions of the minor.

Article 361/b**Special techniques for questioning**

(Amended by Law No. 35/2017 of 30.03.2017, article 204)

1. The questioning of collaborators of justice, infiltrated or undercover persons, protected witnesses and witnesses with hidden identity is conducted under special measures for their protection, which are determined by the court, *ex officio* or upon the request of parties. When technical means are available, the court may determine that the questioning is conducted at distance, via audio-visual links, pursuant to the rules provided for in paragraph 7 of article 361.
2. When the modification of identity of the person to be questioned has been decided, the court shall order appropriate measures to be taken to enable that the voice and face of the person to be unrecognizable by the parties. If the recognition of identity or the examination of the person is indispensable, the court orders the summoning of the person, or his forced accompaniment for the fulfilment of this act. In this case the court orders necessary measures to be taken to avoid the distinct appearance of the face of the person whose identity is modified.
3. The court shall not allow that the witness, pursuant to paragraph 1 of this article, is asked questions that may reveal his identity.

Article 362**Rebuttal of testimony**

1. In order to rebut, in whole or in part, the contents of the testimony or when the witness refuses to testify, the parties may use the statements previously made by the witness before the prosecutor or judicial police and which are part of the prosecutor's file, but only after the witness has already testified on the facts and circumstances which are being rebutted.
2. Such statements shall not constitute evidence in itself regarding the facts declared by it, but may only be taken into consideration by the court to determine the reliability of the person examined and shall be included in the trial's file.
3. Statements given in front of a prosecutor or judicial police, may be evaluated as evidence, if they are related to other evidence which corroborate their truthfulness.
4. Previous statements, already included in the trial's file, pursuant to paragraph 2 of this article, are evaluated as evidence even if it is proven that the witness, even during his questioning at trial hearing, is subject to violence, threat, promise for money or other benefits, with the purpose that he refuses to testify or make false testimony and also if other circumstances that have impaired the authenticity of his answers have occurred.

Article 363
Expert questioning

(Amended by Law No. 9276 of 16.09.2004, article 9)

1. For the questioning of experts, rules on the questioning of witnesses apply, to the extent they are applicable.
2. The expert is entitled in any case to access the documents, annotations and publications, which may be obtained also *ex officio*.
3. The expert may be questioned in distance by following the rules provided in paragraph 7 of Article 361 of this Code.

Article 364
Questioning 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 questioning of a witness or expert is performed in the places where they are located, notifying the day, hour and venue for the questioning. The questioning may be also made by one member of judicial panel, in the presence of the parties.
2. The questioning is made in the form provided for in the above articles without the presence of the public. The defendant and the private parties are represented by the defence lawyer and their representatives. The court may allow the intervention of the defendant during questioning.

Article 365
Questioning of private parties

1. The questioning of the private parties shall start by the one who has requested it and shall continue with the questions by the prosecutor, the defence lawyers, the representatives of the parties and of the defendant. The party who has started questioning may pose questions also after the other parties.
2. The content of the testimony may be challenged by using the statements made by the questioned party during preliminary investigations and which are contained in the prosecutor's file, provided that the party has already testified on the facts and circumstances to be challenged.

Article 366
Ruling on expertise during trial

1. In case the court, *ex officio* or upon the request of the parties, rules the conduct an expertise, the expert is immediately summoned and must express his opinion in the same hearing. If this is not possible, the court shall interrupt

the court review and shall establish the date of the new hearing, not later than thirty days.

Article 367 **Obtaining new evidence**

1. After obtaining the requested evidence, the court, if necessary, may ask additional questions and rule, even *ex officio*, the obtainment of additional evidence. In case it is not possible to proceed during the same hearing, the trial is suspended and the date of the new hearing is established.

Article 368 **Minutes for obtaining new evidence**

1. The minutes for obtaining of evidence shall indicate the personal data of the witnesses, experts and interpreters, and the warning made to them for saying the truth and for the liability they have in case of giving false testimony, expertise or interpretation.
2. The court secretary reproduces the questions made by the parties and the presiding judge, and the answers by the questioned persons.
3. In case the court decides for the minutes to be held in a summarized form, the control of its accuracy is made by the presiding judge.

Article 369 **Allowed readings**

(Amended by Law No. 35/2017 of 30.03.2017, article 205)

1. The court, even *ex officio*, decides that documents which are contained in the court trial file are read, in whole or in part.
2. Upon request of the parties, the court may rule that documents acquired during preliminary investigations are read when, due to unpredictable circumstances, they cannot be repeated.
3. The reading of statements made by an Albanian or foreign citizen, residing abroad, can be made if such person is summoned and has failed to appear or he is not found, despite the searches conducted by the judicial police, and when he/she refuses to testify. In such case the act is evaluated together with other evidence.
4. The judicial police officer or agent, who is questioned as a witness, may use the documents of the judicial police to help his memory.
5. Instead of reading, the court, even *ex officio*, may show the documents that are allowed to be used for rendering the decision. Showing such acts shall be held equal to reading them.

Article 370

Reading of statements made by the defendant

(Amended by Law No. 35/2017 of 30.03.2017, article 206)

1. In order to rebut, in whole or in part, the content of the defendant's statements, the parties may use the statements previously made by him and which are in the prosecutor's file, provided that he has already spoken about the facts and the circumstances that are being challenged.
2. In case the defendant is declared in absentia or refuses to answer on statements rendered in the presence of his/her defence lawyer, pursuant to paragraph 3 of article 38 of this Code, the court decides that the minutes of the statements made by him during preliminary investigations, be read.
3. In case the statements are made by persons taken as defendants in a joined proceeding, the court orders their forced accompaniment. When the presence of the person who has rendered a statement cannot be secured, the court, after hearing the parties, decides the reading of the minutes containing such statements.

Article 371

Insertion of the acts in the court's file

1. The minutes and acts which have been read, and the documents presented by the parties and accepted by the court are inserted, along with the minutes of the trial hearing, into the court file.

SECTION IV NEW ACCUSATIONS

Article 372

Amendment of the charge

1. When during the trial, the fact turns out to be different from what is described in the request for trial and its adjudication is under the competence of the same court, the prosecutor amends the charge and continues with the relevant charge.

Article 373

Charge for another criminal offence

1. When during the trial, another criminal offence connected to the offence under trial, pursuant to the article 79, letter "b", or when an aggravating circumstance which is not stated in the trial application emerges, the prosecutor communicates to the defendant the criminal offence or the circumstance, provided that the trial is not under the competence of a superior court.

Article 374

The accusation for a new fact

1. When during the court trial a new fact emerges against the defendant, which has not been mentioned in the request for trial and for which must be proceeded ex officio, the prosecutor proceeds in the usual forms, by taking back the dossier to continue the preliminary investigations. However, if the prosecutor so requests, the court may allow the review during the same hearing when the defendant gives his consent and expedite proceedings are not compromised.

Article 375

Amending the legal qualification of the offence

(Amended by Law No. 35/2017 of 30.03.2017, article 207)

1. In its final decision the court may give to the fact a different definition from that given by the prosecutor or the accusing victim, provided that the criminal offence is under its competence.

2. When at the end of the judicial trial, the court deems that the fact of which the defendant is accused may have a judicial qualification that is more severe from the one made by the prosecutor or the accusing victim, the court shall notify the parties on this probability and provide them sufficient time for defense. The parties are entitled to submit new evidence.

3. When trial is held in the absence of the defendant, pursuant to article 352 of this Code, the court implements the rules provided for by paragraphs 1 and 2 therein.

Article 376

Rights of the parties

(Amended by Law No. 35/2017 of 30.03.2017, article 208)

1. In cases provided by articles 372, 373, and 374 and 375 the presiding judge informs the defendant that he may request a period of time for his/her defense. When the defendant requests such period, the presiding judge suspends the court trial for an appropriate time, but not later than ten days. The other parties may also request the obtaining of new evidence.

2. The presiding judge orders the summons of the victim, within a time limit not less than five days.

3. When the defendant is adjudicated in absentia, pursuant to articles 351 and 352 of this Code, the prosecutor requests to the court to insert the new accusation in the minutes of the court trial and to send the extract of such minutes to the defendant. In such a case, the presiding judge suspends the court trial and establishes another hearing, observing the time limits provided

for by paragraph 1.

Article 377

Returning the acts to the prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 209)

1. When the prosecutor withdraws from the charge and in the state of evidence it is proved that the defendant is not guilty or any of the instances for case dismissal exists, the court shall decide the defendant's acquittal or case dismissal.

SECTION V

CLOSING DISCUSSION

Article 378

Holding the discussion

(Amended by Law No. 35/2017 of 30.03.2017, article 210)

1. After the obtaining of evidence, the prosecutor, the defendant's defense lawyer and the representatives of the other parties shall prepare and present the relevant conclusions.

2. The civil defendant shall present conclusions in written form, which must include, when the compensation for damages has been requested, also the determination of the missed profit.

3. The prosecutor, the defence lawyers and the representatives of the parties can replicate.

6. In any case, the defendant and the defence lawyer must present the final speech, if they request it.

5. Repealed

6. Repealed

Article 378/a

Request to re-open the judicial trial

(Amended by Law No. 35/2017 of 30.03.2017, article 211)

1. After the judicial trial has been terminated, no other evidence may be admitted.

2. The judicial review may be re-opened upon request of the parties, when they request the obtaining of newly emerged evidence or evidence which has been impossible to be taken earlier by them.

3. The court shall admit the request upon evaluation of their importance for the settlement of the case.

CHAPTER III
THE DECISION
SECTION I
DECISION-MAKING

Article 379

Simultaneous decision-making

(Amended by Law No. 35/2017 of 30.03.2017, article 212)

1. Decision is taken immediately after the final discussions of parties.
2. The taking of the decision may not be postponed, except in cases of absolute impossibility. Postponement is decided by the chairperson by reasoned order.

Article 380

Evidence that may be used for decision making

1. In taking the decision the court may not use evidence other than those which are obtained or verified during the judicial trial.

Article 381

Collegial decision making

(Amended by Law No. 35/2017 of 30.03.2017, article 213)

1. The judicial panel, led by the presiding judge, 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 expose their opinion and vote for each issue. The presiding judge collects the votes, starting from the judge who has less experience and votes himself for last.
3. The decision shall be signed by all members of the judicial panel. The judge, who is in minority, signs the decision, by noting "against".

Article 382

Drafting the decision

(Amended by Law No. 35/2017 of 30.03.2017, article 214)

1. After being issued, the decision shall be reasoned based upon the evidence and criminal law and it shall be signed by all the members of the panel.
2. When the decision is announced in a summary form, it shall be reasoned in full within 30 days from its announcement. This time limit may be extended for another period of 30 days if the case is adjudicated by the Anti-Corruption

and Organized Crime Court.

3. If the sentenced person is under a personal precautionary measure, pursuant to article 237 and

238 of this Code, the decision shall be reasoned within 15 days from the date of announcement or within 30 days where tried by the Anti-Corruption and Organized Crime Court.

4. The period foreseen to reason the decision in writing pursuant to paragraph 2 and 3 of this article may be extended in exceptional cases due to the justified grounds. The chairperson of the court has to be notified thereof.

Article 383

Elements of the decision

(Amended by Law No. 35/2017 of 30.03.2017, article 215)

1. The decision shall contain:

a) the court which has issued 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 charge;

d) the summarized 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) the dispositive, indicating the applied articles of the law; dh) the date and the signature of the judges.

2. The decision is invalid if the dispositive or the signatures of the members of the judicial panel are missing, and if there are obvious/ manifest contradictions between the reasoning and the disposition.

Article 384

Pronouncing the decision

(Amended by Law No. 35/2017 of 30.03.2017, article 216)

(Amended by Law no. 41/2021, date 23.3.2021, article 18)

1. The decision is announced in the hearing by the presiding judge or a member of the panel, by reading its dispositive.

2. After the dispositive, the presiding judge reads the reasoned decision. The reasoning of the decision may be given in writing also in a summary form, indicating the main grounds on which the decision is based. In such case, the court delivers to the parties in the hearing, a summary of the decision in

writing.

3. Repealed

Article 385 **Correction of the decision**

1. The court even ex officio, proceeds with the correction of the decision when it must correct any material error.

Article 385/a **Completion of the decision**

(Amended by Law No. 35/2017 of 30.03.2017, article 217)

1. Each of the parties, within 30 days from the announcement of the decision, if they were present, or from the day they were informed in case the decision was announced in their absence, may request its completion [of the decision] in case the court did not rule on all requests concerning the obtaining of evidence.

2. The court shall examine the request with the same judicial panel, upon summoning the parties.

3. Special appeal may be filed against this decision.

Article 386 **Filing the decision**

(Amended by Law No. 35/2017 of 30.03.2017, article 218)

(Amended by Law no. 41/2021, date 23.3.2021, article 19)

1. The decision is filed with the secretary immediately after the reasoning, within the time limits foreseen in article 382 of this Code. The assigned clerk signs and indicates the date of the filing.

2. The decision is notified to the parties to the address declared by them. The notification shall be considered completed if served to the address declared by the parties.

SECTION II DECISION FOR DISMISSAL OF THE CASE AND ACQUITTAL

Article 387 **Decision dismissing the case**

(Amended by Law No. 35/2017 of 30.03.2017, article 219)

1. When the criminal prosecution should not have started or should not continue, pursuant to the cases provided for in letters "c", "ç", "e" and "ë", of paragraph 1 of article 328, of this Code, or when the criminal offence is extinguished and the defendant does not request for acquittal, the court shall

decide dismissal of the case, by indicating also relevant reason.

2. Repealed

Article 388 **Acquittal decision**

1. The court shall issue a decision of acquittal if:
 - 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;
 - ç) the criminal offence is committed by a person who cannot be charged or punished;
 - d) it is not proved that the defendant has committed the offence he is accused of;
 - e) the act has been committed in presence of a legitimate reason or an exculpatory reason and when there is doubt about their existence.

Article 389 **Rulings on precautionary measures**

1. By a decision of acquittal or dismissal the court orders the release of the defendant placed under precautionary detention and declares the withdrawal of any other precautionary measures. When the decision is conditionally suspended, it is proceeded in the same way.

SECTION III CONVICTION DECISION

Article 390 **Conviction of the defendant**

(Amended by Law No. 35/2017 of 30.03.2017, article 220)

1. The court issues a conviction decision, when the guilt of the defendant is proven beyond any reasonable doubt and establishes the type and measure of penalty.
2. The court cannot base the conviction decision only on statements made by persons, who, out of their own free choice, have always voluntarily avoided undergoing questioning by the defendant or his lawyer in all stages of the proceedings.
3. The court cannot base the conviction decision only or mainly on the statements of the co- defendant or the testimonies obtained through special

techniques for hiding the witness identity, pursuant to article 361/b of this Code.

4. When the defendant has committed more criminal offences, the court shall establish the sanction for each of them and shall apply the rules on the unification of criminal offences and sanctions.

Article 391

Declaration for forgery of documents

1. Forgery of an act or a document certified by a court decision, is declared in the [decision] dispositive, which orders, as appropriate, the deletion, in whole or in part, restatement, reproduction or amendment of the act or document, determining also the way it must be done.
2. Declaration of forgery may be appealed in conjunction with the final decision.

Article 392

Obligation to pay the fine

1. When the convicted person does not have income or assets that are allowed be sequestered, the court charges the person civilly liable for the defendant's obligations to pay an amount equal to the fine.

Article 393

Obligation for the expenses

1. The convicted person is charged with the payment of the procedural expenses connected with the criminal offences to which the sanction refers to.
2. Persons convicted for the same criminal offence or for connected criminal offences are jointly obliged to pay expenses in proportion with the degree of guilt or the offence committed. Persons convicted in the same trial for criminal offences which are not connected among them are jointly obliged only for the common expenses related to the criminal offences for which the sanction has been issued.

Article 394

The liability of the civil defendant

1. With the conviction decision, the court rules also on the requests for the return of the item and the compensation for damages, and on the method of payment of the obligation.
2. In case the liability of the civil defendant is accepted, he is obliged jointly with the defendant to return the item and compensate damages.

Article 395

Evaluation of the damage

1. When the obtained evidence does not allow for the exact evaluation of the damage, the court rules on the right for compensation of damages, in general, and transfers the act to the civil court.
2. Upon request of the civil plaintiff, the defendant and the civil defendant 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

Temporary execution of the civil obligation

1. Upon the request of the civil plaintiff, when there are lawful reasons, the obligation for the return of the item and the compensation of damage is declared temporary enforceable.

Article 397

The obligation of the private parties to pay procedural expenses

1. With the decision accepting the request for the return of an item or the compensation of damages, the court obliges jointly the defendant and the civil defendant to pay the procedural expenses in favour of the civil plaintiff, except when it deems that it must decide their entire or partial compensation.
2. When the request is rejected or the defendant is found not guilty, except when he has no criminal liability, the court obliges the civil plaintiff to pay the procedural expenses made by the defendant and the civil defendant 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 civil defendant.

Article 398

The obligation of complainant to pay the expenses and damages

1. When the court decides that the defendant is not guilty for a criminal offence which is proceeded on complaint, because the fact does not exist or the defendant has not committed it, the complainant is charged with the payment of the expenses for the proceedings made by the State, and with the expenses and the compensation of the damage in favour of the defendant and the civil defendant.

Article 399

The publication of the decision compensating moral damages

1. Upon the request of the civil plaintiff, the court decides the publication of the

conviction decision, as a method of re-instating of the moral damage arising out of the criminal offence.

2. The publication of the decision is made, in full or summary form, in the newspapers indicated by the court, with the expenses of the defendant or civil defendant.

3. If the publication is not made within the set time limit, the civil plaintiff may act personally, with the right to request expenses from the convicted person.

CHAPTER IV SPECIAL TRIALS

SECTION I DIRECT TRIAL

Article 400 Cases of direct trial

(Amended by Law No. 35/2017 of 30.03.2017, article 221)

1. When the defendant is arrested in *flagrante delicto* and is being investigated for the commission of a criminal offence which is tried by a single judge, the prosecutor within forty- eight hours of his arrest submits to the court the request for validation and his direct trial, if he deems that no further investigation is needed.

2. If the arrest is deemed lawful and there is no need for further investigations, the court proceeds immediately with the trial, whereas when it is not found grounded, the acts are returned back to the prosecutor. In the latter case, if the defendant and the prosecutor give their consent, the court shall proceed with the direct trial.

3. When the defendant has been arrested in *flagrante delicto* and the arrest is considered lawful, and also when the court imposed one of the precautionary measures provided for by articles

237, 238 or 239 of the Code, the prosecutor shall file a request with the court for a direct trial no later than 30 days from the date of arrest, unless further investigation must be carried out.

4. When the criminal offence, for which the direct trial is requested, relates to other criminal offences for which the conditions for this type of trial are not met, the procedure is carried out separately for those other offences and other defendants, except when the separation prejudices the investigations. When the joining is indispensable, the rules of the default judgement shall apply.

Article 401
Preparation of the direct trial

(Amended by Law No. 35/2017 of 30.03.2017, article 222)

1. Upon procedure of a direct trial the prosecutor orders the appearance at the hearing of the defendant arrested in *flagrante delicto* or under the precautionary measure provided for by articles 237, 238 or 239 of this Code. When the defendant is in free state, the time limit to appear may not be shorter than three days.
2. The order shall contain, under penalty of invalidity, the data provided for by letters "a", "b" and "c" of article 332/e and the indication of the place, date and the time to appear and the warning that if the defendant fails to appear, he will be forcibly accompanied, as well as the date and signature of the prosecutor."
3. The defence lawyer shall be notified without delay by the prosecutor on the date of the trial. He has the right to read and make copies of the documentation related to the investigations having been carried out.
4. The order and the case file shall be sent to the court. In the case provided for by article 400, paragraph 3, the prosecutor shall be notified at least 10 days in advance of the date and the time of the trial as well as of the court that will try the case.

Article 402
Conduct of the direct trial

(Amended by Law No. 35/2017 of 30.03.2017, article 223)

1. During the direct trial the provisions of the chapter for the court examination shall apply.
 - 1/1. The victim and the witnesses shall be notified by the Judicial Police also verbally. In the case foreseen by Article 400, paragraph 1, the prosecutor may notify the arrested person of the charge during the court hearing."
2. The prosecutor, the defendant and the civil plaintiff, may present other witnesses during the court examination, even if they have not been summoned before by the Court.
3. The Court shall inform the defendant on the right to request an abbreviated trial or to ask for a judgement upon agreement. The defendant shall also be informed on the right to request a time limit of up to five days to prepare the defence. In that case, the judicial examination shall be postponed until a new hearing is scheduled after the termination of this time limit.
4. When a direct trial is requested in other cases than those foreseen by Article 400 of this Code, the court shall return the acts to the prosecutor.
5. The defendant may request a abbreviated trial. The court, after hearing the

prosecutor and finding the request founded, shall decide to continue the trial following the rules of a abbreviated trial. If it decides otherwise, it shall continue with the direct trial.

SECTION II ABBREVIATED TRIAL

Article 403 **Request for abbreviated trial**

(Amended by Law No. 35/2017 of 30.03.2017, article 224)

1. The request for abbreviated trial shall be submitted by the defendant or his/her defence lawyer upon special power of attorney during the preliminary hearing or the court hearing pursuant to Article 400, paragraph 3 and article 406/ç of this Code, otherwise it shall not be admitted.
2. The request for abbreviated trial for criminal offences punishable with life imprisonment shall not be allowed.

Article 404

(Repealed by Law No. 35/2017 of 30.03.2017, article 225)

Article 405 Abbreviated trial hearing

(Amended by Law No. 35/2017 of 30.03.2017, article 226)

1. When the defendant or the defence lawyer, with special power of attorney, have requested abbreviated trial in the preliminary hearing, in compliance with provisions of Article 332/c of this Code, the court hearing shall be held in the presence of the prosecutor, the defendant, the defence lawyer, the victim or his/her heirs, when their identity and place of residence are known from the acts of the proceedings, and also the private parties.
2. The court makes the verifications connected with the legal standing of the parties.
3. In case the defence lawyer of the defendant fails to appear, and the defence is mandatory pursuant to the criteria determined in this code, the court appoints another defence lawyer as substitute.
4. When the defendant fails to appear in the hearing because of legitimate excuses, the court shall set the date of the new hearing and shall order that the defendant is notified.
5. After hearing the parties on the preliminary requests, the court shall read the request for abbreviated trial and ask the defendant if he sticks to it. When the defendant states that he upholds the request, the court declares the judicial examination open and gives the floor to the prosecutor to briefly present the results of the preliminary investigation.

6. After hearing the submissions of the prosecutor, in the same hearing the court shall decide on the admissibility of the request for the abbreviated trial if it deems that the case may be resolved under the existing state of the acts. Otherwise it shall refuse the request and shall continue with the ordinary trial. The decision may be appealed together with the final decision.

7. The request for abbreviated trial shall not be admitted if the defendant or his defence lawyer raise claims on the validity of the acts or usability of the evidence collected during the preliminary investigation or when new evidence is required to be taken in trial. The request for abbreviated trial shall not be admitted if the Court *ex officio* finds an absolute invalidity or non-usability of evidence, as a result of which it deems that the case may not be resolved under the existing state of the acts. In this case, in its decision refusing the request, the court shall also identify the acts which are absolutely invalid or the pieces of evidence which are non-usable in trial. This rule shall not apply if evidence concerning the character of the defendant, or his personal, family or economic conditions is requested.

8. When the court admits the request for abbreviated trial, it invites the parties to submit the final discussions.

9. The civil claim shall not be examined if the court admits the request for abbreviated trial.

Article 406 Decision

(Amended by Law No. 145/2013 of 02.05.2013, article 2) (Amended by Law No. 35/2017 of 30.03.2017, article 227)

1. In case a conviction decision is issued, the court reduces the fine or the prison term by one third.

2. Repealed

3. The prosecutor, the defendant, the victim and civil plaintiff may appeal against the decision of the court.

4. The provisions of chapter III of this title shall be applicable, as long as they are compatible.

SECTION III

(Added by Law No. 35/2017 of 30.03.2017, article 228)

Article 406/a

Request for approval of the penalty order

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. When the defendant is accused for committing a misdemeanour, the prosecutor, within three months from the registration of the name of the

person to whom the criminal offence is attributed, shall issue a reasoned penalty order determining the punishment and request its approval by the court, if he deems that a prison sentence shall not apply.

2. In the penalty order, the prosecutor shall determine a fine as main punishment. As the case may be, he may also impose one or more supplementary punishments. Depending on the economic status of the defendant, the prosecutor may order that the fine shall be paid in instalments, by determining the time limits to pay them.

3. A punishment by fine may not exceed half of the maximum provided for this type of punishment by the Criminal Code.

4. At the end of the investigations, the request for approval of the penalty order shall be deposited with the secretary office of the court, together with the acts of the preliminary investigation file. The request for approval of the penalty order shall be notified to the defendant. The provisions of Article 327 paragraph 2 and following of this Code shall not apply.

Article 406/b

Decision approving the penalty order

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. The Court shall examine the request in closed session and decide within ten days after it has been filed. The decision approving the penalty order shall be reasoned in summary form and it shall contain:

- a) personal data of the defendant;
- b) submission of the fact and the legal qualification of the criminal offence;
- c) sources of evidence and facts to which they refer to;
- c) amount of the fine, modalities of its execution and type of the supplementary punishment established;
- d) the right of the defendant to challenge the decision of the court and the time limit within which such decision may be challenged;
- dh) rulings on material evidence and items related to the criminal offence;
- e) date and signature of the judge.

2. The court may not change the punishments established in the penalty order by the prosecutor, but by assessing the circumstances of the economic status of the defendant, in the stage of execution, upon request of the sentenced person, it may apply the provisions of article 34 paragraph 8 and following of the Criminal Code.

3. The decision approving the penalty order shall not cause the consequences foreseen in article 70 of this Code. It may not charge the sentenced person

with the payment of the expenses of the proceedings.

4. The punishment imposed shall not be entered in the criminal record certificate unless the sentenced person is a recidivist.

Article 406/c

Decision to refuse the approval of the penalty order

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. The court shall refuse the approval of the penalty order if:

- a) one of the grounds of dismissal of the charge or of the case exists;
- b) the defendant is accused of a criminal offence for which the law does not allow the application of the penalty;
- c) the prosecutor has asked for a punishment by fine or one or more inappropriate supplementary punishments;
- ç) it is convinced that the case may not be resolved in the state of the preliminary investigative acts that are attached to the request for approval.

2. In the cases foreseen in letter "a" paragraph 1 of this article, the court shall decide to dismiss the case, whereas in other cases it shall decide to return the acts to the prosecutor. This decision shall be notified to the prosecutor and the defendant.

Article 406/ç

Challenging the decision of the court

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. The decision of the court approving the penalty order shall be notified to the defendant and the person civilly liable for the damage caused by him, who have the right to challenge it before the same court within ten days from the day they have been notified.

2. The challenge cannot be refused, except in cases where it is submitted by an illegitimate person or after expiry of the time limits.

3. When the court proceeds according to paragraph 2 of this article, it sets the date of the trial and notifies the parties and their defence lawyers. The court proceeds with the ordinary trial if the defendant fails to submit the request for an abbreviated trial. In such case, the provisions of article 333 and following of this Code shall apply.

SECTION IV
JUDGMENT UPON AGREEMENT
(Added by Law No. 35/2017 of 30.03.2017, article 228)

Article 406/d
Content of the agreement
(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. From the registration of the name of the person to whom the criminal offence is attributed until the beginning of judicial review, the prosecutor, the defendant or his special representative may propose to reach an agreement on the conditions of admission of guilt and setting punishment.
2. In the negotiation for reaching an agreement, the presence of the defence lawyer of the defendant is mandatory. The conclusion of the agreement shall be allowed for criminal offences for which the law provides for a maximum punishment of not more than 7 years of imprisonment. This restriction shall not apply in the case of the justice collaborator.
3. The agreement shall be made in writing and contain, under penalty of invalidity:
 - a) accurate description of the criminal fact for which the defendant is charged and its legal qualification;
 - b) a statement of admission of guilt by the defendant;
 - c) type and extent of the main criminal sanction, supplementary sanction and the manner of its execution, agreed upon by the parties;
 - ç) rulings on material evidence and items related to the criminal offence, and on confiscation of the means and proceeds of the criminal offence, pursuant to article 36 of the Criminal Code;
 - d) if the civil plaintiff is legitimated, his written consent on the amount of the damage compensation to be paid by the defendant;
 - dh) amount of procedural expenses;
 - ë) signature of the parties and the defence lawyers.
4. The prosecutor, after signing the agreement, shall notify the victim or his/her heirs, whose identity and place of residence is in the acts of the proceedings, by sending copies thereof.
5. The conditional agreement for the partial admission of charges is inadmissible.

Article 406/dh
Court examination

(Added by Law No. 35/2017 of 30.03.2017, article 228)
(Amended by Law no. 41/2021, date 23.3.2021, article 20)

1. The prosecutor, when reaching an agreement, shall send it to the court for approval, together with all the acts of the preliminary investigation. When the agreement is submitted in the preliminary hearing, the court shall decide according to the provisions of Article 332/dh, par "1", letter "b", of this Code.
2. The Court examines the request in a court hearing within thirty days after its submission. The presence of the prosecutor, defendant and defence lawyer in the hearing is mandatory. The victim shall be notified and has the right to participate. Failure of the victim to participate does not preclude the examination of the case.
3. The court, after verifying the appearance of the parties, shall declare the judicial examination open and invites the prosecutor to submit, in summary form, the outcomes of the agreement reached. The defence lawyer takes the floor, if he requests so.
4. The court shall ask the defendant specifically about the following:
 - a) whether he has entered into the agreement of his own free will;
 - b) whether he has been represented by the defence lawyer in the negotiations on reaching and signing of the agreement;
 - c) whether he understands the agreement and its content;
 - c) whether he understands the consequences of the approval of the agreement;
 - d) whether he consents to the approval of the agreement and its execution.
5. The court, if the victim is present, shall invite him/her to give an opinion on the content of the agreement.

Article 406/e
Approval of the agreement

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. The court, unless it decides to dismiss the case or to return the acts to the prosecutor, shall decide to approve the agreement.
2. The decision shall contain, in summary form, under penalty of invalidity:
 - a) the personal data of the defendant and other personal information needed for his identification and the personal data of the victim, if present;
 - b) the fact that the defendant has been represented and the identity of his defence lawyer;
 - c) the fact that the defendant has understood the content of the agreement

and its consequences and has signed it upon free will;

ç) the fact that the legal qualification of the offence and its circumstances, the appropriateness of the imposed punishment and also the lack of grounds for impunity or extinction of the criminal offence, have been properly assessed by the prosecutor;

d) the declaration of the defendant's guilt, the sanction imposing and other rulings, pursuant to the content of the agreement

dh) date and signature of the decision.

3. If the agreement on civil damage is reached, it shall be part of the content of the court decision.

4. The court may not change the terms of the agreement reached by the parties.

Article 406/ë

Refusal of the agreement

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. The court shall refuse the approval of the agreement when:

a) the defendant withdraws his consent;

b) it is proven that the will of the defendant is flawed;

c) the defendant who has been duly summoned, does not attend the hearing, without legitimate reasons;

ç) one of the grounds for non-initiation of the proceedings or dismissal of the charge or the case exist;

d) evidence in the investigation file contradict the admission of the defendant to have committed the criminal offence;

dh) the legal qualification of the criminal offence and the circumstances of its commission are wrong;

e) the punishment set in the agreement is inappropriate in relation to the committed offence and the character of the defendant.

2. The decision for refusing approval of the agreement shall be reasoned. In the case foreseen by letter "ç", paragraph 1, of this article, the court shall decide to dismiss the case, whereas in all other cases it shall decide to return the acts to the prosecutor. When the court refuses to approve the agreement, the filing of a new request is not allowed.

3. Statements of the defendant during the hearing may not be used against him.

Article 406/f**Appeal against the court decision**

(Added by Law No. 35/2017 of 30.03.2017, article 228)

1. No appeal is allowed against the decision of the court.
2. The prosecutor may file an appeal only against the decision of the court to dismiss the case.
3. For the appeal, Articles 407 and following of this Code shall apply, to the extent compatible.

TITLE VIII

APPEALS

CHAPTER I

GENERAL RULES

Article 407**Cases and means of appeal**

1. The law provides for the cases in which the decisions and orders of the court may be appealed, as well as the means for appealing.
2. The appeal against the orders of the court, unless the law provide otherwise, may be filed along with the appeal against the decision.
3. The means for appealing are: the appeal to the court of appeal, the appeal to the High Court and the request for revision.
4. A person has the right to appeal, when it is expressly acknowledged by the law. If the law does not differentiate among the parties, each of them has the right to appeal.
5. If the appeal is filed with an incompetent court, it shall transfer the acts to the competent court.

Article 408**Appeal by the prosecutor**

(Amended by Law No. 35/2017 of 30.03.2017, article 229)

The prosecutor may file an appeal with the higher court, in cases foreseen by this code.

Article 409**Appeal by the accusing victim**

1. The accusing victim may appeal, personally or through his representative, both for criminal or civil effects. He may withdraw the appeal filed by the

representative.

Article 410

Appeal by the defendant

(Paragraph 2 amended by Constitutional Court Decision No. 15 of 17.04.2003)

(Amended by Law No. 35/2017 of 30.03.2017, article 230)

1. The defendant may appeal personally or through his defence lawyer. The legal guardian of the defendant may file any appeal that the defendant is entitled to.
2. The decision issued *in absentia* may be appealed by the defence lawyer, only if he is specifically authorised by the defendant, by means of a power of attorney, issued in the forms provided for by the law, or by statement made in the hearing.
3. The defendant may withdraw the appeal made by his defence lawyer, but if he is legally incapable to act, the consent of the legal guardian shall be obtained.
4. An appeal by the defendant against the conviction or acquittal includes an appeal against the part of the decision on the obligation of restitution of property, compensation for damage and payment of court procedure expenses.

Article 411

Appeal by victim, civil plaintiff and civil defendant

(Amended by Law No. 35/2017 of 30.03.2017, article 231)

1. The accusing victim and the civil plaintiff may appeal against the points of the convicting decision connected with the civil lawsuit and, in case of acquittal, only against the effects of civil liability.
2. The victim and civil plaintiff may appeal against the parts of the decision regarding the liability of the civil defendant for the restitution of the property, the compensation for the damage and procedural expenses.

Article 412

Form of appeal

1. The appeal shall be filed in writing, indicating the appealed decision, its date, the court having issued it as well as the points of the decision challenged, the reasons for appealing and the requests.

Article 413

Filing of the appeal

1. The appeal is submitted to the secretary of the court, which issued the appealed decision. The secretary of the court notes down on the appeal the

day of receipt and the name of the person submitting it, attaches it to the acts and, if requested, issues an acknowledgement of receipt.

2. The private parties, the defence lawyers and the representatives may submit the appeal also to the secretary of the court of the place of their residence or to a consular official. In these cases, the act is immediately sent to the secretary of the court having issued the decision.

3. The appeal may be sent by registered mail to the secretary of the court having issued the decision. The secretary of the court notes down the day of its reception on the envelope and attaches it to the acts. The complaint is considered as submitted on the date in which the act is sent by registered mail.

Article 414

Notification of the appeal

1. The appeal shall be notified to the prosecutor, the defendant and the private parties by the secretary of the court having issued the decision.

Article 415

Time limits for the appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 232)

(Amended by Law no. 41/2021, date 23.3.2021, article 21)

1. Unless provided otherwise by this Code, the time limit to file an appeal is fifteen days. This deadline starts from the day after the announcement of the decision.

2. The appellant has the right to submit written submissions regarding the grounds raised in the appeal to the secretariat of the court that will review the case, up to five days before the hearing.

3. The time limits provided for by this article may not be extended, except for the cases provided for by law.

Article 416

Scope of appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 233)

1. The appeal filed by one defendant, if not based only on personal grounds, also applies to the other defendants.

2. The appeal filed by the defendant also applies to the civil defendant.

3. The appeal of the civil defendant applies also to the defendant for criminal effects.

Article 417

Suspension of execution

(Amended by Law No. 35/2017 of 30.03.2017, article 234)

(Amended by Law no. 41/2021, date 23.3.2021, article 22)

1. The execution of the appealed decision is suspended until the conclusion of adjudication in the appeal court, unless provided for otherwise by the law. In the event of recourse, the decision may be suspended by the Criminal Chamber of the High Court, only in cases provided by paragraph 1 of Article 476 of this Code.
2. Appeals against decisions concerning personal freedom do not have suspending effect.

Article 418

Withdrawal of appeal

1. The prosecutor who has filed an appeal may withdraw it until the court examination starts, whereas the withdrawal of the prosecutor before the court reviewing the appeal may be done until the start of the final discussion.
2. The defendant and the private parties may also withdraw the appeal through the defence lawyer or the representative.
3. The statement of withdrawal is made in the form and manner provided for the submission of the appeal, as the case may be, at the court having issued the decision or at the court reviewing the appeal.

Article 419

Transmitting of documents

(Amended by Law No. 35/2017 of 30.03.2017, article 235)

1. The court having issued the decision shall send the acts of proceedings and the appeal to the court which has to examine the case, within five days after notification, unless the appeal has been withdrawn.

Article 420

Non-admission of the appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 236)

1. Except the cases when inferred in the hearing, the appeal is not admitted in closed session:
 - a) when it is made by who is not legitimated;
 - b) when the decision is not subject to appeal;
 - c) when the provisions regarding the form, submission, sending, notification and the time limits of appeal have not been respected;

- c) when the appeal has been withdrawn during the trial;
 - d) there is no longer a subject matter of appeal.
2. The non-admission may be declared, also ex officio, in any state or stage of the proceedings.
 3. The decision of non-admission is notified to the one who has filed the appeal, and it is subject to appeal to the High Court, within its competence.
 4. When the court decides the non-admission of the appeal, the decision shall be considered as not appealed for execution purposes.

Article 420/1

Reinstatement of time limits to appeal

(Added by Law No. 35/2017 of 30.03.2017, article 237)

1. The parties shall be reinstated in the time limit to appeal if they prove lack of possibility to meet the time limit, because of force majeure or event of fate. The request of re-instatement shall be accompanied by the appeal, otherwise it shall not be admitted.
2. When the trial is held according to the provisions of article 351 of this Code, the defendant may request reinstatement of the time limits to appeal if he proves that he has not been informed of the decision.
3. The request for reinstatement shall be submitted within 10 days from the disappearance of the fact constituting an event of fate or force majeure, whereas in cases foreseen in paragraph 2, it shall be submitted from the day the defendant has been informed effectively of the decision. Re-instatement shall not be allowed for more than once for each party in any stage of the proceedings.
4. If the appellant fails to appear in the hearing, without any justified ground, despite having been duly notified of the date and time or withdraws the request, the court shall decide the non-admission of the request.
5. When the request is admitted and the decision for which time limits reinstatement is allowed is an imprisonment sentence decision that has been executed, the execution of the sentence shall be suspended. The court shall order the immediate release of the defendant unless he has been detained because of the precautionary measure of arrest.
6. The court shall reason the decision within 5 days from its announcement.

7. The decision allowing reinstatement of time limits may be appellant against together with the final decision.
8. The decision refusing the request for reinstatement of time limits may be appealed against within 5 days. The court of appeal shall examine the appeal in closed session within 15 days from the date of receiving the acts.

Article 421
Charging of expenses

1. Upon the decision rejecting or declaring the appeal inadmissible, the private party who has filed it is charged with the expenses of the proceedings.
2. The co-defendants having participated in the trial are charged with the expenses jointly with the defendant who has filed the appeal.
3. In appeal trials only for civil interests, the expenses shall be charged to the private party losing the trial.

CHAPTER II
APPEAL

Article 422
The right of appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 238)

1. The prosecutor, the defendant and the civil plaintiff and the civil defendant are entitled to file an appeal against decisions of the first instance court.

Article 423
Counter appeal

1. The party not having filed an appeal within the time period may file a counter appeal within five days from the day he received the notification of the appeal of the other party.
2. The counter appeal is submitted and notified according to the general rules on appeals.
3. The counter appeal of the prosecutor does not have any effect on the co-defendant who did not file an appeal.
4. The counter appeal loses its effect if the appeal of the other party is not admitted or it is withdrawn.

Article 424
Competent court

(Paragraph 3 amended by Law No. 9085 of 19.06.2003, article 6)
(Paragraph 2 repealed by Law No. 9911 of 05.05.2008, article 6) (Amended by Law
No. 35/2017 of 30.03.2017, article 239)

1. The Court of Appeal shall decide on appeals against decisions of the District Court.
2. Repealed
3. The Anti-Corruption and Organised Crime Court of Appeal shall decide on appeals against the decisions of the Anti-Corruption and Organised Crime Court.

Article 425
Limits of case review

(Amended by Law No. 35/2017 of 30.03.2017, article 240)

1. The court of appeal reviews the case within the grounds presented in the appeal. For the questions of law to be reviewed *ex officio*, and for the grounds presented in the appeal which are not based on personal motivation, the court of appeal shall review also the part related to co-defendants who have not filed an appeal.
2. If the prosecutor or the accusing victim file an appeal, the Court of Appeal:
 - a) may give the fact a more severe legal qualification, change the type or raise the punishment sentence, change the precautionary measures and impose any other measure provided for or allowed by the law;
 - b) may convict a person who has been acquitted, acquit him under a ground different from what has been admitted in the appealable decision, impose the measures indicated in the letter "a";
 - c) may apply, change or exclude supplementary or alternative sentences.
 - ϕ) give the fact a more severe legal qualification than the one requested by the prosecutor, if the case falls within its subject matter competence. In this case, the court shall reopen judicial examination and apply the provisions of paragraph 2, of article 375, of this Code.
3. If only the defendant appeals, the court may not impose a more severe sentence, a more severe precautionary measure, acquittal on less favourable grounds than that of the appealed decision, nor give the fact a more severe legal qualification.

Article 426

Examination of the case in the appeal

(Amended by Law no. 41/2021, date 23.3.2021, article 23)

1. The rapporteur judge of the case in the court of appeal shall be assigned through a lot.
2. The rapporteur judge shall assign the date and the time of the trial in compliance with the calendar of the examination of the cases, based on the order, according to submission of the file in the court of appeal. Priority for examination is given to the cases related to the extraditions abroad, the cases where the defendant is a pre-detainee and the cases for which the High Court has decided to quash the decision of the court of appeal and to send the case for re-examination in this court.
3. The rapporteur judge of the case shall order the summoning of the defendant, the civil plaintiff and of the civil respondent as well as the defence counsels and their representatives. The time limit to appear cannot be less than ten days.
4. The summons is invalid when the defendant has not been identified reliably or when the location, the day and the time to appear have not been specified.

Article 426/a

Hearing

(Amended by Law No. 35/2017 of 30.03.2017, article 241)

(Amended by Law no. 41/2021, date 23.3.2021, article 24)

1. Firstly, the presiding judge of the judicial panel verifies whether the parties are present. If the parties fail to appear, the presiding judge shall verify whether they have been duly notified and whether their absence is justified.
2. After the verification of the parties and their legal standing, the court shall announce the judicial panel and declare the discussion open.
3. The presiding judge or a member of the panel shall report in a summary form on the court file and the grounds raised in the appeal.
4. If only one of the parties filed an appeal, it shall take the floor first. If both the prosecutor and the defendant have filed an appeal, the prosecutor shall take the floor first.
5. When examining the case at appeal instance, the provisions on the court procedure at first instance shall apply to the extent possible.
6. The court may order the parties to submit their claims in a summary form, by also specifying the considered sufficient time limit. In the hearing, the parties may not submit grounds beyond those raised in the appeal.

Article 427**Retrial**

(Amended by Law No. 35/2017 of 30.03.2017, article 242)

(Amended by Law no. 41/2021, date 23.3.2021, article 25)

1. If a party in the act of appeal, requests the re- obtaining of the evidence allowed during the court examination at first instance or obtaining of new evidence, the court, if it deems that it cannot decide in the current state of acts, repeats the trial.
2. Evidence found after trial at the court of first instance or of those appearing on the spot is subject to the court decision which, as the case may be, orders whether it shall be taken or not.
3. The repetition of the trial is also decided ex officio when the court deems it indispensable.
4. When the defendant has been declared innocent, the court of appeal may not declare him guilty based only on a different evaluation of the evidence obtained at the first instance trial. In this case the court of appeal shall repeat the trial.
5. For the repetition of the trial, decided pursuant to the above paragraphs, the procedure begins immediately, and, when this is not possible, the court examination shall be postponed for a period not longer than ten days.

Article 427/a**Adjudication in the appeal in the consultation chamber**

(Added by Law no. 41/2021, date 23.3.2021, article 26)

1. When this Code, provides for the adjudication in the appeal in the consultation chamber, the adjudication shall be conducted bases on acts and/or documents.
2. The rapporteur judge shall order the notification of the parties, pursuant to article 426 of this Code. Up to 5 days prior to the hearing for the examination of the case in the counselling chamber, the parties are entitled to make submissions in writing regarding the grounds raised in the appeal and the contradicting appeal.
3. With regard to the case examined by a panel composed of three judges, the rapporteur shall prepare preliminarily and shall provide the members with a summarized explanatory report of the judicial file and the grounds raised in the appeal.
4. The review of the case in the counselling chamber shall continue when the notifications of the parties are correct.
5. The minutes is kept by the court secretary for the examination of the case

in the counselling chamber.”

Article 428

Decision of the Court of Appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 243)

1. The Court of Appeal, after examining the case, decides:
 - a) to uphold the decision;
 - b) to change the decision;
 - c) to quash the decision and dismiss the case when there are grounds not permitting the initiation and continuation of the proceedings;
 - ç) to quash the decision and return the acts to the first instance court, if the provisions regarding the conditions to be a judge in the concrete case, the number of judges necessary for constituting the chambers, as defined in this Code, the exercise of the prosecution by the prosecutor and his participation in the proceedings, the participation of the defendant, of his defence lawyer or of the representative of the accusing victim, the violation of the provisions for the introduction of new charges are not respected and also in any case when specific provisions foresee the nullity of the decision.
2. A copy of the decision shall be immediately notified to the first instance court.

Article 429

Returning the documents to the first instance court

(Amended by Law No. 35/2017 of 30.03.2017, article 244)

1. In case of a decision according article 428, letter ç), the court of appeal shall order to transmit the acts to another chamber of the same court.
2. When appeal to the High Court has not been filed, the file with the documents is transmitted to the court that has issued the decision.

Article 430

Rulings on the execution of a civil obligation

1. Upon request by the civil plaintiff, the Court of Appeal may decide on the temporary execution of the obligation, if the first instance court has not expressed its opinion or has refused the request. It may also decide on the suspension of the execution of the obligation to prevent serious and non-repairable damage which may occur.

Article 430/1
Announcing and filing the decision

(Amended by Law No. 35/2017 of 30.03.2017, article 245)

1. The presiding judge or a member of the panel announces the decision in the hearing by reading the dispositive of the decision.
2. After the dispositive, the presiding judge reads the reasoned decision. The reasoning of the decision may be given in writing and in a summary form, indicating the main grounds on which the decision is based. In this case, the court delivers the summary form of the decision in writing to the parties in the hearing.
3. The decision shall be deposited immediately with the court secretary immediately after its announcement. The assigned employee shall sign and write the date of the deposition.
4. When the decision is announced in a summary form, it shall be reasoned within 30 days from its announcement. This time limit may be extended for another 30 days if the case is tried by the Anti-Corruption and Organized Crime Court.
5. The period foreseen to reason the decision in writing, pursuant to paragraph 4 of this article may be extended in exceptional cases due to justified grounds. The chairperson of the court has to be notified thereof.

CHAPTER III
 APPEAL TO THE HIGH COURT

SECTION I
 GENERAL RULES

Article 431
Direct appeal to the High Court

(Repealed by Law No. 35/2017 of 30.03.2017, article 246)

Article 432
Appeal against decisions of the Court of Appeal
(Amended by Law No. 35/2017 of 30.03.2017, article 247)

1. Appeal to the High Court against decisions issued by the Court of Appeal may be filed for the following reasons:
 - a) non-compliance with or improper application of substantive or procedural law, which is important for uniform interpretation or development of the judicial practice;
 - b) non-compliance or wrong application of procedural law, having as

consequence the invalidity of the decision, absolute invalidity of acts or non-usability of evidence;

c) the decision subject to appeal is contrary to the practice of the Criminal Chamber or Joint Chambers of the High Court.

2. When it deems it necessary, the Court shall request written memoranda from the parties.

Article 433

Non-admissibility of appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 248)

1. The appeal is not admitted if it is filed for reasons different from the ones allowed by the law and if the High Court deems that the case must not be reviewed by it, pursuant to the provisions of paragraph 1, Article 432, of this Code.

2. A judicial panel of three judges shall decide on the inadmissibility of the appeal in closed session.

Article 434

Limits of review by the High Court

(Amended by Law No. 35/2017 of 30.03.2017, article 249)

(Amended by Law no. 41/2021, date 23.3.2021, article 27)

1. The High Court reviews the case within the limits of the grounds raised in the appeal.

2. If the appeal is admitted for review, the High Court also has the right to decide on questions of law identified *ex officio*.

3. In cases where the High Court *ex officio* raises issues of law, for which the parties have not previously submitted their opinion, prior to the review, the parties shall be notified and a deadline shall be set for the submission of their submissions on matters of law. The notification in these cases is carried out according to the general rules.

Article 434/a

Content of the recourse

(Added by Law no. 41/2021, date 23.3.2021, article 28)

1. The recourse must contain:

a) the litigants;

b) the decision contested;

c) a succinct presentation of the facts of the case;

c) the reasons for which the quashing of the decision is requested, as well as the arguments that support the allegation that there are reasons for recourse according to the provisions of Article 432 of this Code;

d) the power of attorney of the lawyer, in cases when the recourse is submitted by the defendant or private parties;

2. The recourse may be submitted in accordance with the format approved by the decision of the Council of the High Court”.

Article 435

Filing of the appeal

(Amended by Law No. 35/2017 of 30.03.2017, article 250)

(Amended by Law no. 41/2021, date 23.3.2021, article 29)

1. The recourse is submitted in writing, within 45 days from the day after the notification of the decision of the court of appeal. The time limit to submit the recourse against a decision of the court of appeal which decides on quashing the decision and returning the acts with the first instance court, is 20 days. The recourse shall be examined by the High Court not later than two months from the moment it is registered in the court secretary.

2. The recourse and the memoranda should be signed by the defence lawyer, under penalty of inadmissibility. When the defendant has no selected defence lawyer, the President of the Chamber appoints a defence lawyer ex officio and notifies the defendant thereof.

Article 435/a

Counter-recourse

(Added by Law no. 41/2021, date 23.3.2021, article 30)

1. The party against which a recourse is made may object to it by means of a counter-recourse, within 20 days from the day it received the notification for the recourse of the other party. When the recourse is submitted against a decision of the court of appeal ruling on quashing the decision and returning the acts to the first instance court, the time limit to submit the counter-recourse is 10 days.”

2. The counter-recourse shall be notified to the one who has made the recourse within 20 days from the communication of the recourse.

3. The rules provided for in Article 423 of this Code shall apply to the counter-recourse.

SECTION II

HEARING IN THE HIGH COURT

Article 436 Preliminary actions

(Amended by Law No. 35/2017 of 30.03.2017, article 251)

(Amended by Law no. 41/2021, date 23.3.2021, article 31)

1. The Chairman of the High Court designated the relevant chambers to review appeals.
2. The rapporteur judge appointed by lot sets the date and time for the hearing of the case in the counselling chamber in accordance with the rules of trial planning provided by law.
3. The court secretary notifies the parties on the time and date of the hearing at least 30 days in advance by posting on the notification corner and on the official website. If the parties have electronical addresses declared or recognized, the secretariat shall also notify to these addresses.

Article 436/a

Examination of the case

(Added by Law no. 41/2021, date 23.3.2021, article 32)

1. The review of the recourse before the Criminal Chamber of the High Court shall, as a rule, done on the basis of documents in the counselling chamber.
2. The rapporteur judge submits the report, reflecting in it, among others, the content of the contested decision, the allegations and reasons raised in the recourse, the objections presented in the recourse, the review of the facts relevant to the decision and his proposal for legal settlement of the matter.
3. The minutes are kept by the court secretary for the examination of the case in the counselling chamber''.

Article 437 Judicial review

(Amended by Law No. 35/2017 of 30.03.2017, article 252)

(Amended by Law no. 41/2021, date 23.3.2021, article 33)

1. The court shall, in the consultation chamber, decide on the examination of the case in a court session in the presence of the parties, if:
 - a) The case is of significance in terms of law for unifying or developing the case law'.
 - b) it is deemed necessary by the Criminal Chamber to summon and hear the parties due to the problem or complexity of the case, in the cases defined in letters "b" and "c", par 1, Article 432, of this Code
2. The provisions related to publicity, the rules of the hearing and the right to debate in the first and second instance trial shall also apply to the High Court, to the extent possible.

3. The defendant and the private parties are represented by the defence lawyers.
4. The President of the Chamber verifies the legitimation of the parties and the correctness of the notifications.
5. The assigned judge reports the case. After the pleading of the prosecutor, the defence lawyers and the representatives of the private parties plead. A reply is not permitted.

Article 438

Unifying and amending the case law

(Amended by law 8813, dated 13.06.2002)

(Amended by Law No. 35/2017 of 30.03.2017, article 253)

(Amended by Law no. 41/2021, date 23.3.2021, article 34)

1. The Criminal Chamber shall, ex officio or at the request of the parties, may decide to initiate trial proceedings to unify or change the case law. The initiation of the procedure for changing the case law may also be decided by the President of the High Court.
2. The interim decision of the Criminal Chamber or the Chairperson of the High Court to pass the case over to a court session determines the issues raised for unification or the unified court practice that should be changed. The decision is published, immediately after the reasoning, on the website of the High Court.
3. The trial for the unification of case law is conducted by the Criminal Chamber with a judicial panel of 5 judges, wherein participate the judicial panel that is examining the recourse and two other judges of the panel, appointed by lot.
4. The decision to change the unified case law is made by the Joint Chambers of the High Court. The President of the High Court, as the President of the United Chambers, sets the date and time of the adjudication of the case for changing the case law. The Joint Chambers shall adjudicate according to the rules laid down for the chamber when not less than two-thirds of all members of the High Court participate.
5. The date and time of the hearing shall be notified to the parties by the court secretary in accordance with the general rules of notification, at least 15 days before the date of the hearing.
6. The Criminal Chamber or Joint Chambers shall, ex officio or at the request of the parties, may decide to amend the issues raised for unification or changing the case law. This interim decision shall be published on the website of the High Court.
7. Due to the interest raised from the unification or amendment of the case law in these adjudications, the High Court may, accordingly, request the opinion in writing from the State Advocature, as well as from public or private legal people, who are deemed to have special knowledge on the legal cases

presented for the unification or the amendment of the case law. The High Court shall, in its request for providing an opinion in writing, determine a time limit within which the opinion may be provided, which in any case shall not be less than 14 days. The opinions in writing are not mandatory and shall be published on the electronic webpage of the High Court.

8. The decision of the Criminal Chamber and the Joint Chambers is binding on the courts in adjudicating similar cases.

**Article 438/a Preliminary
proceedings**

(Added by Law no. 41/2021, date 23.3.2021, article 35)

1. If the Criminal Chamber or the Joint Chambers of the High Court, during the examination of the case, in the counselling chamber or in the court session, decide to address the European Court of Human Rights or other international courts, according to the obligations deriving from international agreements ratified by the Republic of Albania, decide to suspend the examination of the case.

2. The suspension decision lasts until the decision of the international court. The decision of the international court shall be notified to the parties together with the date of the hearing

SECTION III
DECISION

**Article 439
Taking the decision**

1. The decision is issued immediately after the termination of the hearing, except for cases when the chairperson of the Chamber deems it necessary to postpone the rendering of the decision as long as necessary, due to the complex nature or the importance of the case.

2. The decision is signed by all members of the Chamber and is announced in the hearing being read by the presiding judge or one of the judges.

**Article 440
Mandatory application of the requirements of the decision**

1. The requirements and the conclusions of the High Court are binding to the court, re-examining the case.

Article 441
High Court decisions

(Amended by Law No. 35/2017 of 30.03.2017, article 254)
(Amended by Law no. 41/2021, date 23.3.2021, article 36)

1. After the examination of the case, the Criminal Chamber or Joint Chambers of the High Court decide:

a) non-admission of the recourse, in the instances where it has been lodged for other reasons as those provided for in Article 432 of this Code;

b) quashing the decision of the appeal court and upholding the decision of the first instance court;

c) quashing the decision of the Appeal Court and remitting the case for re-trial to this court by another adjudication panel;

ç) quashing the decisions of the court of appeal and the court of first instance and remitting the case for retrial to the first instance, when the provisions related to the conditions to be a judge in the concrete case have not been respected, with the number of judges being necessary for the formation of the chambers determined in this Code, with the assumption of criminal prosecution by the prosecutor and his participation in the proceedings, with the participation of the defendant, his defense counsel, or the representative of the accusing victim, in violation of the provisions for filing new charges, as well as in any case when special provisions provide for the invalidity of the decision;

d) quashing the decision of the court of first instance and the court of appeal and terminating the adjudication of the case without returning it for reconsideration;

dh) amending the decisions of the court of appeal and the court of first instance, and resolving the case in a final form, when the application of the procedural or material law is not dictated by the need to re-evaluate the facts or evidence of the case;

e) upholding the decision of the Appeal Court;

2. In cases where the Criminal Chamber or the Joint Chambers of the High Court decide on the unification or changing the case law, the court formulates in its decision the rule of law for each issue raised for settlement in the interim decision taken during the adjudication of the case. In this case, the decision is published in the Official Journal.

Article 442

Quashing the decision and resolving the case without returning for re-examination

(Amended by Law No. 35/2017 of 30.03.2017, article 255)

1. The High Court decides to quash the decision and to resolve the case without sending it back for re-examination if:
 - a) the fact does not constitute a criminal offence, the criminal offence is extinct or the criminal proceedings should not have been initiated and continued;
 - b) Repealed;
 - c) Repealed;
 - ç) the decision appealed against and another previous decision connected with the same person and with the same criminal offence, issued by the same or another criminal court, contradict each other;
2. In the case foreseen by letter "a" the Court decides to dismiss the case, whereas in the case foreseen by letter "ç" it decides that the decision imposing a less severe punishment shall be enforced.

Article 443

Quashing the decision and returning the documents for re-examination

1. Except for the cases provided for by article 442, the High Court, when quashing a decision, shall send the acts to the court that has issued the decision quashed.
2. If not all parts of the decision are quashed, the High Court shall declare in the dispositive of its decision which parts are quashed.

Article 444

Quashing the decision only in respect to civil effects

1. If the High Court quashes only the holdings or the parts related to the civil lawsuit, or if it sustained the recourse of the civil plaintiff against the decision to acquit the defendant, the High Court sends the relevant acts to the competent civil court.

Article 445

Correction of errors

1. Legal errors in the reasoning of the decision or wrong reference to the law shall not result in the quashing of the appealed decision unless they had decisive influence on its dispositive. However, the Court shall specify in its decision the errors and the corrections.

Article 446

Effects of the decision on precautionary measures

1. If the continuation of detention or of a supplementary punishment or a precautionary measure must cease, on the basis of a decision by the High Court, the secretary shall immediately notify the dispositive to the prosecutor near the relevant court.

Article 447

Retrial after quashing

1. During the retrial, a debate on the competence recognized by the quashing decision shall not be permitted.
2. The retrying court shall respect the decision of the High Court for any issue of law it has decided upon.
3. The invalidities having occurred in previous trials or during preliminary investigations may not be presented in the retrial.
4. The quashing of the decision also applies to the defendant who has not filed an appeal, except if the reason of quashing is personal.

Article 448

Appeal against the decision after retrial

1. The decision of the retrying court is subject to appeal to the High Court, if it is issued by the court of appeal, and subject to appeal to the Court of Appeal, if it is issued by the first instance court.
2. The decision of the retrying court may be appealed only for grounds not connected to the issues already decided by the High Court or due to non-observance of article 447, paragraph 2.

Article 448/1

Announcing and filing the decision

(Amended by Law No. 35/2017 of 30.03.2017, article 256)

1. The presiding judge or member of the panel announces the decision in the hearing by reading the dispositive.
2. After the dispositive, the presiding judge reads the reasoned decision. The reasoning of the decision may be issued in writing and in a summary form, indicating the main grounds on which the decision is based.
3. The decision shall be filed immediately with the secretary after its announcement. The assigned employee shall sign and note down the date of the filing.

4. When the decision is announced in a summary form, it shall be reasoned within 60 days from its announcement. This time limit may be extended for another period of 30 days if the case is tried by the Joint Chambers.

5. The time limit set for reasoning the decision in writing, pursuant to paragraph 4 of this article, may be extended in exceptional cases due to justified grounds. In this case, the chairperson of the Court is notified.

CHAPTER IV REVISION

Article 449

Decisions subject to review

(Amended by Law No. 35/2017 of 30.03.2017, article 257)

1. The revision of final judgments is allowed at any time in the cases and under the conditions provided for by this Code, even if the sanction has been executed or is extinguished.
2. The revision of the final judgment of acquittal or conviction is not allowed when it aims at aggravating the position of the convicted person.

Article 450

Revision cases

(Amended by Law No. 35/2017 of 30.03.2017, article 258)

1. The revision may be requested:
 - a) if the facts stated in the merits of the decision are not compatible with those of another final judgment;
 - b) if the decision is based on a civil or administrative court decision, which has been revoked subsequently;
 - c) if, after the decision, new evidence appeared or has been discovered which solely or along with the ones already evaluated prove that the decision is wrong;
 - ç) if it is proven that the decision was issued as a result of the falsification of the acts of the trial or of another fact provided by law as a criminal offence.
 - d) if the ground for the revision of the final decision results from a European Court of Human Rights judgment making the re- adjudication of the case indispensable. The request shall be filed within 6 months from the notification of that decision;
 - dh) if the extradition of a person tried in absentia is granted on the explicit condition that the case be re-tried. The request for re-trial may be submitted within 30 days from the date of extradition of the person. The request

submitted within that time limit may not be refused.

e) if the person is tried in absentia pursuant to article 352 of this Code and requests the case to be re-tried. The request shall be filed within thirty days from the date he is informed. The request submitted within that time limit may not be refused.

Article 451

Request for revision

(Amended by Law No. 35/2017 of 30.03.2017, article 259)

1. The following persons may request the revision:
 - a) the convicted person, the defence lawyer specifically authorised by him or his legal guardian, and, if the convicted person has died, his heir or relative;
 - b) the prosecutor attached to the court having issued the decision.

Article 452

Form of the request

(Amended by Law No. 35/2017 of 30.03.2017, article 260)

1. The request for revision shall be filed personally or through the representative. It shall contain the evidence legitimating it and shall be submitted, eventually along with documents, to the secretary of the first instance court having issued the decision.
2. In the cases provided for by article 450, paragraph 1, letters "a", "b" "ç", "d" and "dh", the request shall be accompanied by certified copies of the acts referred to.
3. In case of the death of the person tried after submission of the request for revision, the court appoints a legal guardian, who exercises the rights that in the revision procedure would have pertained to the tried person.

Article 453

Examination of the request

(Amended by Law No. 35/2017 of 30.03.2017, article 261)

1. The request of revision is examined by the first instance court having issued the decision.
2. If the request is submitted based on grounds other than those provided for by article 450, or if it is submitted by those who are not entitled, or if it is manifestly not grounded, the Court decides to reject it.
3. If the request is admitted, the Court decides to send the case to another panel of the same court for re-trial. This decision is not subject to appeal.
4. Until a decision is issued by the revising court, according to article 456 of this

Code, the convicted person shall keep the same procedural status.

Article 454

Suspension of the Execution

(Amended by Law No. 35/2017 of 30.03.2017, article 262)

1. The court receiving the request may decide to suspend the enforcement of the conviction.
2. Against such decision, the parties may file an appeal to the Court of Appeals, whose decision is subject to appeal.
3. Upon request of the civil defendant, the court in charge of the re-trial of the case may order the suspension of execution of civil obligations for the duration of the trial.

Article 455

Revision trial

1. The retrying court shall set the date of the judicial hearing and order the summoning of the parties.
2. The provisions of the first instance trial shall apply within the limits of the grounds presented in the request for review.

Article 456

Decision

1. The decision shall be issued pursuant to the provisions regulating the rendering of decisions by the first instance court.
2. If the request for revision is accepted, the court shall quash the decision.

The decision may not be issued by only making a different evaluation of the evidence taken in the previous trial.

3. If the request is refused, the court charges the expenses to the person having submitted it, and if the suspension is ordered, the court shall decide on the reinstatement of the execution of the decision or of the precautionary measure.
4. Upon request of the interested person, the acquitting decision shall be posted in a summary form in the district where the decision has been issued and in the last residence of the convicted person. The chairperson of the court may order that such decision is announced in a newspaper.

Article 457

Rulings in case of acceptance of the request

1. When rendering an acquitting decision, the court orders the return of the

amounts paid for the execution of the fine, for the expenses of the court proceedings, the cancellation of property precautionary measures, as well as the compensation for damages in favour of the civil plaintiff who has participated in the revision trial. It shall also order the restitution of the confiscated items, unless their production, use, transportation and detention constitutes a criminal offence.

Article 458

Appeal against the decision

1. The decision issued in the revision trial is subject to appeal.

Article 459

Compensation for unlawful conviction

1. The person acquitted during the revision, who has not contributed intentionally or by gross negligence to cause the judicial error, is entitled to 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 living means.
3. The request for compensation shall be filed, under penalty of inadmissibility, within two years from the day the decision of revision has become final and is submitted to the secretary of the court that issued the decision.
4. The request shall be communicated to the prosecutor and all interested persons.
5. The decision of compensation is subject to appeal.

Article 460

Compensation in case of death

1. If the convicted person dies, even before the revision trial, his heirs have the right to compensation. Unworthy heirs shall not have this right.

Article 461

Consequences of inadmissibility and rejection of the request for revision

1. The decision of inadmissibility or rejection of the request for revision does not prejudice the right to submit a new request based on other evidence.

TITLE IX

EXECUTION OF DECISIONS

CHAPTER I
EXECUTION OF DECISIONS

Article 462
Enforceable decisions

(Amended by Law No. 35/2017 of 30.03.2017, article 263)

1. The sentence of the court is brought for enforcement immediately after becoming final.
2. The decision of acquittal, exclusion of the tried person from punishment and the one for the dismissal of the case are brought for enforcement immediately after their announcement.
3. The following are final decisions:
 - a) the first instance court decision when it is not appealed by the parties within the legal time limit, when it is non-appealable or when the appeal is not admitted for the reasons provided for in article 420 of this Code. In cases with co-defendants, the decision shall become final for the defendant who has not filed an appeal, notwithstanding the appeal of other co-defendants, provided that the prosecutor has not filed an appeal. When the prosecutor has not filed an appeal and the case is examined on the basis of the appeal of other co-defendants, the decision shall become final for the defendant who has not filed an appeal in a trial with co-defendants, notwithstanding the appeal filed with by the other co-defendants;
 - b) the decision of the appeal court, when it finally settles the case, pursuant to letters "a", "b" and "c" of paragraph 1, of article 428 of this Code;
 - c) the decision of the High Court in the cases of extradition and transfer of the sentenced persons.
4. The way of execution of the criminal decisions is regulated by special law.

Article 462/a
Execution of decisions against minors

(Amended by Law No. 35/2017 of 30.03.2017, article 264)

1. The prosecutor and the juvenile section of courts in judicial district courts are competent to take measures and review requests related to the execution of decisions issued towards minors.
2. The manner of execution of measures and any decision issued towards minors shall be governed by special law.

Article 463

Actions of the prosecutor

1. The prosecutor at the first instance court which has issued the decision takes measures for the execution of the decision. He makes requests to the competent court and intervenes in all actions concerning execution.
2. The decisions of the prosecutor are notified, within thirty days, to the defence lawyer elected by the interested person or, when there is no such, to the one appointed by the prosecutor.
3. When necessary, the prosecutor may request that the execution of special actions be carried out by a prosecutor of another district.
4. When the execution starts, the prosecutor notifies in writing the court, which has issued the decision.

Article 464

Execution of imprisonment sentences

1. In order to execute an imprisonment decision, the prosecutor issues an order of execution.
2. The order of execution contains the personal data of the convicted person, the dispositive of the decision and the necessary rulings on execution.
3. When the convicted person is under precautionary detention in prison, the order is sent to the State authority that administers the prisons and is notified to the interested person, whereas when the convicted person is not under precautionary detention in prison, his/her imprisonment shall be ordered.
4. It is proceeded in the same way in cases of the enforcement of decisions of compulsory hospitalisation in medical or educational institutions.

Article 465

Calculation of the precautionary detention in prison and of sentence served

1. When imposing the length of imprisonment, the prosecutor shall calculate the period of precautionary detention in prison already 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 calculation shall comprise only the period of precautionary detention in prison 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 calculation the prosecutor issues the order which is notified to the convicted person and his defence lawyer.

Article 466**Execution of the precautionary measures issued by the court**

1. The precautionary measures ordered by the court are executed by the prosecutor in the court that has issued the decision.

Article 467**Execution of a fine decision**

1. Decisions containing a fine penalty are executed by the bailiff's office.
2. When it is proven the impossibility to execute a fine penalty, in whole or in part, the prosecutor files a request to the court that has issued the decision to make the conversion. Upon request of the convicted person, the court may postpone the conversion up to six months. Such period is not calculated in the prescription time limits.
3. The decision of conversion is subject to appeal, which suspends its execution.

Article 468**Execution of supplementary punishments**

1. For the execution of the supplementary punishment, the prosecutor sends the extract of the conviction decision to the judicial police authorities and to other interested authorities.

Article 469**Execution of several decisions**

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 joinder of sentences.
2. The request of the prosecutor is notified to the sentenced and his defence lawyer.

CHAPTER II**HEARINGS BY THE COURT OF CASES RELATED TO THE EXECUTION OF DECISIONS****Article 470****Competent court for execution**

(Amended by Law No. 35/2017 of 30.03.2017, article 265)

1. The court of the place of execution shall be the competent court to examine the requests and allegations related to its execution.
2. Repealed

Article 471

Court procedure

(Amended by Law No. 35/2017 of 30.03.2017, article 266)

1. The court proceeds with the request of the prosecutor, the interested person or defence lawyer.
2. When the request is evidently groundless or the repetition of a rejected request, based on the same grounds, the court, after hearing the prosecutor, declares it non-admissible 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 establishes the date of the hearing and notifies the parties and defence lawyers at least ten days before the hearing.
4. The hearing is held in the necessary presence of the prosecutor and of the lawyer. The interested party can be heard personally or through letters of rogatory.
5. If the requesting party fails to appear at the hearing without a reasonable cause, despite having been duly notified of the date and time, withdraws the request, or changes its object, the Court shall declare it non-admissible.
6. 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 that has issued it decides otherwise.

Article 472

Doubt on the physical identity of the imprisoned person

1. In case of uncertainty on the identity of the person arrested in order to enforce the sentence, the court questions 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

Mistaken 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 summoned as a defendant also with another name to appear in trial. To the contrary, it is decided the review of the case pursuant to the article 450, paragraph 1, letter "c". In any case, the execution against the person who is convicted by mistake is suspended.

Article 474

Several decisions on the same fact

1. In case several decisions are issued 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-enforceable. 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 conviction decision, the court orders the execution of the decision of acquittal, revoking the conviction decision, whereas in case of a decision of non-initiation issued by the prosecutor and of a decision issued [by the court] in trial, the court orders the execution of the decision issued in trial.

Article 475

Joinder of sentences

1. In case of more decisions, taken in various proceedings against the same person, the convicted person or the prosecutor may request from the court to follow the rules of joinder of sentences.

Article 476

Postponing the execution of decision

(Amended by Law No. 35/2017 of 30.03.2017, article 267)

1. The court which has issued the conviction decision, upon request of the convicted person, the defence lawyer or of the prosecutor, may decide the postponement of the execution of the decision in the following cases:

a) when the convicted person suffers an illness, which constitutes an obstacle for the execution of the decision. The execution shall be postponed until the convicted person is recovered;

- b) when the convicted person is pregnant or she has a baby under one year old. The execution shall be postponed until the child reaches the age of one year;
- c) when the immediate serving of the punishment may bring serious consequences to the convicted person or his family. The postponement of the execution in these cases may not exceed six months;
- ç) in any other case evaluated by the court as particular, in which case the execution is postponed 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 court shall reason the decision within 5 days. The decision may be appealed within 5 days. The court of appeal shall decide on the appeal within 10 days from the date of receipt of acts.

Article 477 **Conditional release**

1. The court of the place of the execution orders the conditional release and the revocation of the conditional release, pursuant to the criteria provided by the Criminal Code.

2. The request may not be repeated before six months have passed from the day the decision rejecting the request has become final.

Article 478 **Release of prisoner**

(Repealed by Law No. 35/2017 of 30.03.2017, article 268)

Article 479 **Revocation of the decision because of abrogation of the criminal offence**

(Amended by Law No. 35/2017 of 30.03.2017, article 269)

1. In case of abrogation or declaration of unconstitutionality of the criminal provision, the court revokes the conviction decision, declaring that the fact is not provided as a criminal offence. It is proceeded in the same way, when a non-initiation or acquittal decision has been issued by reason of the extinction of the criminal offence.

2. The request shall be immediately examined and in any case not later than 24 hours from the moment of filing of the request by the court where it is submitted, even if the latter has no territorial jurisdiction.

Article 480
Other powers

1. In the execution phase, the court is competent to decide on the extinction of the criminal offence after conviction, on the extinction of the punishment, on supplementary punishments, on the confiscation or on the restitution of sequestered items, as well as on any case provided by law.
2. In case is ascertained the extinction of the criminal offence or of the punishment, the court declares it, also ex officio, by taking the relevant measures.

CHAPTER III
CRIMINAL RECORDS

Article 481
Criminal records office

(Amended by Law No. 35/2017 of 30.03.2017, article 270)

1. In the criminal records office, at the Ministry of Justice, there are deposited the extracts of the decisions for persons tried for criminal matters.
2. The court of first instance shall send to the office of the judicial register an extract of the punishment decision within 10 days from the date of the decision becomes final, when it is not appealed, and within 10 days from the date of receipt of acts, when the decision is appealed.

Article 482
Entries in the criminal record book

1. In the criminal record there are registered by extracts:
 - a) the conviction decisions, once they become final;
 - b) the decisions issued by the court in the execution phase;
 - c) the decisions related to the execution of supplementary sentences;
 - ç) decisions of acquittal and dismissal of the case.

Article 483
Cancellation of records

(Amended by Law No. 35/2017 of 30.03.2017, article 271)

1. The records in the register are cancelled after the reception of the official notification of the death of the person to whom the records refer or when he reaches the age of eighty.
2. The records shall also be cancelled when they are related to:

- a) decisions revoked due to revision 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 misdemeanours when a fine penalty has been issued, on expiry of ten years from the day when the decision has been executed.
- ç) measures and punishment decisions on misdemeanours committed by minors, when they reach 21 years of age.

Article 484

Criminal record certificates

1. Justice and State administration bodies and entities in charge with public services are entitled to take a certificate of the records of a certain person, when the certificate is necessary for the execution of their functions.
2. The prosecutor may request the above certificate for the defendant or the convicted person and, by authorisation of the court, he and the defence lawyer may also request certificate for the victim 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 Expenses

suffered 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 expenses during all stages of the proceedings for examinations, experiments, expertise, notifications, for the defence lawyers appointed ex officio and any other expenses duly recorded.
3. In the final decision the court defines the obligation to pay the expenses paid in advance by the State.

Article 486

Payment of the procedural expenses

1. The obligation to pay procedural expenses are executed by the bailiff's office.

2. In case of insolvency, the bailiff's office informs the financial police, which obtains data on the real financial situation of the obligated person and on any changes of it.

Article 487

Settlement of complaints on expenses

1. Complaints related to procedural expenses are subject to decisions of the court which has issued the decision, which acts pursuant to the rules provided for by article 471.

CHAPTER I EXTRADITION

SECTION I EXTRADITION ABROAD

Article 488

Meaning of extradition

1. The transfer of a person to a foreign country to execute an imprisonment decision or the delivery of an act, which proves his proceedings for a criminal offence, can be made only by means of extradition.

Article 489

Request for extradition

1. The extradition is permitted only upon request submitted to the Ministry of Justice.

2. The request for extradition are attached:

a) the copy of the imprisonment conviction decision or of the proceedings' acts;

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 any other possible information which is useful to define the identity and the citizenship of the person subject to extradition.

3. When more requests for extradition concur, the Minister of Justice sets the order of review. He takes into consideration all 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.

4. In case for a sole offence the extradition is requested simultaneously by several countries he/she shall be transferred to the country subject to the criminal offence or to the country within which territory has been committed the criminal offence.

Article 490

Conditions on extradition

(Added the words by law No. 99, dated 31.7.2014)

1. The extradition is allowed under the express condition that the extradited person shall not be prosecuted, shall be not convicted nor he/ she shall be transferred to another country for a criminal offence which has occurred before the request for extradition and which is different from the one for which extradition is granted.

2. The requirements of paragraph 1 shall be not considered:

a) when the extraditing party gives express consent that the extradited is prosecuted even for another criminal offence and the extradited does not oppose;

b) when the extradited, although he/she was able, has not left the territory of the country to which he/she has been transferred, after forty-five days from his release or when after leaving it, he/she has returned voluntarily.

3. The Ministry of Justice may impose even other conditions which it considers as appropriate, without exceeding the provisions of the international acts to which Albania is part of and the reservations and legal declarations.

Article 491

Non-admissibility of the request for extradition

(Amended by Law No. 35/2017 of 30.03.2017, article 272)

(Amended by Law no. 41/2021, date 23.3.2021, article 37)

Extradition may not be granted:

a) for an offence of political nature or when it results that it is requested for political reasons;

b) when there are grounds to think that the requested person shall be subject 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) repealed
- ç) when the proceeding is initiated or tried in Albania, although the offence is committed abroad;
- d) when the criminal offence is not foreseen as such by the Albanian legislation;
- dh) the Albanian State has issued an amnesty for this criminal offence;
- e) when the requested person is Albanian citizen and there is no agreement providing otherwise;
- ë) when criminal prosecution or the punishment is prescribed under the law of the requested state.
- f) when the requested person is tried in absentia, except in case the requesting State provides safeguards for the revision of the decision.

Article 492

Actions of the prosecutor

(Amended by Law No. 35/2017 of 30.03.2017, article 273)

1. Unless the Ministry of Justice refuses a request for extradition sent by a foreign State, it shall, within 10 days, forward the acts to the prosecutor attached to the competent court, through the Prosecutor General.
2. 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 sequestered items. The secretary office shall take care of the notification of the person subject to extradition, his defence lawyer and the possible 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 sequestered items and to present memoranda.

Article 493

Coercive measures and sequestrations

(Amended by Law No. 35/2017 of 30.03.2017, article 274)

1. Upon request of the Ministry of Justice, presented through the prosecutor,

coercive measures and sequestration of the material evidence and of the items related to the criminal offence for which extradition is requested, may be imposed against the person subject to extradition.

2. The imposing of the coercive measures shall be regulated by the provisions of the title V of this Code, *mutatis mutandis*, keeping in consideration the requirements to guarantee that the person for whom extradition has been requested shall not escape from transferring.
3. The coercive measures and the sequestration 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 period can be prolonged, but not longer than one month, when necessary to make particularly complex verifications. If an appeal is filed with the Court of Appeal or the High Court, the coercive measure shall be revoked if trial has not been finalized within 3 months from the receipt of acts respectively for each court.
5. The competent court to render a decision pursuant to the above paragraphs, is the district court or, during the proceedings before the court of appeal, the latter one.
6. The court examining the request for imposition of a coercive measure shall also examine the request for extradition. In any case, upon request of the Ministry of Justice, the court shall revoke the precautionary measure it has imposed.

Article 494

Temporary execution of coercive measures

(Amended by Law No. 35/2017 of 30.03.2017, article 275)

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 detailed information on the criminal offence and sufficient elements for the identification of the person;
 - c) there exists a risk for him to escape.
3. The competency to impose the measure shall belong, respectively, to the district court in whose territory the person has the domicile, residence or the

house or the court of the district where he is. In case the competence cannot be determined in the manners defined above, competent shall be the court of the judicial district of Tirana.

4. The court may also order the sequestration of the material evidence and of the items pertaining to the criminal offence.

5. The Ministry of Justice gives notice to the foreign country of the temporary execution of the coercive measure and of the possible sequestration.

6. The coercive measures are revoked if, within eighteen days after the arrest and anyhow in a maximum of forty days after the arrest, the request for extradition and the documents enclosed do not arrive to the Ministry of Justice.

Article 495

Arrest by the judicial police

(Amended by Law No. 35/2017 of 30.03.2017, article 276)

1. When an international arrest warrant is issued, the judicial police shall carry out the temporary arrest of the person.

2. The authority which has carried out the arrest 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 forty-eight hours from the submission of the request, shall validate it and impose a coercive precautionary measure, if the relevant requirements are met, or shall order the release of the arrested person. When the arrested person is an Albanian citizen and there is no bilateral agreement on extradition of citizens with the State where the arrest warrant was issued, the court shall order his immediate release. The decision issued by the court shall be notified to the Minister of Justice.

4. The arrest shall be revoked in case the Ministry of Justice does not request, within ten days from the approval, its continuance.

5. The copy of the decision issued by the court regarding the coercive measures and sequestrations, pursuant to these articles, shall be notified to the prosecutor, interested person and his defence lawyers, who may file an appeal to the court of appeal.

Article 496

Hearing of the person under coercive measure

(Amended by Law No. 35/2017 of 30.03.2017, article 277)

1. In case a precautionary measure is imposed, the court, as soon as possible and, anyway, not later than three days from the execution of the measure, shall make sure of the identity of the person and takes its possible

consent to extradition, reflecting this in the minutes.

2. The court informs the interested person on the right to a defence lawyer and, in absence of the latter, appoints him a defence lawyer *ex officio*. The defence lawyer must be notified, at least twenty-four hours before for the abovementioned actions and has the right to participate to them.

Article 497

Hearing the extradition request

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

Court decision

(Amended by Law No. 35/2017 of 30.03.2017, article 278)

1. The court renders a decision in favour of the extradition when there are serious indications of guilt, or when there is a final conviction decision. In such case, when there is a request of the Minister of Justice, presented through the prosecutor, the court orders the precautionary detention in prison for the person who should be extradited and who is in free state, as well as the sequestration of the real evidence and items which belong to the criminal offence.

2. The court renders the decision rejecting the extradition in cases provided for the non- acceptance 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 any subsequent decision in the favour of the extradition due to a new request submitted for the same facts by the same State, except when the request is based on elements that have not been 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 within 10 days.

Article 499 **Rulings on extradition**

(Amended by Law No. 35/2017 of 30.03.2017, article 279)

1. The Ministry of Justice decides on the extradition within thirty days from the date the decision of the court has become final. After the expiration of this time period, even in case the decision is not issued by the Minister, the person for whom extradition is requested shall be released, if the requested person is subject to a coercive measure.
2. The person shall be released even in case the request for extradition is rejected.
3. The Ministry of Justice communicates the decision to the requesting State and, when this is favourable, the venue of person's handing over, and the date by which it is expected to start. The time period of the person's handing over is fifteen days from the fixed date and, upon motivated request of the requesting State, it may be also extended to fifteen other days. For reasons that do not depend on the parties it can be set another day for handing over, but always within the time limits established by this paragraph.
4. The extradition decision shall lose its effects and the extradited shall be released in case the requesting State does not proceed with the taking over of the extradited person, within the set time limit.

Article 500 **Suspension of handing over**

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 Ministry of Justice, after listening the competent proceeding authority of the Albanian State or the one of the execution of sentence, might order the temporary handing over in the requesting State of the person subject to extradition, defining the time periods and the way how to operate.
2. The Ministry may agree that the rest of the punishment is served in the requesting State.

Article 501 **Extending extradition and re-extradition**

1. In case of new request for extradition, submitted after the handing over of the extradited person for a criminal offence occurred before the handing over, different from the one for which extradition was granted, the provisions of this chapter shall apply, to the extent applicable. Statements of the extradited, made before the judge of the requesting State for the extension of the extradition shall be attached to the request.

2. The court proceeds in absentia of the extradited.
3. There shall not be any trial in case the extradited has accepted the extension of the extradition, by the statements provided for in paragraph 1.
4. The above provisions shall also apply in case the State, to whom the person has been handed over, requests the consent for re-extradition of the same person in another State.

Article 502 **Transiting**

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 Ministry of Justice, if the transfer does not impair the sovereignty, the security or other State interests.
2. The transit is not authorized:
 - a) when the extradition is granted for facts which are not provided as criminal offences by the Albanian law;
 - b) in the cases provided for by article 491, paragraph 1;
 - c) when it is about an Albanian citizen, for whom the extradition in the State requesting the transit, would not be given.
3. The authorization is not required in case the transit is made by air ways and no landing in the Albanian territory is foreseen. But, when a landing occurs, the provisions regulating the precautionary measure shall apply, to the extent compatible.

Article 503 **The costs of extradition**

1. The expenses done in the Albanian territory are covered by the Albanian party, when there is no other agreement.

SECTION II EXTRADITION FROM ABROAD

Article 504 **Request for extradition**

(Amended by Law No. 35/2017 of 30.03.2017, article 280)

1. The Ministry of Justice is competent to request to a foreign State the extradition of a person under proceedings or convicted, against whom a measure restricting the individual freedom must be executed. To this purpose,

the prosecutor at the court in whose territory the proceedings take place or the conviction decision is issued, makes a request to the Ministry of Justice, sending the necessary acts and documents. When the Ministry does not accept the request, it notifies the authority which has made it.

2. The Ministry of Justice is competent to decide on the conditions possibly imposed by the foreign country to grant the extradition, when they are not contrary to the main principles of the Albanian juridical order. The proceeding authority is obliged to respect the accepted conditions.

3. The Ministry of Justice may decide, for the purpose of extradition, the searching abroad for the proceeded or sentenced person and his temporary arrest.

4. Precautionary detention in prison served abroad, as a consequence of a request for extradition submitted by the Albanian State, shall be calculated as part of the imposed sentence, pursuant to the rules provided in Article 57 of the Criminal Code.

CHAPTER II INTERNATIONAL ROGATORY LETTERS

SECTION I ROGATORY LETTERS FROM ABROAD

Article 505 **Competencies of the Ministry of Justice**

1. The Ministry of Justice decides to proceed with the rogatory letter of a foreign authority concerning communications, notifications and the obtaining of evidence, except when it deems that the requested actions impair the sovereignty, the security and important interests of the State.

2. The Ministry does not proceed with the rogatory letter when it appears clearly that the requested actions are expressly prohibited by law or when they are contrary to the fundamental principles of the Albanian judicial order. The Ministry does not proceed with the rogatory letter when there are founded reasons to believe that the considerations regarding race, religion, sex, nationality, language, political beliefs or the social state may cause a negative influence on the performance of the process.

3. In cases when the rogatory letter has as object the summons of a witness, an expert or a defendant before a foreign judicial authority, the Ministry of Justice shall not proceed with the rogatory letter when the requesting State does not give sufficient guarantees for the inviolability of the summoned person.

4. The Ministry has the right not to proceed with the rogatory letter in case the requesting State does not give due guarantee for reciprocity.

Article 506
Judicial proceedings

(Amended by law No. 99, dated 31.7.2014)

1. The foreign rogatory letter cannot be executed before a favourable decision has been issued by the court of the place where the person must be subject to proceedings.
2. The district prosecutor, after obtaining the acts from the Ministry of Justice, submits a request to the court, within five days of the submission of acts by the Ministry of Justice.
3. The court rules on the execution of the rogatory letter by decision, within 10 days from the submission of the request.
4. The execution of the rogatory letter shall not be accepted:
 - a) in the cases when the Ministry of Justice does not proceed with the rogatory letter, pursuant to the provisions of international acts in which the Republic of Albania is a party and relevant reservations and legal declarations [made by it].
 - b) when the fact for which the foreign authority proceeds is not provided as a criminal offence by the Albanian law.

Article 507
Execution of rogatory letters

(Amended by Law No. 35/2017 of 30.03.2017, article 281)

1. The court accepting the request for the execution of a rogatory letter, shall perform the requested action or authorise to this purpose the prosecutor, in cases allowed by the law.
2. For the performance of the requested actions the provisions of this Code shall apply, except in the cases when special rules requested by the foreign judicial authority must be observed, and which are not contrary to the principles of the Albanian judicial order.

Article 508
Summoning of witnesses requested by a foreign authority

1. The summoning of the witnesses, who have their residence or domicile in Albania, to appear before the foreign judicial authority, are sent to the prosecutor of the relevant district, who takes measures for the notification, acting in the same way as for the notification of the defendant in free state.

SECTION II
ROGATORY LETTERS FOR ABROAD

Article 509

Delivery of rogatory letters to foreign authorities

1. The rogatory letters of courts and prosecution offices, addressed to foreign authorities for notifications and obtaining of evidence, shall be sent to the Ministry of Justice, which takes the measures to deliver them.
2. When ascertaining that the security or other important interests of the State might be at risk, the Ministry, within thirty days from the receipt of the rogatory letter, decides not to proceed.
3. The Ministry communicates to the proceeding authority that has presented the request, the date of its reception and delivery of the rogatory letter or the order not to proceed with the rogatory letter.
4. In cases of urgency, the proceeding authority may order the direct delivery of the rogatory letter, informing the Ministry of Justice.

Article 510

Inviolability of the person summoned

1. The person summoned on basis of the rogatory letter, when appearing, may not be subjected to restrictions of personal freedom due to facts occurred before the summons notification.
2. The inviolability provided for by paragraph 1 shall cease when the witness, the expert or the defendant, having had the possibility, has not left the territory of the Albanian State, after the expiration of fifteen days from the moment when his presence was no longer requested by the judicial authority or when, after having left, he/she has turned back voluntarily.

Article 511

Value of the documents obtained by means of rogatory letter

1. When the foreign country has imposed conditions for the use of the requested acts, the Albanian proceeding authority is obliged to respect them, provided they are not contrary to the prohibitions provided by law.

CHAPTER III
EXECUTION OF THE CRIMINAL DECISIONS

SECTION I
EXECUTION OF FOREIGN CRIMINAL DECISIONS

Article 512

Recognition of foreign criminal decisions

1. The Ministry of Justice, when receiving a criminal decision issued abroad for Albanian or foreign citizens or persons without citizenship, but residing in the Albania or for persons proceeded criminally in the Albania shall send to the prosecutor at the district court of the person's domicile or residence a copy of the decision and of the relevant documents, along with the translations in Albanian language.
2. The Ministry of Justice requests the recognition of a foreign criminal decision when it deems that pursuant to an international agreement, such decision must be executed or recognised for other effects in Albania.
3. The prosecutor shall submit a request to the district court for the recognition of the foreign decision. He may request the necessary information from foreign authorities, through the Ministry of Justice.

Article 513

Recognition of criminal decisions of foreign courts on civil liabilities

1. Upon request of the interested person, in the same proceedings and by the same decision, may be declared valid the civil rulings of the foreign decision in relation to the obligation to restitute the property or to compensate the damage.
2. In the other cases, the request is presented, by the one who has an interest, to the court where the civil rulings of the foreign decision would be executed.

Article 514

Conditions for recognition

1. The foreign court decision may not be recognized when:
 - a) the decision has not become final pursuant to the laws of the State in which it has been issued;
 - b) the decision contains rulings which are contrary to the principles of the Albanian judicial order;
 - c) the decision has not been issued by an independent and impartial court or the defendant has not been summoned to appear to trial or he /she has not been granted the right to be questioned in a language he understands and to be assisted by a defence lawyer;
 - ç) there are grounded reasons to believe that the proceedings have been influenced by considerations regarding race, religion, sex, language or political beliefs;
 - d) the fact for which is issued the decision is not provided as a criminal offence by the Albanian law;

dh) for the same fact and against the same person in the Albanian State a final decision has been issued or a criminal proceeding is ongoing.

Article 515

Coercive measures

(Amended by Law No. 35/2017 of 30.03.2017, article 282)

1. Upon request of the prosecutor, the court that is competent for the recognition of a foreign decision may impose a coercive measure to the convicted person who is in the Albanian territory. When imposing coercive measures, the provisions of title V of this Code shall apply, to the extent applicable.
2. The Court, within three days from the execution of the coercive measure, takes measures for the identification of the person and notifies him immediately about the right to have a defence lawyer.
3. The coercive measure imposed under this article shall be revoked when from the start of its execution three months have passed without a decision of recognition is issued by the district court or six months without such decision has become final. If an appeal is filed with the Court of Appeal or the High Court, the coercive measure shall be revoked if trial has not been finalized within 3 months from the receipt of acts respectively from each court.
4. Revocation and replacement of the coercive measure is decided by the district court.
5. Copy of the decision issued by the court is notified, after the execution, to the prosecutor, the person convicted by a foreign court and to his defence lawyer, who may file an appeal to the court of appeal.

Article 516

Determining the sanction

(Amended by Law No. 35/2017 of 30.03.2017, article 283)

1. When recognising a foreign decision, the court determines the punishment to be served in the Albanian state. It converts the punishment imposed in the foreign decision into one of the punishments provided for the same fact by the Albanian law. This punishment must correspond, by nature, to the one which has been established in the foreign decision. The length of the punishment may not exceed the maximum term provided for the same fact by the Albanian law.

2. When the foreign decision does not specify the length of the punishment, the court establishes it based on the criteria indicated in the Criminal Code. In no case the imposed punishment may be higher than the one imposed by the recognized criminal decision.

3. When the execution of the punishment rendered in a foreign State has been conditionally suspended, the court, with the decision of recognition, in addition to other issues, rules also on the conditional suspension of the punishment. The court does the same when the defendant has been conditionally released in the foreign country.

4. In order to establish a punishment by fine, the amount indicated in the foreign decision shall be converted in equal value into Albanian currency, applying the exchange rate of the day on which the recognition was decided.

5. The decision of recognition regarding the execution of a confiscation shall also order the execution of the confiscation.

Article 517 **Sequestration**

1. Upon request of the prosecutor, the competent court may impose the sequestration of the items that can be confiscated.

2. The decision is subject to appeal.

3. Provisions regulating the preventive sequestration shall apply, to the extent applicable.

Article 518 **Execution of the foreign decision**

1. After being recognised, the criminal decisions of foreign courts are enforced in conformity to Albanian law.

2. The prosecutor in the court that has made the recognition of a decision takes the measures for its execution.

3. The imprisonment sentence served in the foreign country is calculated for the effects of the execution.

4. The monetary proceeds of the execution of a fine decision are deposited into the bank of Albania. It may be deposited with the State where the decision was issued, upon its request, when that State, under the same circumstances would have decided the deposit in favour of the Albanian State.

5. The confiscated items shall be delivered to the Albanian state. They are delivered, upon its request, to the State where the decision subject to recognition is issued, when the latter, under the same circumstances would have decided the delivery in the Albanian State.

SECTION II EXECUTION ABROAD OF THE ALBANIAN CRIMINAL DECISIONS

Article 519 Requirements for executing abroad

1. In cases provided by international conventions or by article 501, paragraph 2, the Ministry of justice requests the execution abroad of the criminal decisions or gives the consent when it is requested by a foreign State.
2. The execution abroad of a criminal conviction decision with restriction of the personal freedom may be requested or permitted only if the convicted person has become informed of the consequences, has declared freely that he gives his 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 convicted person is in the territory of the State to whom the request has been addressed and the extradition has been rejected or anyway is not possible.

Article 520 Court decision

1. Before requesting the execution of a decision abroad the Ministry of Justice shall send the acts to the prosecutor, who shall submit a request to the court.
2. The consent of the convicted person should be given before the Albanian court. In case he is abroad the consent may be given before the Albanian consular authority or before the foreign court.

Article 521 Cases when execution of the sentence abroad is not allowed

1. The Minister of Justice cannot request the execution abroad of a criminal decision by restriction of personal freedom when there are grounds to believe that the convicted person shall be subject to persecution or discrimination acts by reason of race, religion, nationality, language or political opinions or inhuman, cruel or degrading punishment and treatment.

Article 522

Request for precautionary detention in prison abroad

1. When it is requested the enforcement of a decision restricting the personal freedom and the convicted person is abroad, the Ministry of Justice shall request his precautionary detention in prison.
2. With the request for the execution of a confiscation the Ministry of Justice has the right to request the sequestration of items which can be confiscated.

Article 523

Suspension of execution in the Albanian State

1. The execution of the sentence 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, pursuant to the foreign countries laws, it has been entirely served.

Article 524 Final Provisions

1. Criminal Procedure Code 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

(Added paragraph 2 by law No. 7977 date 26.07.1995)
(Paragraph 2 changed by law No. 8027 date 15.11.1995)

This Code shall enter into force on August 1, 1995.

For criminal cases which on the date of entry into force of this Code, are under investigation or at first instance court as well as at appeal court, the previous Criminal Procedure Code provisions shall be applied, but at any case not later than March 1, 1996.

Transitional Provision added by law No. 8813, dated 13.06.2002

Procedural provisions pertaining to serious crime courts will be applied after coming into force of the law that sets the operating date of their activity.

Transitional provision added by Law No. 21/2014

Criminal cases for which the adjudication has started or has been requested to start, before the date this law enters into force, shall continue to be adjudicated at the district court or court of appeal.

Transitional provision added by Law No. 35/2017

1. Until the establishment of the Court against Corruption and Organised Crime, the criminal cases under its substantive jurisdiction according to the article 75/a of the Code amended by this law, shall be tried respectively by the Court of Serious Crimes and judicial district courts.
2. After the establishment of the Court against Corruption and Organised Crime, the cases pending trial before the courts of general jurisdiction, as well cases over which re-adjudication may be decided, shall be completed by the latter.
3. Acts and evidence obtained until the entry into force of this law, shall be valid and usable even when the law provides for different regulations.
4. Until the establishment of the Special Prosecution Office, the cases under investigation for criminal offences or subjects under Article 75/a of the Code amended by this law, shall be investigated respectively by the Prosecution Office attached to the Court of First Instance for Serious Crimes and prosecution offices attached to the judicial district courts, according to the jurisdiction defined before the entry into force of this law.
5. After the establishment of the Special Prosecution Office, the cases being investigated by the prosecution offices attached to the First Instance Court of Serious Crimes shall be transferred according to the jurisdiction, to the Special Prosecution Office, pursuant to article 75/a of the Code amended by this law and to the prosecution offices attached to the judicial district courts. The same rule shall apply even to the cases being investigated by the prosecution offices attached to the judicial district courts which are transferred to the jurisdiction of the Special Prosecution Office.
6. Paragraphs 6, 7 and 8 of Article 57 of the Law No. 95/2016 “On organisation and functioning of institutions fighting corruption and organised crime”, shall be repealed.
7. The composition of the panel of judges shall be regulated by the provisions of this law irrespective of the different provisions in other laws.

Transitional provision

(Added by Law no. 147/2020, dated 17.12.2020)

1. Material evidence, for which the final decision of the proceeding body has not disposed according to paragraph 1, article 190 of the Criminal Procedure Code, before the entry into force of this law, shall pass in favour of the state administrative body and shall be administered according to the special legislation for the administration of sequestrated assets and material evidence.
2. Material evidence, according to paragraph 1 of this article, for which five

years have passed from the final decision, shall be destroyed, by order of the court, following the request of the proceeding body according to paragraph 6, article 215 of the Criminal Procedure Code, maintaining the relevant samples.

Transitory provision

(Added by Law no. 41/2021, date 23.3.2021, article 38)

1. The composition of the adjudication panels as well as the adjudication procedure in the High Court is regulated according to the provisions of this law, despite the different provisions in other laws.
2. The submitted, but still not examined recourses are considered admissible if they meet the provisions of the applicable law at the time of their filing.
3. Cases falling under the competence of the Special Prosecution Office and the Anti-Corruption and Organized Crime Courts in accordance with the provision of Article 75/a before the entry into force of this Law and that are registered before 1 June 2021 shall be investigated and adjudicated by the Special Prosecution Office and the Anti-Corruption and Organized Crime Courts, independently from the change of the subject matter competence according to article 7 of this law.

Promulgated by the decree No. 1059 dated 05.04.1995 of the President of the Republic of Albania, Sali Berisha.

LAW No. 37/2017

CODE OF CRIMINAL JUSTICE FOR CHILDREN

Based on article 81, paragraph 2 and 83 paragraph 1 of the Constitution,

THE PARLAMENT
THE REPUBLIC OF ALBANIA

DECEDED:
CHAPTER I GENERAL
PROVISIONS

Article 1
Object

1. The Code of Criminal Justice for Children (hereinafter referred to as the Code) contains special provisions on criminal liability of children; procedural rules relating to investigation, criminal prosecution, court proceedings, execution of criminal sentences, rehabilitation or other measures involving a child in conflict with the law, as well as a child victim and/or witness of the criminal offence.
2. This Code contains provisions applicable even to young adults from 18 to 21 years of age as foreseen in its individual articles.

The purpose of this Code is to:

Article 2
Purpose

1. Guarantee a legal framework on criminal justice for children which is in line with the Constitution, United Nations Organisation (UN) Convention on the Rights of the Child and other international standards and norms which aim at protecting children and the best interest of child effectively.
2. Promote reintegration of the child in conflict with the criminal law and the assuming by the child of a constructive role in society.
3. Ensure re-socialization and rehabilitation of the child who has committed the criminal offence.
4. Protect the rights of child victim and/or witness of the criminal offence.
5. Prevent re-victimization and secondary victimization of the child who has been earlier a victim of a criminal offence.
6. Prevent the re-commission of criminal offences by the child.
7. Protect public order principles in the process of administering of criminal justice for children.
8. Enhance accountability and professionalism of the competent bodies administering cases of criminal justice for children.
9. Ensure educational and prevention measures against children who commit criminal offences and ensure establishment of mechanisms to supervise their enforcement.

Article 3 Definitions

These terms in this Code shall have the following meaning:

1. "Alternatives to imprisonment" is any measure that does not amount to a deprivation/restriction of liberty, which the body competent for criminal justice system may impose against the child at any stage.
2. "Criminal justice for children" means proceedings related to criminal offences, including investigation, criminal prosecution, court proceedings, execution of sentences, any other measures involving a child in conflict with the law, victim or witness of a criminal offence;
3. "Child" is any person under 18 years of age.
4. "Child in conflict with the law" is any person who has reached the age of criminal responsibility up to 18 years of age, against whom there is a reasonable doubt to believe that the child has committed a criminal offence, has been summoned as a defendant and/or the child has been sentenced by a final court decision for the commission of a criminal offence.
5. "Child victim" is any person under 18 years of age who has suffered moral, physical or material damage due to a criminal offence.
6. "Child witness" is any person under 18 years of age who may have information about a criminal offence.
7. "Young adult" is any person from 18 to 21 years of age who is accused of the commission of a criminal offence, when he was a child.
8. "Relative" is the person who has close family, blood or marriage relationship with the child.
9. "Best interest of a child" means the right of the child to a healthy physical, mental, moral, spiritual, social development and the right to enjoy family and social life suitable to the child.
10. "Information" means any data which are appropriate to the age and maturity of the child and which is given to the child to exercise his rights fully, unless the provision of such information is contrary to the best interest of the child.
11. "Minimum age of criminal responsibility" is 14 years of age in case of commission of a felony and 16 years of age in case of commission of misdemeanours foreseen by the Criminal Code;
12. "Restorative justice measure" is any measure allowing the child in conflict with the law to understand the responsibility and redress the consequences of a criminal offence, compensate damage and/or reconcile with the victim/injured party and other persons affected by the criminal offence, in which the child who has committed the criminal offence and the injured party participate jointly and actively to redress the consequences of a criminal offence, usually with the assistance of an independent third party.
13. "Mediation" is the process of extra-judicial and dialogue-based settlement between a child who has committed the criminal offence and the victim led by the mediator and aiming at settling the dispute between them and the consequences emerging from the criminal offence as well as improving relations between them whether it is applied as a diversion measure.
14. "Unit for Protection of Rights of the Child" is the structure for the protection of the child at local level under the law in force on the rights and protection of the child.
15. "Competent body/participant in administering of criminal justice for children" is, when appropriate, any judge, prosecutor, judicial police officer, state police officer, defence counsel, psychologist, social worker, mediator, employee of the Unit for Protection of Rights of the Child and probation service, employee of rehabilitation institution for children and detention and prison employee, as well as any other structure/ official involved in this process who exercise the responsibilities and competences foreseen in this Code and who are trained and specialised in criminal cases involving children and young adults.

16. "Legal representative" is the parent, relative or child's guardian, who participate in criminal justice proceedings involving children to protect interests of the child.

17. "Procedural representative" is the person as per the meaning defined in the law in force on the rights and protection of the child who represents the child procedurally, according to the provisions of this Code.

18. "Trusted person" is the adult person indicated by the child and accepted by the competent body who accompanies the child throughout the stages of criminal prosecution.

19. "Rehabilitation Centre/Institution for children" is a structure or programme where children whether sentenced or not, are placed or involved, which is equipped with the appropriate infrastructure and staff to meet the special needs of the child and execute the court decision.

20. "Re-victimization" is inflicting harm on a child victim of a criminal offence due to a new criminal offence linked to the previous one.

21. "Re-socialization/rehabilitation" is encouraging and developing in children of a sense of responsibility and respect for the rights of others, the facilitation of physical, mental, spiritual, moral and social development of children and preparing them to reintegrate into society.

22. "Incentive" means several additional benefits in addition to those the child is entitled to on regular basis, because of good behaviour and implementation of the rehabilitation and reintegration program.

23. "Diversion" is the alternative measure for non-initiation, suspension or dismissal of criminal proceedings against the child in conflict with the law, according to the provisions of this Code;

24. "Secondary/repeated victimization" is the situation where a child victim of a criminal offence may suffer damage because of involvement in criminal justice proceedings.

Article 4

Scope of application

1. This Code shall apply only to the procedure of administering of justice for the child in conflict with the law, and child victim and/or witness of criminal offences.

2. This Code, in the cases foreseen by Article 27 paragraph 5 therein, shall apply to a person from 18 to 21 years of age, if he/she is a defendant for a criminal offence committed when he was a child.

3. The provisions foreseen in the Code do not apply to children who commit criminal offences under the age of criminal responsibility, as criminal proceedings against them may not be initiated or if initiated, they shall be dismissed immediately. In such case, the child protection structures shall act and all the measures foreseen by the law on the rights and protection of children shall apply in order to provide them with procedural rights, assistance and service similar to the child in conflict with the law/victim or witness concerning the cross-examination process and contact with the police and prosecution bodies.

Article 5

Relation to other laws

The provisions of the Criminal Code, Criminal Procedure Code and other laws shall apply to the criminal justice process for children only in issues which are not governed by this Code, or if they contain regulations that are more favourable to children.

Article 6

Applicable legislation

1. This Code is based on principles embodied in the Constitution of the Republic of Albania, the UN Convention on the Rights of the Child, other international acts ratified by the Republic of

Albania and universally recognized principles regarding criminal justice for children.

2. The provisions of this Code may not be construed or applied in ways limiting the guarantees and Minimum Standard Rules related to criminal justice for children and the explicit rights in international acts ratified by the Republic of Albania, European Union *Acquis* and the UN Convention on the Rights of the Child.

Article 7
Age of the child

1. A child, for purposes of criminal responsibility for crimes, is the person who has reached the age of 14 years, but who has not reached the age of

18 years, at the time of commission of the crime.

2. A child, for purposes of criminal responsibility for misdemeanours, is the person who has reached the age of 16 years, but who has not reached the age of 18 years, at the time of commission of the misdemeanour.

3. If it is impossible to determine exactly the age of the person, but there are reasons to believe that he/she is a child, he/she shall be considered a child, in the sense of this Code, until age is determined.

4. The provisions of paragraph 2 of this article shall apply even to the child victim or/and witness of the criminal offence.

CHAPTER II
PRINCIPLES OF CRIMINAL JUSTICE FOR CHILDREN

Article 8
Guiding principles of criminal justice for children

1. The principles of this Code shall have an effect on its entire content and they shall be applied by every person and competent body in every action and decision related to the child in conflict with the law, child victim and/ or witness of the criminal offence.

2. The principles of this Code shall be applied even to administrative actions of the police and other bodies performing administrative activity in the context of criminal justice for children.

Article 9
Presumption of innocence

1. Every child in conflict with the law shall be presumed innocent until guilt is established by a final court decision.

2. Any doubt on the charges against the child shall be deemed in his/ her favour.

Article 10
Principle of the best interest of the child

1. The best interest of the child shall be a primary consideration by the competent bodies in any decision taken and activity performed under this Code.

2. In implementing this principle, the following shall be considered:

a) needs of the child for physical and psychological development, education and health, security and sustainability and also child upbringing/belonging to a family;

b) views of the child, in accordance with the age and maturity of the child;

c) history of the child, considering the special situations of abuse, neglect, exploitation or other

forms of child violence, and the potential risk that similar situations may occur in the future;

c) capacity of the parents or persons in charge of child upbringing to respond to the needs of the child;

d) continuity of personal relations between the child and the parents, with whom the child has gender, social and/or spiritual relations.

3. Decisions and acts of the competent bodies must contain a special reasoning related to how the best interest of the child is analysed and how it will be ensured.

Article 11

Principle of protection from discrimination

1. The rights deriving from this Code shall be guaranteed, discrimination, to any child in conflict with the law, victim or witness, irrespective of gender, race, colour, ethnic origin, language, gender identity, sexual orientation, political beliefs, religious or philosophical, economic condition, educational or social, pregnancy, parental affiliation, parental responsibility, family or marital status, civil status, residence, health condition, genetic predisposition, disability, belonging to a particular group and any situation of the child, parents or legal representatives of the child.
2. Rights of the child, foreseen in this Code, are protected from all forms of discrimination on one of the grounds foreseen in paragraph 1 of this article.

Article 12

Right to harmonious development of the child

1. The right of the child to physical, mental, spiritual, moral and social development shall be considered in any decision and proceedings related to criminal justice for children.

2. Decisions and acts of the competent bodies must contain a special reasoning related to how the right of the child to this development will be assessed and how paragraph 1 of this article will be applied.

Article 13

Principle of proportionality

Every measure taken against a child in conflict with the law must be proportionate to the circumstances of commission of the criminal offence, personality of the child, in accordance with the age, background and education, personal, family, social and environmental conditions, developmental and other needs of the child, including, where appropriate, even special needs.

Article 14

Prevalence of alternative measures of diversion

1. In criminal justice proceedings, in order to achieve the purposes of this Code and other justice for children-related laws, priority shall be given to the alternative measures of diversion from criminal prosecution.

2. Alternative measures aiming at diversion from criminal prosecution of the child or enforcement of restorative justice measures shall be considered the first option. Each competent body when making such an assessment shall reflect in the respective acts the fact that alternative measure of diversion serves better the purpose of re-socialization, rehabilitation of the child and prevention of violation of the law than the holding of the child criminally liable and enforcing criminal law.

3. Approach to criminal proceedings against a child in conflict with the law, where appropriate, feasible and necessary, shall be diverted, provided that the rights and protection of the child are fully respected.

4. Any measure used against a child as alternative measure of diversion from criminal prosecution

shall contribute to the protection of the rights and legal guarantees of the child.

Article 15

Restriction or deprivation of liberty as a measure of last resort

1. Arrest, detention or imprisonment of a child shall not be imposed if the aim may be achieved through a more lenient measure.
2. Arrest, detention or imprisonment of a child shall apply in accordance with the provisions of this Code, as well as the criminal procedural law, to the extent this Code does not foresee otherwise.
3. The measures foreseen in paragraph 2 if this article shall be used only as a last resort, for a shortest time possible, and they shall be subject to periodic review by the court.

Article 16

Child participation in the process

1. The right of participation in the process includes the right of the child to be heard and express own views which are given due weight in accordance with the age and maturity of the child. Where a child seeks to be heard, the request shall be accepted, except for important reasons which are reasoned in the respective decision. If the child is unable to exercise this right, he/she may do so through the parent as a legal representative.
2. The child has the right to participate, directly and/or through the legal representative, in any decision-making process affecting the child.
3. The child may not be obliged to participate in the process in person. Non-participation may not aggravate his/her position or/and be used at his/her disadvantage.
4. The prosecutor and the court create all the conditions and take any measures to encourage the child to participate in criminal proceedings against him/her, if so required for the best interest of the child.
5. Any actions taken by the competent body during the proceedings conducted in the presence of the child must be appropriate to the age and maturity of the child.
6. Necessary adaptation and support is ensured through the manners foreseen in ratified international acts concerning disabled persons and the law in force on inclusion and accessibility of disabled persons.
7. If the claims of a child and his legal/procedural representative are contradictory, the competent body shall consider the claim that serves the best interest of the child.

Article 17

Examination done promptly and with preference

1. All decisions and actions under this Code from the start of the criminal proceedings until the execution of the court decision, shall be taken promptly, with preference and without unjustified delay based on the best interest of the child and respecting the rights of the child.
2. Any competent body shall, promptly, within the time limits defined in this Code, and with preference, examine cases of the child in conflict with the law and the cases of the child victim and witness, by making sure that the criminal process, in each stage, does not aggravate the trauma experienced by the child and that the criminal justice system for children provides, where appropriate, proper assistance to the child.

Article 18

Mandatory presence of the psychologist

1. The presence of the psychologist shall be mandatory in any stage of criminal proceedings with

the child in conflict with the law, as well as during questioning of the child victim or witness, irrespective of the age over or under 14 years of age.

2. The psychologist, where appropriate, shall guarantee psychological support of the child and assess his statements, in accordance with the mental development of the child.

3. The presence of the psychologist makes sure that the child in conflict with the law, the child victim and/or witness is questioned in a proper manner and testimony-giving is facilitated with due care to avoid intimidation from or reluctance of the child during the process.

4. The competent bodies, where appropriate and if necessary, make sure to provide for the presence of the same psychologist throughout the criminal justice process involving children and only if this serves to the best interest of the child.

5. The psychologist, who assumes the role of the emotional supporter of the child during investigation and trial proceedings may not be assigned by the court to assume the role of the expert, by preparing the psychological assessment for the same child.

CHAPTER III
PROCEDURAL RIGHTS AND GUARANTEES OF THE CHILD IN
CONFLICT WITH THE LAW

Article 19

Rights of the child in conflict with the law

1. The child in conflict with the law enjoys the rights foreseen in the Code of Criminal Procedure and the special rights foreseen in this Code.
2. The child is entitled to protection and special procedures at all stages of the criminal justice process involving children.
3. The child shall be entitled to the following rights at any stage of criminal proceedings:
 - a) the right to free legal and psychological aid or any other appropriate assistance necessary for their preparation and submission of the defence;
 - b) the right to be informed immediately in a way that is appropriate to their individual development;
 - c) the right to be provided with a free of charge translator/interpreter unless they understand or speak the language used or use the sign language;
 - ç) the right to have the parents present and/or the right to be accompanied by a trusted person;
 - d) the right not to be forced to give testimony or admit guilt;
 - dh) the right to cross-examine witnesses of the accusation body and ensure participation and questioning of witnesses of the defence, under equal terms;
 - e) the right to assistance from the consular service;
 - ë) the right to appeal, in any stage of criminal proceedings or during execution of the criminal sentence;
4. The court in the case foreseen in paragraph 3 letter “ç” of this article concerning the trusted person has the right to refuse the trusted person if the presence of the latter will have a negative impact on rehabilitation and reintegration of the child. In this case the court must issue a reasoned decision on the grounds of refusal.

Article 20

Legal and psychological assistance to the child

1. The child in conflict with the law, the child victim or witness at any stage of criminal justice for children, are entitled to free legal and psychological assistance provided by the state according to the respective legislation.
2. The child witness is provided free psychological assistance when needed by the child.

Article 21

Protection of privacy of the child

1. The right of the child to privacy shall be fully respected at any stage of criminal justice for children, with due care to avoid harming the child.
2. No information that may disclose the identity of the child in conflict with the law, child victim or witness of a criminal offence shall be published.
3. Information on previous sentences against the child shall not be made public.
4. Identification or publication, in any form, of personal data of the child, unless foreseen by law on the personal data protection, shall be prohibited.
5. Personal data over a criminal offence committed by a child under 18 years of age may be identified or published only upon the consent of the child unless otherwise foreseen by the law on personal data protection.
6. Child-related information shall be processed in accordance with the legislation on personal data protection.
7. Violation of paragraph 4 of this article shall constitute a criminal offence according to the provisions of the Criminal Code.

Article 22

Individual assessment of the child

1. The body administering the process shall treat a child with special attention and care throughout any stages of criminal justice for children.
2. When making decisions related to the child, account shall be taken of their individual characteristics including: age, level of development, living conditions, upbringing and development, education, health conditions, family situation, and other circumstances which allow individual assessment.

3. The court/the prosecutor, before taking any decision on a child, shall summon, where appropriate, an expert or group of experts of various disciplines to assess the individual, health, family, social and environmental circumstances of the child, in order to understand their personality and accountability and the extent of their responsibility.

4. If the court/prosecutor upon completion of the individual assessment find that a child suffers mental disorders making the child irresponsible, the child shall be exempt from criminal liability and, where necessary, placed to a specialized and independent medical institution according to the provisions of the Code of Criminal Procedure.

Article 23

Free services for the child in the criminal justice system

1. Children in conflict with the law or victims are provided with free of charge services according to this Code and the legislation in force.
2. The fees for these services are covered by the budget of institutions and executed by the respective institutions where the service is provided in line with the legislation in force.
3. The procedure of provision of services to the child in the criminal justice system is regulated by the provisions of this Code and the legislation in force, unless otherwise provided for by this Code.

Article 24

Rights of child victim and/or witness of the criminal offence

The child victim and/or witness of the criminal offence shall, to the greatest possible extent, enjoy the same rights foreseen for the child in conflict with the law under this Chapter and the rights foreseen in Chapter V of this Code.

CHAPTER IV

TRAINING AND SPECIALISATION OF COMPETENT BODIES IN CRIMINAL JUSTICE PROCESS INVOLVING CHILDREN

Article 25

Specialization of persons administering and assisting the criminal justice process involving children

1. The competent bodies take all the relevant measures to make sure that the persons dealing with the children have the necessary knowledge,

highest professional awareness for the protection of rights of the child in conflict with the law, child victim or witness and take the necessary measures for their irremovability from these positions.

2. The competent bodies, according to this Code guarantee and make sure that any person who has been sentenced by a final court decision for a criminal offence committed intentionally against the child or domestic violence offence shall be prohibited from working and providing any services to the child.

3. The competent bodies and non-profit organisations providing services to the child take all the adequate measures to make sure that the persons sentenced for criminal offences against children will have no contact with the child.

4. Persons administering the criminal justice process involving children must be specialised and trained specifically in the field of protection of rights of the child. Exemption is made only to those cases where the act or omissions of the child endanger public security and in foreseen cases of the situation of flagrancy under the provisions of the Criminal Procedure Code. In such event, the non-specialized person, after the preliminary measures are taken, shall immediately notify the specialized person/ structures to resume this process.

5. The competent bodies, in proceedings involving children, shall make sure that the specialised employees may assist the child in the criminal justice process.

6. Violation of paragraph 3 of this article shall constitute a criminal offence according to the Criminal Code.

Article 26

Training topics

1. Any person assigned by the competent body administering criminal justice for children shall be trained and gain specific knowledge mainly related to:

- a) methodology of communication with the child in conflict with the law and communication with the child victim and/or witness of the criminal offence;
- b) standards and principles guaranteeing the rights of the child;
- c) principles and ethical obligations related to their functions;

- ç) signs and symptoms indicating that a criminal offence has been committed against a child;
- d) skills and techniques related to the assessment of critical situations, risk assessment, referral of cases and guaranteeing of the principle of confidentiality;
- dh) skills related to the technique of cross-examination of children, child psychology and communication with the child in a language convenient to the child;
- e) dynamics and nature of violence against the child, effect and consequences including the physical and psychological as well as that of the incitement to commit the criminal offence;
- ë) techniques and special measures for the support and protection of the child victim and witness;
- f) methods of mandatory work for the professionals working with the children; as well as
- g) other similar fields related to criminal justice for children.

2. The training topics are specific depending on the tasks of the professionals of the competent bodies and the position of the child in criminal justice for children. Their training is mandatory and continuous.

Article 27

Court jurisdiction over juvenile justice cases

1. The child in conflict with the law shall be tried by the sections for children established in the judicial district courts, according to the provisions of the legislation in force on organisation of the judicial power in the Republic of Albania.
2. Moreover, the sections are competent to try adult defendants charged with commission of criminal offences against the child victim.
3. The judge assigned to try the child in these sections must be specialised and trained on criminal justice for children.
4. Where a child commits a criminal offence together with an adult person, the former shall be tried by the sections for children of the judicial district courts, according to the provisions of this Code, except for cases foreseen in article 80, paragraph 1 of the Code of Criminal Procedure.
5. A person over the age of 18 years, but younger than 21 years, who is

accused of commission of a criminal offence, at the time the person was a child, he/she shall be tried by the section for children.

6. The jurisdiction of the section for children in the judicial district courts applies no longer when the child reaches the age of 23 years.

Article 28

Judicial examination of cases involving a child

1. When the victim is a child and tried by a panel of judges in judicial district courts and appeal courts, at least one judge must be specialised and trained in criminal justice for children.
2. In judicial district courts where because of the number of judges it is impossible to set up the section for children, at least one of the judges, when the case is tried by three judges, must be a judge specialised and trained in criminal justice for children.

Article 29

Training and specialisation of prosecutors and judicial police officers

1. Criminal prosecution in criminal justice cases involving children shall be conducted by prosecutors trained and specialized in this field.
2. The judicial police officers handling criminal justice cases involving children shall be trained and specialized in criminal justice for children.

Article 30

Training and specialisation of State Police employees

An employee specialised and trained in criminal justice for children shall perform the actions foreseen by the law on the State Police in relation to the child.

Article 31

Defence counsel

1. The child in conflict with the law or the victim shall be defended by defence counsels specialised in justice for children, except when the child or legal representative of the child choose another defence counsel.
2. The National Chamber of Advocacy makes available a list of lawyers specialised in juvenile justice to the free legal aid institutions.
3. The institution administering free legal aid, in cases foreseen by law, provides immediately legal assistance upon the request of the child or

any competent body. When the request is made by the child, it may be submitted in any form and before the competent body according to the rules foreseen by the legislation in force.

Article 32

Other persons specialized in juvenile justice

1. The justice system for children includes the employee of the Unit for Protection of Rights of the Child, psychologist, procedural representative, mediator, probation officer, the employee of rehabilitation and detention centre for children, who are specialized in justice for children.
2. The School of Magistrates, the Academy of Security, the Order of the Psychologist/Social Worker, the National Chamber of Advocacy, National Chamber of Mediators, Probation Service and State Agency for the Rights and Protection of the Child and other institutions take measures and draft training programmes.
3. The competent bodies, foreseen in paragraph 2 of this article, shall draft and update the register of those who are trained in criminal justice for children.

CHAPTER V

CHILD VICTIM AND WITNESS OF THE CRIMINAL OFFENCE

Article 33

General principles

1. The competent bodies in cases involving the child victim and/or witness, shall be particularly careful in order:
 - a) to treat the child victim or witness of the criminal offence with care, kindness and sensitivity which respect their dignity throughout the process, considering their personal situation and immediate and special needs, age, gender, disabilities, where applicable, and maturity;
 - b) to protect privacy of the child victim or witness. Interference in the private life of the child, if necessary, must be at the lowest possible level defined by the law in order to ensure the necessary evidence of the criminal process;
 - c) to take all the measures to bind any participant administering justice for children, who has information concerning the child victim

or witness, to maintain confidentiality of the entire information obtained in the course of duty and/or during performance of duty;

ç) to publish information about the identity of the child witness or victim only upon permission of the court.

2. The rules concerning intimate and medical check-up of the child victim or witness are foreseen in article 82 of this Code and the Code of Criminal Procedure, provided it does not contradict this Code.

3. Violation of paragraph 1, letter “c” of this article shall constitute a criminal offence according to the Criminal Code.

Article 34

Right of the child victim to be informed

1. In order to prevent the risk of re-victimisation and secondary victimisation, the legal representative, the defence counsel and the psychologist as well as, where appropriate, and if possible, the trusted person of the child shall participate in the procedural actions involving the child victim.

2. The competent body informs immediately and during the entire process the child victim, his legal or procedural representative and the defence counsel of:

a) Criminal justice proceedings involving adults and children including the importance and role of the child victim, time of testimony and manner to be used for the cross-examination during investigation and trial;

b) support mechanisms for the child victim when filing a complaint, participation in investigation and judicial proceedings, including the provision of a defence counsel to the child;

c) place and time of cross-examination;

ç) protective measures available to the child;

d) existing legal means for revision of decisions entailing consequences on the child victim;

dh) rights of the child victim applicable in the national and international legislation ratified by the Republic of Albania;

e) possibility to request damages from the offender of the criminal offence, according to the respective legislation;

- ë) available restorative justice programmes and their functioning;
- f) possibility of respective services including health, psychological, social, financial and legal services as well as the manner of their provision;
3. In relation to the cases foreseen in paragraph 2 of this article, if the child has not been informed directly by the competent body, this obligation shall be fulfilled, where appropriate, by the procedural representative or the defence counsel of the child. The child shall be notified in such a way so that the information will be appropriate and understandable by the child.
4. At any stage of proceedings, the legal representative of a child witness/victim shall be entitled to:
- a) express his/her views on the needs of the child before the prosecuting body;
 - b) be informed of the charges brought against the defendant;
 - c) be informed of the relationship between the child and the defendant;
 - ç) obtain information about the progress of the process and decisions concerning the security measure imposed against the defendant, as well as the release of the defendant or sentenced persons from prison or detention facilities, unless this poses a real danger to the defendant or the sentenced person.
 - d) complain against a court decision issued by the court, irrespective of whether this right is exercised or not by the case prosecutor.
5. The judge during trial and the prosecutor during investigation may preclude the legal representative of a child witness/victim from participating in procedural actions only if this is indispensable for the best interest of the child.

Article 35
Tasks of the Unit for Protection of the rights
of the child concerning the child witness and victim

1. The representative of the Unit for Protection of Rights of the Child is the support person in cases involving the child victim and witness and, inter alia, it has the duty to:
- a) support the child emotionally;

b) provide support during the entire criminal process. Such support may include measures to minimise the negative consequences of the criminal offence, measures to assist the child during the daily activity, and measures in relation to administrative cases over circumstances of the concrete case;

c) advise in case the following of a therapy or professional consultancy is necessary;

ç) be in contact with relatives, friends and defence counsel of the child;

d) inform the child of health care, psychological or social services, and the available means of receiving such services;

dh) keep the child informed of their procedural status, the importance of testimony giving, duration, form, as well as the procedural rules of cross-examination;

e) inform the child of the time and place of cross-examination and execution of other procedural actions;

ë) inform the child of their right to appeal against procedural actions foreseen by law;

f) avoid, where appropriate, improper and/or unpleasant contact with the child by placing the child in a separate room in between the hearings, or taking other measures to protect the best interest of the child, in cooperation with the defence counsel or in absence of the latter, in cooperation with the child and legal representative;

g) ask the court to take protective measures, when necessary, in cooperation with the defence counsel or in his/her absence, in cooperation with the child and the legal representative;

gj) request the taking of special measures if they are necessary considering the circumstances of the child.

2. The representative of the Unit for Protection of the rights of the child, if assigned in the capacity of the procedural representative, in cases of the child victim and witness under 14 years of age, shall give as well the consent for child's testimony giving.

Article 36

Legal aid to the child victim

1. The child victim, throughout the justice process, has the right to free

defence by a defence counsel chosen from the respective list compiled by the National Chamber of Advocacy.

2. The provisions of article 51 of this Code shall apply to the foreign child victim and witness.

Article 37

Protective measures for the child victim or witness

1. At any stage of criminal proceedings, when the safety of the child victim or witness is at risk, where appropriate, the prosecutor, the judicial police or the Unit for Protection of the Rights of the child shall take protective measures including:

a) avoid direct contact between a child victim or witness and the accused person at any stage in the proceedings;

b) file a request for the issuing of the “restriction order” by the court. In this case the request shall be recorded in a special register and it shall be recorded on the day of its filing. In such case the provisions of the legislation in force on measures against violence in family relations;

c) file a request imposition of the security measure of “imprisonment” or “house arrest” against the accused under the condition of having no contact with the child;

ç) file a request for the protective measures to be taken in relation to the child victim or witness by the police or other structures and for the keeping of the secret of the location of the child;

d) make or request from the competent authorities other protective measures that are deemed appropriate.

2. Where the court finds the risk against the child victim or witness it may impose even ex officio protective measures foreseen in paragraph 1 letter “b”, “c” and “ç” of this article.

Article 38

Notification of the child victim or witness

1. If the child is a victim or witness, the prosecuting body shall take all the measures in order for the child to be notified:

a) in such a way so that information will be appropriate and understandable by the child even in case of disability of the child;

- b) directly or through the legal/procedural representative.
- 2. In case of a conflict of interest with the legal representative or when because of the very young age of the child, direct notification of the child is impossible, the child shall be notified through the procedural representative, defence counsel or psychologist.
- 3. A copy of the notification shall be served or where appropriate delivered to the defence counsel or legal representative of the child.

Article 39

Special rules of questioning the child victim or witness

- 1. The judge, when giving testimony may put the child victim or witness at serious risk of life or health, in accordance with the age, during trial shall ensure:
 - a) cross-examination of the child witness/victim by using devices that alter the image and/or voice of a witness/victim, cross-examination behind a non-transparent screen, or distant cross-examination;
 - b) cross-examination of the child witness/victim before a court hearing starts in the presence of the defence counsel of the child and video recording of the cross-examination of the child;
 - c) follow up of the process and cross-examination of the child witness or victim, when possible and appropriate by the same persons and the limitation, as much as possible of the number of cross- examinations.
- 2. The competent bodies shall make sure that in any case confrontation of the child victim with the accused person in the premises where the process takes place shall be avoided.
- 3. The court proceedings shall be held in camera when a child victim or witness is involved.
- 4. The court, concerning the child victim or witness, according to the provisions of paragraph 1 of this article, shall make sure that:
 - a) the child is questioned in friendly premises and outside the court premises;
 - b) evidence is secured within the shortest possible period after initiation of criminal proceedings in order to avoid the negative effects deriving from a lengthy process;

- c) questioning is not repeated at other trial instances in order to avoid re-victimization of the child, unless otherwise foreseen in the law;
 - ç) other measures deemed appropriate shall be taken.
5. The child victim and witness shall be cross-examined without delay after the reporting of facts to the respective bodies.
6. The same rules shall be applied by other competent bodies even during the cross-examination of the child victim and witness.

Article 40

Special rules for cross-examining the child 14-18 years of age

1. In addition to the rules foreseen in article 361/a of the Code of Criminal Procedure, the child over the age of 14 years give testimony when the defendant is not present. In such case, the judge orders the temporary removal of the defendant from the courtroom ensuring the mandatory presence of the defence counsel of the defendant in court proceedings.
2. The court, where appropriate, in case of application of paragraph 1 of this article, shall inform the child of the right to request the defendant to be present. If so requested by the child, the court assesses the request immediately, given the concrete circumstances, maturity of the child, risk of re-victimisation and secondary victimization and decides on the request.

Article 41

Special rules of cross-examination of the child victim and/or witness of sexual exploitation or sexual violence

1. In addition to the rules foreseen in article 58/b of the Code of Criminal Procedure, the rules foreseen in article 40 of this Code shall apply to the cross-examination of the child victim and/or witness of sexual exploitation or sexual violence. Audio and video recording of these children during cross-examination shall be mandatory.
2. The audio and video recorded testimony given by the child may be used during the court hearing.
3. The testimony of the child victim of sexual exploitation and/or sexual abuse may be heard in the courtroom without the child being present, through the use of the necessary communication technology.
4. No child witness or victim of domestic violence is questioned in the presence of abusive parent or relative, during the procedure issuing the

protection order, emergency protection order.

5. In cases involving child victim or witness of sexual exploitation and/or sexual abuse, the court proceedings is held in-camera.

Article 42

Special rules for cross-examination of the child victim/witness under 14 years of age

1. All the guarantees and rights foreseen by this Code and article 361/a of the Code of Criminal Procedure shall apply, to the greatest possible extent, for the child victim and witness, under 14 years of age, in addition to the provisions of this article.

2. Children under 14 years of age may be cross-examined only with the consent and in the presence of their legal/procedural representative, psychologist and defence counsel. The legal/procedural representative is entitled to express his/her views on the questions addressed to the child.

3. The legal representative shall not be allowed to participate if this conflicts with the best interest of the child and he is suspected of commission of unlawful act and/or omissions.

4. The child under 14 years of age shall be explained in a clear and understandable way and through examples, the importance of telling the truth and the consequences deriving on third persons from failure to tell the truth. The child is explained that he has no criminal liability for the criminal offence, for refusal to give testimony or giving false testimony.

5. The prosecuting body shall preliminarily consult the psychologist on the content of questions to be made to the child in order to make the question properly, facilitate the giving of testimony, avoid intimidation or reluctance from the process.

Article 43

Measures to protect the privacy and well-being of the child victim and witness

The court shall, ex officio, at the request of a child victim or witness, child's legal/procedural representative and/or child's defence counsel, considering the best interest of the child, order, where appropriate, the taking of one or several adequate and appropriate measures to protect the privacy and physical and mental well-being of the child and to prevent suffering and secondary victimization including:

a) expunging from the public record any names, addresses,

educational institutions, and/or workplaces, professions or any other information that could be used to identify the child;

b) prohibiting the defence counsel of the defendant and the child victim/witness from disclosing the identity of the child or any materials or information that could lead to identifying the child;

c) ordering the non-disclosure of any records that identify the child to the extent deemed necessary by the court;

ç) assigning a number to the child for the purpose of preparing the defence of the accused, date of birth and the full name of the child, where appropriate, shall be disclosed within a reasonable period;

d) taking measures not to disclose the identity of the child including: alteration of the image/appearance/presentation or voice; testifying behind an opaque shield; cross-examination in another place and simultaneous transmission to the courtroom by means of closed-circuit television; videotaping (audio and video recording) cross-examination of the child witness prior to the hearing, in which case the defence counsel of the accused attends examination and is given the opportunity to examine the child witness or victim; communication through a qualified and suitable mediator, including the translator/interpreter for children with hearing, sight, speech or other disabilities, but not limited only to these;

dh) holding in-camera hearings;

e) giving orders to temporarily remove the accused from the courtroom if the child refuses to give testimony in the presence of the accused or if circumstances show that the child may be inhibited from speaking the truth in that person's presence. In such cases, the defence counsel of the child shall remain in the courtroom and question the child, and the accused's right of confrontation shall thus be guaranteed;

ë) allowing recesses during the child's testimony;

f) taking any other measures that the court may deem necessary, including, where applicable, anonymity, taking into account the best interests of the child and the rights of the accused.

Article 44
Restorative justice measures

1. The competent body shall inform of the restorative justice programmes the child in conflict with the law and the victim, the legal or procedural representative, and where appropriate, the defence counsel of the child.
2. The competent body shall inform the child in conflict with the law, the legal representative or the procedural representative and, where appropriate, the defence counsel of the child, of the possibility to request restitution and compensation of damage in the court if the programme of restorative justice is not completed.

Article 45
Right to compensation for damage

1. The child victim of the criminal offence and the child's legal representative shall be informed and explained the decision of the court concerning the respective criminal offence, in the most appropriate way for the age and maturity of the child.
2. The court, where appropriate, shall inform the child victim of the criminal offence and child's legal representative of the right to compensation for damage.

CHAPTER VI
GENERAL RULES OF COURT PROCEEDINGS INVOLVING CHILDREN IN
CONFLICT WITH THE LAW

Article 46
Determining the age of the child

1. If there is uncertainty about the age of a person, the prosecuting body, pursuant to a motion of a party or on own initiative, shall issue immediately a ruling determining the age of the child.
2. The age shall be determined on the basis of the complete evaluation of any available information, including official documents such as birth certificates, school data, medical data, declaration of parents for the age, or the self-declaration of the child and a report based on a medical examination.
3. If, even after verification and expertise, the age of the child is again uncertain, it shall be presumed that the person is a child.

4. If the age of the child has been determined roughly, the younger age of the child shall be taken into account when deciding on criminal liability.

Article 47

Individual assessment report

1. The prosecutor/court in the process of individual assessment shall rely on the level of development, living conditions, upbringing and development, education, health status, family situation and other circumstances of the child which allow an assessment of the characteristics of personality of the child, behaviour and needs of the child, including even the special needs.

2. The individual characteristics of the child foreseen in Article 22 of this Code shall be reflected in the individual assessment report.

3. An individual assessment report describes the special needs of a child, risk of committing a criminal offence and other elements depending on the case, as well as the proper measures recommended to facilitate development and integration of the child into society.

4. The prosecutor/court shall request as mandatory the preparation and consideration of the individual assessment report when:

- a) the alternative measure of diversion is imposed;
- b) the type of punishment is set;
- c) the sentence decision is executed; as well as
- ç) the request for conditional release is examined.

5. The prosecutor/court must observe that the time limit of preparation of the report does not preclude the progress and time limit of the concrete criminal case.

6. In the stages foreseen in letter "a" and "b" paragraph 4 of this article, the individual assessment report is prepared by the expert/group of experts or the Probation Service according to the provisions of article 22 of this Code. In the cases foreseen in letter "c" and "ç" paragraph 4 of this article, this report is prepared by the Juvenile Institution of Execution of Criminal Sentences (JIECS) and/or Probation service. Where appropriate, the above-mentioned bodies take the opinion of the Unit for Protection of the rights of the child when preparing the individual assessment report.

7. During the preparation of the individual assessment of the child, the expert or the group of experts, representative of the Probation Service,

Institution of Execution of Criminal Sentences or where appropriate the Unit for Protection of the rights of the child shall meet, freely, the child defendant and obtain the necessary information from any natural or/and legal person, public and/or private considered to be a facilitator in this process.

8. The individual assessment report shall be taken into account at any stage of criminal proceedings. When preparing an individual assessment report in each subsequent stage of criminal proceedings, information contained in a previous individual assessment report shall be taken into account.

9. The methodology, rules and standards for the preparation of the individual assessment report foreseen by this article shall be determined according to the legislation in the respective areas.

Article 48 **Child protection**

1. The legal representative of a child may choose and assign, independently, a defence counsel, taking into account the best interest of the child.

2. If a child in conflict with the law fails to choose a defence counsel, the competent body performing the respective procedural action shall assign immediately the defence counsel according to the provisions of the Code and special laws on legal aid, to the extent it does not contradict this Code.

3. The request for assignment of a defence counsel, notification of the child and consent of the child and, in the absence of such consent, the consent of the procedural or legal representative, are recorded in a special record. The record, where appropriate, shall be signed by the child or legal/procedural representative of the child and defence lawyer.

4. In any case, participation of the defence counsel is mandatory.

5. The statements of the suspected child that are not made in the presence of the defence counsel may not be used as evidence.

Article 49 **Mandatory presence in procedural actions involving the child**

1. Any procedural actions with respect to a child shall be attended by child's defence counsel, legal representative and psychologist. An exemption shall be made only if the act or omissions of the child endanger public

security and/or in foreseen cases regarding the situation of flagrancy, according to the provisions of the Code of Criminal Procedure.

2. The judge during trial, and the prosecutor at the stage of investigation, may prohibit the legal representative of a child in conflict with law from attending procedural actions only if this is necessary for the best interest of the child.

Article 50

Right of the child to communicate in a language they understand

1. A child shall be assisted by a free of charge interpreter who shall be present in each procedural action if the child does not understand, does not understand properly, partially or fully, or cannot speak the language of the proceedings against the child. An exemption shall be made only if the act or omissions of the child endanger public security and in foreseen cases regarding the situation of flagrancy according to the provisions of the Code of Criminal Procedure.

2. The interpreter shall meet the child before the trial or procedural action to determine whether they can understand each-other.

3. The disabled child has the right to free of charge services required to be informed of and communicate about the case and participate in the proceedings.

Article 51

Right to consular assistance

1. A foreign child in conflict with the law shall have the right to assistance from the representative of diplomatic missions or consular posts of their country at any stage of the proceedings.

2. If the child, arrested or detained, is a foreign citizen, the ministry responsible for foreign affairs shall be notified in shortest time and in any case before the cross-examination and it shall notify thereof the diplomatic mission or consular post of the respective state.

3. If a child is citizen of a country that has no diplomatic mission or consular post in Albania, is a refugee or a stateless person, they shall be given the opportunity, through the ministry responsible for foreign affairs, to contact the diplomatic mission of the country that assumes the responsibility over interests of the child or any national or international organization in the field of human rights, which mission is to protect the child.

4. The provisions of this article shall apply even in case the child, foreign citizen, is a victim of trafficking, kidnapping or wrongful retention.

Article 52

Splitting cases involving a child from the common case involving an adult

1. If the child is accused of a criminal offence in relation to which an adult has been accused as well, the case shall be tried according to article 27 paragraph 4 of this Code.
2. Where possible, the cases involving a child shall be tried separately from those involving adults, provided this does not preclude the complete, objective and quick examination of the case.
3. In any event, the child shall enjoy the rights and guarantees foreseen by this Code and the Code of Criminal Procedure.

Article 53

Child notification

1. The child in conflict with the law shall be notified according to the rules foreseen in the Code of Criminal Procedure.
2. The child in conflict with the law shall be notified in such a way so that the information will be appropriate and understandable by the child including the cases of children with special needs because of disability.
3. The child in conflict with the law shall be notified, where appropriate, through the legal/procedural representative or the director of the institution where the child has been placed.
4. A copy of the notification to summon the child defendant shall be served or sent to defence counsel of the child or child's legal representative.

Article 54

Prohibition of use of force, other means and firearms

1. No force and other coercive means shall be used during arrest, movement outside the institution, enforcement of security measures or punishment of a child, except for exceptional/extraordinary cases, when all the other means to arrest the child, prevent self-harm or harm to others have been exhausted and ineffective, and unless the purpose foreseen in the law may not be attained through other less harmful means.
2. Force and other coercive means may, in no case, be used on a pregnant

child unless the child has the intention to harm herself.

3. In the case provided for by paragraph 1 of this Article, the only form of force and other means that are allowed shall be physical restraint, handcuffs and other stringent means. In order to prevent group disobedience and/or mass disorder, repel an attack and arrest an armed person other stringent means may be used including rubber batons, restraining nets, tear gas and/or water cannons.

4. In any event, physical restraint and other means:

- a) shall be applied for the shortest time possible;
- b) shall be applied to attain an objective stipulated by law, and shall be proportionate to the circumstances;
- c) shall not be applied in a degrading or humiliating manner and shall not constitute torture or maltreatment.

5. Firearms may not be used against a child, unless the child is armed and immediately poses a direct and imminent threat to the life or health of a third person and if it is impossible to prevent such threat through other means.

6. Firearms shall not be used when the child is escaping prison or detention facilities.

7. The person who uses force and/or other means, according to this article, shall notify immediately thereof the superior and, if necessary, the head of the institution concerning such use, by providing the reasons why other measures could not have been used.

8. The direct superior shall ensure immediately the medical examination of the child. A person who uses force and/or other means shall prepare a written report thereon. The report shall contain information on the use of force and/or other means, the justification for using them and other related information.

9. Each case of use of force and other means shall be recorded in the respective registry-book.

10. The registry-book and its data shall be made available to children, their legal representative and/or lawyer, court and authorities that, according to the legislation in force, inspect and/or supervise this activity.

11. The right to use the means under paragraph 3 of this article shall be entitled only to the persons who are specifically trained for their use, according to the rules in force on the use of firearms.

CHAPTER VII
DIVERSION FROM CRIMINAL PROSECUTION
AND PUNISHMENT THROUGH ALTERNATIVE MEASURES

Article 55

Criteria and conditions for application of diversion from criminal prosecution

1. The competent body in any case shall assess the taking of the measure of diversion against the child in conflict with the law.
2. The competent body, when taking the decision to apply diversion from criminal prosecution shall assess the best interest of the child, the severity of the committed criminal offence and respective punishment foreseen, the age of the child, level of guilt, suffered damage, intimidating effect of criminal prosecution, behaviour of the child after committing the criminal offence and the individual assessment report prepared according to article 47 of this Code.
3. In particular, diversion by the competent body shall be applied if:
 - a) there is sufficient evidence for a reasonable doubt that the child has committed a criminal offence punished by a maximum of 5 years of imprisonment or fine;
 - b) the child confesses and explains the criminal offence in the presence of the lawyer;
 - c) the child is not criminally reported over commission of a criminal offence or the child is not a recidivist;
 - ç) the child and, where appropriate, child's legal/procedural representative give written consent to the application of diversion;
 - d) the child failed to participate earlier in a programme of application of the measure of diversion from criminal prosecution and/or mediation;
 - dh) punishment of the child for those offences does not serve to improving their behaviour;
 - e) considering the best interest of the child, it is considered whether or not there is any public interest in instituting criminal proceedings or resuming the already instituted criminal proceedings.
4. The competent body, after taking the decision to apply diversion, may request information from the parents, legal guardians, institutions that

are familiar with the activity of the child, including where appropriate, even the Unit for Protection of the rights of the child, as well as the opinion of the expert, according to the needs of the child and the process.

Article 56

Procedure for application of the measure of diversion by the prosecutor

1. The prosecutor may decide applying diversion before the judicial examination of the case starts.
2. Diversion against the child in conflict with the law may be applied upon initiative of the prosecutor or upon request of the child in conflict with the law or child's representative.
3. If the measure of diversion is taken upon initiative of the prosecutor, the latter shall propose to the child in conflict with the law the measure of diversion from criminal prosecution and in case the child gives consents to this measure, the prosecutor shall decide its application definitively.
4. If the request/proposal of the prosecutor on application of diversion is not accepted by the child in conflict with the law, a record shall be kept indicating the reasons of rejection by the child. The record shall be signed by the prosecutor and the child or where appropriate, child's legal or procedural representative.
5. The child in conflict with the law or child's representative, upon a reasoned request, shall request the prosecutor to apply the measure of diversion. In such case, the prosecutor through a reasoned decision shall decide whether or not to apply diversion.
6. If the prosecutor refuses the request for application of diversion, the child in conflict with the law or child's representative shall have the right to request application of diversion from criminal prosecution before a court within 15 days from notification of the refusal decision.

Article 57

Procedure and application of the measure of diversion by the court

1. The court as well may decide, where appropriate, on the application of the measure of diversion.
2. The court, on its own initiative or upon a reasoned request of parties, social worker or psychologist may decide remanding the case to the prosecutor to proceed with the application of diversion. The court, before

taking this decision, shall hear the child and obtain the child's consent.

3. The court may apply the measure of diversion in the stage of adjudication before a final decision is taken.

Article 58

Consequences of application of the measure of diversion

1. Application of the measure of diversion by the prosecutor is a circumstance for non-initiation of criminal proceedings, if criminal proceedings has not been initiated and a circumstance for its dismissal if criminal proceedings has been initiated.

2. This decision shall be notified to the head of the prosecutor's office and the victim in order for the latter to have the possibility to claim compensation where appropriate. This decision shall be notified even to the defence counsel, legal and/or procedural representative where appropriate.

3. If diversion measure is taken, the prosecutor shall decide non-initiating criminal proceedings or dismissing the criminal case and shall conclude an agreement with the child on the type of the diversion measure and/or mediation.

4. The elements of the agreement concluded between the parties on the measure of diversion and/or mediation, as well as rules of application of the respective programme, foreseen in this agreement, shall be determined by an order of the Minister of Justice.

Article 59

Consent to the diversion measure

1. Diversion from criminal prosecution shall be applied only upon written consent of the child and when appropriate of the legal representative as well.

2. In the absence of the legal representative of the child, either when he is not found or the child has no contact with him, or the legal representative is in a conflict of interest with the child, the competent body shall assign a procedural representative who may give consent to the diversion measure.

3. Prior to obtaining the consent, the child shall be provided with counselling and free legal aid service in order to understand the proposed diversion measure and whether it is appropriate to and acceptable by them.

4. During negotiation of the agreement on the diversion measure, the child shall be assisted by the defence counsel.
5. The agreement according to paragraph 4 of this article shall be signed by the child and child's defence counsel.

Article 60

Guarantees of the child concerning application of the diversion measure

1. Before applying a measure of diversion from criminal prosecution, the child and child's defence counsel and, where appropriate, legal representative, shall have the right to be provided with detailed information about the nature of diversion from criminal prosecution, its duration, conditions and manner of application as well as the consequences for failure to fulfil the measures of diversion.
2. It shall be explained to the child verbally and in writing or in the proper forms of communication based on the special capacity of the child that consent to diversion is voluntary and that the child has the right to waiver at any stage.
3. If the child does not have a defence counsel, the child and child's legal representative shall be informed on the right to have a defence counsel.
4. Admission of a criminal offence by a child and information collected on the child during the process of diversion may not be used in court against the child.

Article 61

Conditionality on the decision to apply the measure of diversion

1. The prosecutor may decide suspending investigation in order to apply diversion conditionally, if the child in conflict with the law requests and guarantees fulfilment of the following obligations:
 - a) remedy or compensation of damage caused by the criminal offence according to child's skills and where appropriate;
 - b) involvement into restorative justice and mediation programme;
 - c) involvement in the actions of a humanitarian organisation or community activities or environmental protection;
 - ç) treatment for drug addiction or other addictions.
2. If the child fulfils the obligations according to paragraph 1 of this article,

the prosecutor shall decide dismissing criminal proceedings against the child definitively.

Article 62

Possible alternative measures of diversion from criminal prosecution

1. Alternative measures of diversion from criminal prosecution may include:

- a) restorative justice and mediation programmes;
- b) advising the child and family;
- c) verbal warning;
- ç) written warning;
- d) mandatory measures; dh) placement in foster care;

2. Several measures foreseen in paragraph 1 of this Article may be applied to the child simultaneously. These measures shall be determined on the basis of the individual assessment report, according to the rules foreseen in Article 47 of this Code.

3. Diversion measures shall be reasonable and proportionate to the needs of the child in conflict with the law and the victim. No obligation may be imposed on the child in the course of diversion which may cause loss of dignity, humiliation, or exclusion from the regular educational processes and/or primary employment, as well as harm to the child's physical and/ or mental health.

4. Imposition of a diversion measure more severe than the minimum punishment provided for by law for the committed criminal offence shall not be allowed.

5. Alternative measures of diversion foreseen in paragraph 1 of this article shall be taken, where appropriate, by the prosecutor's office or the court.

Article 63

Restorative justice and/or mediation programmes

1. The prosecuting body shall decide on the application of the restorative justice programme in compliance with the legislation on mediation, in order to give to the child the possibility to redress the consequences of the criminal offence committed against the victim, community and/or society.

2. The restorative justice programme, according to paragraph 1 of this Article, may be applied if:

- a) the child, defence counsel and where appropriate the legal representative give freely the consent to such a decision; and
- b) any agreement to redress the consequences of the criminal offence committed by the child is reasonable or appropriate.

3. When the child has no parents or a conflict of interest exists between the parents and the child, consent under paragraph 2, letter “a” of this Article may be given by one of the procedural representatives according to the provisions of article 3, paragraph 17 of this Code.

4. Restorative justice programme foreseen in paragraph 1 of this article may foresee that the child be asked to:

- a) accept and show understanding of the liability for the criminal offence and the consequences on the victim;
- b) compensate the damage caused to the victim, community and/or society;
- c) ask forgiveness to the victim; and
- ç) undertake actions acceptable by the victim or/and community.

5. Restorative justice measures taken in compliance with the provisions of this article, may include involvement in a diversion and mediation programme, public works, and/or any other programmes that lead to redressing consequences of the criminal offence committed by a child.

6. Family and group mediation is an alternative measure for diversion from criminal prosecution that brings together the victim and the child in conflict with the law, their relatives, persons from their social group, representatives from public agencies for the child protection, supervision and prevention of juvenile delinquency. The accused and his family in this process are expected to conclude an agreement with the victim that includes damage compensation, fulfilment of obligations undertaken by the victim and intended to keep the accused person away from similar future situations.

Article 64

Mediation procedure

1. Mediation as an extra-judicial proceedings is conducted by the

mediator according to the provisions of this Code and the law in force on mediation.

2. Mediation may be developed only upon free consent to mediation expressed by both the child accused of the criminal offence and the injured party. The consent given must be written in a record of the prosecuting body.

3. Mediation may be organised only in the presence of the child, offender of the criminal offence and the injured party.

4. The legal representative of the child, the psychologist, the employee of the Unit for Protection of the rights of the child, the prosecutor, and/or other persons assigned by him may participate in the mediation process upon consent of the parties. The prosecutor, where necessary, may participate in the mediation process.

5. Mediation to settle disputes, where appropriate, may be applied as a diversion measure and a possibility that leads to the improvement of relations between the child offender and victim of the criminal offence.

6. The prosecutor during investigation and the judge during trial, where appropriate, may propose mediation if they deem that this is the most adequate alternative considering the nature of the criminal offence, the circumstances of commission of the criminal offence, the past of the child, the possibility of restoration of normal relations between the child and the injured party, the possibility of reducing harm to the injured party, the possibility to rehabilitate and re-integrate the child in the society.

7. If the proposal of the prosecutor/judge on mediation is accepted by the parties, then the prosecutor/judge shall decide suspending the criminal process for a period of not longer than 45 days. If the mediation agreement is concluded, the prosecutor/judge decides dismissing the case. If the mediation agreement is not concluded after 45 days, suspension shall become invalid and the case investigation/trial shall be resumed.

8. The costs of the mediation procedure shall be incurred according to the legislation in force.

Article 65

Advising the child and the family

1. Advising consists in informing the child and/or family of the commission of a harmful, dangerous offence, that constitutes a criminal offence and has negative consequences on the victim and the community.

2. The competent body shall advise the child and/or child's family when this measure is considered adequate and in the interest of the child and that it will have a positive impact on the child's behaviour.

3. The competent body, where appropriate, shall entrust the Unit for Protection of the rights of the child or social and/or psychological services with the drafting of a plan concerning the advisory service and the measurement of its effects on a step by step basis.

Article 66
Verbal warning

1. Verbal warning includes all the explanations given to the child by the competent bodies on the damage caused by his/her actions and the consequences deriving from re-commission of a criminal offence.

2. In such case, verbal warning given to the child shall be kept in a special register which form shall be determined by order of the Minister of Justice.

Article 67
Written warning

1. A written warning includes the recording in a record of all explanations, according to article 65 of this Code, which are given to the child by the competent bodies.

2. A copy of the record is given to the child and child's legal representative.

3. The form of the written warning and information to be included therein shall be determined by order of the Minister of Justice.

Article 68
Mandatory measures

1. The mandatory measures against the child may be taken to prohibit him/her from:

- a) contacting/meeting a given person;
- b) going to/visiting a certain place;
- c) changing the place of residence;
- ç) leaving home during a specific period/time;

- d) leaving a location or a given administrative unit without permission;
- dh) performing other actions which are an obstacle to their re-socialization and rehabilitation.

2. The mandatory measures on a child include:

- a) starting or resuming studies in an educational institution;
- b) starting work taking into account and applying the provisions of the Labour Code;
- c) participating in educational, correctional and/or medical treatment programmes;
- ç) fulfilling other obligations that facilitate their re-socialization and rehabilitation and prevent them from re-commission of a criminal offence.

3. The mandatory measure, imposed according to paragraph 2 letter "a", "b" and "c" of this article, shall be notified not only to the child and child's legal/procedural representative but also to the responsible authority in education and/or vocational training, employment, health, Probation Service and Unit for Protection of the rights of the child.

4. The competent body shall determine, where appropriate, that the Probation Service or the Unit for Protection of the rights of the child shall enforce and monitor the mandatory measures foreseen under this article.

Article 69

Placing a child in foster care

1. A child shall be placed in foster care in an educational and/or correctional programme if the care of the parent or guardian of the child in conflict with the law for the upbringing, behaviour and personality development of the child is inadequate to fulfil the aim of the mandatory measures and if constant care and supervision by a person or specialised service is necessary.

2. The educational and/or correctional programme shall be provided, where appropriate, by the responsible institutions defined by the legislation in force on the rights and protection of children. The responsible authorities under this legislation shall assign persons specialised for the application of constant care. The latter in cooperation with the child, the parent, guardian, social welfare and educational institutions, doctors and other professionals, shall influence on constant basis on the personality and behaviour of the child, take care of their treatment and monitor the

fulfilment of obligations, according to an individual plan.

3. Placement in foster care is decided, where appropriate, by the prosecutor or the court for a period from six months to two years.

4. Constant care and supervision may be carried out without the need to separate the child completely and permanently from the previous premises. In this way, the child may be committed to the specialised service for 24 hours or partial duration which varies from 4 to 8 hours.

5. When deciding placement in foster care, the prosecuting body shall consider that execution does not preclude the regular education and employment of the child as well as their involvement in effective activities. The activities shall be appropriate to the age, development, skills and interests of the child aiming at development of the sense of responsibility.

6. The parents of a child placed in foster care may be involved in the process of application of this measure provided that it does not contradict the interests of the child. The prosecuting body, by imposing this measure, shall give to the parents or the guardian special instructions and impose on them the obligation to collaborate with the specialised person in relation to the issues that may arise.

7. When the prosecuting deems the effective enforcement of the given measure to be necessary, may order as well that the child fulfils one or several mandatory measures, foreseen in article 68 of this Code.

8. The service specialised for the application of the measure of placement in foster care shall inform the prosecutor in case of failure to fulfil the obligations according to this article.

9. Specialised service shall be provided by the disciplinary/educational centre set up according to the legislation on the protection of the rights of the child.

10. In case of a disabled child, the provisions of this article shall be applied by the specialised professionals according to the disability and according to the legislation on inclusion and accessibility.

Article 70

Fulfilment of alternative measures of diversion from criminal prosecution

1. If the alternative measure of diversion from criminal prosecution is taken against the child who has committed a criminal offence, and this

measure is fulfilled, no charges over the same criminal offence may be brought against the child.

2. If the child fulfils the obligations under the diversion agreement, the prosecutor shall decide dismissing the proceedings immediately.
3. The child who has fulfilled the alternative measure of diversion from criminal prosecution shall neither be considered sentenced for a criminal offence and not be treated as a person with a criminal record.
4. Fulfilment of the measure of diversion from criminal prosecution is carried out and monitored by the Probation Service in cooperation with the mediation service.

Article 71

Failure to fulfil the alternative measures of diversion from criminal prosecution

1. If the child intentionally fails to fulfil the measure of diversion from criminal prosecution, the Probation Service shall inform in writing the prosecutor by explaining in detail the time, place, manner and circumstances of non-fulfilment and the personal situation of the child.
2. The child, the parents or, where appropriate, the legal representatives are informed by the Probation Service of the consequences of failure to fulfil the requirements and obligations of the diversion measure and rules of examination in case of such failure.
3. Failure to fulfil the conditions and obligations deriving from the measure of diversion from criminal prosecution shall not constitute a criminal offence and shall not automatically result in restriction or deprivation of liberty of the child. Even in this case, deprivation of freedom shall be considered the last resort by the competent bodies.

Article 72

Procedure in case of failure to fulfil the alternative measure of diversion from criminal prosecution

1. The prosecutor, in cases foreseen by article 71 of this Code, may decide changing or revoking, partially or fully, the measure of diversion after a detailed examination of the reported facts.
2. The prosecutor, in any case, shall set a special hearing, hear the views of the child providing reasons for failure to fulfil the measure by applying even the provisions of article 59 of this Code related to the consent of the child.

3. The prosecutor, where necessary, may request a new psychological, psychiatric assessment or an opinion on the previous reports of the experts.

4. The prosecutor after examining this measure and other measures shall contact the child, the legal representative and hear the opinion of the employee of the Probation Service and may decide:

- a) revoking or upholding the decision for diversion from criminal prosecution;
- b) altering the type of measure of diversion;
- c) extending the duration of the agreement.

5. Where the prosecuting body decides to re-initiate proceedings against the child, it shall consider the part of the measure that is already fulfilled by the child during the enforcement of the alternative measure of diversion.

6. In the event of revocation of the diversion decision, the prosecutor, by a reasoned decision, shall decide repealing the decision for non-initiation of investigation or the decision for dismissal of the case already initiated and, decide re-initiating a new investigation.

7. In the event of revocation of the diversion decision, the acts performed by the child to fulfil the measure of diversion from criminal prosecution shall be examined during the trial.

8. Accepting the responsibility for a criminal offence in order to apply an alternative measure of diversion from criminal prosecution shall not be used during trial against the child.

9. If the child does not fulfil the special obligations that have been ordered, or the child refuses, or in other ways, interferes in the enforcement of the constant supervisory measure, the court may decide, where possible, for this reason, to commit the child to an educational/disciplinary institution/ centre for an uninterrupted stay of not more than one month.

10. The procedure applied by the Probation Service when it deems non-fulfilment of the diversion measure shall be determined by the decision of the Council of Ministers.

CHAPTER VIII
ELEMENTS OF THE PROCESS OF INVESTIGATION OF THE CHILD IN
CONFLICT WITH THE LAW

Article 73

Notification of arrest or detention of a child

1. The prosecuting body, upon the child's arrest, shall inform the latter of the right to notify the parent and in his/her absence, another adult person indicated and accepted by the child.
2. The prosecuting body shall take immediately all the necessary measures to notify, where appropriate, the legal or procedural representative of the child in accordance with the rules foreseen in this Code.
3. The prosecuting body, once committing the child to the premises of the respective institution, shall notify the child's legal representative or the person indicated by the child of the arrest, the location of the detention centre and explain the reasons of arrest and shall make available to him/ her a copy of the letter of Rights.

Article 74

Assignment and notification of a legal/procedural representative

1. The prosecuting body shall notify immediately the Unit for Protection of the rights of the child if:
 - a) it is impossible to locate the legal representative;
 - b) it is obvious that the legal representative of the child has abused with the child or in the case of a domestic crime;
 - c) there are doubts over impartiality of the legal representative of the child concerning the nature of their relations with the family member who has been injured;
 - ç) one of the types of conflict of interests is in place.
2. The above-mentioned persons foreseen in paragraph 1 of this article shall not be allowed to be informed of the child-related documents.
3. The prosecuting body shall assign a person from the list submitted by Unit for Protection of the rights of the child to make the procedural representation, if:
 - a) it is impossible to local the child's legal representative, within an hour from accompanying of the child to the premises of a

prosecuting body;

b) the child does not live with the legal representative and/or refuses to contact him/her;

c) the legal representative acts contrary to the interests of the child;

ç) the child is a victim of or witness to a criminal offence committed by the child's legal representative;

d) the legal representative is accused of the same criminal offence as the child;

dh) the legal representative is not available.

4. In any case, when assigning the procedural representative the views of the child must be taken into consideration.

5. The provisions on the legal representative are fully applicable, where appropriate, even to the procedural representative concerning the criminal process.

Article 75

Conditions of the child in detention facilities

1. The child in detention facilities shall be entitled to all the rights entitled to by the child in prison.

2. The child in detention facilities shall be placed in premises separated from adults.

3. Children are placed in separate premises by gender.

4. The child, when in detention, where appropriate and in accordance with the age, sex and personality, shall be provided with social, educational, psychological, medical and physical assistance.

Article 76

Cross-examination of the child in conflict with the law

1. The prosecuting body, during the stages of criminal proceedings, shall guarantee the application of rights of the child in order to protecting the child from self-incrimination by guaranteeing the right to remain silent and not to testify.

2. The prosecuting body, during cross-examination of the child shall guarantee decent treatment in compliance with the international

standards of human rights and rights of the child.

3. The physical and/or psychological maltreatment of a child during cross-examination or with the intent to obtain any information from the child shall be prohibited.

4. The prosecuting body shall preliminarily consult the psychologist on the content of questions to be made to the child in order to make the question properly, facilitate the giving of testimony, avoid intimidation or reluctance from the process.

5. The child shall be questioned in the presence of the defence counsel and psychologist. The legal/procedural representative may participate during interrogation if the child so consents.

6. The language used during the cross-examination of the child must be as friendly as possible and communication must be as clearly as possible.

7. When questioning the child in conflict with the law, in addition to the provisions of this article, where appropriate, the provisions of the Code of Criminal Procedure shall apply to the extent they do not contradict this Code.

Article 77

Procedural guarantees of cross-examination of the child in conflict with the law

1. The child, the legal representative or the psychologist have the right to request breaks during the cross-examination of the child.

2. The competent body, when cross-examining the child, shall arrange the time for break in accordance with the age, development level and other circumstances of the child.

3. Cross-examination of the child during the night, from 2200 - 800 shall be prohibited.

4. The child shall be provided with food at least once in every 4 hours from 800-2200 and water without any limits. The child shall be guaranteed the right to use the toilet at any time.

5. The prosecutor and the judicial police officer, during investigation, have the right to prohibit the participation of the legal representative during procedural actions, only if this serves to the best interest of the child.

6. The competent bodies, during cross-examination of the child in justice

proceedings involving the child in conflict with the law shall limit to the greatest possible extent the number of cross-examinations.

7. The child under 14 years of age who has committed a criminal offence shall be cross-examined after the child is explained in a clear and understandable way that the child has no criminal responsibility because of the age. Moreover, the child shall be explained that the child has no criminal liability if the child refuses to testify or gives false testimony.

8. The rules set forth in this article shall apply even to the administrative actions of the police and other bodies performing administrative activity in the context of criminal justice for children.

Article 78

Strip search of a child

1. The prosecuting bodies, during the strip search, shall guarantee protection of privacy and dignity of the child.
2. The prosecuting bodies, in any case, shall explain to the child the reasons of the strip search, in a language understood by the child.
3. The judicial police officer shall inform the child of the act based on which strip search is decided.
4. The strip search shall be carried out by persons of the same sex or as per the choice of the child.
5. The presence of the defence counsel is mandatory in each case of strip search of a child.

Article 79

Intimate search/medical examination of a child

1. An intimate search consists of the actions related to the physical search/examination of a child's body orifices other than the mouth.
2. Intimate search of the child may take place only upon a court decision unless health and life of the child is at stake, in emergency cases, and there are reasonable grounds to believe that information to be obtained may be lost, become void or the obtained evidence may be destroyed.
3. In all cases, an item and/or material is taken from the child's body in premises provided with a licence to perform a medical activity, in the presence of a certified physician and nurse of the same sex as the child, and in the presence of the legal representative and defence counsel.

4. Search and other procedural actions to take off, fully or partially, the child's clothing, shall take place only upon a court decision taken after hearing the views of the child and in the presence of a legal representative and defence counsel, except for the cases which pose a threat to public security and in the foreseen cases of flagrancy, under the provisions of the Code of Criminal Procedure.

5. The intimate search shall be carried out by persons of the same sex as the child or of the sex of the child's choice.

6. In cases provided for under paragraph 2 and 4 of this Article, the Court shall decide within 12 hours from the depositing of the request, without participation of the parties.

7. If the child does not agree with the participation of the legal representative during the search foreseen under paragraph 2 and 4 of this Article, or if the legal representative cannot participate, the procedural actions shall be carried out in the presence of the procedural representative assigned according to the provisions of this Code.

8. The presence of the defence counsel of the child is mandatory in each case of strip search/intimate search and medical examination of a child.

9. Mandatory taking of biological samples from the child or mandatory medical procedures shall be made according to the rules foreseen in article 201 letter "a" of the Code of Criminal Procedure.

Article 80

Content of the decision of intimate search and medical examination

The decision of the court concerning the request for intimate search and medical examination, in addition to the provisions of Article 383 of the Code of Criminal Procedure, shall contain:

- a) the subject who has filed the request to the court;
- b) the identity of the child against whom the action is taken;
- c) the reasonable grounds for carrying out such procedural action;
- ç) the object, item or substance and related data which may result during the search;
- d) the time period of execution of decision; dh) the body executing the decision.

CHAPTER IX SECURITY MEASURES

Article 81 **Imposition of a security measure**

1. A more severe security measure shall not be imposed against a child, if the same purpose can be achieved through a more lenient measure.
2. When a security measure against a child is requested to be imposed, the prosecutor in the request, and the Court in its decision shall consider and provide reasons related to the best interest of the child, the child's specific needs and the request not to interrupt the educational process, upbringing and normal development of a child.
3. The judge when determining the security measure shall hear the child in person and take the decision immediately thereafter.

Article 82 **Special security measures against the child**

In addition to the security measures foreseen in the Code of Criminal Procedure against the child in conflict with the law, the following measures may be imposed:

- a) placing a child under supervision;
- b) placing a child to a specialised service.

Article 83 **Placing a child under supervision**

1. A child is placed under supervision in order to make sure the child's presence whenever required before the judicial police officer, the prosecutor or the court. This measure is implemented by the parent, relative, specialised institution or person who undertake to guarantee the behaviour of the child and supervise whether or not the behaviour of the child is adequate.
2. A child shall be placed under supervision, according to paragraph 1 of this Article, only upon the consent of the child and of supervisor.
3. The supervisor may waive the supervision of the child, at any time, if he/she considers that he/she may not make sure the presence of the child whenever required by the competent body and the respectable behaviour of the child. The supervisor shall notify the court thereof immediately.

4. The supervisor may be substituted in case of waiver or failure to supervise.
5. If supervision of the child fails due to objective reasons unrelated to the supervisor, the court shall decide substituting him/her.
6. When failure is due to acts or omissions of the supervisor, the court orders punishing the latter by a fine of up to All 20 000.
7. The court order shall not be subject to appeal.
8. The Court, where appropriate, shall decide substituting the supervisor or the security measure against the child.

Article 84

Placing a child to a specialised service

1. Placing a child to a specialised service shall be imposed against a child whose interests require special attention and supervision, and which because of the concrete circumstances cannot be realized by a parent or close relatives.
2. Specialised service is provided by institutions or legal persons licensed even for this purpose and in compliance with the law on the rights and protection of the child.
3. The rules on manner of organisation, functioning of specialised service, programmes and manner of their funding shall be approved by decision of the Council of Ministers.

Article 85

Duration and validation of arrest or detention of the child

1. A child may be arrested or detained in compliance with the provisions of the Code of Criminal Procedure and this Code.
2. The prosecutor shall, without delay, when forthwith release is not ordered, but however, within 48 hours from arrest or detention, request their validation by the competent court.
3. Failure to meet this deadline shall make the arrest or detention powerless and the child shall be released immediately, unless the court assesses them and imposes a security measure.
4. The judge, when examining the validation of arrest or detention shall hear the child directly and take the decision immediately thereafter.

Article 86

Criteria for imposition of arrest against a child

In addition to the provisions of Article 228 of the Code of Criminal Procedure, the measure of arrest in prison may be imposed against a child as a last alternative and only upon fulfilment of one of the following criteria:

- a) the sanction foreseen for the criminal offence of which the child is accused is imprisonment and the minimum sentence is over 7 years;
- b) the measure is indispensable, because the child:
 - i) is a threat to himself/herself and/or to others and such threat may not be avoided by any other way;
 - ii) tries to flee justice.

Article 87

Enforcement of the measure of arrest against the child

1. The court even on its own initiation, after hearing the parties shall decide continuation, replacement or revocation of the measure every month following the enforcement of the arrest decision.
2. The prosecutor has the burden of proof to provide reasons on the continuation of the measure of arrest in prison.
3. The provisions of the Code of Criminal Procedure shall apply, to the greatest possible extent to the detention of the child in conflict with the law.
4. The child, irrespective of the provision in paragraph 3 of this article may not be detained for a period longer than half the period of detention set for the adult, according to the Code of Criminal Procedure.

CHAPTER X

ELEMENTS OF THE TRIAL PROCESS OF THE CHILD IN CONFLICT WITH THE LAW

Article 88

Fair and speedy trial

1. The trial involving a child in conflict with the law shall be conducted

considering respect for the principle provided for in Article 17 of this Code on the examination without delay and with priority.

2. The case of a child in conflict with the law shall be sent to court not later than 3 months from the recording of the name in the register, except for the cases when during such period the child is accused of another criminal offence or in cases of criminal offences tried by the Court Against Corruption and Organised Crime. The time limits foreseen in the Code of Criminal Procedure shall apply to these cases.

3. The Court of First Instance shall conclude the examination of the case within the shortest possible time period but not later than 6 months from the date of depositing of the documents with the Court.

4. The Court of Appeal shall conclude the review of the case within the shortest possible time period but not later than 2 months from the date of depositing of the documents with the Court.

5. The High Court shall examine admissibility of recourse and try the case as quickly as possible.

Article 89

Trial in camera

The trial of a child in conflict with the law shall be held in camera.

Article 90

Child participation in trial

1. The child may not be tried in absentia.

2. The Court shall guarantee child participation in trial through:

a) conduction of a process appropriate for the understanding ability of the child;

b) frequent consecutive breaks and within a reasonable time, in accordance with the age, health conditions, special needs, including the needs related to disability and other circumstances of the child.

Article 91

Trial in the presence of a child and restrictions

1. Trial shall be held only in the presence of the child.

2. The court, ex officio or upon the request of the party may take a

decision concerning the removal of the child from the courtroom during examination of one or more evidence, if this serves to the best interest of the child.

3. The child shall be absent during the judicial process for the shortest time possible.

4. The judge during trial shall have the right to prohibit participation of the legal representative during procedural actions, only for the best interest of the child.

5. The court, once the decision under paragraph 2 of this article is taken, shall explain to the parties the right to object such decision in the same hearing, by presenting their arguments to the court. In case of objection, the court shall suspend examination of evidence until a decision is taken. The decision accepting or refusing objection shall be taken immediately.

6. Once the child returns to the courtroom, the Court shall explain to the child, to the extent it is necessary and understandable, the content of evidence examined during child's absence.

7. In all cases when the court examines evidence in absence of the child, the defence counsel or legal representative shall be present.

Article 92

Admission of guilt by the child

1. During investigation and trial, the child defendant may not be compelled to make statements of self-criminal liability.

2. The silence of the child during the investigation and trial may not be considered as an admission of guilt.

3. If the child admits guilt, the Court, in any case, shall make sure that such admission is not for reasons related to the age, development and ability of the child to perceive and understand fear of a possible conviction or prolongation of the duration of cross-examination.

CHAPTER XI
PURPOSE AND TYPES OF PUNISHMENTS AGAINST THE CHILD

Article 93
Purpose of punishment

The purpose of punishment imposed against a child is re-socialisation, rehabilitation and prevention of recidivism or commission of another criminal offence, by providing care, assistance to and supervision of the child.

Article 94
General principles of punishment

1. During the decision-making process, the court shall consider that imprisonment of the child is the last possible resort that is considered only if the measures of diversion foreseen in Chapter VII of this Code are inappropriate.
2. The court, when taking the decision, shall consider primarily the best interest of the child and the individual assessment report.
3. The court, when taking the decision against a child who has been declared guilty of a criminal offence, shall consider as well:
 - a) treatment of a child in an appropriate manner to ensure child's well-being;
 - b) adaptation to the circumstances and seriousness of the criminal offence, as well as the age, individual circumstances and special needs of the child;
 - c) promotion of reintegration of the child and child's involvement, as much as possible, in a constructive role in the society;
 - ç) provision of an individual plan concerning the above-said;
 - d) imposition of the most appropriate sentence to correct the behaviour of the child.
4. The penalty order foreseen in article 406/a to 406/f of the Code of Criminal Procedure shall not apply in the case of the child in conflict with the law.
5. Judgement upon agreement, foreseen in article 406/d to 406/f of the Code of Criminal Procedure, shall apply in the case of application of diversion measure against the child in conflict with the law.

Article 95

Types of punishment against the child

1. Punishment imposed against a child shall be non-imprisonment punishment and punishment to imprisonment.
2. Non-imprisonment punishment shall comprise:
 - a) restriction of liberty;
 - b) house arrest;
 - c) fine;
 - ç) community work;
 - d) prohibition to performing an activity; dh) fulfilment of certain obligations.

Article 96

Classifying and imposing punishment against the child

1. Punishment against a child shall be classified into main and supplementary punishment.
2. Main punishment shall consist in:
 - a) imprisonment;
 - b) restriction of liberty;
 - c) fine.
3. Supplementary punishment shall consist in:
 - a) prohibition to performing an activity;
 - b) community work;
 - c) fulfilment of certain obligations; ç) house arrest.
4. Only one main punishment may be imposed against the child.
5. The main punishment may be imposed along with no more than two supplementary punishments.
6. One or several measures, foreseen in Chapter VII of this Code may be imposed along with the punishment.

Article 97

Imprisonment

1. A child may be imprisoned only if he has committed a criminal offence which the minimum of the punishment is foreseen to be 7 years and such punishment is necessary because of the nature, high social risk of the criminal offence and level of guilt.
2. Imprisonment punishment against the child may not be more than half the punishment foreseen by the law for the committed criminal offence, but not more than 12 years.
3. The court, when setting the extent of punishment against the child, shall consider and pay special attention to all the circumstances related to the maturity of the child and the time required for the education and vocational training of the child. However, depending on the level of guilt, punishment may be imposed for a shorter period when it is considered adequate to achieve its aim.

Article 98

Restriction of liberty

1. Restriction of liberty is the placement of a child in a certain institution/centre under supervision without isolation from the society and community aiming at education and rehabilitation through special programmes.
2. In facilities where restriction of liberty is enforced:
 - a) the level of security measures is low;
 - b) the number of children placed in these facilities is lower in order to enable their individual treatment;
 - c) the dimensions of these premises are such that they facilitate access and contact of the child with the family members.
3. Facilities where restriction of liberty is enforced:
 - a) are distributed geographically in the entire territory of the country in order to ensure contact of children with their family members;
 - b) are integrated with the social, economic and cultural environment of the community.
4. The child's liberty shall not be restricted for a period of over three years.

5. Special regulations related to the operation of facilities and setting of their security level, standards of educational and rehabilitation programmes, in case of restriction of liberty, shall be set forth in a decision of the Council of Ministers.

Article 99

Fine

1. A fine may be imposed on a child if the child possesses monetary incomes from a legitimate source.
2. If the fine is imposed on a child, the amount shall be half the amount of the fine imposed against an adult under similar conditions according to the provisions of the Criminal Code.

Article 100

Prohibition to performing an activity

1. The child may be prohibited from performing a certain activity for a period from one to three years, if the courts deems it irrelevant for the rehabilitation of the child and prevention of commission by the child of other criminal offences.
2. A child may be prohibited from performing a given activity according to paragraph 1 of this article up to 18 years of age.

Article 101

Community service

1. Community service shall be imposed on a child for a period of 40 to 300 hours. The daily duration of community service may not exceed 4 hours per day.
2. If imprisonment is substituted with community work, the duration of community work may be longer in time. In such case, conversion shall be made according to article 109 of this Code.
3. In case of enforcement of a decision for community work as a supplementary decision, community work may be imposed for a shorter duration than the minimum hours foreseen in paragraph 1 of this article.
4. Community service is decided in such a way that it does not preclude the educational process of the child and it may be followed by the obligation to follow a vocational course.

5. In cases when a decision imposing community work is taken, it is necessary that the child be assigned to a work place which experience thereto will serve to the child to become a respectable person.

6. Community service, as a supplementary decision, may be imposed on a child even in the cases when the respective article of the Criminal Code does not foresee it as a type of punishment.

Article 102

Fulfilment of certain obligations

1. The court may order the child in conflict with the criminal law to fulfil one or more obligations including:

a) attend mandatory education, or where appropriate, an educational programme;

b) attend a vocational training programme under the law on vocational training;

c) fulfil the obligations deriving from the employment relations provided because of the social employment programmes;

c) redress the civil damage caused;

d) follow a rehabilitation programme, psychological or medical treatment, including, where appropriate, detoxification treatment because of use of alcohol or drugs;

dh) refrain from going to certain places;

e) refrain from staying with certain persons who may have a negative influence on their behaviour and education;

2. The court, where appropriate, may order, to the extent applicable, even the obligations foreseen by article 60 of the Criminal Code or other obligations deemed to be in the best interest of the child.

3. The Decision of the Council of Ministers shall define the competent authorities and procedure to be followed by them in case of orders of the court, according to paragraph 1 of this article.

Article 103

House arrest

1. House arrest foresees the obligation of the child not to leave, for a given

period of time, their permanent or temporary residence, or a given place where the child stays or is treated temporarily.

2. House arrest may last for a period from 6 months to 1 year.
3. House arrest shall apply in the case of criminal offences which are punished by not more than 5 years of imprisonment.
4. House arrest shall be imposed in such a way so as not to preclude the educational process and/or employment of the child.
5. House arrest may be monitored electronically.

Article 104

Suspension of execution of imprisonment sentence

1. If the court orders imprisonment for up to five years, and the child has not been convicted in the past for the intentional commission of a criminal offence, the court may decide suspending the execution of the imprisonment sentence and order the sentenced person to contact the Probation Service and to be placed under probation, provided that during the probation period the child does not commit another criminal offence.
2. When the court decides according to paragraph 1 of this article, it shall apply the provisions of article 59 of the Criminal Code.

Article 105

Rules on non-imprisonment sentence

The court, when imposing a non-imprisonment sentence against the child, may set one or several mandatory measures as provided under Article 68 of this Code. In such cases, no mandatory measure shall be imposed against a child if they are impossible to be fulfilled by the child or exceed the mental and physical capacities of the child.

Article 106

Punishment below the minimum punishment foreseen by the law

The court, given the low dangerousness of the child and the criminal offence, the concrete circumstances of its commission, the previous behaviour of the child, the fact that the child has no criminal record, the presence of several mitigating circumstances and absence of aggravating circumstances, may impose a punishment below the minimum punishment or a lenient type of punishment than the one foreseen by the relevant provisions.

CHAPTER XII EXECUTION OF SENTENCES

Article 107

Execution of non-imprisonment sentences

1. Non-imprisonment sentences foreseen by this Code shall be executed by the General Directorate of Probation Services.
2. The child shall continue serving a non-imprisonment sentence or conditional punishment, as determined in the decision against a child even if the child has reached 18 years of age before execution or during execution of this decision. In such case, the relevant provisions of this Code shall apply.
3. In case of violation of the regimen defined for execution of the non-imprisonment sentence against a child, the Probation Service shall draft a warning note, which, where appropriate, shall be handed to or sent via registered mail to the sentenced child against receipt of acknowledgement.
4. If the child departs from serving the non-imprisonment sentence, conditional punishment or fulfilment of an obligation, the Probation Service after verifying the facts and the circumstances, shall report to the prosecutor and where appropriate, propose changing the decision.
5. The prosecutor, where appropriate, may request the court to change the decision.
6. The court, when examining the request, shall hear the prosecutor, the child, the defence counsel and take the opinion of the representative of the Probation Service and legal representative of the child.
7. The Court, upon request of the parties, may examine even other evidence.
8. In this case, the Court shall take a decision within one week from the submission of the request.

Article 108

Commission of a criminal offence during execution of non-imprisonment sentence

1. If within the period that the non-imprisonment sentence or conditional punishment is served, the child commits a criminal offence, the Probation Service shall notify the prosecutor who, where appropriate, shall approach the court.

2. If within the period that the non-imprisonment sentence or conditional punishment is served the child commits another minor offence or offence committed due to negligence and the child is declared guilty, the Court, where appropriate, may decide whether or not to change the respective decision.

3. If the child commits an intentional crime or a crime which punishment is foreseen to be over 8 years of imprisonment, and the child is declared guilty, the court upon the request of the prosecutor may revoke the non-imprisonment sentence and take a decision to enforce the imprisonment sentence for the remaining part of the sentence considering that imprisonment is the last resort.

Article 109

Calculations for the purpose of converting the sentence

The court when changing the punishment decision for purposes of converting the punishment shall make a calculation by considering the following as equal to one another:

- a) 10 hours of community service, to
- b) a fine of five thousand All, to
- c) three days of house arrest, to
- ç) two days of restriction of liberty, to
- d) one day of imprisonment.

Article 110

Placing a child in detention and prison facilities

1. A child defendant, against whom the security measure of detention is taken, shall be placed only in the juvenile section of detention facilities, whereas the child sentenced to imprisonment shall be placed in the institution of execution of criminal sentences for children.

2. The services in detention and prison institutions where the child defendant/sentenced is placed must be in compliance with the requirements of respect for health and dignity of the child and serve to re- socialisation, re-integration, rehabilitation and prevention of recidivism or commission of another criminal offence by providing care, assistance and supervision to the child.

3. To guarantee the best interest of the child, the respective detention or

prison facility shall be provided with sufficient number of staff, qualified and trained on constant basis.

4. The staff of detention and prison facilities for children shall consist of at least a doctor, a nurse, a psychologist, a social worker. The institution, where appropriate must provide the assistance of a paediatrician, psychiatric doctor or other specialists according to the needs and the defined inspection regime.

5. Children in Institutions of Execution of Criminal Sentences for children or sections for children shall be under visual and/or electronic monitoring and control. Special rules concerning monitoring and control shall be defined in the General Regulation of Prisons.

Article 111

Special rules of execution of the imprisonment sentence

1. Special measures which guarantee standards defined in the Constitution, ratified international agreements and provisions of this Code shall be taken to serve to the special interests of protection of and care for the child.

2. The General Regulation of Prisons specifically provides for rules on:

a) structure and functioning of the Institutions of Execution of Criminal Sentences for children;

b) individual planning of execution of sentence by the child;

c) implementation of forms of incentives and other measures for sentenced children;

ç) imposing of disciplinary measures against sentenced children;

d) procedure of processing the requests and complaints of sentenced children; dh) organization of rehabilitation process for sentenced children;

e) conditions for implementation of security measures and the use of special means in relation to sentenced children;

ë) functioning of record-books and personal files of sentenced children;

f) visual and/or electronic monitoring and control of sentenced children;

g) detailed conditions for execution of the imprisonment sentence against the sentenced children.

Article 112
Defence counsel of the child during execution

1. In order to enforce the rights in the process of execution of criminal sentences, the child shall be assigned an ex officio defence counsel according to the provisions of this Code and the legislation in force.
2. The defence counsel, upon the consent of the child and based on the best interest of the child, may be the same defence counsel who represented the child in the previous stages of the process.

CHAPTER XIII
CONDITIONS OF AND RULES ON CHILDREN IN DETENTION AND
PRISON FACILITIES

Article 113
Special places for the child defendant/sentenced

1. The child defendant/sentenced shall be placed in premises separated from the detainee/sentenced adult.
2. The placement, keeping or movement of the child outside an institution together with an adult shall be prohibited.
3. The detainee/sentenced female child shall be placed in premises separated from the detainee/sentenced male child.
4. Paragraph 2 and 3 of this article shall be an exemption to the rule where the children, irrespective of the gender, and the children participate together with the adults in the rehabilitation, educational, cultural, sports and other activities of cultural and educational nature.
5. In order to ensure a safe environment for the children in respective institution/section, children shall be separated by age-group, type and seriousness of the criminal offence, physical and mental development, and other characteristics taking into account the best interest of the child.
6. Detailed rules on the detention and prison facilities of children in conflict with the law shall be defined in the General Regulation of Prisons.

Article 114

Medical, psychological examination and relevant placement in facilities

1. A child, immediately after admission with the prison or detention facility must be examined by a doctor, in order to identify and record any marks/information or previous maltreatment or any physical or mental harm requiring medical care. The doctor, after examining the child, shall prepare a report describing the fact whether or not the marks/ information are found in relation to the child, maltreatment or injury as described above.
2. Every child must be interviewed not later than 24 hours from the moment of admission, by a psychologist or social worker and a psychological and social report must be prepared to identify and describe any factors related to the type and level of care and programme needed for the treatment of the child.
3. The reports mentioned in paragraph 1 and 2 of this article shall be submitted to the head of the Institution of Execution of Criminal Sentences for children in order to establish the most appropriate placement of the child within the premises and the type and level of care and programme to be followed. When special treatment and rehabilitation is necessary and the duration of stay in the premises allows, the staff trained for this purpose shall prepare an individual treatment plan indicating the objectives and the period, the means, stages and steps to be taken to deal with those objectives.

Article 115

Medical care and treatment of children

1. A detainee/sentenced child shall be provided with medical care and treatment, including but not limited to:
 - a) psychiatric/psychological and mental health services;
 - b) drug and alcohol rehabilitation services;
 - c) dental and ophthalmologic care;
 - ç) sexual and reproduction health care service;
 - d) HIV/AIDS treatment;
 - dh) services related to premature childbirth in the case of pregnant girls; and

e) regular medical check-ups including, where appropriate, gynaecological examination;

ë) care to discovering any other situation which may hinder integration of the child in the society.

2. Any prison or detention facilities for children must ensure immediate access to the adequate medical objects/facilities and equipment in relation to the number and requests of the prisoners and staff trained for the preventive medical care and treatment of medical emergencies.

3. If necessary medical care may not be provided within the prison/detention institution, the child shall have the right to obtain a permit and in an emergency case, to be given permission to undergo medical check-up and receive the necessary medical treatment.

4. A child who is sick or complaints of a sickness or shows symptoms of physical or mental problems must be immediately examined/checked by the doctor.

5. Consent of the child to any medical treatment must be obtained once the child is informed thereof.

6. When life of the child may be at risk or the child may suffer permanent health injury and refuses to give consent to medical treatment, such consent must be obtained by the parent or legal representative of the child and in their absence by the court.

7. When according to the doctor urgent treatment is required to protect the health or life of the child and/or health of others, treatment shall be provided without obtaining first the consent of the parent or legal representative of the child.

8. The child shall be examined and treated by a doctor of the same gender or gender of the child's choice.

9. Each medical treatment period shall be calculated as part of the period of the sentence of the child.

10. If, following medical examination, it is found that the child has suffered physical abuse or sexual abuse before placement or during stay in an Institution of Execution of Criminal Sentences for children, the doctor shall immediately notify the competent prosecutor's office. Following such notification, the prosecutor's office shall take measures, immediately, to provide free legal advice in order to

support the child in any claim.

11. The medical report and the treatment data shall be recorded and kept in the personal file of the child. Such data shall be transferred to any other institution of execution of criminal sentences where the child may be placed.

Article 116

Living conditions and nutrition of children

1. Special care shall be shown to the living conditions and nutrition of the defendant/sentenced child as compared to the conditions of other defendants and sentenced persons.
2. The living conditions and nutrition must be in accordance with their age, situation and special needs of the child.
3. The Institution of Execution of Criminal Sentence for children shall make sure that the sentenced children exercise their right to move independently inside the institution's territory, under the rules defined in the daily schedule and individual programme for serving the sentence.
4. The child sentenced to imprisonment shall have the right to facilities and services that meet all the conditions for the human health and dignity. Facilities and services include:
 - a) the sleeping area which consists of an individual bed in a separate room, unless it is necessary that the child shares the bedroom which may be monitored without causing any stress to the child;
 - b) adequate and clean individual bed that is suitable for the climate;
 - c) a shelf where to keep personal items; and
 - ç) adequate clean sanitary premises which observe the need for privacy and special needs of child's gender.
5. The sentenced child shall be allowed to wear own clothes provided they are suitable and in compliance with the respective rules. If the child has permission to leave the premises where sentence is being served, the child shall not wear any clothing that identifies the child as a sentenced person.
6. The sentenced child shall have the right to be provided with adequate water and food with nutritional values relevant to the age and special needs of the child.

Article 117

Organization of educational and rehabilitation programmes

1. The defendant/sentenced child/young adult must be provided basic compulsory education, and where appropriate, even secondary or high education.
2. The education process in prisons and detention facilities must be in compliance with the standards of education in the Republic of Albania.
3. The education and rehabilitation process shall be organised during detention and imprisonment so that the defendant/sentenced child will be provided general and/or vocational education possibly outside the prison and detention facilities. The education process, in exceptional cases, must take place in the prison/detention facilities where the child shall attend vocational education/training.
4. The young adult/child prisoner shall have access to vocational training, according to their interests and skills, which will be useful to them for employment after leaving the institution.
5. The documentation proving education of the defendant/sentenced young adult/child during the time they were defendants or serving sentence shall not contain any information identifying the child as former- sentenced persons or identifying a previous conviction.
6. Special and individual educational programmes shall be organized for the sentenced child who has learning difficulty because of any disabilities and the child who has not attended school.
7. The educational process in institutions of execution of criminal sentences for children shall be regulated by a joint order of the Minister of Justice and the minister in charge of education.

Article 118

Possibilities for employment and housing

1. A child is entitled to remunerated work. The Institution of Execution of Criminal Sentences for children shall encourage remunerated work. Where possible, the defendant/sentenced child may work even outside this institution in accordance with the provisions of the Labour Code related to employment of children.
2. A child shall work after the study schedule.
3. It shall be prohibited employing persons who serve a sentence, persons

awaiting trial in detention facilities or persons who have been sentenced in the past to perform maintenance work in the Institution of Execution of Criminal Sentences for children.

4. A defendant/sentenced child may work only if such activity facilitates vocational education, employment after release and provided that it does not impede child's education.
5. The child's work and education shall not exceed 8 hours per day.
6. The child and young adults shall avail themselves of the social programmes foreseen by the law on social housing.

Article 119 **Sports and recovery**

1. A child in conflict with the law is provided access to daily walking, sports and recovery activities, through the use of adequate sports equipment in an appropriate area.
2. Children, including disabled children, are provided with physical and recovery training programmes.

Article 120 **Contact with the family and friends**

1. For the purpose of re-integration into society and reduction of negative social consequences of restriction of liberty, the child sentenced to imprisonment and the detainee child shall enjoy same rights related to the establishment of contact with the family and the social group.
2. The child sentenced to imprisonment and the detainee child shall be effectively guaranteed the right to regular and frequent relations with the family, the person of their choice and social group as well as the right to receive correspondence, unless this goes contrary to the best interest of the child.
3. The child shall have the right to:
 - a) 8 visits per month by family members/friends and, as an incentive, 2 bonus visits per month. If the family members and the friends are unable to visit the child within the scheduled time period, the competent body shall ensure the right to visit the child at a time convenient to them and the child;
 - b) 4 visits per year to the family and bonus visits as an incentive;

- c) at least 1 visit due to health or emotional problems;
 - ç) not less than 4 phone calls per month, free of charge, where each phone call shall not last more than 15 minutes, and, as an incentive, unlimited phone calls at one's own expenses; If the child lacks financial means, this right shall be guaranteed free of charge by the competent body where the child is placed;
 - d) 4 video-conferences per month and, as an incentive, 2 additional video-conferences per month;
 - dh) unlimited number of letters and parcels;
 - e) personal TV and radio;
 - ë) spending from own personal account, on monthly basis, to buy food, personal equipment and other goods, from a store inside the territory of the rehabilitation premise.
4. The child entitled to the rights foreseen by this article shall be guaranteed the right to privacy.
5. The manner of fulfilment of the rights according to this article shall be foreseen in the General Regulation of Prisons.

Article 121

Leave for the child punished by imprisonment

1. The child punished by imprisonment shall have the right to a short leave, three times a year, from the facility where sentence is being served. The duration of such leave shall not exceed 15 days. Such duration shall include even the time required for the journey to the child's family or destination.
2. A child punished by imprisonment shall have the right to a short leave from the premise where sentence is being served, if the child:
 - a) has served not less than one third of the punishment, in case the child is punished by up to three years of imprisonment;
 - b) has served not less than half of the punishment, in case the child is punished by up to eight years of imprisonment;
 - c) has served not less than two thirds of the punishment, in case the child is punished by over eight years of imprisonment;

Article 122

Temporary transfer of the child to another facility

1. A child arrested/sentenced may be temporarily transferred to another facility for children if such measure is indispensable for the child's safety or the safety of other children. In such case, the rules on transfer shall be foreseen in the General Regulation of Prisons.
2. Once the child is transferred to another facility:
 - a) the child's legal representative shall be informed of the child's location;
 - b) the child shall undergo medical examination;
 - c) the child shall be entitled to a phone call not longer than 15 minutes.

Article 123

Keeping the convict in the rehabilitation facility or transferring to another penitentiary institution

1. A child shall serve punishment according to an individual plan. A multi-disciplinary group at the institution of execution of criminal sentences for children shall make the initial assessment based on which the Individual Plan shall be prepared. A social worker shall be assigned as case manager and shall be responsible for the implementation of the Individual Plan. The child shall be questioned and give consent to the Individual Plan.
2. The sentenced person who reaches the age of 18 years shall not be allowed to stay in the Institutions of Execution of Criminal Sentences for children and he/she shall be transferred to an adults' institution to serve the punishment.

Article 124

Forms of incentives to a sentenced child

1. In case the child shows a good and respectable behaviour, involvement in educational programmes and activities carried out in the juvenile penitentiary institution, the competent body shall implement the following form of incentives to the child:
 - a) releasing a statement of gratitude;
 - b) early removal of a disciplinary sanction;
 - c) granting the right to an additional visit;

- ç) granting the right to an additional video-conference conversation;
- d) granting the right to an additional telephone call;
- dh) consenting objects that are not banned to be received by the sentenced persons inside the juvenile penitentiary institution;
- e) granting the right to use a computer;
- ë) fulfilling a wish that is deemed feasible and proportional.

2. The types and nature of items that children are entitled to receive under letter “dh”, paragraph 1 of this Article, shall be foreseen in the General Regulation of Prisons.

Article 125

Limits to enforcing disciplinary measures

1. The administration of the juvenile penitentiary institution shall be authorized to use disciplinary measures against the child in case of a disciplinary misconduct committed by the latter.
2. A disciplinary measure must be the last resort taken in relation to the behaviour of the child.
3. Work may not be a disciplinary measure.
4. The imposed disciplinary measures shall not result in violation or threat to the dignity of the child, violent, inhuman, degrading treatment or physical or mental health damage. It shall be prohibited taking as disciplinary measures the following actions, but not limited thereto:
 - a) physical or corporal sanctions;
 - b) placement in isolation;
 - c) food deprivation or limitation;
 - ç) medical care deprivation or restriction;
 - d) prohibition or restriction to meeting or contacting family members.
5. Special rules on enforcement of this article shall be foreseen in the General Regulation of Prisons.

Article 126

Types of disciplinary measures

1. The administration of a juvenile penitentiary institution shall be authorized to use the following disciplinary measures:

- a) notice of caution in the form of warning;
 - b) limitation for up to one month of the right to use the allowed items, except for food and medication given by the doctor;
 - c) limitation for up to one month of the right to buy from the shop located in the premises of the Institution of Execution of Criminal Sentences for children, except for items which guarantee the rights foreseen in article 116 of this Code;
 - ç) limitation for up to one month of the right to receive parcels.
2. Placing the child serving sentence in special/isolated premises shall be prohibited.
 3. The disciplinary measures provided under letters “c” and “ç” of paragraph 1 herein, shall not exceed 3 months within one year.
 4. Special rules on enforcement of this article shall be foreseen in the General Regulation of Prisons.

Article 127

Proceedings for the imposition of disciplinary measures

1. The disciplinary misconduct committed by a child arrested/sentenced shall be examined in a hearing, unless the child breaches the order, or hinders the hearing, fails to appear at the hearing or refuses to participate therein. Such fact shall be recorded in the minutes kept during the hearing.
2. During the hearing, the child arrested/sentenced shall have the right to remain seated, take notes and give verbal explanations.
3. The child arrested/sentenced has the right to a defence counsel in the hearing where the disciplinary misconduct is examined. Before a hearing starts, the child shall be informed of the right to have a defence counsel. Such right shall be exercised within 6 hours from the provision of information, if the child so consents. If the defence counsel fails to appear on time, an ex officio lawyer shall be assigned to the child. The child shall consent to the ex officio lawyer. Expenses for the ex officio lawyer shall be covered according to the provisions of the legislation on legal aid.
4. Special rules on the proceedings related to the disciplinary measure against the child and the respective authorities shall be defined in the General Regulation of Prisons.

Article 128
Information on the right to complaint

1. The child arrested/sentenced has the right to appeal against any decision or other measure taken by the authorities of detention, prison staff or other sentences.
2. The respective staff of the Institution of Execution of Criminal Sentences for children where the child arrested/sentenced is placed shall give immediately to the child the possibility to be informed in writing of his rights and duties, including the right to appeal and the rules of appeal foreseen by law.
3. A child who cannot read and write shall take the above-mentioned information verbally, in the presence of a person who keeps the records and the child shall confirm by signing.
4. Information shall be given to the child in a form that the child understands. The same shall apply to the disabled child.

Article 129
Conditional release

1. A sentenced child may be granted conditional release from serving the sentence only if the child has served:
 - a) not less than one third of the imprisonment sentence in case the child has been punished by up to three years of imprisonment;
 - b) not less than one half of the imprisonment sentence in case the child has been punished by up to eight years of imprisonment;
 - c) not less than two thirds of the imprisonment sentence in case the child has been punished by over eight years of imprisonment.
2. In the cases provided under paragraph 1 of this Article, the imprisonment term served by the child shall not be less than three months.
3. The Institution of Execution of Criminal Sentences for children not later than three months from the date closest to the conditional release, shall notify the Probation Service of the possible release of the child. The Probation Service shall analyse the behaviour of the child during the serving of the sentence, the facts and data of previous criminal acts, the child's personality, the family situation, nature of crime committed by the child and other circumstances that may affect the taking of a decision on early release.

4. When a child is granted conditional release from a community work, the imprisonment term already served in the form of community work shall be included in the period foreseen under paragraph 1 of this Article according to the calculation which equals 10 hours of community work to one day imprisonment.

5. When a child is granted conditional release from serving a sentence of restriction of liberty, the imprisonment term already served in the form of restriction of liberty shall be included in the period foreseen under paragraph 1 of this Article, according to the calculation which equal one day of restricted liberty to one day of imprisonment.

6. In case a decision refusing conditional release is taken, the court must indicate measures to be taken in the future by the child and the staff of the Institution of Execution of Criminal Sentences for children in order to be granted conditional release in the future.

Article 130

Decision on conditional release

1. The court upon a reasoned decision shall decide admitting or refusing the request for conditional release of the child. The decision shall contain a full assessment of the progress towards the re-socialization, rehabilitation and willingness of the child for release, along with the views expressed by the child, the staff of the Institution of Execution of Criminal Sentences for children and the Probation Service.

2. The decision on conditional release shall contain the conditions imposed on the child, which fulfilment aims at supporting the child in the course of reintegration and re-socialization.

3. The conditions must be created to the child and the child must be assisted to fulfil the obligations imposed under the release decision.

4. If a child violates the conditions set in the release decision, the court shall have the right to revoke the release decision.

5. The decision to return the child back to the penitentiary institution may be taken even if the child constitutes a risk to himself/herself or other which may not be avoided in the community or if the child is sentenced for another criminal offence.

6. The child shall have the right to appeal against the decision according to the legislation in force.

Article 131

Replacing the remainder of the sentence

The remainder of imprisonment sentence may be replaced with community work or restriction of liberty, only if the child has served:

- a) not less than one fourth of the imprisonment sentence in case the child has been punished by to up to three years of imprisonment;
- b) not less than one third of the imprisonment sentence in case the child has been punished by up to eight years of imprisonment;
- c) not less than one half of the imprisonment sentence in case the child has been punished by over eight years of imprisonment.

Article 132

Periodical review of conditional release

1. The review of the possibility for conditional release of a child shall be made every three months by the court upon request of the sentenced child.
2. A periodic review shall:
 - a) include a full assessment of the rehabilitation process and the time when the child will be ready for release;
 - b) take into account the opinion of the child and the possibilities to leave the child under supervision;
 - c) include a written recommendation on release or continuation of serving punishment by the child.

CHAPTER XIV

PREPARATION FOR RELEASE FROM IECS, CARE, REHABILITATION AND RESOCIALISATION

Article 133

Preparing for release after serving the sentence

1. The main aim of the rehabilitation activity in the penitentiary facility for children is to prepare the child for release in order to ensure rehabilitation and return of the child in the society.
2. The administration of the Institution of Execution of Criminal Sentences for children, for the purposes of paragraph 1 of this article shall take

measures, from the very beginning and through daily updating, to draft a special plan together with the child, family and in cooperation with the child protection structures.

3. The administration of the Institution of Execution of Criminal Sentences for children, shall make sure that the child understands the content of the plan.

4. For the performance of rehabilitation activities, the Crime Prevention Centre for children and young adults shall be set up at the Ministry of Justice to monitor and protect children/young adults after serving sentence according to the provisions of this article. Specific rules concerning the structure and organisational structure of the Crime Prevention Centre for Children and Young Adults shall be determined by decision of the Council of Ministers.

5. After serving two thirds of imprisonment term, but not less than three months before the date the punishment ends, the staff of the Institution of Execution of Criminal Sentences for children, shall:

a) inform of the date the punishment of the child ends, the child's legal representative and the Crime Prevention Centre for Children and Young Adults and the Unit for Protection of the rights of the child;

b) provide the child with psychological and educational support to be prepared for release;

c) give the child the possibility to make short visits at home;

ç) prepare a file with data on social situation of the child, with the purpose to strengthen the child's re-socialization;

d) provide the child with information understandable by the child in order to have appropriate access to aftercare and support after serving sentence;

dh) collaborate with health care institution in the place of residence of the child in order to implement the reintegration programme for the aspects related to the child's health.

6. The representatives of the Crime Prevention Centre for Children and Young Adults in cooperation with the Unit for Protection of the rights of the child shall:

a) take all the necessary measures in order for the child to understand the terms and conditions of rehabilitation and re-socialization programs;

- b) become familiar with the file containing data on social inclusion of children in detention or prison facilities;
- c) meet the child in adequate premises;
- ç) approve the rehabilitation and re-socialization programmes not later than three months from the submission of the request, if the child so requests;
- d) ensure compliance with and review of programmes in prison facilities, if necessary.

7. Not earlier than three months before the lapse of the time limit for conditional release and not earlier than three months from serving the imprisonment sentence, the staff of the Institution of Execution of Criminal Sentences for children shall:

- a) inform the child, child's legal representative and the Probation Service of the date the punishment ends;
- b) inform in writing the Crime Prevention Centre for Children and Young Adults, the Probation Service, the Unit for Protection of the rights of the child, of the family risk and social/environmental risk and of the needs of children outside IECS.

8. The representative of the Probation Service shall:

- a) make an assessment of family and social/environmental risks and the needs of the child outside IECS;
- b) issue the required documentation for the conditional release of the child, based on the assessment of the family and social/ environmental risk of the child outside IECS.

9. The forms and rules for drafting the documentation on conditional release and the assessment of risk and the family and social/environmental needs foreseen in this article shall be defined by instruction of the Minister of Justice.

10. In order to prepare the rehabilitation and re-socialization programme, for a period not exceeding three months from the release of children from IECS, where appropriate, the Probation Service and the staff of the Institution of Execution of Criminal Sentences for children shall cooperate with the Crime Prevention Centre for Children and Young adults, the Probation Service, local government bodies of the administrative unit and Unit for Protection of the rights of the child of the place of residence or intended place of residence of the child.

Article 134

Support after release

1. The competent bodies shall support the child after release in order to enable their successful re-integration.
2. In order to support the re-integration process, the local government bodies in cooperation with the child protection structures at local level shall provide, according to the legislation in force, shelter appropriate to the child who is homeless.
3. The body competent for the protection of the rights of children shall coordinate the implementation of the reintegration and supervision of services to the child, at least up to 6 months after release.
4. The child must be supported to have, at least:
 - a) adequate clothing;
 - b) psychological support;
 - c) travel costs to the place of residence;
 - ç) possibility to attend vocational training courses, unless the child is supported by the family.

Article 135

Supervision after serving punishment and conditional sentence

1. After release, the child, where appropriate, placed again with the parents or legal guardian and they shall be guaranteed protection according to the legislation on protection of rights of the child.
2. The Crime Prevention Centre for Children and Young adults in cooperation with the Unit for Protection of the rights of the child shall coordinate and implement the rehabilitation and re-socialization programme for at least six months after punishment is served or conditional release and it shall monitor the progress of the implementation of the plan for re-socialisation of the child.

CHAPTER XV
KEEPING AND STORAGE OF DATA IN THE SYSTEM OF JUSTICE FOR
CHILDREN

Article 136

Database of criminal justice for children

1. In order to keep the data of criminal cases involving a child in conflict with the law, child victim and witness of criminal offences, the Integrated Data System of Criminal Justice for Children shall be created.
2. The system shall contain only information that is necessary for this purpose.
3. The system shall include entry and update of data related to criminal justice for children and its aim is to:
 - a) collect data and arrange them as well as follow them on real time basis;
 - b) improve justice access to children subjects of this Code and ensure good-administration of justice for children;
 - c) coordinate inter-institutional efforts in order to enable provision of quick solutions when the child is denied justice access, is subject to abuse or violation of rights, or the procedural guarantees foreseen by the legislation in force are not observed;
 - ç) unify and digitalise data collection in order to create a statistical database that will be useful for the analysis and direction of improvement of policy related to criminal justice for children.
4. The system shall contain updated electronic data on each stage of criminal proceedings including the execution of the criminal decision involving children subjects of this Code.

Article 137

Responsible institutions

1. The system shall be administered by the Ministry of Justice.
2. The Ministry of Justice, police, prosecutor 's offices, courts, institutions of execution of criminal sentences and probation service offices shall enter and update data in the system and access this system according to the rules defined by the respective institutions for use and updating of data as well as the access levels.

3. The Ministry of Justice after establishment and full operation of the electronic case management system in the justice system shall cooperate with the Information Technology Centre of the Justice System for the electronic dissemination of data related to the indexing of files of children by the prosecutor 's offices and courts, upon completion of respective processes.

4. Creation, organisation, functioning and characteristics on the use and access to the data system, primary and secondary data and information provider shall be defined by decision of the Council of Ministers.

5. The responsible institutions according to this article, by the areas of activity, based on this law and the decision of the Council of Ministers, shall issue orders for the approval of detailed rules on the use of the system by their subordinate institutions.

Article 138

Informing and destruction of the personal file

1. The identity of children and their family members must not be communicated to any person who is not authorised by law to be informed thereof.

2. The legal authorisation to obtain information must be strictly limited to persons and institutions requesting special information about a particular case by avoiding public disclosure of all the names of subjects according to this Code.

3. A sentenced child may be informed of their personal file until the file is destroyed.

4. After release of the child, the rules on the storage and destruction of the files foreseen by the law on archives in the Republic of Albania shall apply to the personal file of the child.

Article 139

Retaining the file of the child punished by non-imprisonment

The rules on the retention and destruction of the file, foreseen by the law on archives in the Republic of Albania, shall apply to the complete file of execution of sentence against the child who has been punished by non-imprisonment or conditional punishment.

CHAPTER XVI
TRANSITORY AND FINAL PROVISIONS

Article 140

Enforcement of provisions of this Code and retroactive effect

1. The provisions of this Code shall start to apply as of 1st January 2018 to all the cases being investigated, tried or executed.
2. The provisions of this Code shall have retroactive effect only if this improves the condition and position of the child and it is in the best interest of the child.
3. The provisions of this Code, which enforcement requires the establishment of institutions or provisions of several and specialised services, shall become effective progressively according to the provisions of this article.
4. The Ministry of Justice and the ministry responsible for public order and security, within 6 months from the entry into force of this Code, shall adapt and equip the premises for cross-examination of the child, according to the provisions of article 39 of this Code;
5. Within 6 months from the entry into force of this Code, each competent body, according to this Code, shall prepare the list of persons who will be specialised in justice for children cases, approve the training programme and organise their training, in accordance with Chapter IV of this Code.
6. Within the 1st of January 2019, the provisions related to the activity of the competent institutions and authorities performing the functions related to the placement of the child under supervision, according to provisions of article 83 and 84 of this Code; providing specialised service for the placement in foster care according to article 69 of this Code; seeing to the fulfilment of obligations by the child, according to article 102, paragraph 3 of this Code; restricting liberty according to article 98 of this Code; providing services that guarantee sports and recovery of disabled persons, according to the provisions of article 119 of this Code shall start to be applied and enter into force; as well as it shall be established the Crime Prevention Centre for Children and Young Adults, according to the provisions of article 133, paragraph 4 of this Code.

Article 141

Sub-legal acts

1. The Council of Ministers within 6 months from the entry into force of

this Code shall be in charge of issuing new sub-legal acts or amending the existing ones according to the provisions of this Code and they shall make possible fulfilment of obligations foreseen in article 72, paragraph 10; 84, paragraph 3; 98, paragraph 5; 102, paragraph 3; 110, paragraph 5; 111, paragraph 2; 113, paragraph 6; 120, paragraph 5; 122, paragraph 1; 124, paragraph 2; 125, paragraph 5; 126, paragraph 4; 127, paragraph 4; 133, paragraph 4; 137, paragraph 4 and 137, paragraph 5.

2. The respective ministers within 6 months from the entry into force of this Code shall be in charge of issuing new sub-legal acts according to the provisions of this Code and they shall make possible fulfilment of obligations foreseen in article 59, paragraph 4; 66 paragraph 2, 67 paragraph 2 and 117 paragraph 7.

Article 142

Repeals

1. All other provisions contained in legal and sub-legal acts which are contrary to the provisions of this Code shall be repealed upon entry into force of this Code.

2. The sub-legal acts concerning criminal justice for children shall apply to the extent they do not contradict the principles and provisions of this Code until the new sub-legal acts implementing this law are issued.

Article 143

Entry into force

This Code enters into force on 1 January 2018.

SPEAKER ILIR META

Adopted on 30.3.2017

LAW
No. 10192, dated 3.12.2009
ON PREVENTING AND STRIKING AT ORGANISED CRIME,
TRAFFICKING, CORRUPTION AND OTHER CRIMES THROUGH
PREVENTIVE MEASURES AGAINST ASSETS

*(Amended by Law No. 24/2014) (Amended by Law No. 70/2017) (Title amended by
Law No. 70/2017, article 1)
(Amended by Law No. 85/2020)*

In reliance on Articles 78 and 83, point 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

D E C I D E D: CHAPTER I
GENERAL PRINCIPLES AND PROVISIONS

Article 1 Object

(Words added by law No. 70/2017, article 2)

This law defines the procedures, competences and criteria for the implementation of preventive measures against the assets of persons who are subject to this law as suspected of participation in organised crime, trafficking, corruption and in committing other crimes pursuant to the provisions of this law.

Article 2

Purpose

(Words added by law No. 70/2017, article 3)

The purpose of this law is preventing and striking at organised crime, trafficking corruption and other crimes pursuant to the provisions of this law, through the confiscation of the assets of persons who have an unjustified economic level as a result of suspected criminal activity.

Article 3

Field of application

(Amended by Law No.70/2017, article 4)

1. The provisions of this law are applicable for the assets of people, which are possessed completely or partially, directly or indirectly, as provided for in point 2 of this article, for whom there is a reasonable doubt based on indicia for:

a) the participation and the committing of crimes by armed gangs, criminal organizations and structured criminal group, provided for by Chapter XI of the Criminal Code;

b) the participation and the committing of crimes by terrorist organizations and crimes for terrorist purposes, provided for by chapter VII of the Criminal Code;

c) the committing of crimes provided for by articles 109, 109/b, 110/a, 128/b, 278/a, 282/a, 283, 283/a and 284/a of the Criminal Code;

ϕ) the laundering of the proceeds of the criminal offence or of the criminal activity, provided for by article 287 of the Criminal Code;

d) the committing of the crimes provided for in articles 164/a, 164/b, 183, 244, 244/a, 245, 245/1, 256, 257, 257/a, 258, 259, 259/a, 260, 312, 319, 319/a, 319/b, 319/c, 319/ç, 319/d, 319/dh and 319/e of the Criminal Code, in the cases when there are indicia regarding the illegal asset profit.

2. The provisions of this law are applicable even regarding the assets of the people mentioned in paragraph 1 of this article, in the ownership or possessed indirectly by:

a) relatives (husband, children, the antecedents, the descendants, brothers, sisters, cohabitant) for whom the false registration is presumed, unless proved otherwise;

b) natural or legal persons, for whom there is sufficient data that their assets or activities are possessed, completely or partially, indirectly by the people mentioned in paragraph 1 of this article or are used, have facilitated or have influenced in a certain form the realization of the illegal activities by them.

3. The presumption of the false registration of the assets and of the economic activities of the persons mentioned in paragraph 1 of this article, in the name of the relatives mentioned in letter a) of paragraph 2 of this article shall apply, when there are useful data, obtained in a lawful way, which create the reasonable doubt on the illegality of the origin of the assets.

4. The sufficient data that the assets or the activities of a natural or legal person referred to in the letter “b” of point 2 of this article, are owned completely or partially, indirectly, by the persons referred to in paragraph 1 of this Article, are coming from the relationship between the natural and legal persons with the persons referred to in paragraph 1 of this Article and from the useful data, obtained in a lawful way, which create the reasonable doubt on the illegality of the origin of assets.

5. The preventive measures may be requested even against the heirs of the person who is the subject of the application of this law, but in any case no later than 5 years from the date of death.

6. This law is applied even for the assets of the people, which have been gained before it entered into force, providing that there are significant indicia for their inclusion in criminal activities at the moment they obtain the asset.

Article 4

Preventive measure

(Amended by Law No. 70/2017, article 5)

In the meaning of this law, a “preventive measure” is any measure of a property nature that the court orders in judicial proceedings through the sequestration of assets, the economic, commercial and professional activities of persons, as well as through their confiscation.

Article 5

Relation to the criminal proceedings

(Point 2 amended by Law No. 70/2017, article 6)

1. The procedure of setting out and implementing preventive measures according to this law depends on the condition, level or conclusion of

criminal proceedings being conducted against the persons who are subject to this law.

2. The verification, investigation and the adjudication according to this law, are based on the procedural rules of this law and are completed with rules stipulated in the Criminal Procedure Code, pursuant to the case. The data received from the criminal process are used in the procedure provided for by this law.

3. In cases when the assets sequestered or confiscated according to this law are also subject to sequestration or confiscation according to the Criminal Code and the Code of Criminal Procedure, the court orders the suspension of the consequences of the implementation of the measures of sequestration and confiscation according to this law. The suspension ends with the rendering of a criminal judicial decision for the revocation or lapse of those measures.

Article 6

Subject of the investigations

(Title amended by Law No. 70/2017, article 7) (Point 1 amended by Law No. 70/2017, article 7) (Point 3 added by Law No. 70/2017, article 7)

1. The prosecutor undertakes, even through the judicial police, the necessary investigations against the people mentioned in article 3, paragraphs 1 and 2, of this law, on the financial means, assets, economic, trading and professional activities, the economic level and their income resources, as well as the questioning of the people who have information on the facts which are the subject of this law and the conduct of the necessary expertise. When the international judicial assistance is necessary, the international agreements ratified by the Republic of Albania and the relevant procedural provisions are applicable.

2. The verifications are, in particular, done if these persons have permits, licenses, authorisations, concessions and other rights to conduct economic, commercial and professional activity, as well as to verify whether they benefit contributions, financing or credit of any kind, given by or benefitted from the state, public legal persons or entities, international institutions or bodies, as well as to verify whether the assets, activities or property rights are justified.

3. The investigations mentioned in paragraphs 1 and 2 of this article may be ordered by the prosecutor until the end of the hearing for confiscation.

Article 7
Competence and composition of the court
(Amended by Law No. 70/2017, article 8)

1. The request for the preventive measures to be taken pursuant to this law, shall be reviewed in the first instance by the Courts of the Judicial Districts or by the Anti-Corruption and Organized Crime First Instance Court, respectively, according to the subject competence for the criminal offence committed according to the article 75/a of the Criminal Procedure Code.
2. The request for the preventive measures to be taken shall be reviewed in the second instance by the courts of appeal or the Anti-Corruption and Organized Crime Appeal Court, according to the rule established in the paragraph 1 of this article.
3. The provisions of the paragraph 1 of the article 80 of the Criminal Procedure Code shall be applicable for as long as they are compatible
4. The request for taking the preventive measures under this law shall be reviewed at first instance, by a judge. The appeal against the decision to take preventive measures shall be reviewed by the courts of appeal or the Anti-Corruption and Organized Crime Appeal Court with a panel of three judges.

Article 8
Preliminary verifications
(Words amended to Point 2 by Law No. 70/2017, article 9)

1. The prosecutor 's office and the judicial police shall be informed about the assets due to be verified according to this law on their own initiative or upon a notification made by third parties.
2. Upon being informed about assets that are to be verified according to this law, the judicial police shall, without delay, refer the fundamental elements of the fact and the data provided by it to the prosecutor in writing.
3. The prosecutor carries out actions himself and through the Judicial Police for the investigation of the financial resources, assets, economic, commercial and professional activities, way of living, as well as the sources of income of the persons being subject to the implementation of this law.

Article 9

Obligation to hand over information and documents

1. The prosecutor may, directly or through the Judicial Police, ask any office of the state administration, public legal person or entity, and other natural and legal persons for data and copies of documents deemed indispensable for purposes of verifying the assets of the persons provided for in Article 3 of this law.
2. With an authorisation issued by the prosecutor or the court, the officers of the Judicial Police may order the sequestration of the documents examined, according to the rules provided in Articles 208, 209, 210 and 211 of the Code of Criminal Procedure.

Article 10

Competences of the court

(Title amended by Law No. 70/2017, article 10) (Point 1 amended by Law No. 70/2017, article 10)

1. Upon the request of the prosecutor, parties or ex officio, the Court orders the necessary investigations to solve the case and may approve the measures determined by special laws.
2. If during the adjudication, the need for international legal assistance arises, the international agreements accepted by the Albanian state, as well as respective procedural provisions, shall be applicable.

CHAPTER II

SEQUESTRATION OF ASSETS

Article 11

Criteria for sequestration of assets

(Entering part of the point 1 amended by Law No. 70/2017, article 11)

1. Upon the motivated request of the prosecutor, the court decides on the sequestration of the assets, possessed directly or indirectly, in the full or partial ownership of the people, pursuant to article 3, paragraph 1 of this law, when there is a reasonable doubt, based on indicia which indicates that the person has been involved in a criminal activity and possesses disproportional assets or incomes in proportion with the level of incomes or of the profits from declared legal activities and are not justified by them, and when:
 - a) there is a real danger of the loss, taking or alienation of the funds,

assets or other rights over which the implementation of the measure of confiscation according to the provisions of this law is provided; or

b) there are reasonable suspicions indicating that the possession of the assets and the exercise of the particular economic, commercial and professional activities are in a state of danger or influence by a criminal organisation or that may facilitate criminal activities.

2. The request of the prosecutor for the sequestration of assets contains the indicia on which the reasonable suspicion is based, as well as the reasoning for at least one of the conditions of point 1 of this Article.

Article 12

Sequestration procedure

(Amended by Law No. 70/2017, article 12)

1. The request for the sequestration of the asset shall be reviewed by the court in the counselling chamber, within five days from the date of submission, on the basis of the documents and acts submitted by the prosecutor.

2. The decision for a sequestration measure shall be executed upon its announcement. The sequestration measure is valid for a six-month period, starting after the moment of its implementation.

3. In the case of complex verifications, upon the request of the prosecutor or ex officio, the court may decide to extend the time period of implementation of the sequestration measure for six-month periods, but no more than two years from the date of the beginning of the time period stipulated pursuant to paragraph 2 of this article. An appeal against this decision may be filed with the Appeal Court, which decides within 15 days after receiving the acts.

4. No later than 5 days before the end of the time period of the sequestration measure provided for in paragraph 2 or 3 of this article, the court determines a special hearing, notifying the prosecutor, the people mentioned in article 3, paragraphs 1 and 2, of this law and the selected defence lawyer. The request of the prosecutor for the revocation of the sequestration does not hinder the court from confiscating the asset when it deems that the criteria provided for in this law have been fulfilled.

5. When the special hearing, according to paragraph 4 of this article, is not established the court lapses the sequestration measure upon the request of the parties or ex officio. The lapse of the sequestration measure

does not hinder the submission and admissibility of a new request for confiscation of the assets.

Article 12/a

Sequestration or confiscation of the equivalent asset

(Added by Law No. 70/2017, article 13)

1. The sequestration or the confiscation is decided on monetary means or any other assets in the ownership of the people referred to in article 3 of this law, when after being informed on the investigation against him, the person, against whom the measure is requested, delivers, transfers, abuses with, hides or devaluates the assets to avoid the execution of the measure of its sequestration or confiscation.
2. In the cases provided for in paragraph 1 of this Article, when a third person is in bad faith the assets shall be sequestered or confiscated.
3. The rules provided for in paragraphs 1 and 2 of this article, shall apply to the extent of the value of the assets for which the sequestration or confiscation is imposed, even when it appears that it has been joined with other assets.
4. The rules of the above paragraphs of this article shall apply even if the illegal assets has been incorporated with a legitimate one and cannot be separated from it without causing a substantial damage.

Article 12/b

Revocation of the sequestration

(Added by Law No. 70/2017, article 13)

1. The court upon the request of the parties, decides on the revocation of the sequestration of assets even before the time limits provided for in paragraphs 2 and 3 of article 12 of this law,
2. The court decides on the revocation of the sequestration of assets replacing it with equivalent assets, when the parties give the consent and the court considers it appropriate.

Article 13

Court decisions when the sequestration measure is revoked

(Amended by Law No. 70/2017, article 14, and law No. 85/2020, article 1)

1. The decision of the court which settles the revocation of the sequestration pursuant to article 12/b of this law, is transmitted to the Agency of the Administration of the Sequestered and Confiscated of Assets, which

notifies the owner of the sequestered assets.

2. The assets are handed over to the owner in compliance with the provisions of the Civil Procedure Code, accompanied with the relevant documentation, which is handed to the owner by the administrator of the assets.

3. The Agency of Sequestered and Confiscated Assets is freed of any responsibility if the owner of the assets having no justified reason fails to appear within 30 days from the date of the notification of the decision for revocation of the sequestration.

4. The revocation of the sequestration measure does not hinder the use of the data and evidence ensured during the investigation for tax purposes.

5. Upon decision of the revocation of the sequestration, the court may decide the obligation on the owner of the assets or on the person, who owns or administers the assets or its parts, to notify the tax administration for a period not less than 5 years from the date when the decision was notified, for the acts of the possession, the buying or the payments that have been received, the professional tasks of the administration or the custody, as well as for other acts or contracts, according to the type and the value determined by the court, depending on the asset and the incomes of the person in any case for a value not less than 2 million leke.

6. The notifications provided for in paragraph 5 of this article shall be carried out within 10 days from the performance of the act, meanwhile for other acts carried out in the preceding year, within January 31 of every year.

7. The profited objects and the payments that have been received, for which the obligation of notification has not been respected, shall be confiscated to the person who does not respect the notification obligations within the time limits stipulated in paragraph 6 of this article, without submitting reasonable grounds.

Article 14

Execution of the sequestration measure

(Amended by Law No. 70/2017, article 15, and law No. 85/2020, article 2)

1. The sequestration decision shall be enforced immediately. The secretary of the court sends without delays to the prosecutor who submitted the request, two copies of the decision. The prosecutor takes measures for the execution of the decision through the judicial police officer and the administrator of the assets.

2. The sequestration is executed:

a) for the movable assets and the monetary amounts, according to the rules stipulated by the Civil Procedure Code in the cases of the repossession of the assets by the debtor or the third party;

b) for the movable or immovable assets in the competent offices for their registration;

c) for the assets of the commercial companies, apart from the mode provided for by this law for any other attached asset even through the registration of the decision in the register of the commercial companies;

ç) for the quotas and the shares, through the publication in the register of the commercial companies and the record in the accounting registers of the company;

3. After the execution order issued by the prosecutor, the judicial police proceeds with the collection of the assets and its delivery to Agency for the Administration of Seized and Confiscated Assets, even when the people who are impacted by the measure have real or personal rights to enjoy them.

4. The judicial police notifies the sequestration measure of the assets to the people mentioned in article 3, points 1 and 2 of this law. Also, the judicial police notifies the above people about the decision of the court for delaying the timeframe of the sequestration measure.

5. When the sequestration measure is imposed against the immovable assets or the assets registered in the public registers, the Agency for the Administration of Seized and Confiscated Assets notifies immediately this measure to the offices where these registers are kept.

6. When the item is kept without an ownership title or based on a title which dates back before the date of the sequestration decision and the owner of the item does not accept to submit it voluntarily, the court orders the eviction of the object. The court order is executed by the judicial police.

7. The inventory and the description of the sequestered assets is carried out by the judicial police and are documented in a report, which is signed by the people who are present. This report includes the elements provided for by article 524 of the Civil Procedure Code.

8. As the Agency for the Administration of Seized and Confiscated Assets receives the sequestered assets, the judicial police submits a copy of the report mentioned in paragraph 7 to the people who

were present in the moment of the inventory.

9. The judicial police hands over the sequestered asset to the Agency for the Administration of Seized and Confiscated Assets accompanied with the respective legal documentation, and if it has any, even with the registers of the accounts of the commercial companies.

10. For administration purposes and in the absence of the documentation provided for in paragraph 9 of this article, the administrator makes available the necessary data for the administration of the assets to the legal auditor appointed by the Agency for the Administration of the Sequestered and Confiscated Assets, requesting the drafting of a report. The report is made available for the Agency.

CHAPTER III ADMINISTRATION OF SEQUESTERED ASSETS

Article 15

Administrator of seized assets

(Last part of the sentence repealed by Law No. 70/2017, article 16, amended by Law No.85/2020, article 3)

1. The court shall, in its decision on the asset seizure, assign the Agency for the Administration of Seized and Confiscated Assets as the administrator of these assets. The Agency shall provide the court with the list of the administrators employed in the Agency, at least once a year and shall specify the criteria for their appointment.

2. The Agency for the Administration of Seized and Confiscated Assets may require the assistance of the experts or other people, who are rewarded for the job they do.

Article 16

Tasks of the Agency for the Administration of Seized and Confiscated Assets

(Words repealed at the point 2, by Law No. 70/2017, article 17, amended by Law No.85/2020, article 4)

1. The Agency for the Administration of Seized and Confiscated Assets has the duty of preserving and administering the sequestered assets. In addition, it has the duty of increasing, if possible, the value of those assets.

2. The Agency for the Administration of Seized and Confiscated Assets for the execution of the sequestration measure and for the administration of the object submits every necessary request to the prosecutor's office, or any other state

institution.

The court or the prosecutor may, at any time, request information from the Agency for the Administration of Seized and Confiscated Assets on the asset administration. This information shall be made available by the Agency within 5 days from the receipt of the request.

Article 17

Prohibitions for the Agency for the Administration of Seized and Confiscated Assets

(Point 1 amended by Law No. 70/2017, article 18) (Point 2 and 3 added by Law No. 70/2017, article 18) (Amended by Law No. 85/2020, article 5)

1. Except for cases when he receives prior authorisation the Inter-agency Committee on Measures against Organized Crime, the Agency for the Administration of Seized and Confiscated Assets is not permitted to take part in the adjudication, to take loans, to sign agreements of conciliation, arbitration, promise, pledge, mortgaging or alienation of the sequestered assets or to perform other legal actions beyond the actions of the ordinary administration.
2. Through the Agency for the Administration of Seized and Confiscated Assets shall submit with the Inter-Agency Committee for Measures against Organized Crime, the administrator submits to the prosecutor, the argued request when he considers that legal actions provided for in paragraph 1 of this article shall be carried out.
3. The Inter-Agency Committee for Measures against Organized Crime shall render a decision on accepting or dismissing the request of the Agency.

Article 18

Reports of the Agency

*(Point 4 added by Law No. 70/2017, article 19)
(Amended by law no. 85/2020, article 6)*

1. Within 15 days the Agency for the Administration of Seized and Confiscated Assets shall be responsible for the asset administration is obliged to submit to the court a detailed report on the basic elements of the existence and condition in which the sequestered assets are. Subsequently, upon the request of the court, the Agency, the administrator submits periodic reports to it about the administration of the sequestered assets, accompanied by the respective documentation if requested.
2. The Agency for the Administration of Seized and Confiscated Assets is also obliged to notify the court about other assets that might be subject to the sequestration measure, on the existence of which he becomes aware during the administration.

3. The Agency for the Administration of Seized and Confiscated Assets is obliged to send the reports specified in points 1 and 2 of this Article at the same time also to the prosecutor.

4. The court summons ex officio the Chief administrator of the Agency of the Sequestered and Confiscated Assets, to get information about the administration of the sequestered assets and about any other data which is considered useful for the confiscation decision. The Chief administrator of the Agency may delegate an official, under his subordination to be present in front of the court.

Article 19

Transfer of the real rights for the sequestered assets

(Amended by Law No. 70/2017, article 20) (Amended by Law 85/2020, article 7)

1. Regarding the assets that are damaged, whose value falls significantly or are not in use, upon the request of the Agency for the Administration of Seized and Confiscated Assets, the Inter-Agency Committee for the Measures against Organized Crime shall decide to transfer the real rights to the third parties, pursuant to the principles on the assets well-administration. The real rights shall not be transferred to the people provided for in paragraphs 1 and 2 of this law. The Committee shall render the decision after hearing the parties and the assessing expert.

2. When deciding on the revocation of the sequestration, the court orders the restitution of sequestered property, or its counter-value to the owner, according to the provisions of this law.

Article 20

Paying the expenses of administration *(Amended by Law No. 70/2017, article 21) (Amended by Law 85/2020, article 8)*

1. The expenses that are necessary or beneficial for the safekeeping and administration of the sequestered assets are paid out of the funds made available by the Agency for the Administration of Seized and Confiscated Assets, from any legitimate source.

2. If, by administering the sequestered assets, sufficient funds are not gained to cover the expenses under paragraph 1 of this article, they are prepaid by the State through the Agency for the Administration of Sequestered and Confiscated Assets, having the right to return them by the person whose property is sequestered, also in the case of revocation of the sequestration or confiscation.

3. In cases of imposing the measure of confiscation of assets, the expenses incurred in the course of administering those assets by the Agency of

Administration of Sequestered and Confiscated Properties are included in the accounts of their administration. If the funds of the accounts of administration are not sufficient to meet the payment of these expenses, they are paid, in whole or in part, by the state, without the right to compensation.

3/1 The Agency of Administration of Sequestered and Confiscated Assets is not responsible for the payment of liabilities of the subjects referred to in Article 3, paragraphs 1 and 2 of this law, matured before the sequestration decision, concerning:

- a) costs of maintenance and common administration of the assets;
- b) outstanding payments of electricity, water and phone etc; and c. outstanding taxes or tax obligations.

4. When the court orders the revocation of the sequestration measure, the possessor of the assets has the right to ask for the fruits of the assets realized during the administration. He has the right to ask for compensation in the amount of the reduction of the value of the assets or the damage being caused to it.

CHAPTER IV CONFISCATION OF SEQUESTERED ASSETS

Article 21

Request for the confiscation of assets and burden of proof

(Amended by Law No. 70/2017, article 22)

1. The confiscation of assets shall be decided upon the request of the prosecutor who presents to the court the grounds where the request is based on. The court decides after carrying out the judicial investigation and hearing the final discussion of the parties.

The court may decide the confiscation even at the end of the special hearing, provided for in article 12, paragraph 4 of this law.

2. The confiscation of assets is also sought and ordered in cases when a sequestration measure has not been sought and ordered against the assets.

3. The people mentioned in article 3, paragraph 1 of this law have the burden to prove that the activities and the sequestered assets, possessed completely or partially by them, have been gained in a legal way.

4. The persons mentioned in article 3, paragraph 2, letter a) of this law have the burden to prove that the assets for which confiscation is requested, are possessed with an ownership title only by them, have been benefited through legal resources and are not in indirect ownership of the people mentioned in

article 3, paragraph 1, of this law.”

5. The persons mentioned in article 3, paragraph 2, letter b) of this law have the burden to prove that the evidence collected during the assets proceeding are insufficient to verify that their activities or assets:

- a) are possessed completely or partially, indirectly, by the people mentioned in article 3, paragraph 1 of this law, or
- b) have been used, have facilitated or have impacted in a certain way in the realization of the illegal activities by the people mentioned in article 3, paragraph 1 of this law.

Article 22

Judicial procedure of confiscation

(Amended by Law No. 70/2017, article 23)

1. During the adjudication of a request for confiscation, the provisions of the Code of Criminal Procedure are applied to the extent possible.
2. Upon request of the prosecutor, the court may also proceed with the adjudication in cases when the person does not have a known residence within the country, has left the country or, despite all the searches made, is not found. In this case, the court orders the failure of finding the person, designating a defence lawyer for him. The defence lawyer may be designated by the court on its own initiative or be selected by the relatives of the person.
3. When during the judicial examination it comes out that the sequestered assets belong to third persons, the court, even on its own initiative, by a reasoned decision, calls them to intervene in the proceedings.
4. Within the time period designated by the court, the third person has the right to present his claims in the hearing, as well as to seek that other necessary data be received. The prosecutor shall carry out any necessary investigation to the effect of verifying these allegations.
5. When it is verified that the assets have been transferred or registered in the name of third parties by fictitious or simulated legal actions, the court finds their invalidity. For this purpose, when the contrary is not proven, the following are also presumed to be fictitious or simulated.
 - a) transfers and registrations in the name of third parties and with an encumbered title done within two years before the submission of the request to take a preventive measure against the related persons;
 - b) transfers and registrations in the name of third parties and with a title being free of charge or obviously below the market value done within two years before the submission of the request to take the preventive measure.

Article 23

Duration of the trial of a request for confiscation

(Amended by Law No. 70/2017, article 24)

1. Within 3 months from the date of the confiscation request being submitted by the prosecutor or from the initiation of the special hearing under Article 12, paragraph 4 of this Article, the court shall decide on the confiscation.
2. In complex cases, the court may, even ex officio, decide at a later date, however, in any case within one year from the time period provided for in the paragraph 1 of this Article.

Article 24

Acceptance of the request for confiscation

(Amended by Law No. 70/2017, article 25)

1. The court decides on the confiscation of assets when all the following conditions are fulfilled:
 - a) there are reasonable doubts based on indicia for the participation of the person in the criminal activities provided for in article 3, paragraph 1 of this law;
 - b) it results that the assets are in full or partial possession, directly or indirectly, of the persons referred to in article 3, paragraph 1 of this law;
 - c) it is not proven that the assets have a legal origin or the persons referred to in article 3 of this law, do not manage to justify the possession of the assets or of the incomes which are disproportionate with the level of incomes or of the profits gained through legal resources declared by them.
2. In any case, the person cannot justify the asset declaring as its resource incomes or reinvestments which originate from the non payment of the taxes.
3. In the cases provided for in paragraph 1 of this article, the court decides on the admissibility of the request for the confiscation of the assets even when the charge or the criminal proceeding against the person referred to in paragraph 1 of article 3 of this law is dismissed or he is found innocent, except for the cases when the following is declared in the decision for dismissal or innocence:
 - a) the fact does not exist;
 - b) the fact is not provided for by law as a criminal offence;
 - c) it results that the defendant has not committed the criminal offence.

Article 24/a
Rejection of confiscation

(Added by Law No. 70/2017, article 26)

Where the court does not decide on the confiscation of the sequestered assets, the provisions of Article 13 of this law shall apply.

Article 25
Procedural expenses

(Amended by Law No. 70/2017, article 27) (Point 4 repealed by Law No. 70/2017, article 27)

1. In the procedural expenses there are included expenses of sequestration, of administration, of confiscation, of the defence lawyer, as well as every other expense documented according to the law.
2. The expenses for sequestration according to this law are prepaid by the state and paid by the person against whose assets the sequestration of assets is ordered.
3. In its final decision to a request for confiscation, the court sets the obligation for payment of the expenses prepaid by the state.
4. *(Point 4 repealed by Law No. 70/2017, article 27)*
5. The court that has rendered the decision decides on complaints about procedural expenses.

CHAPTER V
DECISION, APPEAL AND EXECUTION OF PREVENTIVE MEASURES

Article 26
Elements of the court decision
(Amended by Law No. 70/2017, article 28)

The court decision for imposing the preventive measures shall contain:

- a) the court that has rendered the decision;
- b) time and venue of announcement of the decision;
- c) name of prosecutor;
- đ) final allegations and demands of parties;
- d) type of preventive measure and duration, as long as it has been restricted to a time limit;
- dh) type of assets with all the data, serving for its identification, including the location, and any other data being instrumental to identify it;
- e) summarised introduction of the fact and the legal cause of the preventive measure;
- ë) extent of procedural expenditure, their type, and data regarding the person, being imposed on.

Article 27
Appeal

(Point 1 and 2 amended by Law No. 70/2017, article 29) (Point 4 added by Law No. 70/2017, article 29)

1. An appeal against a decision of the court for the sequestration of assets, the extension of the time period of the sequestration measure, the revocation or lapse of the sequestration measure may be taken to the court of a higher level, according to the time periods and conditions provided in the Code of Criminal Procedure.
2. An appeal may be taken to a court of a higher level against a decision of the court for the confiscation of assets according to the time periods and conditions provided in the Code of Criminal Procedure.
3. An appeal according to point 1 or 2 of this Article does not suspend the implementation of the decision, unless the law provides otherwise.

4. When the prosecutor submits a complaint against the revocation of the sequestration or against rejection of the request of confiscation, the enforcement of the challenged measure shall be suspended until the issue of the decision by the appeal court.

Article 28

Execution of a decision of confiscation and revocation of sequestration

(Point 4 amended by Law No. 70/2017, article 30) (Point 5 repealed by Law No. 70/2017, article 30) (Point 6 amended by Law No. 70/2017, article 30)

1. A decision of the confiscation of assets shall be enforced immediately after the announcement.
2. A decision revoking the measure of the sequestration of assets shall be enforced 15 days after the notification of the interested parties.
3. During the execution of a decision of confiscation, the court that has rendered the decision may issue *in camera* orders for the performance of special actions and the taking of other necessary measures, also determining in them the time periods and manner of performance of the actions and the necessary measures that should be taken.
4. The decision and orders for carrying out special actions shall forthwith be transmitted to the proceeding prosecutor, who supervises the enforcement actions.
5. *(Point 5 repealed by Law No. 70/2017, article 30)*
6. The judicial police shall keep minutes on the enforcement actions, which shall be sent to the court through the prosecutor.

CHAPTER VI USE OF CONFISCATED ASSETS

Article 29

Transfer of confiscated assets to the ownership of the state *(Second sentence of the point 3 repealed by Law No. 70/2017, article 31) (Point 4 added by Law No. 70/2017, article 31)*

1. Assets confiscated by court decision according to this law shall be assigned to the ownership of the state.
2. A final decision for the confiscation of assets is sent immediately to the

Agency of Administration of Sequestered and Confiscated Assets.

3. When a decision of confiscation becomes final, the assets shall be assigned to the ownership of the state in a non-returnable manner. (*Second sentence of the point 3 repealed by Law No.70/2017, article 31*).

4. Where the final decision having determined the confiscation is quashed by the higher court and the assets have been returned to the previous possessor by final decision, the latter shall be entitled to ask for compensation under the legislation in force.

Article 30

Competence for the way of using the confiscated assets

(Amended by Law no. 85/2020, article 9)

1. The Inter-Agency Committee for the Measures against Organized Crime shall, based on the recommendations and the evaluation report of the Agency for the Administration of Seized and Confiscated Assets, decide on the way how to use the confiscated assets, pursuant to this law, in compliance with articles 32 and 33. The decision of the committee shall be notified to the minister responsible for finances.

2. Within 90 days from notification of the judicial decision provided in point 2 of Article 29 of this law, the Agency of Administration of Sequestered and Confiscated Assets submits a report of technical- financial evaluation to the Inter-Agency Committee for the Measures against Organized Crime for every asset confiscated.

3. The Inter-Agency Committee for the Measures against Organized Crime, through a decision, which shall be notified to the minister responsible for the finances, determines the manner and conditions of use of the immovable assets confiscated and issues accompanying instructions of use within 30 days from the submission of the technical- financial evaluation report, but no later than 120 days from the date of notification of the judicial decision provided in point 2 of Article 29 of this law.

Article 31

Duties of the administrator of confiscated assets

(Amended by Law no. 85/2020, article 10)

The administrator designated by the Agency during the phase of sequestration of the assets continues the exercise of duties in the name and for the account of the Agency of Administration of Sequestered and Confiscated Properties, so long as he has not been replaced by it with another person.

Article 32

Use of monetary means of confiscated assets

(Title amended by Law No. 70/2017, article 32)

(Words added to the letter "a" by Law No. 70/2017, article 32) (Letter "c" amended by Law No. 70/2017, article 32) (Amended by Law no. 85/2020, article 11)

The administrator assigned by the Agency shall carry out the actions necessary to submit with the accounts of the Agency for the Administration of Seized and Confiscated Assets the funds in monetary means:

- a) being confiscated which will not be used for the administration of other confiscated assets or which will not be used for the indemnification of the victims of the criminal offences of organised crime and trafficking;
- b) being earned out of the sale of movable assets that are not used in the activity of the commercial legal person and of the titles, in net value, earned out of the sale of assets for the indemnification of the victims of organised crime. When the sale procedures are not economical, the Inter-Agency Committee for the Measures against Organized Crime shall propose to the minister responsible for economy, the application of the legal procedures for the transfer of assets free of charge or the elimination of the seized asset;
- c) which are benefited from the retaking of personal loans. If the procedure to retake them is not economical or when after the verifications conducted by the Agency of the Sequestrated and Confiscated of Assets regarding the debtor's repayment capability, results that he does not have repayment capabilities, the personal loans are annulled by the Inter-Agency Committee for the Measures against Organized Crime pursuant to the procedure provided for in article 30 of this law.

Article 33

Use of immovable assets and those serving for economic, commercial and professional activities

(Amended by Law no. 85/2020, article 12)

1. On the proposal of the minister responsible for economy and the minister responsible for order and public security, the Council of Ministers determines the criteria, amount and manner of use of immovable assets and those that serve for economic, commercial and professional activities, part of the special fund, within the limits of the destination established by the legislation into force.

2. In issuing this decision, the Council of Ministers bases itself on the

principles of good administration of property, the increase of effectiveness of criminal justice, as well as rehabilitation and fair indemnification.

Article 34

Agency of Administration of Sequestered and Confiscated Assets

(Amended by Law no. 85/2020, article 13)

1. The Agency of Administration of Sequestered and Confiscated Assets is the institution responsible for the administration of sequestered and confiscated assets.
2. Detailed rules about the organisation, competences and functioning of the Agency of Administration of Sequestered and Confiscated Assets are set by with a special law.
3. Detailed rules about the criteria of evaluation, the manners and procedures of giving confiscated assets in use and of their alienation are set by the Council of Ministers.

Article 35

Inter-Agency Committee for Measures against Organized Crime

(Point 1 and 2 amended by Law No. 70/2017, article 33) (Amended by Law no. 85/2020, article 14)

1. The Inter-Agency Committee for the Measures against Organized Crime shall be established and function on the supervision of the administration of seized and confiscated assets by the Agency for the Administration of Seized and Confiscated Assets, as well as the decision-makings on the destination of seized and confiscated assets. This committee shall convene at the ministry responsible for order and public security.

The committee shall be composed of 9 (nine) members, respectively proposed by the minister responsible for order and public security, the minister responsible for economy, the ministry responsible for justice, the minister responsible for social matters, Prosecutor General, the Special Prosecution Office against Corruption and Organized Crime, the Unit for Judicial Budget Administration, the State Agency of Cadastre and the Agency for the Administration of Seized and Confiscated Assets. The member proposed by the minister responsible for order and public security is the chairperson of the committee. The Agency for the Administration of Seized and Confiscated Assets shall exercise the function of the technical secretariat attached to the committee.

3. Representatives of public institutions or other organisations, local and foreign, active in fields of interest for the implementation of this law, may also be invited to take part in the activities of the committee.
4. The Agency of Administration of Sequestered and Confiscated Assets reports to the committee about its activity at least once every three months.
5. Based on the priorities defined in Article 37 of this law, the committee gives recommendations, which are addressed to the ministry responsible for order and public security, for the effective disposition of the income created by the Agency, also including a recommendation for the payment of the operating expenses of the agency.
6. At least once every six months, the committee asks for information in writing from the central institutions administering them, as well as detailed data on the condition and manner of use of immovable assets from the local units owning confiscated immovable assets.
7. The committee shall convene any time it is necessary, upon the request of one of the members of the Agency, but not less than once in 3 (three) months. The committee approves the internal rules of its functioning. 8.
- 9.

Article 36

Periodic reporting to the Council of Ministers

(Amended by Law no. 85/2020, article 15)

At the end of every fiscal year, the minister responsible for order and public security submits to the Council of Ministers a report about the administration of the assets sequestered and confiscated according to this law.

Article 37

Special fund for the prevention of criminality

(Point 1 amended by Law No. 70/2017, article 33)

(Letter "ç" added in the point 2 with the Law no. 70/2017, article 34) (Amended by Law no. 85/2020, article 16)

1. The proceeds gained from the implementation of this law, shall serve for raising a special fund for preventing criminality and the legal education. The special fund is a separate index in the Agency's budget and shall be administered through a decision by the Committee.
2. This fund serves for:
 - a) improving the functioning of criminal justice, designating assets in the administration of the General Prosecutor's Office, Special Prosecution Office

against Corruption and Organized Crime, the ministry responsible for order and public security and of the Ministry of Justice;

b) improving the prevention of criminal offences commission, the criminal preliminary investigations of organized crime or other crimes which bring criminal assets/proceeds and developing programs for the protection of witnesses and justice collaborators, addressing the assets under the administration of the ministry responsible for order and public security;

c) giving assistance to the victims of organised crime and trafficking, as well as encouraging social programmes for those categories, designating assets in the administration of the ministry that covers social issues.

c) compensation for the victims of organized crime and trafficking to the extent determined by judicial decision.

d) to cover the differences in value that may be created by the administration of assets, which shall, through a court decision, be given back to the owner of the seized or confiscated asset.

3. In addition to the central institutions, the beneficiaries of the financing of projects for the prevention of criminality may also be:

a) the units of local government where the confiscated immovable assets are located;

b) non-profit organisations that have within the scope of their activity the social, cultural and health rehabilitation of vulnerable categories of people, especially those affected or endangered by crime, including therapeutic centres and organisations, centres of re-capacitating and curing users of narcotic substances, as well as centres of assistance and rehabilitation of the victims of trafficking in human beings, which have been conducting such activities in the last three years from submission of the request.

4. The requirements for the financing of projects according to this Article, the verification and preparation of documentation for an opinion in the Inter-institutional Committee for Measures against Organised Crime, as well as following up their implementation, are done by the structures of the Agency of Administration of Sequestered and Confiscated Assets.

5. The committee shall, upon a decision, determine the funding of the project and the ways of using the fund provided to the applicant.

6. Until 31.12 2020, the fund that serves for the prevention of the criminal offences commission, in the function of the activity of the State Police and of the Special Prosecution Office against Corruption and Organized Crime cannot be smaller than 60 (sixty) per cent of the general incomes.

7. The incomes that have not been used from the special fund for criminality prevention shall be transferred at the subsequent budget year of the Agency.

8. The part of the fund, arranged pursuant to paragraph 2 of this article, may be used for the compensation of the officials of the beneficiary institutions up to the measure of 5 (five) per cent.

CHAPTER VII FINAL PROVISIONS

Article 38 **Transitional provision**

Requests for taking preventive measures submitted by the prosecutor in court before the entry of this law into force continue to be adjudicated according to the rules of this law.

Transitional provision *(Provided by Law No. 70/2017, article 35)*

1. This law shall be applied to the requests for taking preventive measures being filed by the prosecutor at the competent court after its entry into force.
2. Regarding the assets-relate proceedings at the investigation stage, this law shall start to be implemented with its entry into force.
3. Regarding the assets being obtained prior to the entry of this law into force and bearing a connection to the new criminal offences being added up in Article 3, point 1, the provisions of paragraph 6 of the article 3 of this law shall apply.
4. Until the establishment of the Court against Corruption and Organised Crime, the cases for taking the preventive measures against assets shall be adjudicated by the Serious Crimes Court.
5. Upon the establishment of the Court against Corruption and Organized Crime, the cases under the trial to take preventive measures against assets, shall be transferred at this Court and at the courts of general jurisdiction according to the subject matter competence for the criminal offence committed, according to the article 75/a of the Criminal Procedure Code.
6. Upon the establishment of the Special Prosecution Office against Corruption and Organized Crime, the cases under the investigation to take preventive measures against assets, shall be transferred at this prosecution

office and at the prosecution offices of the general jurisdiction according to subject matter competence for the criminal offence committed, according to the article 75/a of the Criminal Procedure Code.

Article 39

Subordinate legal acts

The Council of Ministers is tasked with issuing within three months from the entry of this law into force subordinate legal acts in implementation of Articles 14, 15 point 2, 28 point 4, 33 and 34 of this law.

Article 40

Repeals

Law No. 9284 dated 30.9.2004 "On preventing and clamping down on organised crime," as well as every other provision that is contrary to this law is repealed.

Article 41

Entry into force

This law enters into force 30 days after publication in the Official Journal.

LAW
No. 10 173, dated 22.10.2009
ON THE PROTECTION OF WITNESSES AND JUSTICE
COLLABORATORS

(Amended by law No. 10 461/2011)

(Amended by law No. 32/2017)

Pursuant to Articles 78 and 83, paragraph 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I
GENERAL PROVISIONS

Article 1
Object

This law regulates the special, temporary and extraordinary measures, the manner and procedures of the protection of witnesses and justice collaborators, as well as the organization, functioning, competences and relationships among the bodies charged with proposing, assessing, approving and implementing the protection program.

Article 2
Scope of application

The provisions of this law are applicable in the framework of criminal proceedings for intentionally committed crimes, regarding which the law provides for a sentence of imprisonment of no less than 4 years at a minimum. The dangerousness of these crimes and their perpetrators should be such as to justify the incurrence of expenditures necessary for protecting one or more persons.

Article 3
Definitions

In this law, the following terms have these meanings:

1. "Protection program" is the special, supporting and extraordinary measures applied by the Directorate for the Protection of Witnesses and Justice Collaborators, for the protection of the life and health of protected persons, under the conditions foreseen by this law.
2. "Justice witness" is a person, who, in the capacity of witness or aggrieved person, declares or testifies about facts and circumstances that constitute evidence in a criminal proceeding, and who is in a situation of danger, because of these declarations or testimony.
3. "Justice collaborator" is a person who serves a criminal sentence or is a defendant in criminal proceedings, with regard to crimes committed in complicity, and who is in a situation of danger, because of his collaboration with justice, declarations or testimony about facts and circumstances that constitute evidence in the same criminal proceedings or in related proceedings.
4. "Related persons" are persons who are in a situation of danger because of their kinship or marriage relations, actual cohabitation or close personal relationships with the justice witness or justice collaborator.
5. "Protected persons" are, jointly or separately, justice witnesses, justice collaborators and persons related to them, according to the definitions provided in points 2, 3 and 4 of this Article.
6. "Situation of danger" is a current, concrete and serious situation, because of which life and health are in danger, as a consequence of the testimony of the witness or justice collaborator in criminal proceedings for the criminal offences foreseen by this law.

CHAPTER II BODIES RESPONSIBLE FOR THE PROTECTION OF JUSTICE WITNESSES AND JUSTICE COLLABORATORS

Article 4 **Responsible bodies**

The bodies responsible for the preparation, assessment, approval and implementation of the protection program for justice witnesses

and justice collaborators are:

- a) The Commission for the Assessment of the Protection Program for Justice Witnesses and Justice Collaborators (below, “the Commission”).
- b) The Directorate for the Protection of Witnesses and Justice Collaborators (below, “the Directorate”).

Article 5

The Directorate for the Protection of Witnesses and Justice Collaborators

(Points 1, 2 and 3 amended by law No. 32/2017, article 1)

1. The Directorate for the Protection of Witnesses and Justice Collaborators, as a special central structure at the State Police, is the body responsible for preparation, following and implementation of the protection programme. The Directorate extends its activity to the entire territory of the Republic of Albania.
2. The structure and personnel chart of the Directorate shall be approved by the responsible minister for order and public safety.
3. The Directorate has its own budget, as a separate expenditure item in the budget of the State Police Directorate. The administration of the assets and funds necessary for the exercise of activities by the Directorate, the documentation of expenditures, and the supervision of the financial activity of the Directorate are done in such a way as not to allow the disclosure of secret and operational information.
4. The treatment and benefits of the employees of the Directorate are regulated by a decision of the Council of Ministers.

Article 6

Duties of the Directorate

(Words added to the letter “a” by law No. 37/2017, article 2)

The Directorate has the following duties:

- a) it prepares and sends for examination to the commission the proposals sent by the Prosecutor General or by the Chief Special Prosecutor for acceptance into a protection program;
- b) it conducts as assessment of the psychological and physical conditions of the person proposed to be admitted to a protection program and a comprehensive assessment of the situation of

danger, in order for the commission to be informed to the highest degree possible on the suitability of the person with the protection program;

c) it decides on the application of temporary measures of protection until the final decision is taken by the commission, in the cases and manner provided in Article 18 of this law;

ç) it adopts special and auxiliary protection measures that will be applied to the person or persons accepted into the program, following the taking of the decision by the commission for admission into the protection program;

d) it prepares and signs the protection agreement with the protected persons, in accordance with Article 19 of this law;

dh) it follows the implementation of the protection program;

e) it administers the data base related to the activity of the Directorate and the progress of the protection program, and takes measures to safeguard and administer it in compliance with the necessary level of classification of information, according to the legal provisions in force;

ë) it administers the assets and funds available to the Directorate for the exercise of its activity and the implementation of the protection program, including renting premises necessary for technical and operational work;

f) it proposes and takes measures for coordinating the work with other institutions for the implementation of the protection program for the protected persons;

g) it follows issues of cooperation with international structures or other states, in the area of protection;

gj) it prepares periodic reports on the conducted activity and makes proposals for the improvement of the legislation, the implementation of the protection program for protected persons. The reports of the Directorate contain only statistics. No legal provision on the right to information obliges the Directorate to disclose information, whether in a summary or reduced manner, to other state institutions, media or the public. Regular reports are prepared every six month and are made available to the commission.

Article 7

Special competences of the Directorate

1. The Directorate, when it considers it necessary, to the effect of the implementation of the protection measures, addresses a reasoned written request to other state institutions:

- a) to provide necessary information;
- b) not to disclose information to persons or entities, which, in ordinary situations, are entitled to obtain such information;
- c) to inform, in any case, when persons or other entities attempt to obtain information about protected persons.

2. The Directorate, in implementing the protection program, has the right to use false identities and to ask other state institutions to assist in creating them:

- a) for protected persons;
- b) for the employees of the Directorate who perform specific duties in fulfilment of the obligations deriving from this law.

3. For the purpose of exemption from criminal liability, the persons who use false identities in implementation of point 2 of this Article and the public functionaries who assist in creating these identities are considered to have acted in the exercise of a right or the implementation of a duty assigned by law, according to Article 21 of the Criminal Code.

Article 8

Appointment, release and dismissal from police of employees of the Directorate

(Amended by law No. 37/2017, article 3)

1. The police officers in the Directorate are selected from among employees of the police who fulfil the criteria for being appointed to the State Police Directorate according to the laws and subordinate legal acts in force.

2. The candidates for employees at the Directorate are subject to personal verification by the responsible structure on Internal Service in the responsible ministry for order and public safety.

3. The transfer of police officers of the Directorate to another position in the State Police is done in accordance with the procedure provided by law regulating the activity of the State Police, only with the prior written consent of the officer.

4. The taking of disciplinary measures against employees of the Directorate and an appeal against them are done on the basis of law regulating the activity of the State Police.

Article 9

Commission for the Assessment of the Protection Program for Witnesses and Justice Collaborators

(Points 2 and 3 amended by law No. 37/2017, article 4)

1. The Commission for the Assessment of the Protection Program for Witnesses and Justice Collaborators is the body responsible for assessing and approving the proposals of the Directorate for:

- a) admission into the protection program;
- b) concrete protection measures;
- c) interruption of the program; ç) conclusion of the program.

The Commission also has the competence to examine the complaints made in conformity with Article 26 of this law.

2. The commission is chaired by the deputy minister in the responsible ministry for order and public safety and is composed of:

- a) a judge proposed by the High Judicial Council in the capacity of deputy chairman;
- b) a prosecutor proposed by the High Prosecutorial Council in the capacity of member;
- c) a judicial police officer proposed by the Director of the State Police in the capacity of member.
- ç) the Director of the Directorate in the capacity of the member.

3. The High Judicial Council, High Prosecutorial Council and the Director of the State Police each appoint an alternate member who will take part in the meetings of the commission, when there is a reason that prevents the respective members from taking part in meetings of the commission.

4. The members of the commission are appointed to the position for a term of three years and may be re-appointed. Membership in the commission terminates ahead of time:

- a) when the member no longer exercises a function in the institution

that proposed him or because of which he was appointed;

b) at his request, accompanied by grounded reasons;

c) because of unjustified absence at two consecutive meetings of the commission;

ç) for a violation of this law and rules of functioning of the commission.

5. The decision to terminate the tenure of the member of the commission is taken by the body competent for their appointment. In the case of letter “b” of point 4 of this Article, the decision is taken at the request of the member himself, while in the case of letters “c” and “c❖” at request of the commission.

6. The judge, prosecutor and judicial police officer who are members of the commission cannot take part in the discussion and decision-making, when they are made aware that the proposal for admission into the protection program is related to criminal proceedings or activities being investigated or tried by them. This prohibition is also valid when there is a conflict of interests or a suspicion of partiality, as provided for in the Code of Criminal Procedure and other legal provisions in force. In such cases, they are replaced by the alternate members.

7. The chairman and the commission members shall benefit financial reward at the extent and way provided for in the decision of the Council of Ministers.

CHAPTER III THE PROTECTION PROGRAM FOR WITNESSES AND JUSTICE COLLABORATORS

Article 10

General conditions for implementing the protection program

1. When the implementation of the ordinary protection measures for a witness or justice collaborator is not sufficient and appropriate, a protection program according to this law is applied, if he, at his free will, consents to cooperate with the prosecutor’s office and the court, and, to provide, through his comprehensive declarations and/or testimony, made without conditions and reservations, grounded data that constitute decisive evidence for the detection, investigation and adjudication of crimes and their perpetrators.

2. The implementation of the protection program for the witness or justice collaborator is decided only if he is in a situation of danger, is suitable for being included in the program and accepts at his free will to be part of it and to participate actively in its implementation.
3. The suitability has to do with the psychological, social and physical conditions of the witness or collaborator, which should be such as to create confidence that he will apply the rules of the protection program and will not endanger his own life and health or the life and health of other persons. If possible, the measure of relocating his residence and amending the entire program shall be taken.
4. In case of a juvenile witness or collaborator, besides the above circumstances, the consequences of admission into the program on his psychosocial development should also be evaluated.
5. Depending on the concrete circumstances, the program may, along with the witness or justice collaborator, also include related persons. The rules provided for in paragraphs 1 and 2 of this Article shall also apply in this case.
6. The protection program does not have the purpose of improving the economic condition of the protected person. Neither the Directorate nor the commission or any other state institution is responsible for the financial obligations that protected persons have at the moment of admission into the protection program.

Article 11

Duration of the protection program

1. The protection program is, as a rule, implemented for an indefinite time period and can be extended throughout the phases of the criminal proceedings, as well as after its completion.
2. The duration of the protection program depends on the existence of the situation of danger, the suitability of the protected person in relation to the special protection measure applied, as well as on the implementation of the obligations provided in the protection agreement by the protected person.

Article 12

Protection measures

(Letter "d" amended by law No. 37/2017 article 5)

1. In the framework of protection programs, one or more protection

measures that are applied for protected persons are:

- a) change of identity;
- b) change of residence;
- c) furnishing false documents;
- ç) temporary protection of identity, data and documents;
- d) giving testimony under another identity and administration with special means for voice and image deformation, and other forms set according to law, in compliance with Article 361/b of the Code of Criminal Procedure;
- dh) physical and technical protection, in the place where the protected person resides, as well as during his movements;
- e) social rehabilitation;
- ë) provision of financial assistance;
- f) professional retraining;
- g) provision of advice and specialised legal assistance;
- gj) any other measure that is evaluated and approved as necessary in compliance with this law.

Article 13

Responsibility for implementing the protection program

1. The Directorate is responsible for the preparation, coordination of work, and following up the implementation of the protection program.
2. The Directorate cooperates with ministries and other central institutions regarding issues that have to do with following up and implementing the protection program.
3. The bodies, mentioned in point 2 of this Article, coordinate their work with the Directorate, reply to the requests of this Directorate and of the prosecutor, as well as informing on issues and circumstances that have to do with the implementation of the protection program.

Article 14

Administration of acts, documents and information

1. The acts, documents and information related to the proposal, the

approval and implementation of the protection program are considered “Classified information” and are kept and administered by the Directorate of the Protection of Witnesses and Justice Collaborators.

2. The acts, documents, data as well as every piece of information on the protection program that the ministries and other central institutions possess, shall be considered “Classified information”.

CHAPTER IV PROCEDURES ON THE APPROVAL AND IMPLEMENTATION OF THE PROTECTION PROGRAM

Article 15

Proposal for acceptance into the protection program

(Words added to the points 1 and 3 by law No. 37/2017, article 6)

1. The Prosecutor General or the Chief Special Prosecutor have the right to propose the admission of one or more persons into the protection program.
2. The proposal for admission of one or more persons into the protection program contains indispensably the following data:
 - a) personal data of the person who is proposed for protection;
 - b) explanations on the importance of the statements made or that might be obtained from the witness or justice collaborator, as well as the reasons why the free giving of testimony cannot be obtained in another manner;
 - c) the circumstances in which or because of which the witness or justice collaborator has become aware of the data and the statements given by him or that can be obtained from him;
 - ç) data and other explanations that serve to motivate and support the evaluation of the situation of danger that the person proposed to be protected faces or is expected to face;
 - d) information on the financial condition of the witness; dh) other information, in the judgment of the prosecutor.
3. In the case of a justice collaborator, the proposal is accompanied by a description of the conditions of collaboration with justice that will become part of the protection agreement, according to Article 37/a and 37/b of the Code of Criminal Procedure.

Article 16

Examination of the proposal for admission into the protection program

(Words added to the points 1, 2 and 3 by law No. 37/2017, article 7)

1. The proposal of the Prosecutor General or the Chief Special Prosecutor for acceptance of one or more persons into the protection program, together with the basic information according to Article 13 of this law, are filed with the Directorate for the Protection of Witnesses and Justice Collaborators, which also exercises the functions of a technical secretariat. This Directorate forwards the documentation to the chairman of the commission no later than 24 hours from the date of its filing.
2. The Prosecutor General or the Chief Special Prosecutor shall, as appropriate and along with the proposal, submit an argued request to the Directorate setting out the reasons according to which this Directorate, in compliance with the specific circumstances, shall implement temporary protection measures, until the commission has finished the examination of his proposal.
3. Upon receiving the proposal, the chairman of the commission tasks the Directorate to undertake an assessment of the physical and psychological conditions of the person proposed for acceptance into the protection program, a comprehensive assessment of the situation of danger, as well as the suitability of the person with the program. For the assessment of the situation of danger, the Directorate may ask the witness, justice collaborator or related persons for information on any previous violation of the law committed by him, regardless of whether he was convicted or not. In cases when statements are made about criminal offences committed by the witness, justice collaborator or related persons, the Directorate immediately notify the Prosecutor General or the Chief Special Prosecutor to review the request only for the purpose provided in this point.

Article 17

Decision-making of the commission

(Words added to the points 1 and 3 by law No. 37/2017, article 8)

1. The meetings of the commission are convened by the chairman within 5 days from the delivery of the proposal of the Prosecutor General or the Chief Special Prosecutor to the Directorate. In particular and urgent cases, the commission is convened immediately.
2. The meetings of the commission are valid when the majority of its

members are present. Its decisions are valid when they are approved by three members present in the meeting.

3. The commission takes a decision no later than 10 days from the first meeting, and, in any case, no later than 15 days from the submission of the proposal from the Prosecutor General or the Chief Special Prosecutor and the respective documentation to the Directorate.

4. The rules and the procedures foreseen in this Article are also applied in cases of the interruption and conclusion of the protection program.

Article 18

Temporary protection measures

(Words added to the point 1 by law No. 32/2017, article 9)

1. In specific and urgent cases, upon the request of the proceeding prosecutor, the Directorate decides on the immediate implementation of temporary protection measures. For this purpose, the Directorate and the protected person sign a temporary protection agreement. The Prosecutor General or the Chief Special Prosecutor should submit the proposal for acceptance of the person into the protection program within 30 days from the date of the start of implementation of the temporary measures.

2. The temporary protection measures are established in compliance with the situation of danger, and in such forms that guarantee, temporarily and preliminarily, the necessary level of protection.

Article 19

The agreement with the protected person

(Words added to the points II and III by law No. 32/2017, article 10)

1. In the shortest time possible and in any case no later than 10 days from the date of approval of the acceptance into the protection program, the Directorate prepares the agreement for application of the protection program (protection agreement) and takes measures for discussing and signing it with the witness, justice collaborator and other protected persons.

2. Before the agreement is signed, the justice collaborator is obliged to inform the Directorate in detail on the kinds and quantity of assets owned by him. If any of the assets owned by the justice collaborator has emerged as proceeds of crime, or income or a benefit from proceeds of crime, or assets mixed with those proceeds, the person should state this fact. In cases of such a declaration, the Directorate immediately informs the Prosecutor General or the Chief Special Prosecutor.

3. The Directorate informs the Prosecutor General or the Chief Special Prosecutor of the signing of the protection agreement. The contents of the agreement, the location of the person or his new identity are not made known to the Prosecutor General or the Chief Special Prosecutor or the proceeding prosecutor, while his location and new identity should not be made known even to the commission.
4. The responsibilities and effects of the protection program for the Directorate and the protected person start at the time and in the manner provided in the agreement.
5. In a case when the protected person is a juvenile or is an adult whose legal capacity to act has been limited or taken away, his opinion on acceptance into the program and on the content of the agreement is taken, in accordance with the principles of the highest interest of the child and those of legal capacity to act. In these cases, the final approval and signing of the protection agreement is done by the parent or legal guardian.
6. The protection agreement is not a contract of obligation within the meaning of the Civil Code. The protected person or his heirs cannot seek the execution of this agreement before the court, neither the compensation if the agreement has not been executed or when he alleges that he has suffered damage.

Article 20

Contents of the agreement

1. It is mandatory to provide the following issues in the protection agreement:
 - a) the obligations of the protected persons;
 - b) the special and supplementary measures that will be taken by the Directorate in order to offer to the protected person the proper protection according to the level and circumstances of danger;
 - c) the cases and circumstances for changing and interrupting the protection program;
 - c) the cases of voluntary acceptance of the protection program by the protected person.
 - d) the conditions of cooperation with justice, in the case of justice collaborators.
2. The protection agreement also provides a more detailed regulation

of the fulfilment of the following conditions and obligations by the protected person:

- a) to accept the conditions and guidelines set in the protection program and to collaborate actively for their implementation;
- b) to keep account of the nature of classified information and under no circumstance make known any data on the protection program and other data related to it, warning about criminal liability according to Article 295/a of the Criminal Code in case of a violation of the obligation of secrecy related to the protection program, even after its conclusion;
- c) to avoid every action or omission that might endanger the implementation of the protection program or that might bring as a result another situation of danger for the protected person;
- ç) to inform immediately the Directorate on its requests or events or changes of his living circumstances or personal activity, and also about the contacts and relations with third parties that might endanger the implementation and guaranties offered by the protection program;
- d) to accept, without a specific court decision, if it is essential for protection purposes or the purposes of the criminal proceedings, the use of technical equipment for visual and/or audio recording, surveillance and safekeeping in his own premises;
- dh) other obligations that the Directorate considers essential, depending on the nature and circumstances of the specific case;
- e) obligations for the parent or guardian, in a case when the protected person is a juvenile or his legal capacity to act has been limited or removed.

Article 21

Exemption of employees of the Directorate from civil liability

A civil lawsuit cannot be brought against an employee of the Directorate by persons accepted into the protection program for actions and/or failures to act done in good faith during the exercise of a duty assigned by this law.

Article 22

Extraordinary protection measures

1. The State Police, pre-trial detention institutions or institutions of the execution of criminal decisions may, according to the level of the situation of danger for witnesses, justice collaborators and related persons, order and implement extraordinary protection measures, according to the definitions provided by this law or by other laws and regulations that regulate their activity. The proceeding prosecutor is notified of these measures no later than 24 hours from when they are taken.
2. With the consent of the proceeding prosecutor, the extraordinary measures may be extended until the danger motivating their taking is avoided or until the commission has taken the respective decision.

Article 23

Interruption of the protection program

1. The protection program may be interrupted by the commission in the following cases:
 - a) if during the investigation and trial of the criminal case, it is proven that the witness or justice collaborator is giving false statements or testimony or for any reason is not giving statements or testimony for which admission into the program was allowed;
 - b) if the protected person commits an intentional criminal offence;
 - c) if after the beginning of implementation of the protection program, reasonable and grounded data are obtained about the involvement of the protected person in criminal activity not declared by him;
 - ç) if the witness, justice collaborator or other protected persons do not respect the obligations mentioned in the protection agreement and/ or the conditions of collaboration with justice;
 - d) if an authority of another state seeks the termination of the protection program implemented in its territory.
2. During the examination of the circumstances of the interruption, the commission is made aware only of the reasons for interruption of the program.

Article 24

Ending of the protection program

1. The protection program ends in the following cases:
 - a) if it is assessed that the situation of danger motivating the implementation of the protection program does not exist any more;
 - b) if the protected person has died;
 - c) at the written request of the protected person or his guardian.
2. Following the end of the protection program, the protected person may choose to keep his new identity, if he has been given one, or to take back his true identity.
3. If the person under a protection program is killed or physically injured to the degree that becomes incapable of working because of the failure of protection measures implemented, at the proposal of the Directorate, the commission may designate special financial assistance for the person or his dependent family members.

Article 25

Notices of interruption or ending of the protection program

(Words added to the point 1 by law No. 32/2017, article 11)

1. The Directorate immediately notifies the Prosecutor General or the Chief Special Prosecutor in writing about the circumstances mentioned in Articles 23 and 24 of this law.
2. In the case of a request for terminating the protection program or when the protected person has died, the protection program is immediately terminated for the person requesting it or having died, but it may continue, depending on the circumstances, for other protected persons included in it.

Article 26

Appeal procedures

1. The protected person has the right of complaint to the commission and to request that the measures chosen to be applied for him by the Directorate be changed or supplemented, presenting the reasons. The time period for filing the complaint is five days starting from the day after the notification of the decision of the Directorate. The appeal does not suspend the application of the chosen measure. The decision of the commission is final.

2. During the examination of the complaint according to point 1 of this Article, the commission shall not be informed of details that reveal the current identity and location of the person who is in the protection program.

CHAPTER V FINAL PROVISIONS

Article 27 **International cooperation**

1. International cooperation is achieved on the basis of the rights and obligations stemming from international agreements to which the Republic of Albania is a party or through agreements for specific cases, entered into by the director of the Directorate with similar entities in other countries.
2. The agreements on specific protection programs may provide for the mutual implementation of the protection program, including the change of residence and the stay of protected persons in the respective territories of the parties.
3. The agreements on specific cases shall be considered “Classified information”, and the general rules as in the case of international agreements foreseen by the legislation in force shall not be applied.

Article 28 **Sublegal acts**

Within 6 months from the entry into force of this law, the following subordinate legal acts shall be adopted:

1. A decision of the Council of Ministers on the treatment and benefits of the employees of the Directorate for the Protection of Witnesses and Justice Collaborators, in implementation of point 4 of Article 5 of this law;
- 1/1 A decision of the Council of Ministers for the financial reward of the chairman and members of the commission, implementing point 7 of the Article 9 of this law;
2. Joint instructions of the Minister of Interior, Minister of Justice and the Prosecutor General for:
 - a) detailed rules and criteria for the issues provided for in points 1, 2

and 3 of Article 10 of this law;

b) detailed rules on the duties, responsibilities, forms and procedures for coordinating and information among institutions, in implementation of Article 13 of this law;

c) criteria and procedures for safeguarding, administering and classifying the information of the protection program of witnesses and justice collaborators, in implementation of point 1 of Article 14 of this law;

ç) detailed rules for the cases, procedures and manners of implementing protection measures, in implementation of Articles 15, 16 and 18 of this law;

3. Joint instructions of the Minister of the Interior and the Minister of Finance on:

a) the administration of assets and funds necessary for the exercise of the activities of the Directorate, the recording of expenditures, and the auditing of the financial activity of the Directorate, in implementation of point 3 of Article 5 of this law;

b) the manner of setting financial assistance and its amount, in implementation of point 2 of Article 12 of this law;

4. Internal rules of the Directorate on:

a) rules of a technical and operational nature on the conditions, methodologies and procedures for the verification, preparation and implementation of the protection program, on the manner, forms and means of communication, and on the administration of documents and information related to its activity, in implementation of Article 6 of this law;

b) detailed rules and criteria on the content, meaning, suitability, manner and procedures of setting and gradation of the measures that constitute the protection program;

c) detailed rules on the procedures of expression of will, discussion and signature, the form and the content, as well as following up the abidance by the conditions of the protection agreement, in implementation of Articles 19 and 20 of this law.

5. The internal rules of the commission on detailed rules for the criteria and work procedures, convening and participating at the meetings, absence and impossibility to assign and perform this duty.

6. Instructions of the heads of the institutions for filing, maintaining and administering information on the protection program of witnesses and justice collaborators, in implementation of point 2 of Article 14 of this law.

Article on sublegal acts

Provided by law No. 37/2017 article 12)

Within 6 months from the date this law enters into force, the joint instruction of the Minister responsible for public order and security, the Minister of Justice and the High Council of Prosecutor, shall be adopted for:

- a) detailed rules and criteria for the issues provided in points 1, 2 and 3 of Article 10 of this law;
- b) detailed rules on the duties, responsibilities, forms and procedures of coordination and information, between institutions, pursuant to Article 13 of this Law;
- c) the criteria and procedures for maintaining, administering and classifying information on the program of witness protection and justice collaborators pursuant to point 1 of article 14 of this law;
- ç) detailed rules on cases, procedures and ways of implementing protection measures, pursuant to articles 15, 16 and 18 of this law.

Article 29

Repeals

Law No. 9205, dated 15.3.2004, "On the protection of witnesses and justice collaborators" is repealed.

Article 30

Transitional provisions

1. The mandate of the members of the commission that started in conformity with law No. 9205 dated 15.3.2004 "On the protection of witnesses and justice collaborators", will continue until the end of their mandate.
2. Until the approval of subordinate legal acts according to Article 28 of this law, the subordinate legal acts approved in implementation of law No. 9205, dated 15.3.2004, "On the protection of witnesses and justice collaborators" shall be applied, so long as they are not contrary to this law.

Article 31

Entry into Force

This law enters into force 15 after its publication in the Official Journal.

LAW
No. 9157, dated 4.12.2003

ON INTERCEPTION OF ELECTRONIC COMMUNICATIONS

*(Amended by law No. 9885, dated 0 30.3.2008) (Amended by law No. 10172, dated
22.10.2009) (Amended by law No. 116 /2012)
(Amended by law No. 69/2017)*

Pursuant to Articles 78 and 83, point 1, of the Constitution, upon the proposal of a group of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

D E C I D E D:

CHAPTER I
GENERAL PROVISIONS

Article 1

Object

(Word added by law No. 69/2017, article 1)

This law establishes the procedures that shall be followed for the preventive interception of electronic communications by the state intelligence institutions established by law for the fulfilment of the duties, as well as the procedures that should be followed by the persons charged with for the conduction of interception.

Article 2

Purpose

This law aims to increase the effectiveness of the activity of intelligence state institutions for the discovery of the unconstitutional, criminal, and delinquent activity, as well as to prevent the consequences that might derive from this activity.

Article 3 Definitions

(Points 1 and 2 amended by law No. 69/2017, article 2) Point 10 added by law No. 69/2017, article 2)

For the purpose of application of this law, the following definitions shall mean:

1. "Core Electronic Command" is the technical device in administration of the General Prosecution Office and of the Special Prosecution Office, which allows or forbids the interception of an electronic communication device.
2. "Object of interception" are the signals, or other forms of information, to be received or transmitted by means of electronic communication devices.
3. "Electronic communication entrepreneur" is a natural or juridical person, which provides networks of electronic communication and/ or services of electronic communications pursuant to prescriptions envisaged by the legislation into force on electronic communications in the Republic of Albania.
4. "Final device" is every device in use by an intercepted person, which is connected directly or indirectly to a final point of the electronic communication network in order to realize the electronic communication.
5. "Electronic communication device" is every technical means (transmitting line, communication device, and any other device necessary to ensure the functioning of the electronic communication network) which serves for the realization of the electronic communication.
6. "Interception" is the hidden interference to capture, hear and record the content of the communication and data related with it, between the starting point and arriving point
7. "Emergent situation" is the situation when from the moment for compliance with requests laid down by this law for the submission and the approval of the written request, the interception result is damaged, entailing consequences for the national security.
8. "Intercepted persons" are individuals suspected as alleged authors of serious crimes.
9. "Communication" has the same meaning with the meaning established in paragraph 13, article 3 of the law No. 9918, dated 19.05.2008, "On

electronic communications in the Republic of Albania”, amended.

10. “Competent Prosecution Office” is the General Prosecution Office or the Special Prosecution Office according to the competences provided for according to the legislation in force.

Article 4

Principles of Interception

The core principles for interception of electronic communications are the respect for freedoms and fundamental human rights, the necessity and proportionality, secrecy and objectivity in its conduction.

Article 5

Utilization of the interception outcomes

The interception outcomes, acquired on the basis of this law, do not have evidential value, except for those taken in accordance with the Criminal Code of Procedure.

CHAPTER II

PROCEDURE FOR CONDUCTION OF INTERCEPTION

Article 6

Bodies that may require the conduction of interception

(Point 1 amended by law No. 69/2017, article 3)

1. National Intelligence Service, intelligence service/ police intelligence service of the responsible ministry for the order and public safety, Ministry of Defense, Ministry of Finance, Ministry of Justice, National bureau of Investigation, as well as any other intelligence/policy service established by law, have the right to request the interception, in order to ensure the necessary data for the fulfilment of their legal duties.
2. None of the public institutions mentioned in paragraph 1 of this article have the right to submit a request for interception for matters or activities that are not foreseen by the law as subject-matter of their informative-tracing activity.

Article 7

Interception request

(Amended by law No. 69/2017, article 4)

1. The interception request, submitted by the subjects mentioned in Article

6 of this law, is prepared in two copies of which one shall be deposited before the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, and the other one shall be held by the concerned institution.

2. The request shall contain:

a) the requesting institution, names and functions of the employee following the process of informative-tracing;

b) personal details and the address of the person subject to the process of informative-tracing or subject to tagging after, as well as the address/addresses of the areas/premises related to the electronic communication interception request;

c) description of electronic communications that shall be subjected to interception and, wherever appropriate, the data for the electronic communications operator who provides service to the subject who will be intercepted;

ç) the reasons for the interception, and the documentary support or informative material where the interception request relies;

d) the arguments attesting that the interception is necessary in the created situation and that the requested data cannot be assured by other means;

dh) the time limit within which the interception is sought.

Article 8

Granting of the right to interception

(Amended by law No. 69/2017, article 5)

1. The Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, after the examination of the written interception request of the responsible Minister for order and public safety, Minister of Defense, Minister of Justice, Minister of Finance, Director of the National Intelligence Service, Director of the National Bureau of Investigation, as well as of every ministry that has under his dependency intelligence/police services established by law, approves or refuses the request for interception of electronic communications.

The request for interception, shall be examined within 48 hours from the moment of its submission.

Article 9
Decision for Interception

(Amended by law No. 69/2017, article 6)

1. The Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence the deputy chairman, takes a written decision in reply to the request for interception, which is drawn up in three copies. A copy of the decision that approves or denies the request shall be kept in the Court of Appeal against Corruption and Organized Crime, one copy shall be kept by the institution that has made the request, and the third copy shall be kept by the core electronic command of the competent Prosecution Office.
2. The request for interception, as well as all data collected by interception is confidential. Institutions involved in the decision-making process shall keep confidential every request and data collected by interception for which they have learned, unless otherwise provided by this law.
3. Interception decisions shall apply to communications via electronic communication devices within the territory of the Republic of Albania, or abroad, where there is an international agreement to which the Republic of Albania is a party.

Article 10
Content of the Decision for interception

(Letters "b" and "c" amended by law No. 69/2017, article 7)

The Decision for interception shall contain these elements:

- a) requesting institution;
- b) responsible structure for interception within the National Intelligence Service, in the section of interception in the State Police or in the Internal Intelligence Control Service of the responsible ministry for order and public safety, in National Bureau of Investigation or, accordingly, the employees authorized by heads of requesting institutions to carry out the technical process of interception.
- c) personal details and the address of the subject who is to be placed under interception; the identified areas/premises for which the electronic communication interception shall be performed, final devices used by the subject under interception for performing of the electronic communication, as well as the provider of electronic communications that offers the service;

ç) the time limit or the time limits of interception, where the data and the hour of initiation and its termination is determined.

The decision shall charge for its implementation the responsible interception structure at the National Intelligence Unit and the requesting institution.

Article 11

The change of final device

(Amended by law No. 69/2017, article 8)

After the adoption of the interception decision, when it is acknowledged that final devices of the subject under interception have been added or changed, the request of interception shall not be repeated. In this case, the state institution requesting the interception is obliged to notify in writing for the new final device the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, who orders the respective commanding core for the change or addenda of the final device or devices which are intercepted. In this case, the time limits of interceptions shall remain unchanged.

Article 12

Interception Sector

(Amended by law No. 69/2017, article 9)

1. The responsible Sector for Interceptions at the National Intelligence Service performs only the technical processes of electronic communications interceptions by means of telecommunication devices on account of state intelligence institutions, after the decision on interception has been taken in accordance with this law. The technical processes of interception, on account of the State Police and Internal Service Control in the responsible ministry for order and public safety shall be performed by their interception section, attached in the responsible Structure for Interceptions at the National Intelligence Service.

The technical process of interceptions, on account of other institutions, is performed by their authorised employed agents.

(Repealed point 2 by law 69/2017, article 9)

3. The realization of interception by the responsible Structure for Interceptions at the National Intelligence Service and the interception section of the State Police, and of Internal Service Control in the responsible ministry for order and public safety as well as by the National Bureau of Investigation is performed through systems installed for that purpose.

The interception system always shall be composed of two parts, which cannot function in independent way from each other.

Article 13

Core electronic command

(Amended by law No. 69/2017, article 10)

The Core electronic command is a technical device administered and installed at the General Prosecutor Office and at the Special Prosecution Office, which permits or forbids the interception of a final device. The employee of the core electronic command, after the written decision on the approval of the interception request of the Chairman of the Court of Appeal against Corruption and Organized crime, or in his absence, the deputy chairman, makes technically possible the interception process by the responsible Sector for Interceptions at National Intelligence Service, and the interception section of the State Police and of the Internal Service Control in the responsible ministry for order and public safety and by the National Bureau of Investigation, except as otherwise provided in this law.

The core electronic command employee, upon the termination of the time limit according to the decision of the Court of Appeal against Corruption and Organized Crime, automatically interrupts the interception, except when there is a request for the extension of the time limit.

Article 14

Duration of the interception decisions

(Amended by law No. 69/2017 article 11)

1. All interception decisions for the interception of electronic communications are valid for a period up to three months.
2. For every extension of this time limit, the respective state institution submits to the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, a written and argued request together with the clearing interception material obtained so far. The Chairman or the deputy chairman according to this Article, is authorized to request explanations or additional reasons for the extension of the time limit.
3. Any extension of this time limit cannot be more than three months.

Article 15

Cognizance of the interception results

(Amended by law No. 69/2017 article 12)

1. The head of the respective state institution that has requested the interception shall know the interception results, during the time limit the interception is on-going, as well as after its termination.
2. The Chief of the Special Prosecutor Office or the General Prosecutor, or the Chief of the Prosecution Office at the Court of First Instance according to their competences, have the right to be informed by the head of the respective State institution that has requested the interception with the interception results after its completion, except when the head of the respective state institution considers that they must be informed for the results of the interception even before its termination.

Article 16

Limitations on interception

(Letter "b" amended by law No. 69/2017 article 13)

1. Persons in charge with functions or specified duties within or for the interception process as a whole or particularly are forbidden:
 - a) to diffuse or utilize the data acquired not in accordance with the requirements laid down by this law or other laws in force;
 - b) to intercept without authorization or outside the procedures setup by this law.
2. The interception process, in whole or in particular, constitutes state secret, the violation of which is punished according to the criminal legislation in force.

Article 17

Emergency situations

(Amended by law No. 69/2017 article 14)

1. For emergency situations, upon verbal request of the head of the responsible state institution, pursuant to Article 6 of this law, the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, orders in written form for the technical realization of the interception process. The decision of the court shall be registered immediately into the records of the core electronic command within the competent Prosecution Office and into those of the specialists of the responsible Structure for Interceptions at the National Intelligence Service

or the interception section of the State Police, of the National Bureau of Investigation and of the Internal Service Control in the responsible ministry for order and public safety. After the registration of the decision, the specialists of the responsible Structure for Interceptions at the National Intelligence Service, or the interception section of the State Police, of the National Bureau of Investigation and of the Internal Service Control in the responsible ministry for order and public safety conduct the process of interception.

2. Within 8 hours from the initiation of interception, the responsible state institution that has made the request, submits to the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, the regular written request, which shall contain the reasons of emergent actions together with the intercepted communication after clearing them. On this basis, within 24 hours from the initiation of interception, the responsible decision to continue or to interrupt the interception shall be taken.

3. Failure to submit the written request within the time limit established in paragraph 2 of this article, shall entail the immediate interruption of the interception.

Article 18

Revocation of the interception decision

(Amended by law No. 69/2017 article 15)

If a change occurs that leads to the conclusion that the interception is no longer necessary or practical to implement, then, upon written request of the responsible state institution to the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, to the deputy chairman, the decision is revoked.

The revocation decision shall be addressed to the responsible electronic core commands, to the requester and to the technical implementer of the interception.

CHAPTER III
SPECIAL REQUIREMENTS FOR INTERCEPTION

Article 19

Interception upon request of foreign intelligence/police services

(Amended by law No. 69/2017 article 16)

Upon request of the intelligence/police services and the approval of the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, the responsible Structure for Interceptions at the National Intelligence Service, or the interception section of the State Police, and of the Internal Service Control at the responsible ministry for order and public safety or National Bureau of Investigation can perform, accordingly, interception pursuant to the provision of this law, on account of the foreign intelligence/policy service.

Article 20

Destruction and preservation of the interception material

(Amended by law No. 69/2017 article 17)

1. The interception material obtained by the preventive interception process of the electronic communications shall be destroyed within 10 days after the expiration of the interception time limit. The interception material shall be kept only in case there are premises that it is likely to be important for the protection of life, national security, public order or the prevention of serious crimes.
2. The head of the responsible state institution, within 3 days from the expiration of the interception time limit, submits written request to the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, for the preservation of the interception material. The Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, shall take a decision to accept or to refuse the request within 72 hours from its submission.
3. If the request is refused, the interception material shall be destroyed within the time limit provided in point 1 of this Article, according to the procedures [modalities] established by joint instruction of the General Prosecutor, Chief of the Special Prosecution Office, responsible minister for order and public safety, Minister of Defence, Minister of Justice and of the Director of National Intelligence Service.
4. If the request for preservation of the material is accepted, the decision

shall also determine the time necessary for its preservation. Upon the completion of the deadline set in the decision, the preserved material shall be destroyed in accordance with the terms and procedures provided for in this article.

Article 20/1

Right to information

(Added by law No. 69/2017 article 18)

1. The responsible state institution, within 15 days of receipt of the written request of a citizen, should inform him if any interception of electronic communication is undertaken against him/her. This information is only given after the interception has ended.
2. The citizen shall have the right to request documents on the data collected, which can be made available to him without the name of the employee who has collected them and without the data about the sources of information of the security and intelligence agencies and third parties.
3. The responsible state institution is not obliged to act according to the provisions of paragraph 1 of this Article if:
 - a) the notification could jeopardize the implementation of the tasks of the institution;
 - b) the information can lead to risk the safety of another person;
 - c) the content of the intercepted communication constitutes state secret and may lead to harmful consequences for national security or national interests.

CHAPTER IV

ELECTRONIC COMMUNICATION ENTREPRENEURS

Article 21

Interception capabilities of electronic communications networks

(Point 2 amended by law No. 69/2017 article 9)

1. The electronic communication providers realize, by their own expenses, the necessary infrastructure on their electronic communication network, up to the connecting point with the core electronic command, in order to assure, within 180 from the reception of the request by the institution that administer interceptions systems, according to this law, the interception capability towards users that utilise electronic communications services provided by them.

2. The infrastructure that is realized by the electronic communication providers assuring interception capability should be technologically compliant with the devices of electronic core commands of the interception systems.
3. Electronic communication providers are obliged to provide free of charge any service in function of the interception process.
4. When electronic communication providers adopt any kind of technological change, or increase of capacity, they are obliged to cover by their own expenses the continuity of the functioning of the interception process.
5. In case of changes in the core electronic command, that impose changes in the electronic communication infrastructure of the providers, the responsible structure for the core electronic command shall notify the electronic communication entrepreneurs, at least, 180 days before this change.
6. In case of non fulfillment of the obligation pursuant to paragraph 1 of this article, Electronic Communication and Postal Authority, acts in accordance with its competencies laid down in article 18, 131 and 137 of the law No. 9918, dated 19.05.2008, "On Electronic Communications in the Republic of Albania" , amended.

Article 22

Assistance of the electronic communication providers

(Title amended by law No. 69/2017, article 20) (Amended by law No. 69/2017, article 20)

1. Where the interception cannot be realized means of the interception system, the Director of the National Intelligence Service, or the responsible minister for order and public safety, accordingly, requests the assistance of every electronic communication entrepreneurs in the Republic of Albania, which are obliged to take the necessary steps.
2. In these cases, the operator is given a copy of the decision of the Chairman of the Court of Appeal against Corruption and Organized Crime, or in his absence, the deputy chairman, with an abbreviated content and without data that might impinge the intelligence-tracking process. This copy shall contain the time limit within which the operator shall provide numbers, addresses and other elements that need to be identified for the interception. When necessary, the copy of the decision shall be accompanied with an additional document, in which other technical details for the devices of the electronic communication are determined.

CHAPTER V
FINAL PROVISIONS

Article 23

Interception by court decision

(Amended by law No. 69/2017 article 21)

1. The technical processes of interception of electronic communications, through telecommunication equipments, for the purpose of preliminary investigations, shall be conducted according to the articles 221 to 226 of the Criminal Procedure Code.
2. The prosecutor of the competent prosecutor 's office, by an official act, accompanies and communicates the court decision to the electronic interception structure at the General Prosecution Office or Special Prosecution Office according to their competences.
3. The technical process of the listening and transcription may be conducted as well at the prosecution offices of the general jurisdiction and at the Special Prosecution Office according to their competences.

Article 24

Issuance of sub-legal acts

(Amended by law No. 69/2017 article 22)

The General Prosecutor, the Chief of the Special Prosecution Office, the minister responsible for public order and safety, the Minister of Defense, the Minister of Justice, the Minister of Finance, the Director of the National Information Service, the Director of the National Bureau of Investigation within 3 months of the establishment of the Special Prosecution Office, shall issue a joint instruction for:

- a) the detailed manner of conducting the interception process, in accordance with the requirements of Articles 6, 10, 13, 14 and 15 of this Law;
- b) the rules for secrecy and the documentation deriving from the interception process, pursuant to Articles 16 and 20 of this Law;
- c) the manner of preservation and destruction of the interception material, according to Article 20 of this Law.

Article 25

Transitory provision

(Provided by law No. 69/2017, article 23)

1. Within six months from the establishment of the Special Prosecution Office, the equipment that enables the technical processes of interception under this law, shall be installed at the premises of this prosecution office according to this law.
2. The Chief of the Special Prosecutor Office shall notify the High Judicial Council, the High Prosecutorial Council, the General Prosecution Office, and all institutions that carry out the interception of electronic communications under this law, the date when the electronic core command will start its functioning.
3. Within 10 days from the start of operation of the electronic core command, any authorized interception and that is ongoing at the General Prosecution Office for criminal offenses under the jurisdiction of the Special Prosecution Office, shall be transferred to this prosecution office. Any other interception material for the cases under the competence of the Special Prosecution Office shall be transferred upon request at this prosecution office, unless when the material is destroyed in accordance with the provisions of this law.
4. Until the commencement of the functioning of the electronic command core at the Special Prosecution Office, its competences for the preventive interception of electronic communications shall be exercised by the General Prosecutor's Office.
5. Until the commencement of the functioning of the Appeal Court against Corruption and Organized Crime, the approval or refusal of a request for interception of electronic communications shall continue to be carried out by the General Prosecutor or, in his absence, by a prosecutor authorised by him.

Article 26

Abrogation

Every provision that falls in contradiction with this law shall be abrogated.

Article 27

Entry in force

This law shall enter into force 15 days after its publication into the Official Gazette.

LAW
No.60/2016, dated 02.06.2016

ON WHISTLEBLOWING AND WHISTLEBLOWER PROTECTION

Pursuant to Articles 78 and 83, paragraph 1 of the Constitution, upon the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

CHAPTER I
GENERAL PROVISIONS

Article 1
Scope

This law defines rules on whistleblowing regarding a dubious corruption conduct or practice by the whistle-blowers in public and private sector, mechanisms for the protection of whistle-blowers and obligations of public authorities and private entities in connection with whistle-blowing.

The purpose of this law is:

Article 2
Purpose

- a) Prevention and clamping down on corruption in public and private sector;
- b) Protection of individuals who whistle-blow dubious corruption conduct or practices at their work stations;
- c) Encouraging whistleblowing of dubious corruption conduct or practices.

Article 3
Definitions

In this law, the following terms have these meanings:

1. "Public Authority" has the same meaning with the one given in the law

on the right to information;

2. "Retaliation" means every direct or not direct action or threat, carried out by the organisation and being of a discriminatory or disciplinary nature, or which in another unfair way harms the legitimate interest of the whistleblower and emerging out of the whistleblowing.

3. "Exposed" is one or more persons whereon whistleblowing occurs, under this law, with regard to a dubious corruption conduct or practice;

4. "HIDAACI" is the High Inspectorate of Declaration and Audit of Assets and Conflict of Interest.

5. "Public information" has the same meaning ascribed in the law on the right to information.

6. "Corruption" is any illegal conduct or omission under the effective criminal legislation regarding any form of active corruption, passive corruption, abuse of office or powers, exerting illegal impact in the course of assuming the office or decision making, abuse of state budget revenues, illegal appropriation of interests, as well as any other act similar to them.

7. "Protection" is the protection of the whistle-blower against retaliation, as per instrument provided for in Chapter V of this law.

8. "Responsible unit" is the respective body set out within the public authority or private entity, composed of one or more employees of the organisation, being assigned by the organisation with the task of examining the administrative investigation of whistleblowing and examination of the request for the protection of the whistle-blower, under the provisions of this law.

9. "Organisation" is the public authority or the private entity.

10. "Whistleblowing" is the reporting of information to the responsible unit or HIDAACI by the whistle-blower regarding dubious corruptive conducts and practices, carried out at their workstation with the public authority or private entity.

11. "Internal whistleblowing" is the whistleblowing made by the whistleblower within the responsible unit of the organisation, under Article 10 of this law.

12. "External whistleblowing" is the whistleblowing made by the whistleblower before HIDAACI, under Article 11 of this law.

13. "Whistle-blower" is the individual who applies for is in employment

relationship or has previously worked with a public body or private entity, regardless of the nature of labour relations or its duration, as well as whether paid or not, whistleblowing a dubious corruption conduct or practice;

14. "Private entity" is the private legal person, in accordance with the Civil Code of the Republic of Albania, including the trader, under the commercial law;

15. "Dubious corruption conduct or practice" is a conduct or omission, facts or circumstances occurring in an organisation, whereof the whistle-blower is in good faith suspicious that they may consist a corruption offence.

Article 4

Principles of whistleblowing

The protection of whistle-blowers in connection with dubious corruption conduct or practices under this law is based on the principles of:

- a) Preservation of confidentiality of the information of whistleblowing and the state secret by the HIDAACI responsible unit;
- b) Recognition of the identity of the whistle-blower, unless this law permits the admission of an anonymous whistleblowing;
- c) Voluntary whistleblowing on a dubious corruption conduct or practice;
- ç) Integrity and impartiality of the HIDAACI responsible unit during the examination of whistleblowing;
- d) Application of efficient and appropriate mechanisms for the protection of the legitimate rights and interests of the whistle-blowers;
- dh) The procedure of a fast and reliable administrative investigation of whistleblowing.

CHAPTER II

WHISTLEBLOWING

Article 5

Whistleblowing

Any person who becomes aware of dubious corruption conduct or practices in the course of employment or in connection with his activity

during employment with the organisation shall be entitled to whistle-blow on this fact with the responsible unit within this organisation or with HIDAACI, as appropriate.

Article 6

Good faith of whistle-blowers

1. The whistle-blowers shall be granted protection under this law regarding the whistleblowing of a dubious corruption conduct or practice, carried out under the circumstances of good faith.
2. The whistle-blower shall be considered to have acted in good faith, if there are reasonable ground to believe that he is whistleblowing a dubious corruption conduct or practice, and that:
 - a) he did not know or there was no objective possibility for him to know that the reported information was not true or accurate, even if it subsequently emerges that he was wrong regarding the authenticity or accuracy or it is established by the competent authorities that no corruption criminal offence has been committed;
 - b) The whistleblowing is not conducted for abusive or slandering motives or the whistle-blower does deceive regarding the reported information.
3. The whistle-blower is considered to have acted on good faith, as long as the opposite is not established by the responsible unit or HIDAACI, as appropriate.

Article 7

Form and contents of whistleblowing

1. Whistleblowing is made by any means of communication, in writing or verbally to HIDAACI or the responsible unit and shall be documented in writing by them. Whistleblowing shall contain at least:
 - a) Data on the identity of the whistle-blower;
 - b) Contact data for the whistle-blower;
 - c) Description of facts and circumstances known by the whistle-blower about the dubious corruption conduct or practice, associated with the respective evidence, to the extent possible;
 - ç) Respective reference to the Criminal Code of the Republic of Albania, to the extent possible, by the whistle-blower for the

dubious corruption conduct or practice;

d) In the event of external whistleblowing, the legal grounds and factual circumstances, to the extent possible, by the whistle-blower, for the use of the external whistleblowing instrument.

2. The whistle-blower may choose to remain anonymous, and the whistleblowing shall be admitted, if the anonymity grounds are justified in it and that the information reported provide sufficient grounds for the administrative investigation of the dubious corruption conduct or practice.

3. Notwithstanding the responsible unit within the organisation, the whistle-blower may initiate an external whistleblowing procedure with HIDAACI, under Article 11 of this law.

Article 8

Whistleblowing in public

In the event the whistle-blower shall disclose the dubious corruption conduct or practice publicly, he shall be entitled to protection under this law up to the moment when whistleblowing becomes public.

Article 9

Collaboration

In abidance by the principle of preservation of confidentiality, state secret and protection of personal data, the responsible units shall collaborate with each other and with HIDAACI for sharing the data, being comprehensive and without reserves, to the effect of examining and settling a reported instance when, regardless of the organisation of the whistle-blower, the exposed belong to different organisations.

CHAPTER III

STRUCTURE FOR EXAMINING WHISTLEBLOWING

Article 10

Internal whistleblowing and responsible units

1. A responsible unit shall be established with each public body with more than 80 employees and private entity with mire 100 employees, which shall record, administratively enquire and examine the whistleblowing, under this law.

2. The responsible unit may consist of one or more persons, referring to the composition and structure of the organisation, specifically trained in the field of protection of whistle-blowers.

3. HIDAACI shall, by way of instruction, set out the structure, criteria of selection and training of employees of the responsible unit of private entities. The Council of Ministers shall, by way of instruction, set out the employment relations, structure and criteria of election of employees of the responsible unit of the public bodies.

Article 11

External whistleblowing with the High Inspectorate of Declaration and Auditing of Assets and Conflict of Interests

1. HIDAACI shall directly enquire the whistleblowing regarding the dubious corruption conduct or practices with the organisations, which have no responsible unit to this effect.

2. Regardless of the responsible unit within the organisation, the whistleblower shall be entitled to blow the whistle on the dubious corruption offence with the HIDAACI, if:

a) The responsible unit does not institute the administrative investigation or terminates the proceedings at variance with Article 14 of this law;

b) Grounded suspicion exists that the recipient of the information with the responsible unit or persons connected to him are involved or have a direct or indirect, propriety or personal interest in the dubious corruption conduct or practice. Where appropriate, related person has the same meaning with the provisions in the commercial law or the law on prevention of conflicts of interest in assuming public functions;

c) There are other grounded reasons to be sceptical about the integrity and impartiality of the responsible unit in examining the whistleblowing, under the principles of this law;

ç) The evidence of the whistle-blower regarding the dubious corruption conduct or practice may be deleted or destroyed by the organisation.

3. In the instances referred to in point 2 of this Article, any investigation by the responsible unit, if initiated, shall be terminated and the whistleblowing shall subsequently be enquired by HIDAACI.

CHAPTER IV
ADMINISTRATIVE INVESTIGATION PROCEDURE OF
WHISTLEBLOWING

Article 12

General principles of administrative investigation

1. To the effect of assuming their functions, the responsible unit or HIDAACI shall:
 - a) Conduct themselves with fairness, impartiality and efficiency, taking account of the legitimate interests of the whistle-blower;
 - b) Act independently of the political conviction or any other inappropriate influence, which may hinder the accomplishment of the tasks under this law;
 - c) Avoid any eventual conflict of interest and declare immediately with the organisation or HIDAACI the conflict of interest prior to the institution of an administrative investigation into whistleblowing;
 - ç) Take all the appropriate measures for protecting the documentation and evidence pertaining to the whistleblowing against extinction, hiding, changing, forging and other acts aiming at their destruction;
 - d) Maintain the confidentiality of information and protect the data in content of any whistleblowing, in compliance with Article 15 and 16 of this law;
 - dh) Preserve the state secret in the content of a whistleblowing in compliance with the law.
2. In the process of administrative investigation, the whistle-blower shall be entitled not to divulge the sources of information.

Article 13

Procedure of administrative investigation

1. Every responsible unit or HIDAACI shall, as appropriate, administratively investigate into the whistleblowing in compliance with the procedure set out in this law. To the extent not provided for differently in this law, the responsible unit with the public authority and HIDAACI shall implement the provisions of the Code of the Administrative Procedures.
2. The procedure of administrative investigation into the whistleblowing shall be completed as soon as possible, however, under no circumstances later than 40 days of the date of instituting the investigation, unless the

circumstances dictate a longer period.

3. During the administrative investigation period, the responsible unit or HIDAACI shall examine and evaluate the allegations made by the whistleblower regarding the dubious corruption conduct or practice. To this effect, the responsible unit or HIDAACI shall be entitled to require additional information and documents, order inspections or analysis or collect testimonies or consult the experts of various fields.

4. Participating in the administrative investigation shall be the whistleblower or any other third person, if he is thought of possessing documents or being aware of the circumstances whistle-blown on, including the exposed, as long as it is deemed necessary by the person presiding over the investigation.

5. Any party participating in the administrative investigation shall be ensured a due process, in compliance with provisions of the Administrative Procedure Code, and :

- a) May make statements, arguments or opinions in writing;
- b) May consult the investigation file;
- c) Shall be entitled to be heard on his allegations.

6. The organisation or HIDAACI shall make the evidence, documentation it is disposing of, available to the investigation.

7. The responsible unit or HIDAACI shall notify the whistleblower on any measure taken in response to the whistleblowing not later than 30 days of the moment of the accomplishment of the measure. Regardless of the notice period provided for in this Article, the responsible unit or HIDAACI shall be obliged to respond within 30 days to the request for information submitted in writing by the whistle-blower at any time, regarding the matter whistle-blown on by him.

8. Where upon the completion of the administrative investigation of whistleblowing, the responsible unit of a public authority or HIDAACI indicate that the dubious conduct or practice being whistle-blown on consist or may consist an administrative violation, under the law, the responsible unit or HIDAACI shall, as appropriate, inform the competent body.

9. HIDAACI and the organisation in cooperation with HIDAACI shall take immediate measures at the same moment and, to the extent possible, to prevent or hinder the continuation of harmful consequences of the dubious corruption conduct or practice being whistle-blown on.

10. Any organisation, in accordance with the instruction of HIDAACI, and HIDAACI, shall approve the specific internal regulations in connection with the procedure of examination of administrative investigation of the whistleblowing and the instruments for protecting the confidentiality under this law.

Article 14

Non-institution and termination of administrative investigation

1. The responsible unit or HIDAACI shall be entitled not to institute the administrative investigation if:

a) Whistleblowing was not filed appropriately in terms of form and contents, provided for in Article 7 of this law, and the whistle-blower does not rectify these shortcomings within 5 days of receiving the notice for rectification;

b) Whistleblowing contains facts and circumstances which are not included in the scope of this law, in accordance with Article 3, point 6, of this law;

c) When the contents of the whistleblowing clearly show that there are no elements of administrative violation or criminal offence.

2. The responsible unit or HIDAACI shall be entitled to terminate the administrative investigation if:

a) In the course of investigation it emerges that the whistleblowing for the dubious corruption conduct of practice is grounded. In this case, the responsible unit or HIDAACI shall immediately give notice to the prosecution office or State Police;

b) The whistle-blower has not acted in good faith, in compliance with Article 6 of this law.

3. The decision on non-institution or termination of the administrative investigation shall be noted in the whistleblowing file, being grounded in connection with the entire causes having brought about the relevant decision making, as well as the measures taken with regard to whistleblowing.

Article 15

Confidentiality

1. The identity of the whistle-blower shall, in the course of the procedure of administrative investigating into the internal or external whistleblowing, be made known to the third persons only upon his own written consent.

2. HIDAACI or the responsible unit shall always keep the information regarding whistleblowing confidential, thus not disseminating or transmitting it to third parties within or outside the organisation or HIDAACI, and not to use it for other purposes, unless with the written consent of the whistleblower or while meeting a legal obligation.

3. The responsible unit or HIDAACI shall, in its correspondence with the organisation where the whistle-blower is employed or any other private or state entity or authority, abide by the obligation of confidentiality and it shall communicate the necessary information only to the persons appointed for the administrative investigation or taking the measures for following up the facts being whistle-blown on, in the context of a confidential agreement among the parties.

4. Any person receiving confidential information from the responsible units or HIDAACI for the purposes of this law shall be subject to the same obligation for the processing of information in a confidential fashion.

Article 16

Protection of personal data

1. The personal data of individuals involved in the administrative investigation shall be processed just for the purposes of this law. The processing of these data shall always be accomplished in accordance with the procedures of the law in effect for the protection of personal data.

2. In cases where, in the implementation of this law, it has been identified a breach of legislation on protection of personal data, the case shall be referred to the Commissioner for the Right to Information and Protection of Personal Data.

3. The Commissioner for the Right to Information and Protection of Personal Data shall, in a specific instruction, determine the conditions and criteria of processing and time of maintaining the personal data in the field of protection of whistle-blowers under this law.

CHAPTER V

RIGHTS AND PROTECTION OF WHISTLE-BLOWERS

Article 17

Whistle-blower Rights

1. Whistle-blower rights and interests shall be protected in a reliable, efficient and appropriate fashion.

2. The whistle-blower shall be entitled to:
 - a) Confidentiality in the course of whistleblowing process, including also the possibility of anonymous whistleblowing of a dubious corruption conduct or practices, in accordance with Article 7, point 2, of this law;
 - b) Maintaining confidentiality of the source of information by the whistle-blower;
 - c) Protection against retaliation.
3. The whistle-blower rights shall be guaranteed in accordance with this law:
 - a) Regarding the duration of the administrative investigation procedure of whistleblowing;
 - b) Following the completion of the administrative investigation procedure of whistleblowing, to the effect of normally accomplishing the functional tasks of the whistle-blower at his organisation;
 - c) Following the end of employment relations of the whistle-blower with his organisation, where in reasonable and grounded circumstances, the whistle-blower has requested protection from HIDAACI.
4. Every rule or private agreement, based whereon the rights or protection of whistle-blower under this law is exempted or restricted, shall be invalid. The whistle-blower rights shall have priority over the confidentiality agreements.
5. The whistle-blower shall be informed thoroughly and in an understandable language for him by the organisation and HIDAACI over the rights and protection provided by his organisation and HIDAACI under this law.

Article 18

Protection against retaliation

The whistle-blower blowing the whistle on a dubious corruption conduct or practice in compliance with the provisions of this law shall be protected against any retaliatory measures taken by the organisation against him, including, however, not limited to:

- a) Dismissal from office;
- b) Suspension from office or from one or more tasks;

- c) Transfer within or outside the organisation;
- ç) Demotion;
- d) Reduction of salary and/or financial benefits;
- dh) Loss of status and privileges;
- e) Failure to affect promotion;
- ë) Depriving the right to participate in trainings;
- f) Negative evaluation in employment relations;
- g) Other forms of retaliation regarding employment.

2. Any act of retaliation against the whistle-blower shall be invalid.

3. Where the whistle-blower wishes to be appointed to another structure of the organisation to be protected against retaliatory reactions in his close circle of employment, the organisation shall take the reasonable and appropriate measures to facilitate such a move. Otherwise, HIDAACI shall, upon the request of the whistle-blower, approach the competent body, under the legislation in effect, to order her public authority or it orders the private entity to take all the measures under this Article. Where the competent body or private entity does not take the measures required by HIDAACI, any interested person shall be entitled to approach the court.

Article 19

Procedure of enquiring into the protection request

1. The whistle-blower alleging that he is subject to an act of retaliation submits a request for protection with the responsible unit. The responsible unit shall immediately take measures, and in each case, no later than 10 day of submission of the request, it shall decide through an intermediate reasoned act to repair the unlawful consequences of the retaliation act. In case of violation of this deadline, the request is submitted to ILDKPKI, which shall decide within 10 days of receiving the request.

2. HIDAACI shall investigate into the allegations of retaliation to establish whether there are reasonable grounds to believe that it has occurred, it is occurring or it is expected to occur an act of retaliation.

3. HIDAACI shall, within 5 days of receiving the request for protection against retaliation, notify the whistle-blower in writing concerning the registration of the allegation and the name of the person with HIDAACI, who is to pursue the matter.

4. The organisation shall, upon the request of HIDAACI, establish that the measures taken to the detriment of the whistle-blower have been based on various grounds, which bear no direct or indirect connection to the whistleblowing.
5. HIDAACI shall notify the whistle-blower within 10 days of the date of receipt of the request on the status of administrative investigation of the request for protection and on any procedural arrangement being undertaken. Regardless of the notification timing, provided for in this Article, HIDAACI is bound to respond to any request for information in writing, submitted at any time by the whistle-blower in connection with his request.
6. The procedure of administrative investigation into the protection request shall be completed as soon as possible, however, never later than 30 days of the registration of the request.
7. Where upon the completion of the administrative investigation it emerges that a retaliation act has been committed against the whistle-blower within the public body, HIDAACI shall approach the competent authority under the legislation in effect to order the public body to take all the measures for rectifying the violation committed. Where upon the completion of investigation it emerges that a retaliation act has been committed against the whistle-blower by the private entity, HIDAACI shall order the private entity to take all the measures for rectifying the committed offence. Where the competent authority or private entity do not take the measures required by HIDAACI under this point, any interested person shall be entitled to approach the court.
8. HIDAACI and the responsible units, in compliance with the instructions issued by HIDAACI, shall approve regulations about the procedure of examining the request of the whistle-blower for protection against retaliation.

Article 20

Indemnity in the event of retaliation

The whistle-blower shall be entitled to seek compensation before the court regarding the harm sustained due to the retaliation act in the sense of this law, in accordance with the Civil Code.

CHAPTER VI
MONITORING THE WHISTLEBLOWING MECHANISM

Article 21

**Functions of the High Inspectorate of Declaration and Auditing
of Assets and Conflict of Interests**

In addition to what has been foreseen in this law, HIDAACI shall be tasked to:

- a) Monitor and issue instructions on the mechanisms of internal and external whistleblowing;
- b) Check out the appropriate functioning of the mechanism of internal whistleblowing and of the responsible units of organisations;
- c) Find out the administrative contraventions, under this law, and impose penalties in compliance with Article 23 of this law;
- ç) Receive and investigate into the requests for protection against the retaliatory measures against whistle-blowers and guarantee the protection of whistle-blowers against the retaliatory measures under this law;
- d) Draft evaluations and issue recommendations for the implementation of this law, based on the annual reports of the responsible units;
- dh) Offer advice and support in connection with the implementation of the law on whistle-blower protection;
- e) Make the public aware about whistleblowing and protection of whistle-blowers, as well as boost the cultural admission of whistleblowing.

Article 22
Reporting

1. The responsible unit shall accomplish the tasks assigned by the HIDAACI for facilitating and developing the whistleblowing process and it shall submit to HIDAACI annually, no later than 15 January of the upcoming year, a written report on the whistleblowing registered, ways pursued for the administrative investigation into the whistleblowing instances and whistle-blower protection.
2. HIDAACI shall annually publish a report on the implementation of this

law. Included in this information report shall be the number of instances of whistleblowing, outcome of proceedings, degree of awareness and trust of the public with whistleblowing mechanisms, time set out for examining the cases and implementing the mechanisms of protection against retaliation.

CHAPTER VII ADMINISTRATIVE VIOLATIONS AND MEASURES

Article 23 Administrative violations and measures

1. Where the infringement of the provisions of this law does not consist a criminal offence, it shall consist administrative contravention and it shall be punished by fine as follows:

a) Failure of the organisation to appoint the responsible unit in compliance with point 1, Article 10 of this law, shall be punished by fine to 100 000 All;

b) Any retaliation act against the whistle-blower committed by the organisation under Article 18 of this law, including the refusal to act under point 3, Article 18 of this law, shall be punished by fine from 300 000 ALL to 500 000 ALL;

c) Violation of whistleblowing principles of investigation by the employee under letters "a", "b", "c" and "ç" of point 1, Article 12 of this law, shall be punished by fine from 100 000 All up to 300 000 ALL;

ç) Violation of the obligation to preserve confidentiality under Articles 15 of this law shall be punished by fine from 150 000 All to 300 000 ALL;

d) Failure to institute investigation or the termination of the administrative investigation by the employee at variance with Article 14 of this law shall be punished by fine from 100 000 All to 300 000 All.

2. HIDAACI shall be entitled to find out the contraventions and to impose the penalty. Against the decision of HIDAACI, a complaint may be filed, under the law on administrative contraventions.

3. The proceeds of penalties shall be transferred to the state budget.

CHAPTER VIII
TEMPORARY AND LAST PROVISIONS

Article 24
Issue of bylaw acts

1. HIDAACI shall be tasked to issue the bylaw acts in compliance with point 3, Article 10; point 10, Article 13; point 8, Article 19; and letter “a”, point 1, Article 21 of this law, within two months of the entry into effect of this law.
2. The Council of Ministers is tasked to issue the bylaw acts under point 3, Article 10, of this law, within two months of the entry into effect of this law.
3. The Commissioner for the right to Information and Protection of the Personal Data is tasked to issue the bylaw acts under point 3, Article 16 of this law, within two months of the entry into effect of this law.
4. Private entities and public authorities are tasked, in accordance with HIDAACI instructions, to approve the rules provided for in Article 13, point 10 of this Law, within six months from the date of entry into force of this law.

Article 25
Entry into effect

This law shall enter into effect 15 days after its publication in the Official Journal and shall extend its legal effects from 1 October 2016, except for the obligations set out in Article 10 of this law regarding the internal whistleblowing for private entities that shall start to apply on 1 July 2017

SPEAKER
Ilir META

Adopted on 2016.

LAW
No. 78/2020, dated 25.06.2020
ON ORGANISATION AND FUNCTIONING OF THE PROBATION
SERVICE

Based on articles 78 and 83, paragraph 1 of the Constitution, on proposal of the Council of Ministers,

THE PARLIAMENT
OF THE REPUBLIC OF ALBANIA

D E C I D E D:
CHAPTER I GENERAL PROVISIONS

Article 1
Object

1. The object of this law is the definition of rules and procedures for
 - a) the organization and functioning of the Probation Service;
 - b) the enforcement of criminal decisions and orders of the prosecutor for the supervision and execution of alternative sentences, measures of diversion from criminal prosecution, non-custodial sentences against the juveniles or any other activity conform to the legal acts in effect;
 - c) the individualized treatment of the needs and skills of the person under supervision to ensure their adaptation and reintegration into society;
 - ç) fulfilment of obligations from the persons under supervision during the probation period.
2. The provisions of this law shall apply to criminal judgments ruled by

domestic and foreign courts in compliance with the Code of Criminal Procedure, Criminal Code and the Juvenile Justice Criminal Code, with the applicable law on the execution of criminal decisions and with bilateral or multilateral agreements ratified by the Republic of Albania.

Article 2

Aim

This law aims at enabling the social rehabilitation and reintegration of persons under supervision, preventing criminal offences and lowering the risk of reoffending, reducing the social costs, as well as contributing to the protection of public interest.

Article 3

Definitions

The following terms in this law have the following meaning:

1. "Alternative sentences" include the prison alternatives, which can be ruled by the Court pursuant to the provisions of the Criminal Code and Juvenile Justice Criminal Code.
2. "Non-custodial sentence against the juveniles" include the sentences provided for by the provisions of the Juvenile Justice Criminal Code.
3. "Restorative justice" has the same meaning as defined by the Juvenile Justice Criminal Code.
4. "Supervised Juvenile" is any person under the age of 18 years old, who has reached the age of criminal responsibility and against whom the competent body of the juvenile criminal justice system has ordered an alternative measure or a non-custodial sentence.
5. "Alternative measures" are measures of diversion from criminal prosecution pursuant to the provisions of the Juvenile Justice Criminal Code, as well as coercive measures with electronic monitoring pursuant to the law in force on the electronic monitoring of persons whose freedom is restricted by a court decision.
6. "Supervision" means activities performed by the Probation Service for the enforcement of alternative measures and alternative sentences, as well as of other orders set forth in special laws, with a view to supporting, advising and reintegrating the person under supervision into society.
7. "Person under supervision" means:

- a) the person on whom the court has imposed one of the prison alternatives by decision of the court; or
 - b) the person against whom the court has ruled a protection order or an immediate protection order, in accordance with the law in force on the measures against violence in family relations, only if the court has decided that the person should be under electronic monitoring; or
 - c) the person on whom any other coercive measure has been imposed by decision of the court, foreseen by special laws.
8. “Additional care” means the process planned by the Probation Service in cooperation with the person under supervision and with his/her consent to be carried out even after the supervision of the fulfilment of all obligations imposed on him/her, aiming at his/her reintegration into society.
9. “Diversion” has the same meaning as defined by the Juvenile Justice Criminal Code.
10. “Specialist of the Probation Service” is the person in charge of supervising and assisting the person under supervision during the enforcement of the prison alternatives in compliance with the legislation in force.
11. “Putting on probation” means fulfilling the conditions set by the proceeding authority against the person under supervision for a certain period of time. Putting on probation consists of several activities and interventions, such as control, guidance and assistance for the development of skills and opportunities for employment, along with the treatment aiming at the rehabilitation and reintegration into society of the person under supervision.

Article 4

Principles of activity of the Probation Service

1. The activity of the Probation Services is performed in compliance with the following principles:
- a) legitimacy in guaranteeing the fundamental rights and freedoms of the individual and international standards in the area of human rights.
 - b) proportionality so that the interventions of the Probation Service are necessary to achieve the aim set forth in the law and in the

judgment, the means and measures used to restrict as little as possible the rights of the person under supervision and of his family and to be proportional to the need, which dictated their imposition.

c) equality and non-discrimination on any grounds foreseen by the law in force on protection against discrimination.

c) transparency and communication in a language that is understood through an official interpreter if the person does not speak or does not understand Albanian and in an accessible way for the persons with disabilities, in accordance with the standards and law in force on the inclusion and accessibility of persons with disabilities.

d) respecting the private life of the person under supervision and of his/her family, restricting it only when necessary for the protection of public interest, public order and security, or for the protection of the rights and freedoms of other persons.

dh) confidentiality of the information created and administered due to the function, in accordance with the law in force on the protection of personal data.

e) principle of control and accountability.

2. While exercising their activity, the Probation Service shall guarantee respect for higher ethical standards, integrity, merit and professionalism, as well as respect for the dignity and integrity of the person under supervision and his/her family, of the victim of the criminal offence and his/her family.

3. The Probation Service supports the development of positive relations between the specialist of the Probation Service and the person under supervision and when possible seeks the consent and cooperation of the persons under supervision in relation to the interventions affecting them.

Article 5

Mission of the Probation Service

The mission of the Probation Service is the promotion of social inclusion of persons under supervision with a view to preventing the commission of criminal offences and developing the feeling of responsibility towards the society and the victim through rules of social interaction and special interventions.

CHAPTER II
ORGANISATION AND FUNCTIONING OF THE PROBATION SERVICE

Article 6
Organisation of the Probation Service

1. The Probation Service is a public legal entity, with its headquarters in Tirana carrying out its activity under the Ministry of Justice.
2. The Probation Service is financed from the state budget and its budget is approved as a separate item in the budget of the Ministry of Justice.
3. Probation service is organised:
 - a) at central level through the General Directorate of Probation Service;
 - b) at local level through the territorial branches of the Probation Service.
4. Structure and organisational structure of the Probation Service are approved by order of the Prime Minister pursuant to the definitions of the law in force on the organisation and functioning of the state administration.
5. The labour relations of the staff of the Probation Service in the General Directorate of Probation Service and of the territorial branches are regulated in accordance with the provisions of the law in force on civil servant.
6. The labour relations of the administration staff of the General Directorate of Probation Service and of the territorial branches are regulated in accordance with the Labour Code.
7. The detailed rules for the organisation and functioning of the Probation Service shall be defined in the general regulation of the Probation Service, approved by the Council of Ministers.

Article 7
Functions of the Probation Service

1. The Probation Service performs the following functions:
 - a) supervise execution of alternative sentences against persons under supervision enforcing the court decision and the execution order of

the prosecutor, which includes the even the supervision of:

i) the sentenced person with drug or alcohol addiction, who undergoes a compulsory rehabilitating treatment;

ii) the sentenced person on conditional release;

b) draft and supervise the manner of implementation of the individual treatment plan of the person under supervision, by taking into consideration the risks and needs for his/her rehabilitation and integration into society;

c) support the person under supervision to overcome difficulties in social reintegration during and after the termination of the probation period.

ç) address problems of the person under supervision regarding employment, housing, education, training and the needs for social protection, in order to reduce the risk of recidivism in the future and to enable his/her reintegration into society;

d) draft assessment reports and/or report to the prosecution and the court pursuant to the Criminal Code, Code of Criminal Procedure, Juvenile Justice Criminal Code, law on execution of criminal sentences and other legal and sub-legal acts in force;

dh) systematically collect data about the activity of the persons under supervision;

e) support the improvement of the work practice with persons under supervision.

2. The Probation Service provides services accessible for persons under supervision who are foreign citizens or stateless persons sentenced by Albanian courts.

To this aim, the Probation Service shall cooperate with the probation service agencies and institutions in the countries of origin of the foreign citizens under supervision conform to the bilateral or multilateral agreements ratified by the Republic of Albania, to facilitate the necessary supervising arrangements during the return of these persons to the country of origin.

Article 8

General Directorate of Probation Service

1. General Directorate of Probation Service is responsible for:

- a) planning and strategic management of the activity of the Probation Service;
- b) submitting to the Minister of Justice periodical reports on the fulfilment of obligations set forth in this law and other laws in force;
- c) organising, managing and coordinating the process of supervision of execution of alternative sentences and alternative measures by the territorial branches;
- đ) following and fulfilling the obligations set forth in the Juvenile Justice Criminal Code pertaining to the areas of responsibilities of the Probation Service;
- d) organising, managing and coordinating the process of electronic monitoring, based on the law in force on electronic monitoring of persons whose movement is restricted by a judicial decision;
- dh) carrying out necessary studies and analysis for the drafting of strategic documents in the field of probation service and for the drafting of criminal and social policies;
- e) coordinating and preparing standards, methodology of work, in order to unify the practice and improve the activity of the specialists of the Probation Service;
- ë) assessing, controlling and inspecting the activity performed by the branches;
- f) coordinating and managing human resources of the Probation Service, in accordance with the legislation in force and the regulation of the Probation Service;
- g) following the professional training of the specialists of the Probation Service, in cooperation with the institutions, donors or local or foreign organisations;
- gj) representing in court proceedings to which the Probation Service is a party;
- h) establishing, keeping, updating and processing statistical data in the field of Probation Service;
- i) raising the awareness of the public and institutions about the role and activity of the Probation Service;

- j) financial administering of the Probation Service institution;
 - k) signing cooperation agreements or memoranda of understanding with other domestic or foreign authorities with a view to implementing this law;
 - l) performing any other duty set forth in this law or other laws in force.
2. The rules of procedure of the Probation Service is approved by the Minister of Justice, on the proposal of the General Director of the Probation Service.

Article 9

Territorial competence of the territorial branches

1. The territorial branch, where the person under supervision has his/her place of domicile or residence, is competent for the enforcement of prison alternatives, decided by a final court decision and for carrying out the supervision within its territory of competence.
2. The territorial branch of the place of domicile or residence of the person who is being assessed is competent for drafting the assessment report. If the person being assessed is placed in an institution for the execution of criminal decisions, the territorial branch of the judicial district where the institution is located will be the competent branch. In special cases, the other territorial branches can cooperate to gather the information for the drafting of the assessment report.
3. In case of conflict of competence between the territorial branches, the conflict shall be resolved by the General Directorate of the Probation Service within 5 (five) days from the day of being informed of this conflict.

Article 10

General Director

1. The General Director represents the General Directorate of Probation Service in relations with third parties, organises and controls its activity and is responsible for the proper functioning of the Probation Service institution.
2. The General Director of the Probation Service is appointed, released or dismissed by a decision of the Council of Ministers, on the proposal of the Minister of Justice.
3. The applicant for the General Director of the Probation Service shall

meet the following criteria:

- a) to be an Albanian citizen;
- b) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law in force on higher education in the Republic of Albania;
- c) to have a work experience of not less than 10 years in the profession, of which at least the last 5 years he/she should have been involved in the field of human rights or community services;
- d) to have no prior criminal convictions for a criminal offence with a final court decision;
- e) not to have been subject to the disciplinary measure of dismissal or not to be subject to any effective disciplinary measures;
- f) to have integrity and a pure moral figure.

Article 11

Director of territorial branch

1. The Director of the territorial branch is responsible for the management, coordination and control of fulfilment of the tasks by the specialists of the territorial branch of the Probation Service.
2. The Director of the territorial branch is appointed, released or dismissed in accordance with the law in force on civil servant.
3. Apart from the general criteria set forth in the law in force on civil servant, the director of the territorial branch of the Probation service shall meet the following criteria:
 - a) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law on higher education in the Republic of Albania in effect;
 - b) to have a work experience of not less than 5 years in the profession.

Article 12

Specialist of the Probation Service

1. The specialist of the Probation Service is appointed, released or dismissed in accordance with the law in force on civil servant.

2. Apart from the general criteria set forth in the law in force on civil servant, the specialist of the Probation Service shall meet the following criteria:

a) to have completed at least the second cycle of university studies or an equivalent diploma in the branches: psychology, law, social work or sociology, in accordance with the law in force on higher education in the Republic of Albania;

b) to have a work experience of no less than 1 year in the profession.

3. In the course of exercising his/her activity the specialist of the Probation Service is guided by the principles of impartiality, professionalism and upholding professional and ethical-moral integrity.

4. The specialist of the Probation Service cannot perform other public or private functions or duties in conflict with his/her functional and legal duties, with the exception of teaching, academic and scientific activity.

Article 13

Rights and Duties of the specialists of the Probation Service

1. The specialist of the Probation Service is responsible for:

a) supervising alternative measures, non-custodial sentences pursuant to the Juvenile Justice Criminal Code, prison alternatives in accordance with the Criminal Code as well as other measures defined by special laws;

b) drafting the individual assessment reports for the persons under supervision to be submitted to the prosecution and court in accordance with this law and other laws in force;

c) assisting, advising and reintegrating the person under supervision into society.

2. The specialist of the Probation Service, to the extent necessary to perform functional duties, has the right:

a) to access, during the criminal proceeding, general data about the subject under assessment and about the circumstances under which the offence has been committed, which do not constitute investigation secret or confidentiality and during the judicial proceeding to access the information administered in the judicial file in accordance with the terms and conditions set forth in the Code of Criminal Procedure;

b) to access information administered by other state institutions in accordance with the rules foreseen by the legislation in force.

Article 14

Conflict of Interest

1. The Specialist of the Probation service has the obligation to avoid any conflict between the public and private interest in the performance of the duty.
2. The Specialist of the Probation Service, in the course of performance of the tasks related to the supervision and assistance to the person under supervision, declares all cases of conflict of interest, according to the provisions of the law in force on prevention of conflict of interest in exercising public functions.
3. The Specialist of the Probation Service is obliged to request withdrawal from supervising and assisting the person under supervision in case of factual and constant conflict of interest with him/her.
4. The declaration of conflict of interest and the request for withdrawal are submitted for decision to the director of the respective territorial branch of the Probation Service. In cases when conflict of interest is declared by the director of the respective territorial branch or by any interested person, the acts are submitted for decision to the General Director of the Probation Service. The content of the request and the decision is informed to the parties immediately and in any case not later than three days from the decision of the General Director.

Article 15

Professional training system of the specialists of the Probation Service

1. The General Directorate of the Probation Service is responsible for the drafting and development of the strategy for the professional training of the specialists of the Probation Service for the improvement of their role and the level of professional responsibilities.
2. The training programme is drafted in two main directions:
 - a) initial training, which is organised for the specialists of the Probation Service under probation;
 - b) continuous training, which is conducted for the specialists of the Probation Service confirmed in office, upon termination of the trial period.

3. For the purpose of applying this article, the Albanian School of Public Administration, on the request of the General Directorate of the Probation Service shall organise training for topics related to the supervision of alternative measures, prison alternatives, as well as assisting and rehabilitating the persons under supervision.

4. The trainings according to the topics defined in paragraph 3 of this Article, may be organised even in cooperation with the School of Magistrate or with domestic or foreign agencies accredited for the provision of trainings.

Article 16

Initial training

1. Initial training aims at providing to the specialists of the Probation Service on trial period, with the proper theoretical and practical professional knowledge for the supervision of alternative measures, non- custodial sentences according to the Juvenile Justice Criminal Code, the prison alternatives according to the Criminal Code as well as assisting and reintegrating the persons under supervision into society.

2. The program of the initial training defines the rules and condition for the training modules or courses, for assessing the knowledge upon completion of the initial training, as well as for issuing the certificate upon successful completion of the initial training program.

3. The initial training program is drafted by the Ministry of Justice in cooperation with the General Directorate of the Probation Service.

Article 17

Continuous training

1. The continuous training program aims at updating the professional knowledge and skills of the specialists of the Probation Service with specific theoretical and practical professional knowledge, to adapt to the developments of the legal framework and international standards.

2. Attending the program of the continuous training is compulsory and upon completion of fulfilling the obligation, the specialist of the Probation Services is issued the relevant certificate.

3. The specialists of the Probation Service, responsible for the supervision of the juveniles in conflict with the law, shall attend the specialised continuous training on juvenile criminal justice, in accordance with the Juvenile Justice Criminal Code.

4. The specialists of the Probation Service, responsible for the supervision of persons with disabilities, vulnerable persons or persons with special needs, shall attend specialised programs of continuous training.
5. The continuous training program defines the training methods, the training schedule and modules and the conditions for issuing the certificate of participation.
6. The continuous training program is drafted by the Ministry of Justice in cooperation with the General Directorate of the Probation Service

CHAPTER III PROBATION SERVICE SUPPORT DURING THE JUDICIAL PROCESS

Article 18 **Obligation to submit the assessment report**

1. The Probation Service, on the request of the prosecutor or the court, submits the assessment report on the juvenile in conflict with the law, on the person being investigated, on the defendant or the person being supervised, not later than 14 days from the receipt of the request:
 - a) during the stage of preliminary investigation;
 - b) before the decision of the alternative measure of diversion from prosecution and at the end of its execution;
 - c) during trial before the judgment is rendered;
 - ç) during the stage of execution in the case of:
 - i. supervision of the sentenced person under probation;
 - ii. examination of the conditional release request;
 - iii. early termination of the probation period;
 - iv. completion of the alternative sentence or completion of fulfilment of certain obligations;
 - v. non-fulfilment of obligation by the person under supervision;
 - d) any other cases foreseen by the legislation in force.
2. The assessment report introduces data, which help the prosecutor or the court in their decision making at any stage of the criminal proceeding, based on the detailed information and analysis of circumstances, causes

of committing the criminal offence and the attitude submitted by the Probation Service in a clear and well-reasoned manner.

3. The Specialist of the Probation Service in charge of the supervision of the person being supervised, apart from the reports set forth in paragraph 1, letter "ç" of this Article, carries out mainly assessments and drafts periodical assessment reports when and how the prosecutor and/ or court requires, depending on the supervision period, but in any case not less than one report. These assessment reports contain information and well-reasoned recommendations for the manner of the fulfilment of obligations decided by the court and for the behaviour of the person under supervision, which are included in the file of the Probation Service. A copy of the periodical assessment report is made available to the person under supervision, his/her representative or legal guardian and defence lawyer.

4. While drafting these reports, the specialist of the Probation Service is guided by the principle of professionalism, non-discrimination, objectivity and impartiality.

5. The assessment reports, set forth in paragraph 1 and 3 of this Article, are drafted conform to the standard templates approved with the order of the Minister of Justice, on the proposal of the General Director of the Probation Service.

Article 19 **Probation Service Report**

1. The Probation Service, when assessing a juvenile, shall draft the individual assessment report based on the provisions of the Juvenile Justice Criminal Code, of this law and the legislation in force.

2. The Individual Assessment Report, in the case of a juvenile in conflict with the law, contains data about:

- a) the level of psychological development and way of living of the juvenile in conflict with the law;
- b) education and schooling;
- c) health condition;
- ç) individual characteristics of the juvenile;
- d) family and social environment and other conditions of the juvenile, which allow for the assessment of the characteristics of the

personality of the juvenile, the accountability and level of his/her responsibility, behaviour and his special needs;

dh) the risk of reoffending;

e) the relevant measures to promote his/her development and integration into society;

ë) any other data which is considered as useful for the purpose of drafting the assessment report.

3. The Probation Service, while drafting the individual assessment report conform to paragraph 2 of this Article, shall seek the opinion of the Unit for the Protection of the Child Rights of the jurisdiction where the juvenile resides.

4. The assessment report, in case of an adult under investigation, defendant or under supervision, contains data about:

a) family situation;

b) social environment of the person;

c) education and vocational training and previous employment history;

ç) personality, general behaviour and analysis of behaviour;

d) the risk for reoffending;

dh) behaviour toward the victim of the criminal offence and substitution for the damage caused;

e) any other data which is considered as useful for the purpose of drafting the assessment report.

5. While conducting the individual assessment, the specialist of the Probation Service shall meet freely with the juvenile in conflict with the law or with the person under investigation, the defendant or the person under supervision.

6. Every state institution, public entity or private subject shall cooperate with the Probation Service and shall make all the necessary information available for the preparation of the assessment report in accordance with the rules and deadlines foreseen by the special laws in force.

7. The Probation Service shall report the conclusions resulting from the supervision process objectively, impartially avoiding any influence. The

individual assessment report is signed by the specialist of the Probation Service and by the person subject of the assessment report, if possible, and, when this is a minor, it is signed by his/her legal guardian and defence lawyer. A copy of the individual assessment report is made available to the person under supervision, in the case of a minor, to the legal guardian and to the defence lawyer.

8. In the event of an objective impossibility to draft the assessment report, within the deadlines set by the prosecution or the court, or when some additional data are required to draft the report, which require the deadlines to be postponed, the Probation Service shall notify the prosecutor or the court of the impossibility of drafting the assessment report within the defined deadlines by submitting the relevant reasons. In any case, the Probation Service shall draft the assessment report not later than 7 days from the date of giving the notification of the reasons for the postponement.

9. Upon termination of the probation period, the Probation Service shall draft the final report consisting of:

- a) personal information of the person under supervision;
 - b) data of the criminal judgment, which determines the sentence or the alternative measure;
 - c) the date when the sentence or alternative measure starts and ends;
 - ç) the reason for termination of the sentence or alternative measure;
- and
- d) a progress report on the fulfilment of the obligations of the sentence or alternative measure.

CHAPTER IV ACTIONS OF THE PROBATION SERVICE FOR THE SUPERVISION OF THE EXECUTION OF ALTERNATIVE SENTENCES

Article 20

Actions performed to enforce the orders for the supervision of alternative sentences

1. The actions that the Probation Service shall take to enforce the execution order include:

- a) verify and determine the territorial competence;

- b) establish first contact and interview the person under supervision;
- c) inform the person under supervision of the rights and obligations entitled during the supervision process;
- ç) establish a risk assessment system;
- d) draft an individual treatment plan in cooperation with the person being supervised.

2. The law in force on the execution of criminal sentences and the General Regulation of the Probation Service provides for the detailed rules for the supervision procedure of persons sentenced with alternative semi- liberty sentences, suspension of the execution of imprisonment sentence and placement under probation, home confinement, suspension of imprisonment sentence and the obligation of community service, as well as with conditional release.

Article 21

Preparatory actions of the Probation Service

1. The director of the territorial branch of the Probation Service, after having administered the order of the execution issued by the prosecutor, conform to the legislation in force on the execution of criminal sentences and after having verified the territorial competence, assigns the specialist responsible for the supervision within 2 days from the date of administration of the execution order.

2. The specialist of the Probation Service in charge of the supervision, within 7 calendar days from the date of administration of the execution order, shall verify the voluntarily fulfilment of the obligation of establishing contact with the Probation Service by the person under supervision.

3. When the person under supervision, upon termination of the 7-day deadline has not voluntarily fulfilled the obligation of establishing contact with the Probation Service, the specialist in charge of the supervision notifies him/her of the obligation to establish contact. The notification defines the place and address of the Probation Service, the date and time of the meeting, the telephone and electronic contact details of the specialist of the Probation Service in charge of the supervision, as well as of the consequences arising from failure to fulfil the obligation.

4. The notification, defined in paragraph 3 of this Article, is delivered through postal service. To deliver the notification, the Probation Service has the right to access the electronic database of addresses.

5. If the person under supervision is not found, the Probation Service notifies the prosecutor, the latter acts conform to the requirements set forth in the Code of Criminal Procedure and the law in force on the execution of criminal sentences.

Article 22

Establishing first contact with the Probation Service

1. The person under supervision shall contact the responsible specialist of the Probation Service within 5 calendar days from the date of receipt of notification. In case of failure to appear within the set deadline, a second notification will be sent through the police officer, competent for the territory, and the Judicial Police service on the following day after the deadline ends.

2. If the person is not found even after the second notification set forth in paragraph 1 of this Article, the specialist of the Probation Service shall draft and submit to the prosecutor the non-fulfilment report.

3. The Specialist of the Probation Service in charge of the supervision of the juvenile under supervision carries out the notifications as provided for in this Article, through his/her legal guardian or legal representative defined in the judgment.

4. The specialist of the Probation Service shall examine the reasons recorded, which prevented the person under supervision from establishing contact. In cases when deemed as necessary, the specialist of the Probation Service is entitled to request an official confirmation from the state institutions or private subjects that have issued the act.

5. The specialist of the Probation Service during the first contact with the person under supervision verifies his/her identity and informs him/ her of the aims and objectives of the supervision, of the rights and legal guarantees, of the obligations according to the judgment, as well as of the consequences deriving from failure to fulfil them, in a language that he/she understands.

6. During the first meeting, the specialist of the Probation Service intends to establish a positive relation with the person under supervision, and takes the necessary information for the assessment of the economic, social and health conditions, along with any other necessary information for the preliminary assessment.

7. The actions performed during the first meeting are recorded in the minutes, which is signed by the specialist of the Probation Service and

the person under supervision. When he/she is a juvenile, the minutes are signed even by his/her legal guardian or legal representative.

Article 23

Individual Treatment Plan

1. The Probation Service assesses the personality of the person under supervision, in order to clarify the needs for physical, affective or social deficiencies, his willingness to work and his professional skills. The Probation Service, based on this assessment, on personal, family and social data, as well as on the extent of the sentence, drafts the individual treatment plan of the person under supervision in accordance with the respective alternative sentence. This plan is approved by the director of the respective territorial branch.
2. The individual treatment plan is discussed with the person under supervision. This plan may change depending on the progress made.
3. The individual treatment plan is signed by the specialist of the Probation Service and the person under supervision and, when this is a minor, it is signed by his/her legal guardian and his/her defence lawyer. A copy of the individual plan is submitted to the person under supervision, his/her legal guardian, when this is a minor, even to the defence lawyer.
4. When the court imposes the obligation of the person under supervision to participate in a rehabilitation program, the individual treatment plan shall describe the content, duration and manner of its performance.
5. When the court imposes the obligation to perform community service, the individual program of supervision shall contain a description of the work, its location and duration.
6. The responsible specialist of Probation Service maintains regular contact with the person under supervision during the entire probation period. The specialist of the Probation Service and the person under supervision agree and sign the program for carrying out the supervision.
7. The detailed rules in relation to the data contained in the individual treatment plan and the manner of its development are determined by order of the Minister of Justice on the proposal of the Director General of the Probation Service.

Article 24

Administering of data during the supervision of alternative sentences

1. The responsible Probation Service specialist opens a personal file of the probation service for each person under supervision, he/she administers therein all the acts issued by the Probation Service during the criminal process and execution of the respective judicial decision.
2. The personal file of the probation service and its content, once the probation period is over, shall be handled in accordance with the conditions and requirements defined in the law in force on archives.
3. Each territorial branch of the Probation Service exercising the functional duties shall keep, in paper format the following registers:
 - a) register of persons under supervision;
 - b) register of requests-complaints;
 - c) register of violations and non-fulfilment of the obligations determined in the judicial decision;
 - ç) register of non-profit organisations, state institutions or private entities providing counselling and assistance of any form to the persons sentenced to one of the prison alternatives.
 - d) register of assessment reports requested by the court or prosecution.
4. The right to access the content of the personal file of the probation service during the probation belongs to the person under supervision or to his/her legal guardian, the defence lawyer, the judge and prosecutor.
5. The format, content and the manner of establishing and administering of registers, set forth in paragraph 3 of this Article are determined by order of the Minister of Justice on the proposal of the Director General of the Probation Service.
6. The storage and processing of the personal data administered in the personal files of the Probation Service and the data in the registers set forth in paragraph 3 of this Article, shall be handled in accordance with the conditions and requirements defined in the law in force on the protection of personal data.

Article 25

Actions taken in application of decisions foreseen in the framework of Juvenile Justice Criminal Code

1. In the context of the Juvenile Justice Criminal Code, the Probation Service supervises the enforcement of judicial decisions of:

- a) diversion from criminal prosecution;
- b) non-custodial sentences.

2. The Probation Service is guided by the principle of the best interest of the child and provides the juvenile with social, educational, psychological, medical and physical assistance in accordance with the individual needs and in accordance with his/her age, gender and personality, with a view to rehabilitating and reintegrating him/her into social life.

3. The Probation Service, with a view to supervising the decisions set forth in paragraph 1 of this Article, shall take the following actions:

- a) verify and determine the territorial competence;
- b) Conduct the first meeting with the juvenile, immediately and not later than 7 days from the date of receipt of the request from the court or the prosecutor, in the presence of his/her defence lawyer, parent or legal guardian and psychologist;
- c) inform of the rights and obligations that the juvenile is entitled during the supervision process;
- ç) analyse the behaviour of the juvenile, the personality, family conditions, nature of the criminal offence committed by him/her and other circumstances, with a view of drafting an individual treatment plan in cooperation with the juvenile, parent or his/her legal guardian and child protection structures.

4. The Probation Service shall supervise the fulfilment of conditions and obligations arising from the measure of diversion from criminal prosecution and prison alternatives. In the event of nonfulfillment of the obligations determined in these decisions, the Probation Service shall notify immediately in writing the prosecutor by providing him/ her with the assessment report, the time, the place, the manner and the circumstances of nonfulfillment, as well as the personal situation of the juvenile.

5. The Probation Service shall notify at the same time the juvenile, his/

her legal guardian and the defence lawyer of the consequences of nonfulfillment of the obligations and of the rules of review in cases of nonfulfillment.

6. The detailed rules on the supervision of the enforcement of judicial decisions defined in paragraph 1 of this Article, shall be set forth in the General Regulation of the Probation Service.

7. The template of the report defined in paragraph 4 of this Article shall be adopted by order of the Minister of Justice.

Article 26

Obligations of the person under supervision in case of change of domicile

1. The person under supervision is obliged to inform in writing and seek the consent of the responsible specialist of the Probation Service with regard to change of domicile or residence, workplace or for any frequent movements within the country by submitting the relevant documents. The Probation Service shall grant or refuse the consent with arguments, after having reviewed the respective documents.

2. In urgent cases, the Probation Service shall deliver both electronically or by phone the notification of receipt of consent, and the notification of granting or refusing the consent. In any case, the person under supervision shall send in writing, within 3 days, the address of the place he will be staying and the relevant documents proving the change of domicile, residence, workplace or movement within the country.

3. In the case of the sentence of home confinement, the procedures for changing the domicile or residence are regulated according to the provisions of the law in force on execution of criminal sentences.

4. If the new domicile or residence of the person is outside the territorial competence of the territorial branch of the Probation Service initially in charge of the supervision, the latter shall send the personal file of the probation service to the territorial branch of the Probation Service whose territorial competence falls under the new domicile or residence of the person under supervision.

5. The specialist responsible for the supervisions, within three days, shall notify the local bodies of State Police and the prosecutor who has issued the execution order of the change of domicile, residence, workplace or of any frequent movements within the country to.

6. Detailed rules on the reasons for changing the domicile or residence, workplace or any frequent movements within the country and on the manner of conducting the supervision shall be defined in the general regulation of the Probation Service.

Article 27

Support for the person under supervision

1. The responsible specialist of the Probation Service shall assist and support the person under supervision for his/her social reintegration by referring him/her to the institutions and competent state structures for employment, housing, vocational training and responsible structures for social services in the local government units, based on the information administered during the entire process and the assessment of the personality and social environment of the person under supervision. With regard to the juvenile in conflict with the law, the responsible specialist of the Probation Service provides support also for the juvenile to attend the relevant education.
2. The support and assistance provided to the person under supervision during the entire period of the supervision consist of specialized interventions in accordance with his/her needs, in order to avoid the risk of committing other criminal offences or to normalise the relations with the victim and her family.
3. Once the probation period is over, the person under supervision is not bound to maintain contact with the Probation Service, unless this is requested by him/her. In these cases, the Probation Service refers the case to the responsible structures of social services at the local government units, it also provides the required counselling to the person under supervision, with his/her consent.
4. Foreign citizens or stateless persons under supervision are treated by taking into consideration their condition and specific needs. The specialists of the Probation Service shall take positive actions to avoid discrimination and to resolve specific problems that these persons might face once the probation period is over.
5. Detailed rules and procedures for the support and assistance provided for persons under supervision by the specialist of the Probation Service are set forth in the General Regulation of Probation Service.

Article 28

Support for the victim

1. The responsible specialist of the Probation Service supervises the fulfilment of obligations to repair damage caused by the person under supervision during the commission of the criminal offence
2. The responsible specialist of the Probation Service shall cooperate with certified mediators depending on the cases referred and shall handle them through restorative justice and mediation in accordance with the law in force on mediation for dispute resolution.
3. If the person under supervision is a juvenile, the procedure set forth in paragraph 2 of this Article, may be applied only with the consent of the juvenile, conform to the rules set forth in the Juvenile Justice Criminal Code.
4. The specialist of the Probation Service shall take the necessary measures for the mediation process to take place with the participation in person of the juvenile, his/her legal guardian, psychologist and the victim. During the mediation process, with the consent of the parties, the employee of the Child Protection Unit, the prosecutor and/or other persons designated by him/her may participate.
5. Any action taken during the mediation process is recorded in the minutes. The specialist of the Probation Service ensures that this record becomes part of the personal file of the probation service of the person under supervision
6. The specialist of the Probation Service shall preserve the confidentiality of the information he/she becomes aware of during the mediation process, unless the information serves to prevent a criminal offense.

Article 29

Non-fulfilment of obligations imposed by the court

1. When the responsible specialist of the Probation Service finds that the person under supervision has failed to fulfil the conditions and obligations imposed by the court, he has the duty to verify the facts and the preventing circumstances and notify the prosecutor.
2. When the state institutions or private entities find that the persons under supervision has failed to fulfil the conditions, within 5 days report to the Probation Service, who informs the prosecutor.
3. The responsible specialist of the Probation Service shall draft the report

of nonfulfillment of the obligations imposed by the court, which contains information on the circumstances of nonfulfillment, the explanations provided by the person under supervision, the assessment of the Probation Service for the case and the recommendation for the actions to be taken in accordance with the level of the risk of the violation. This report is immediately submitted to the prosecutor.

4. Detailed rules on handling cases of nonfulfillment of the obligations by the persons under supervision shall be defined in the General Regulation of the Probation Service.

Article 30

Cooperation with the Ministry of Justice

1. The Probation Service, pursuant to the rules of the European Convention on supervision of conditionally sentenced or conditionally released offenders or to the rules defined in other international acts ratified by the Republic of Albania, shall cooperate with the Ministry of Justice for the enforcement of the prison alternatives.

2. The procedures of cooperation, according to paragraph 1 of this Article, are determined by order of the Minister of Justice.

Article 31

Cooperation with state institutions, private entities and civil society organizations

1. The Probation Service shall cooperate with the General Directorate of Prisons and General Directorate of State Police during the admission, supervision and risk assessment of persons under supervision.

2. The Probation Service shall cooperate with state institutions, local government units and other bodies, which provide services for the rehabilitation and reintegration of persons under supervision.

3. The Probation Service shall cooperate with institutions of higher education for research and studies in order to improve the work practice with persons under supervisions.

4. The Probation Service shall cooperate with private entities, organisations of civil society and international organization working in the field of rights of sentenced persons and community services, in order to promote the reintegration of persons under supervision into society.

Article 32

Inspection

1. The activity of the specialists of the Probation Service to uphold the provisions of this law, shall be subject to inspection from the structures responsible for inspection in the General Directorate of the Probation Service and the Ministry of Justice.
2. Once the inspection is finished, the persons authorised to conduct the inspections shall prepare the recommendations either for the Minister of Justice or the General Director of the Probation Service or the Director of the Territorial Branch, depending on the case, to take the necessary measures for the violations observed.
3. The detailed rules for carrying out inspections, the rights and duties of the inspectors and the of the subjects inspected shall be defined in the General Regulation of the Probation Service.

Article 33

Administrative and judicial complaint

1. The person under supervision has the right of administrative and judicial complaint against the actions of the specialist of the Probation Service assigned for his/her supervision.
2. The administrative complaint is submitted first to the director of the territorial branch where the specialist of the Probation Services exercises his/her function and then to the General Director of the Probation Service.
3. The administrative complaint is examined within 14 days from its submission, unless this law provides for special deadlines, in compliance with the rules provided for in the Code of Administrative Procedure.
4. The person under supervision has the right to complain against the decision of the General Director of the Probation Service to the prosecutor or the competent court of the location of execution, in compliance with the provisions of the Code of Criminal Procedure and the law in force on the execution of criminal sentences.

CHAPTER V
TRANSITORY AND FINAL PROVISIONS

Article 34
Transitory provisions

1. Upon the entry into force of this law, the current staff of the General Directorate of the Probation Service and of the territorial branches of the Probation Service shall enjoy the status of the civil servant, shall continue to maintain their positions under the same conditions that they have been previously employed in the General Directorate of Probation and the in the Territorial Branches, if they meet the employment criteria set forth in this law.
2. The administrative staff continue to remain in office even after the entry into force of this law.
3. The procedures for the supervision of execution of alternative sentences, initiated before the entry into force of this law, continue to be followed according to the provisions of the legislation in effect.

Article 35
Sub-legal acts

1. The Council of Ministers, within 6 months from entry into force of this law, is in charge of approving the General Regulation of the Probation Service.
2. The minister of Justice, within 3 months from the entry into force of this law is in charge of approving the sub-legal acts implementing article 18, paragraph 5; 23, paragraph 7; 24 paragraph 5; 25, paragraph 7 and 30, paragraph 2 of this law.

Article 36
Repeals

Upon the entry into force of this law, decision of the Council of Minister No. 302 dated 25.3.2009 “On adoption of Regulation “On organisation and functioning of the probation service and definition of standards and procedures concerning supervision of execution of alternative sentences” shall be repealed.

Article 37
Entry into force

This law shall enter into force 15 days following publication in the Official Gazette.

SPEAKER
Gramoz Ruçi

Passed on 25.06.2020

LAW
No. 79/2020, dated 25.06.2020
ON THE EXECUTION OF CRIMINAL DECISIONS

Pursuant to Articles 78, 81, point 1, and 83, point 1, of the Constitution, on the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

D E C I D E D:
PART ONE GENERAL PROVISIONS

CHAPTER I
GENERAL PRINCIPLES

Article 1
The purpose of the law

The purpose of this law is to guarantee the execution of criminal decisions in accordance with applicable law, international standards and in compliance with fundamental human rights and freedoms.

Article 2
The object of the law

1. The purpose of this law is to determine the rules and procedures for the execution of:

- final criminal court decisions;
- criminal court decisions for immediate execution;
- other court orders, as well as to determine how alternative sentencing shall be served according to the provisions of the legislation in force.

2. The provisions of this law shall apply to the execution of criminal court decisions rendered by domestic and foreign courts in accordance with the Criminal Procedure Code, the Criminal Code, the Code of Criminal Justice for Juveniles and international agreements ratified by law.

Article 3

The main principles during the execution of the criminal decision

1. This Law shall apply mutatis mutandis to all persons arrested, detained and convicted, avoiding discrimination and the forms of conduct which incite it, for any reason provided by applicable law for the protection against discrimination.
2. The following shall be ensured during the execution of the criminal decision:
 - a) legality, responsibility, impartiality and proportionality in the activity of the subjects of this law;
 - b) humane treatment and respect for the rights and dignity of the arrested, detained or convicted person;
 - c) the participation of the convicted person in his / her social re- socialization and reintegration, through the planning of the sentence, as well as the cooperation of the society in achieving such goals.

Article 4

The principle of voluntary execution

The criminal decision shall be executed voluntarily by the convict in the fashion, time and place determined by the competent body according to this law. The obligatory execution of the criminal decision shall only be taken forward if its voluntary execution is refused.

Article 5

The rights of the arrested, detainee and convict during the execution of the criminal decision

1. The execution of a criminal decision shall only limit the rights determined in the criminal decision in terms of extent and time, respecting all the other rights recognized and protected by applicable law and international human rights standards.
2. At all stages of the execution of the criminal decision, the person shall enjoy the rights provided in the procedural criminal law and other

applicable laws. In case of violation of the rights and when they are not recognized, the person shall request their protection and realization in the fashion defined in the legislation in force.

Article 6

Execution of criminal decisions for juveniles and women

1. The execution of criminal decisions for juveniles shall be carried out in accordance with the procedural rules provided in this law, in the Code of Criminal Justice for Juveniles and in the Criminal Procedure Code.
2. The execution of criminal decisions for women shall be carried out observing the protection of their dignity, physical, social, professional, health and psychological needs.

Article 7

Responsibility of the entities in charge of the execution of the criminal decision

1. The entities charged with the execution of a criminal decision under this law, shall exercise their authority respecting the rights, dignity and freedoms of the person.
2. The employee in charge of the execution of the criminal decision shall bear disciplinary responsibility and, as the case may be, criminal responsibility, for not executing, delaying or executing the decision contrary to the law or the rights of the person.

Article 8

Responsibilities of the prosecutor

The prosecutor shall be obliged to take all measures for the execution of the criminal decision in accordance with the orders of the court and the requirements of this law, as well as to check the regularity of the execution. In case of ascertainment of irregularities, the prosecutor shall have the right to request from the responsible body or the court the restoration of the violated right, as well as the adoption of measures against the responsible persons.

Article 9

Obligation to notify about facts and circumstances

1. Every person or entity ordered by the prosecutor to execute a criminal decision, who during the execution procedure becomes aware of facts and circumstances which affect the fashion and time of execution of the

criminal decision, shall have the obligation to notify the prosecutor.

2. Failure to notify the prosecutor, when it does not constitute a criminal offense, shall constitute an administrative offense and be punished by the court with a fine of up to ALL 100 (one hundred) thousand, in accordance with the provisions of the legislation in force for administrative offenses.

3. Upon receipt of the facts and new circumstances and after checking them, the prosecutor, as the case may be, shall intervene based on the provisions of this law or submit a request to the competent court.

4. Where the fact or circumstance affects the validity or legality of the criminal decision, the relevant provisions of the Criminal Procedure Code shall apply.

PART TWO
EXECUTION OF CRIMINAL DECISIONS CHAPTER I AUTHORITY FOR
THE EXECUTION OF DECISIONS

Article 10
The court

In cases of decisions for immediate execution, in addition to other dispositions, the court shall order the execution of the decision immediately after the announcement and submission of a copy of the decision to the prosecutor attached to the court that rendered the decision for its execution.

Article 11
The prosecutor

1. The prosecutor shall take measures and initiate the procedure for the execution of the criminal court decision and, pursuant to articles 463 and 468 of the Criminal Procedure Code, shall proceed himself/ herself or order other bodies to execute the decision as per this law.

2. The prosecutor shall keep separate files for the execution of the decision and for all the acts administered during the execution.

Article 12
Execution order

1. The execution order is the procedural act issued by the prosecutor for the execution of the criminal court decision. The execution order shall contain:

- a) the court that rendered and / or changed the criminal decision, the number, date, full content of the enacting clause of the criminal decision subject to execution and the necessary dispositions for the execution;
 - b) the generalities of the person against whom the criminal decision is to be executed, the address of residence or abode, where the notice for the execution order shall be sent to;
 - c) the type and extent of the main sentence, as well as the total duration of the sentence, according to the procedures provided in the Criminal Code, the Criminal Procedure Code and the rules provided in this law;
 - d) the type of additional sentencing and the criteria for its application;
 - e) in cases of imprisonment, the type of security that the facility where the sentence is to be served should provide, according to the determination made by the court in the enacting clause of the criminal decision mainly or based on the prosecutor's request for determining the type of security, according to article 24 of this law;
 - f) civil liability in criminal proceedings;
 - g) the bodies that execute the decision;
 - h) the obligation of the bodies that execute the criminal decision to notify about the commencement of the execution. In the case of juvenile or disabled convicts, how the execution order is to be notified shall also be determined.
2. The prosecutor at the Court of Appeals or the High Court, immediately after the administration of the summary decision, shall officially send it to the prosecution at the Court of First Instance, which is responsible for the execution of the decision.
 3. The execution order shall be issued by the prosecutor attached to the Court of First Instance that has rendered the sentencing decision. In the case of minors, the execution order shall be issued by the prosecutor attached to the Court of First Instance where the juvenile section is established.

Article 13

Notifying the convict and his/ her defense counsel

1. The execution order shall be made known immediately, but not later

than 30 days from the moment of its issuance, to the convict, his/ her defense counsel and, when there is no such, to the defense counsel appointed by the prosecutor.

2. The information on the notification on the execution order for juveniles shall be appropriate and understandable to them, taking into account the needs of the juvenile with special abilities. The prosecutor shall notify in advance the legal or procedural representative or another adult, indicated and accepted by the juvenile, as well as the psychologist or the employee from the child protection unit, when the case has been handled by the latter.

3. For the convicts with minor children, the prosecutor shall notify their spouse and, in case of his impossibility or when his whereabouts is unknown, the relevant unit for the protection of children operating in the convict's area of residence.

Article 14

Compensation for damages

1. The criminal offense victim who has been granted the right to compensation for damages by a final court decision shall request the execution of a decision containing orders in his/ her favour according to the provisions of the Civil Procedure Code. The prosecutor shall be obliged to notify the criminal offense victim of the commencement of the criminal decision execution.

2. The orders of a criminal decision for property rights in favour of the state shall be executed according to the provisions of the Civil Procedure Code, after notifying the State Advocacy in advance.

3. The prosecutor shall have the right to be informed at any time of the execution of state property rights deriving from a criminal decision.

4. When the prosecutor finds that the competent state body does not take measures, he/ she shall address the court to request the execution of the property rights deriving from the criminal decision according to the relevant provisions of the Civil Procedure Code.

CHAPTER II
ENTITIES THAT EXECUTE FINAL CRIMINAL DECISIONS

Article 15
Duties of the State Police

1. The State Police shall be responsible for the execution of the following criminal decisions:

- a) imprisonment sentence for persons at large;
- b) additional sentencing, provided in points 3, 7, 8 and 10 of Article 30 of the Criminal Code.

2. The State Police, based on the prosecutor's order, in cooperation with the sections of the Judicial Police at the prosecutor's office and with the services of the Judicial Police in the investigative facilities of the Military Police, as well as with other police services or state institutions, shall help for the voluntary execution of imprisonment or, otherwise act forcefully for the execution of this sentence.

3. The State Police, on the basis of a request or on its own initiative, shall support the actions of the Judicial Police sections, the Judicial Police services in the investigative facilities of the Military Police, other police services or state institutions, the Prison Police, the Agency for the Administration of Seized and Confiscated Assets and other relevant bodies charged under this law, for the execution of criminal decisions which are final or for immediate execution.

Article 16
Execution by the judicial bailiff service

The judicial bailiff service shall execute fines, court costs and civil obligation set forth in the criminal decision.

Article 17 Probation Service

The Probation Service is the state body in charge of enforcing court decisions and prosecutor's orders to oversee the execution of alternative sentencing, of measures to avoid prosecution, non-custodial sentences for juveniles, or other activities under other legal acts, as well as the individualized treatment of the needs and abilities of the person under supervision to ensure his/ her rehabilitation and reintegration into society.

Article 18
**Execution by the Agency for the Administration of Seized and
Confiscated Assets**

On the basis of the prosecutor's order and under his/ her supervision, the Agency for the Administration of Seized and Confiscated Assets shall execute the additional sentencing of confiscation of the criminal tools and of the products of the criminal offense, provided by point 2 of Article 30 of the Criminal Code.

Article 19
Execution by state bodies and legal entities

Decisions containing additional sentencing provided for in points 1, 4, 6 and 10 of Article 30 of the Criminal Code shall be executed by the relevant state bodies or other legal, state or private persons, on the basis of the execution order.

Article 20
Execution of additional sentencing by the convict

1. The additional sentencing for the publication of the court decision, provided in point 9 of article 30 of the Criminal Code, shall be executed voluntarily by the convict himself/ herself according to the court order.
2. In case of inaction by him/ her, the decision shall be executed by the prosecutor at the expense of the convict.

Article 21
Notifying during execution

1. The competent bodies for the execution of the criminal decision shall notify the prosecutor of the commencement and completion of the execution of the decision.
2. The convict shall notify the prosecutor about the execution of the publication of the decision according to article 20 of this law.
3. In special cases, when requested by the prosecutor, periodic notices shall be made even during the execution of the criminal decision.
4. The prosecutor shall notify in writing the court that rendered the decision of the commencement of the execution, as well as of its completion.

PART THREE
METHODS FOR THE EXECUTION OF CRIMINAL DECISIONS

CHAPTER I
EXECUTION OF DECISIONS THAT HAVE NOT BECOME FINAL

Article 22
Immediate execution

1. The following shall be executed by a court order immediately after their announcement:

a) the criminal decision containing innocence, the exclusion of the convicted person from the sentencing or the termination of the case trial, with the disposition for the release of the detained person, according to article 389 and point 2 of article 462 of the Criminal Procedure Code;

b) the criminal decision for imposing the alternative sentencing of imprisonment, which includes the person with the security measure of arrest, with the disposition of the court for his/ her immediate release;

c) the criminal decision that contains confiscation of property, when the seizure has been decided before;

d) the decision on the illegality of the flagrant arrest/ detention, the decision when the security measure loses its power or the decision to revoke or replace the security measure of arrest, when the court is disposed to the immediate release of the arrested person, except when he/ she has been imposed a security measure of arrest for another legal reason, according to the provisions of the Criminal Procedure Code;

e) the criminal decision approving the prosecutor' s request for the security measure of arrest.

2. For the immediate execution, the court shall notify the prosecutor of the summary decision. The prosecutor attached to the court that rendered the decision shall immediately issue the order, which is executed by the responsible bodies, after first checking whether there are any other criminal decisions in force against the same person or the same property, which legitimize the continued state of arrest, detention, custody or imprisonment for the person or retention of property under seizure or confiscation.

3. For the immediate execution, the court shall give the summary decision to the respective body in advance and submit the reasoned criminal decision within the legal deadline.

CHAPTER II EXECUTION OF FINAL DECISIONS AND ALTERNATIVE DECISIONS

Article 23 Preliminary actions of the prosecutor

1. Upon becoming final, imprisonment decisions shall be submitted to the prosecutor by the court according to the deadlines set out in this law.
2. When the convict has been detained, the execution order shall specify the time of the sentence and the remaining part, according to the criteria of Article 57 of the Criminal Code.
3. When the convict has to serve more than one sentence, the prosecutor shall submit a request to the court to join the sentence terms.
4. On the basis of the court decision and the criteria of the law on the rights and treatment of prisoners, the prosecutor shall determine the type of institution for the convict to serve the sentence and in consultation with the General Directorate of Prisons determine the specific institution.
5. When it has not been ascertained by the court and the prosecutor has information that the convict might need to be placed in special medical institutions, he/ she shall order the medical examination of the convict and, when there are reasons, based on the results, submit a request to the court according to legal provisions.

Article 24 Issuing and sending the execution order

1. Based on the decision of the court and the preliminary actions, according to article 23 of this law, the prosecutor shall issue the execution order and send it to the local authorities of the State Police operating in the area the convict's permanent or temporary residence or abode is located.
2. For military convicts, the order shall be sent to the Military Police, namely to the military unit where the convict used to be an official, or the place where he/ she is located.

3. When the convict is detained, the order shall be sent to the institution where he/ she is being held.
4. When the place of residence or abode is not known, the order shall be sent to the General Directorate of State Police.

Article 25
Notifying on voluntary execution

1. The State Police employee, the Military Police employee for the military convicts, or the Probation Service, in charge of the enforcement of the execution order, shall notify the convict, assigning the time and place of the voluntary appearance, with the warning that, in case of voluntary non-appearance, the criminal decision will be enforced compulsorily.
2. For a person who has been sentenced to imprisonment or to one of the alternatives of imprisonment and who has been at large, or when the security measure imposed to him/ her after investigation and trial was other than the security measure “arrest in prison”, the notification shall be made at the place of residence or abode of the convict. For this purpose, a record shall be kept and handed over to the convict personally and when this is not possible, to his/ her family members. When the latter is not possible, the notification shall be made through the local authorities of the State Police operating in the convict’s area of residence.
3. The notification of voluntary execution of imprisonment shall contain:
 - a) the number and date of the prosecutor’s execution order;
 - b) the number and date of the criminal decision;
 - c) the type and extent of the sentence term calculated by the prosecutor in the execution order;
 - d) the date, time and location of the institution where the convict must appear voluntarily to serve the sentence;
 - e) the warning that, in case of voluntary non-appearance on the appointed date, time and place, the decision will be executed compulsorily.
4. The deadline for voluntary appearance to certain institutions to serve a sentence may not be later than 7 days from the day of notification.
5. The court decision for placing the person under electronic monitoring shall be immediately sent to the prosecutor, the Probation Service and

the State Police that cooperate for the execution and monitoring of the implementation of the decision.

Article 26

Postponement of the execution of the decision

The execution of the sentencing decision may be postponed by the court that rendered the decision, at the request of the convict, his/ her defense counsel or the prosecutor, according to the provisions of the Criminal Procedure Code. When the court decides to postpone the execution of the decisions, the prosecutor shall administer the decision and terminate the procedural actions for the execution of the decision.

Article 27

Compulsory execution

1. When the convict does not appear on the appointed date and place, according to the voluntary notification, the forced execution of the decision shall take place.
2. With the approval of the prosecutor, compulsory execution shall take effect immediately, when there is reason to believe that the convict may evade execution or public order and safety may be violated.
3. Compulsory execution shall be carried out by forcibly sending the convict to the facility where the sentence will be served. Before using force or coercive means, the convict shall be verbally summoned for voluntary execution.
4. Physical force and coercive means shall be used in a proportionate extent and manner in response to the opposing actions of the convict and aim to paralyze the actions and not to punish him/ her.
5. The type of coercive means shall be determined in accordance with the provisions that regulate the activity of the body that executes the decision.
6. In the event of using physical force and means of coercion, during the compulsory execution, a report shall be drafted to include the reasons, facts and circumstances that dictated the need to use force, and the prosecutor shall be immediately notified after the action.
7. Compulsory execution shall only apply to sentences of imprisonment and to the additional sentencing provided for in paragraphs 2 and 8 of Article 30 of the Criminal Code.

8. For all other types of sentencing, in case of non-appearance or avoidance of execution, the prosecutor shall submit a request for the change of the type of sentencing, according to the rules provided in the Criminal Procedure Code.

Article 28

Transfer to the facility for the execution of the criminal decision

1. With the voluntary appearance of the convict or him/ her being taken by force, the competent body shall accompany him/ her to the institution designated for them to serve their time.
2. How the prison sentence is to be served and the rights of a convict shall be determined in accordance with the law governing the treatment of prisoners or detainees.

Article 29

Searching for the convict

When the convict is not found or has left in an unknown direction, the prosecutor shall perform the actions provided in Article 247 of the Criminal Procedure Code, for the search of the person and, where appropriate, those in Article 504 of this Code.

Article 30

Release of the prisoner

1. Imprisonment is assessed as completed and the convict is released when:
 - a) he/ she completes the execution of the sentence;
 - b) the remaining sentence term is pardoned;
 - c) the criminal offense or the remaining sentence term is amnestied;
 - d) he/ she is released by a court decision.
2. The convict shall not be released when a criminal proceeding has been initiated against him/ her and an arrest warrant has been imposed for another criminal offense other than the one for which he/ she is serving his/ her time.
3. When the convicted person is released, according to the provisions of letters "a", "b" and "c" of this article, the release procedure shall be performed by the institution in charge of the execution of the criminal

decision, while in other cases the release shall be granted by an execution order of the prosecutor. In these cases, the work with the State Police shall be notified and coordinated, which, as the case may be, shall take measures to notify and ensure the life and health of the criminal offense victim.

Article 31

Execution of the decision in semi-liberty

1. When the court decides to execute the decision of imprisonment in semi-liberty, provided in article 58 of the Criminal Code, they shall immediately send the summary decision to the prosecutor for execution.
2. The General Directorate of Prisons and the Probation Service, based on the obligations of the convict or the needs for his/ her medical treatment or rehabilitation, shall determine the institution for the execution of criminal decisions where the convict will be placed in semi-liberty.

Article 32

Monitoring of the convict on semi-liberty

1. Monitoring of the convict on semi-liberty shall be performed by the institution in charge of the execution of criminal decisions while he/ she is imprisoned and by the Probation Service, when the convict is outside the institution.
2. The Probation Service shall draft the daily program to be implemented by the convicted person for the period of time that he/ she is out of the institution.
3. The Probation Service shall immediately report to the prosecutor and, where necessary, to the director of the institution in charge of the execution of criminal decisions when the person sentenced to semi-liberty does not fulfill his/ her obligations related to work, education, qualification or vocational training, essential family responsibilities or the need for medical treatment or rehabilitation for the purpose of punishment.
4. When the person sentenced to semi-liberty does not return to the institution in charge of the execution of criminal decisions, the head of the institution, after checking the facts and circumstances for his/ her non-return, shall immediately notify the prosecutor and the Probation Service. The Probation Service, after checking the relevant facts and circumstances, shall develop an evaluation report for the prosecutor and the court.

Article 33

Execution of the decision to perform community service

1. When the court decides to suspend the execution of the imprisonment decision and with the consent of the convict, its replacement with the obligation to perform unpaid work in favor of the public interest or of the association appointed by the court, provided in Article 63 of the Criminal Code, they shall immediately send the relevant summary decision to the prosecutor for the execution of the alternative sentencing.
2. Taking into account the skills and vocational training of the convicted person, the probation service shall draft and develop an individual treatment plan for the performance of community service.
3. Before the commencement of community service, the Probation Service, in cooperation with the entity where the work will be performed, shall notify the convict of the rules of technical safety at work. The Probation Service shall inform the convicted person of his/ her obligation to maintain contact and to comply with the instructions given by this service.
4. The probation service shall determine the list of public or private institutions or companies, where the community service can be performed.

Article 34

Supervision of the convict performing community service

1. Upon taking the decision to suspend the execution of the sentence and replace it with the obligation to perform community service, the court shall order the convict to maintain contact with the probation service.
2. The contact with the Probation Service shall be established according to the provisions of the legislation in force on the organization and operation of the Probation Service.
3. The Probation Service shall supervise the convict performing community service.
4. The Probation Service shall immediately report to the prosecutor when the convict does not maintain contact with them or violates the conditions or other obligations imposed by the court.

Article 35

Failure to perform service

1. When the convict does not perform the service properly, the entity where community service is being performed shall immediately notify the Probation Service.

2. Improper performance of service means delayed arrival, unexcused absences at work or non-compliance with the rules for performance, conduct and efficiency at work.

Article 36

Execution of the stay-at-home decision

1. When the court imposes a stay-at-home decision, provided for in Article 59 / a of the Criminal Code, they shall immediately send the decision to the prosecutor for execution and, if he/ she is held in an institution in charge of the execution of criminal decisions, to the directorate of this institution.

2. The Probation Service shall supervise the execution of the stay-at-home decision on continuous basis, until the full execution of the sentence and cooperate, as the case may be, with the competent structures of the local self-government units, social services, local State Police bodies, as well as other private or state entities.

3. In cases when the court accepts the request for change of residence, the Probation Service shall implement the measures defined in this decision and forward the execution practice for the convict to the territorial branch of the Probation Service, where the convict has a new residence or abode.

4. The Probation Service shall notify the local authorities of the State Police, as well as the prosecutor who issued the execution order, of the change of residence.

5. The Probation Service shall ensure the provision of the necessary information and assistance to the convicted person from health institutions, social assistance institutions, as well as non-profit organizations cooperating with them for the implementation of the stay- at-home decision.

6. The Probation Service shall draft individual treatment plans for the person serving the stay-at-home sentence term.

7. When the convicted person is unable to fulfill the obligations imposed by the court, due to the change of circumstances, the Probation Service shall immediately report to the prosecutor.

8. If the person serving the stay-at-home sentence term does not respect the obligations imposed by the court, the Probation Service, after checking the facts and circumstances, shall notify the prosecutor, who, depending on the violation, shall warn the person or turn to the court according to the provisions of Article 62 of the CriminalCode.

Article 37

Suspension of the execution of imprisonment sentence and placement on probation

1. When the court decides to suspend the execution of the imprisonment sentence and to replace it with probation, according to the provisions of Article 59 of the Criminal Code, they shall immediately notify the prosecutor of the summary decision.
2. The convicted person placed on probation, during the probationary period, shall be obliged to appear regularly and to continuously inform the Probation Service on the fulfillment of the conditions and obligations determined by the court, as well as to obtain the consent from the Probation Service for the change of residence, abode, work center or for frequent movements within the country.
3. The Probation Service shall coordinate the work and regularly inform the local State Police bodies.
4. The Probation Service shall monitor the execution of the court decision and immediately report to the prosecutor when the convict does not maintain contact with them or violates the conditions or other obligations imposed by the court.

Article 38

Execution of the conditional release decision

1. In accordance with Article 64 of the Criminal Code, a person sentenced to imprisonment shall have the right to submit a request for conditional release to the court covering the institution where the criminal decision is being executed.
2. After submitting the request for conditional release, the director of the institution in charge of the execution of criminal decisions shall submit to the court a copy of the convict's personal file and an individual evaluation report for him/ her. The report shall define the attitude of the convict towards the criminal offense and against the victim or the victim's family, any previous criminal offenses committed by him/ her, the risk of engaging in repeat criminal offenses, family and social circumstances, educational and vocational training, physical and psychological state of the convict, as well as the dynamics of his/ her behavior in the institution in charge of the execution of criminal decisions.
3. The court shall request the Probation Service to submit a preliminary evaluation report and the individual treatment plan for the convict, in order to enable his/ her full reintegration after release.

4. When the court decides on the conditional release of the convict, they shall order the immediate release of the convict and the submission of the decision to the prosecutor at the judicial court of the district where the convict will live after his/ her release, and to the institution in charge of the execution of criminal decisions.

5. The conditionally released person shall maintain contacts and regularly report to the Probation Service on the fulfillment of obligations during the conditional release time.

6. When the conditionally released person requests to change his / her place of residence or abode, he / she must notify the Probation Service in advance, presenting the relevant documentation certifying the change of place of residence or abode.

7. The territorial branch of the Probation Service, which has supervised the convict up to that moment, shall forward the execution practice for the convict to the territorial branch of the Probation Service, where the convict has a new residence or abode.

8. The Probation Service shall notify the local authorities of the State Police, as well as the prosecutor who issued the execution order, regarding the change of place of residence or abode.

9. The Probation Service shall supervise the execution of the conditional release decision and, when necessary, cooperate with the local self-government units and those of the State Police. The Probation Service shall be obliged to inform the prosecutor in writing as soon as possible when the convict placed on probation does not maintain contacts with the Probation Service or violates the conditions or other obligations imposed by the court.

CHAPTER III EXECUTION OF ALTERNATIVE SENTENCING

Article 39 Execution of alternative sentencing

1. When the court decides to suspend the imprisonment decision and replace it with an alternative sentence, they shall immediately send to the prosecutor the summary decision for the execution of the alternative sentencing.

2. If the convict is imprisoned, the court shall send a copy of the decision

for his/her release to the institution in charge of the execution of criminal decisions where the convict is being held.

3. In the case when the convict does not appear the day after the announcement of the decision, the deadline for the execution of the alternative sentencing shall commence upon the first contact of the person placed on probation with the Probation Service. The duration of the probationary period shall be determined in the criminal decision.

4. In the event that the alternative sentencing cannot be executed for reasons provided for in Article 476 of the Criminal Procedure Code, the Probation Service shall inform the prosecutor, without delay, of the impossibility to execute the decision.

5. At the request of the prosecutor, the court may decide to postpone the commencement of the execution of the alternative sentencing, according to the deadlines provided in the Criminal Procedure Code.

6. In the execution of the alternative sentencing, the Probation Service shall supervise the fulfillment of the obligations and conditions determined in the court decision, assist and advise the convict on the fulfillment of these obligations and help with his/ her social reintegration.

7. At the request of the court or the prosecutor, the Probation Service shall prepare a report on the implementation of the court decision and the individual treatment plan.

8. When the convict does not meet the conditions and obligations set by the court, the Probation Service shall submit a report to the prosecutor containing information on the circumstances of the violation, the explanations given by the convict, the evaluation and the recommendation of the Probation Service employee together with the relevant reasons to assign additional obligations, to request the extension of the term of monitoring in court or to change the conditions and obligations for the execution of the sentence.

Article 40

Review of the request for change or revocation of the alternative sentencing

1. Pursuant to Articles 470, 471 et seq. of the Criminal Procedure Code, the court, at the request of the prosecutor, shall examine serious or repeated violations of the conditions of alternative sentencing or non- fulfillment of obligations and may decide in accordance with Article 62 of the Criminal Code.

2. During the period that the measure of revocation of the alternative sentencing is being reviewed, the court may suspend its execution and order that the convict be placed in an institution in charge of the execution of criminal decisions.

Article 41
Completion of alternative sentencing

1. When the convict completes an alternative sentence term or fulfils the given obligation, the Probation Service shall submit to the prosecutor the report on the full completion of the monitoring period. The prosecutor shall issue a special decision for the execution of the alternative sentencing.

2. The court may decide the early termination of the alternative sentencing, upon the proposal of the prosecutor, in which it is proved that the convict has performed the obligations and it is considered that it is no longer necessary to further implement them, in order to achieve the goal of alternative sentencing. The prosecutor's request for early termination of the alternative sentencing shall contain data on the convict's criminal record, a description of the dynamics of the convict's behavior and the progress made during the execution of the sentence and the reasons for filing the request.

3. The request for the early termination of the alternative sentencing shall be submitted after the convict has served more than half of the time period and does not pose a risk for the commission of any other criminal offense, or any risk to public order or third parties.

CHAPTER IV
EXECUTION OF FINES

Article 42
Execution

1. The execution of a fine shall be made upon the prosecutor's execution order to the extent, timeline and manner of payment defined by the court decision.

2. Execution is carried out by the bailiff body operating in the territory where the convict resides, according to the rules of the Civil Procedure Code on executive titles.

3. When the convict changes the place of residence, based on his/ her verified notification of the new address, the execution of the decision

shall be transferred to the bailiff body operating in the new place of residence territory.

Article 43

Impossibility or avoidance of execution

1. When the execution of a fine is totally or partly impossible, upon notification of the bailiff body, the prosecutor shall submit a request to the court operating in the execution facility territory for the conversion of the fine, applying the rules of Article 467 of the Criminal Procedure Code.
2. When the deadlines for payment of the fine are not respected or the change of residence is not notified, at the request of the prosecutor, the court operating in the execution facility territory shall decide to replace the remaining fine according to the provisions of Article 34 of the Criminal Code.

CHAPTER V

EXECUTION OF ADDITIONAL SENTENCING

Article 44

Execution

1. When the main imprisonment sentence has been imposed, the additional sentencing provided for in points 2, 4, 9 and 10 of Article 30 of the Criminal Code shall be executed together with it.
2. Other additional sentencing shall be executed after the main sentence has been served, when the court has not ruled otherwise.
3. The prosecutor shall send the execution order to the competent body for the execution of the additional sentencing.

Article 45

Liability for actions contrary to the decision

1. When the convict or the body in charge of the execution of the additional sentencing commits actions contrary to the court decision, they shall be responsible, as the case may be, based on articles 320 and 321 of the Criminal Code.
2. State bodies, which ascertain any actions contrary to the court decision, shall be obliged to notify the prosecutor, who mainly proceeds according to the law.

Article 46
Removal of decorations or honorary titles

1. For decisions containing an additional sentencing provided for in point 4 of Article 30 of the Criminal Code, the prosecutor shall send the execution order and a copy of the sentencing decision to the body that awarded the decoration or the title of honour asking them to make the relevant notes, withdraw the distinguishing mark and the original testimony from the convict.
2. When due to the decoration or the title of honour there are privileges or benefits, the above body shall notify the relevant bodies for their termination.

Article 47
Prohibition to drive vehicles

1. The State Police authorities, based on the order of the prosecutor, shall make notes in the relevant registries and withdraw the convict's driving license for as long as the court has decided.
2. The execution of this additional sentencing shall begin on the day of the driving license withdrawal from the competent body.

Article 48
Prohibition of stay in one or several administrative units

1. Based on the execution order, the State Police shall take measures to prevent the convict from entering certain administrative units and to remove them when they are found there.
2. In the implementation of this measure, the State Police authorities in the respective territories shall perform actions for the search of the person, insofar as they do not come in contradiction with this law.
3. When the convict at the time of the execution of the decision is a single parent with a minor child and is not able to keep him/ her, the child shall be settled in cooperation with the social services.

Article 49
Expulsion from the territory

1. The expulsion from the territory decision shall be executed by the convict himself/ herself, within the deadline set by the prosecutor in the execution order, otherwise the rules of compulsory execution shall apply.

2. When the convicted foreign national or stateless person's main sentence is imprisonment, the Prison Police, after the completion of the main sentence, shall hand him/ her over to the State Police, which shall carry out the procedures for expelling him/ her from the territory.

3. When the application of the measure provided for in point 2 of this article cannot be carried out immediately, the responsible bodies shall act in accordance with the provisions of the legislation in force on foreigners.

4. When the convict cannot return to the country of his/ her citizenship or to another state, the prosecutor shall be obliged to ensure his/ her entry to that country or a visa, or else submit a request for a change of the additional sentencing.

5. In any case, for the convicts who are foreign citizens, through the ministry in charge of justice issues, the prosecutor shall notify the ministry in charge of foreign affairs for the sentence execution order.

Article 50

Execution of confiscation orders

1. Criminal decisions that provide for the confiscation of assets and benefits derived from a criminal offense, shall be implemented by the Agency for the Administration of Seized and Confiscated Assets under the relevant legislation.

2. In the execution of the decision, the Agency for the Administration of Seized and Confiscated Assets shall receive the criminal tools and the assets that are products of criminal activity, which are expressly defined in the court decision and administer them according to the law.

Article 51

Removal of the right to exercise public functions

1. The additional sentencing of removal of the right to exercise public functions shall be applied by the body that receives the application for employment or the body that has the right to appoint the person, within the prohibitory term of the additional sentencing given by the court.

2. When the duty in the public service is conditioned by a license, the decision shall be executed by the body that grants the license.

Article 52

Removal of the right to exercise an activity or craft

The competent body for granting permission or authorization to exercise a certain activity or craft, shall be obliged, on the basis of the prosecutor's order, to remove from the convicted person, as long as it is provided in the additional sentencing, the right to exercise a particular profession, activity or craft and to notify the competent financial authority.

Article 53

Removal of the right to exercise managerial duties with legal entities

The removal of the right to exercise managerial duties with legal entities shall be carried out by the body that has such a right, according to the statute or relevant rules, which shall also notify the competent financial body.

Article 54

Obligation to publish the court decision

1. For the execution of the obligation to publish the court decision, the prosecutor shall make available to the convict the full text of the decision or its summary, according to the determination of the court.
2. The convict shall be obliged to publish the court decision at his/ her own expense, in one or several media outlets, at the time and manner specified in the decision and, when there are obstacles, to request the intervention of the prosecutor.
3. When the body expressly determined by the court reasonably opposes or the publication in that body is impossible, the prosecutor shall ask the court to change the decision or shall determine the fashion of publication by himself/ herself according to the legislation in force.

Article 55

Loss of parental responsibility

For the execution of the additional sentencing of loss of parental responsibility, the prosecutor shall send the court decision, for notification and enforcement, to the convict, the local authorities of the State Police operating in the area where the juvenile resides or stays, the other parent or guardian of the child, and the National Chamber of Notaries.

CHAPTER VI
EXECUTION OF OTHER ORDERS

Article 56
Execution of medical measures

1. For the irresponsible person who has committed a criminal offense, the medical measure of compulsory treatment shall be executed according to the court decision in the specialized medical institution determined by the ministry in charge of health.
2. Upon the prosecutor's execution order, the transfer of the person suspected of having committed a criminal offense to the medical institution shall be performed by:
 - a) the medical institution that is treating him/ her;
 - b) the medical institution with the help of the State Police, when required by the doctors who are treating him/ her;
 - c) the State Police in case the free suspect does not execute the order voluntarily.
3. The medical measure of compulsory outpatient treatment shall be executed in the medical institutions operating in the area of residence of the obligor. When there are no relevant specialists there, they shall be accompanied in any case by these institutions to the nearest district where such service can be provided.
4. When during the execution of this measure the obligor fails to obey, the prosecutor shall order the forced execution by the State Police and, when appropriate, submit a request to the court to change the measure of compulsory treatment in a specialized medical institution.

Article 57
Execution of educational measures

1. The educational measures shall be executed in public or private centers /institutions, which are equipped with the necessary infrastructure and personnel to meet the special needs of the juvenile and the execution of the court decision. The execution of these measures is done voluntarily by the parent or legal / procedural representative, based on the execution order issued by the prosecutor, in accordance with the rules provided in the Code of Criminal Justice for Juveniles.

2. When there is no voluntary execution on a certain date or when the

minor does not have parents or legal / procedural representatives, the execution of educational measures shall be done by the State Police employee, specialized and trained in juvenile criminal justice.

3. The State Police employee shall take the relevant measures for the execution of the decision rendered against the juvenile, accompanying him/her together with a social worker or psychologist specialized in juvenile criminal justice.

Article 58

Execution of non-custodial sentences for juveniles

1. For the execution of non-custodial decisions for juveniles, the prosecutor shall send the execution order to the Probation Service.
2. For a restriction of liberty sentence, the probation service specialist shall send the notice to the place of residence or abode of the juvenile convict. To this end, he/ she shall keep a record, which shall be delivered to the juvenile convict in person or to the juvenile's counsel or his/ her legal representative. The Probation Service specialist shall set the time and place of the voluntary presentation, with the warning that, in case of voluntary non-appearance, the decision will be executed compulsorily.
3. For other additional sentences, the Probation Service shall act in accordance with the provisions of the Juvenile Justice Code.

Article 59

Execution of imprisonment sentence for juveniles

1. For the execution of the imprisonment sentence decision for juveniles, the prosecutor shall send the execution order to the detention institution, which shall take measures for the transfer of the juvenile to the institution in charge of the execution of criminal decisions for juveniles.
2. For the juvenile convict, who has been in liberty/ at large or who, during the investigation and trial phase has been charged with a security measure other than the security measure "prison arrest", the execution order shall be sent to the local authorities of the State Police operating in the area of residence or abode of the juvenile convict. For this purpose, the State Police employee shall keep a record, which is handed over to the juvenile convict personally or to the juvenile's lawyer or his/ her legal representative. The police employee shall set the time and place of the voluntary appearance, with the warning that, in case of voluntary non-appearance, the decision will be executed compulsorily.

Article 60
Execution of the fine for juveniles

1. The execution of a fine sentence for a juvenile shall be carried out upon the prosecutor's execution order to the extent, terms and manner of payment defined in the court decision.
2. The execution shall be carried out by the bailiff body operating in the territory of the juvenile convict's place of residence according to the rules of the Civil Procedure Code for executive titles.

Article 61
The main sentences for legal entities

1. When the court has imposed a fine on legal entities, the prosecutor shall send the execution order to the bailiff body operating in the area where the legal entity is based, which shall act according to the rules of the Civil Procedure Code for compulsory execution.
2. When the court has decided to terminate the legal entity, the prosecutor shall send the execution order:
 - a) to companies, the National Business Center, which deregisters the entity;
 - b) to non-profit organizations, the court that has made the registration, which shall proceed with the deregistration.
3. For the execution of the decision, the bailiff body shall notify the tax authority where the legal entity is registered.

Article 62
Additional sentencing for legal entities

When the court has imposed an additional sentencing on a legal person, it shall be executed together with the main sentence. A copy of the execution order shall be sent to:

- a) companies, the National Business Center, which makes the publication of the abbreviated form of the decision in the registry in accordance with the legislation in force. The data on the decision must necessarily be reflected in the extract issued by the National Business Center regarding the convicted entity;
- b) non-profit organizations, the court where the registration was made, which shall make the relevant changes and notes in the registry concerning additional sentencing.

CHAPTER VII
TERMS FOR THE EXECUTION OF DECISIONS

Article 63

Terms for court's actions

1. The actions for the execution of the criminal decision shall be carried out immediately after the legal conditions are met, but not later than within the following deadlines:

a) for decisions that contain an imprisonment sentence and for which no appeal has been lodged, the court shall send a copy of the summary decision to the prosecutor within 24 hours following the day the decision becomes final;

b) summary decisions, which contain other criminal sentences or other orders, shall be sent to the prosecutor by the court no later than 3 days from the final decision.

2. When the suspension or postponement of the execution of the decision has been decided, the above deadlines shall start from the date when the court annuls the suspension or the deadline for the postponement is fulfilled.

Article 64

Terms for prosecutor's actions

The prosecutor shall perform the preliminary actions and issue the execution order:

a) for sentences of imprisonment or compulsory treatment in medical institutions of the detained immediately after the summary decision;

b) for decisions that provide for the immediate release of the convict and the application of an alternative sentencing, immediately after the summary of the decision;

c) for imprisonment sentences for convicts at large not later than 72 hours from the decision-making;

d) for fines, when only an additional sentencing has been rendered, and for other court orders within 5 days from the decision-making;

e) for additional sentences that are executed simultaneously with the main sentence;

f) for other additional sentences after the completion of the main sentence;

g) for sentences against legal entities within 5 days from the receipt of the summary decision.

Article 65
Execution start dates

1. Execution orders for criminal decisions of imprisonment and medical measure with compulsory treatment for detainees shall be executed immediately.
2. Execution orders for decisions with immediate execution for detainees shall be executed immediately upon receipt of the order.
3. For execution orders with other punishments or orders, the execution must begin immediately, but not later than 15 days from their receipt.
4. The execution order for criminal decisions against legal entities shall be executed within 5 days from its receipt.

Article 66
Extension of deadlines

When after the issuance of the execution order the court decides to suspend or postpone the execution, the deadlines provided in article 65 of this law shall start from the date of cancellation of the suspension, completion of the period of postponement or termination by court decision.

PART FOUR
MONITORING THE EXECUTION OF DECISIONS

CHAPTER I
MONITORING FROM THE COURT AND PROSECUTOR

Article 67
Jurisdiction

1. The procedural monitoring of the execution of the decisions shall be conducted by the prosecutor of the court that has rendered the decision. When the execution of the decision is performed in a district other than that of the court that rendered the decision, the competent person for the procedural monitoring shall be the prosecutor of the district where the execution is performed.

2. For the issues within its competence that arise during the execution, the court that rendered the decision or the court operating in the territory of the facility where the sentence is executed, shall have the right to request notices from the prosecutor and the body where the decision is executed and, when appropriate, directly control the regularity of execution.

Article 68

Forms of monitoring conducted by the prosecutor

The prosecutor shall conduct the monitoring by:

- a) receiving notification of the commencement and completion of the execution by the relevant body;
- b) reviewing the requests and complaints of the arrested, detainees, convicts and their counsel;
- c) requesting information and making direct verifications either of documents or at the institution where the sentence is served in the presence of the relevant official person;
- d) obtaining and verifying notices of facts and circumstances affecting the execution of decisions;
- e) obtaining the feedback of specialists in various fields;
- f) cooperation with the internal inspection unit of the facility where the decision is executed or of the state administrative control institutions.

Article 69

Documenting verifications

1. The prosecutor shall keep a record of the verifications made in the facilities where the decision is executed or in other places. The attending official shall have the right to record his/ her claims in the minutes.
2. For verifications on the complaint of the convict or his/ her defense counsel, the latter must be present when submitting a request.
3. When the prosecutor deems it necessary, he/ she shall withdraw documents, items or objects that confirm the result of the verification, reflecting them in the records, a copy of which is left to the interested parties.

Article 70

The actions of the prosecutor on the findings after the monitoring

1. The prosecutor shall submit a request to the court for the reinstatement of the violated rule or the recognition of the convict's right to the cases

within their competence.

2. In other cases, the prosecutor shall intervene with the bodies charged with the execution of the decision or with other competent bodies for the reinstatement of the violated law or right, setting the respective deadlines.

3. When there is no legal impediment, the prosecutor shall order the immediate reinstatement of the violated law and right.

Article 71

Liability for violations found

1. When appropriate, according to the provisions of point 2 of article 45 of this law, the prosecutor shall initiate criminal prosecution, or submit a request to the competent body to impose to the persons who have allowed or committed violations disciplinary and administrative measures or the obligation to pay damage.

2. The request shall obligatorily be examined by the competent body and the conclusion shall be notified to the prosecutor.

CHAPTER II

OTHER TYPES OF MONITORING

Article 72

Internal monitoring

1. The bodies and institutions where the criminal decision is executed or which are in charge of supervising the execution of the decision, as well as their superior bodies, in the framework of the internal monitoring, shall make, as the case may be, the respective verifications.

2. The bodies mentioned in point 1 of this article, within the competence, for the findings arising from the verifications, shall take the relevant measures, or otherwise require the intervention of the prosecutor and, when appropriate, through him/ her request the examination of the case by the court.

Article 73

Rights of other bodies for the execution of criminal decisions

1. State bodies, representatives of domestic or foreign non-profit institutions and organizations operating in the field of human rights,

may request information and clarifications from institutions in charge of the execution of criminal decisions on the regularity of the execution of the decisions and observance of the convict's rights, recommending the adoption of appropriate measures and, when appropriate, may request the intervention of the prosecutor.

2. The institutions in charge of the execution of imprisonment sentences shall be exempted from the above rule, for which the criteria determined by a special law are to be applied.

CHAPTER III THE COMMITTEE FOR THE EXECUTION OF CRIMINAL DECISIONS

Article 74 Functions

1. The Committee for the Execution of Criminal Decisions is an advisory body, established to ensure the implementation of the law in the execution of sentences and the protection of the rights of convicts.

2. The Committee shall be established under the Minister of Justice and shall extend its activity throughout the country.

Article 75 Composition of the Committee

1. The Committee shall consist of 9 members, who are appointed once every four years, without the right of re-appointment.

2. The President of the Republic, the President of the Assembly, the Prime Minister and the Prosecutor General shall appoint to become members of the committee one person who does not exercise public functions, and who has no less than 15 years of recognized work experience in the field of law or public administration.

3. Ministers in charge of education, finance and health shall appoint one of their employees, provided that they are specialists in the respective profiles.

4. The Minister of Justice shall appoints one member who does not have public functions, but who meets the criteria of a magistrate.

5. The Albanian Chamber of Advocates shall appoint one member from its membership.

6. The Chairman of the Committee and the Deputy shall be elected by the Members' Meeting.

Article 76
Status of members

1. While exercising their duties, the Members of the Committee shall bear the attributes and legal responsibilities of a public servant. The publication of data by members shall be done with the permission of the Minister of Justice. In any case, the rules for maintaining state secrecy apply.
2. The members of the Committee shall reserve the right to provide information on the activity and findings to the body that has appointed them.

Article 77
The activity of the Committee

1. The Committee shall meet regularly on quarterly basis and in special cases, at the request of the Chairman, even sooner.
2. Based on the complaints or notices submitted, the Committee or the member authorized by them shall have the right to conduct verifications, even without warning, in the penitentiary institutions, to meet at any time with specific prisoners, to request clarifications and review documents and facilities, as well as make other necessary verifications.
3. The actions shall be performed in the presence of the head of the institution or the person delegated by him/ her, except for the meeting with the prisoner which can even take place without their presence.
4. In cases when violations are found, the Committee shall recommend taking immediate measures to restore the violated law or right and submit the findings to the Minister of Justice, requesting the adoption of appropriate measures. The Minister of Justice shall provide their feedback regarding the measures taken within 30 days.
5. When the adoption of measures is within the competence of the prosecutor and the court, the Minister of Justice shall present the materials to the competent prosecutor.
6. When it is assessed from the findings that there is room for changes, additions or for new legal and by legal acts, the committee shall make the relevant proposals to the Minister of Justice.
7. The Minister of Justice, through the General Directorate of Prisons, shall establish the necessary conditions for the activity of the Committee.
8. The criteria for the election of members, for their remuneration, as well as the more detailed rules related to the organization and operation of the

Committee shall be approved by a decision of the Council of Ministers.

FINAL PROVISIONS

Article 78

Law enforcement

1. The bodies and entities defined in this law shall be in charge of the implementation of this law.
2. The Minister of Justice, the Prosecutor General, the Head of the Special Prosecution Office and the Minister responsible for public order shall take measures to ensure the implementation of this law.

Article 79

Bylegal acts

The Council of Ministers shall be charged to approve the bylegal acts within three months from the entry into force of the law, pursuant to point 8 of article 77 of this law.

Article 80

Repeals

Law No. 8331, dated 21.04.1998 "On the execution of criminal decisions", as amended, shall be repealed upon entry into force of this law.

Article 81

Entry into force

This law shall enter into force 15 days after its publication in the Official Gazette.

LAW
No. 80/2020, dated 25.06.2020
ON PRISON POLICE

Pursuant to Articles 78 and 83, paragraph 1 of the Constitution, on proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

D E C I D E D:
CHAPTER I GENERAL PROVISIONS

Article 1 Object

This Law governs the general rules and principles on:

- a) the organization and operation of Prison Police;
- b) the rights and duties of employees of Prison Police; and
- c) the employment relations and status of employees in this service.

Article 2
Scope

This Law applies to all employees of the Prison Police who exercise their activity at the central level, in institutions for the execution of criminal sentences, in operations for transferring and escorting convicted and remand prisoners.

Article 3
Definitions

In the context of this law, the terms below shall have the following meaning:

PRISON
POLICE

1. "Weapon" shall refer to any tool or instrument as defined and categorized in provisions of the law in force on weapons.
2. "On Call" shall be considered a situation in which the employees of Prison Police are put on call and take immediate measures to protect the security of persons on the premises of the institutions for the execution of criminal decisions.
3. "Inmate" is the person who is either in remand prison or sentenced with imprisonment with a final decision.
4. "Prison Police Employee" is the employee who carries out duties in management, organization, supervision, or execution to guarantee order and security in the institutions for execution of criminal sentences and in the General Directorate of Prisons.
5. "Institutions for Execution of Criminal Sentences" (IECS) are institutions of remand prison and institutions for the execution of prison sentences.
6. "Dismissal from Prison Police" is the termination of legal and administrative relations of a Prison Police employee with the General Directorate of Prisons, with no right to return to Prison Police.
7. "Release from Prison Police" is the termination of legal and administrative relations of the Prison Police employee with the General Directorate of Prisons.
8. "Measures for protection of order and security in IECS-s" is the entirety of legal actions which shall be carried out by Prison Police employees, in accordance with the law in force, with a view to guaranteeing order and security.
9. "Restraint Tools" refers to tools used by the Prison Police in special situations in order to guarantee order and security, as defined by the Prison Regulation.
10. "Internal Area" includes accommodation areas, work facilities, vocational and cultural activities areas, and communal areas for inmates and remand prisoners.
11. "External Area" includes the area between the border wall and the perimeter fence, as well as the security space outside of the perimeter fence.
12. "Dynamic Security" refers to the measures taken to ensure that Prison Police employees are trained and motivated to establish good relations with inmates, to know and understand them in order to provide assistance for the inmates' personal problems, as well as to be involved

in a dialogue with them.

13. “Emergency Situation” is a dangerous situation which poses serious threat and might affect directly or indirectly the life and/or health of inmates, Prison Police employees, or other persons within the IECS, and, on the basis of reliable data, it results that it cannot be contained within the normal limits of institution management and administration.

Article 4 **Status of Prison Police**

1. The Prison Police employee enjoys a special status pursuant to this Law.
2. Provisions of the Labor Code shall apply for issues which are not regulated by this Law.
3. The Prison Police Status shall not change in times of war, state of emergency, or natural disaster.

CHAPTER II PRINCIPLES OF ORGANISATION AND FUNCTIONING OF PRISON POLICE

SECTION I PRINCIPLES OF EXERCISING THE ACTIVITY

Article 5 **Legitimacy of the Activity**

1. Prison Police employee carries out his/her duty through safe and humane management of inmates, and providing them with the possibility of rehabilitation and reintegration.
2. While exercising their duty, Prison Police employee treats inmates humanely, ethically, and with respect, and he/she protects every right and freedom of inmates.
3. Prison Police employees of basic role ensures order and security in the institution for the execution of criminal sentences, when escorting or transferring inmates, in compliance with international instruments of human rights and in the legislation in force.
4. Order and security, as for cases set forth in paragraph 3 of this Article,

are ensured through technical measures and instruments and dynamic security.

5. Prison Police employee takes measures to protect the right to life and to prevent any action causing maltreatment, or inhuman or degrading treatment.

6. The rights and freedoms of inmates can only be limited in the cases and manners provided for in the law. In any case, limitations shall be imposed in proportion to the lawful aim.

Article 6

Principle of Equality and Non-discrimination

1. Prison Police employee, in the course of exercising his/her activity, shall provide equal and objective treatment for all inmates and shall avoid discrimination on any grounds foreseen by the law in force on protection against discrimination.

2. Prison Police employee, when dealing with inmates, shall take into consideration the peculiarities and needs of age, gender, physical abilities and health conditions, and other special characteristics requiring special protection in accordance with the legislation in force.

Article 7

Respecting Rules of Ethics and Professional Conduct

1. Prison Police employee shall always perform his/her duties ethically and in a manner that he/she ensures good conduct in and out of the institution, and which earns respect for him/her and the mission.

2. Since the initial training, the Prison Police employee is introduced to the code of ethics, to the rights and freedoms of the prisoners, to respecting and protecting them, as well as to the evaluation rules of their application. Rules of ethics and conduct constitute the continuous training for the institution staff, including the Prison Police staff.

3. Prison Police employee shall carry out his/her duties responsibly and shall not perform any activity which might give rise to suspicion about the inappropriate use of the services they deliver.

4. Rules of conduct and more detailed instructions for their implementation are regulated by the Code of Conduct, which is approved by Order of the Minister of Justice.

Article 8

Control and Accountability

1. Prison Police employee is obliged to execute the orders issued by superiors, according to the functional level and unequal relations according to the hierarchy of ranks. Orders shall be issued in accordance with the functional duty and they shall not be in violation of the Constitution, the law, and the dignity of the person they are directed to.
2. In case of an explicit unlawful order, the Prison Police employee has the legal obligation not to execute the order and to report immediately the unlawfulness of the order to the direct superior of the person issuing the order, as well as to the institutions in charge of controlling the legitimacy of Prison Police.
3. In the absence of the direct superior, in urgent cases, and when it is impossible to communicate with more superior officials, the official with the highest rank has the right to issue the order to those of equal or lower rank.

Article 9

Continuity of Career

Prison Police employee shall be guaranteed of the right to career, welfare, and continuity of the job.

Article 10

Confidentiality of Data

1. The Prison Police staff, in the course of exercising their duty, are obliged to protect confidentiality, and state and investigation secret with regard to the facts they are informed of, in accordance with the law in force on protecting state and investigation secret.
2. The Prison Police staff are prohibited from publishing or disclosing to third parties data which impair the dignity and private life of the prisoner, and the rights of juveniles, as well as confidential or reserved data.
3. Prison Police staff have the obligation to protect confidentiality of data for facts he/she is informed of, pursuant to paragraphs 1 and 2 of this Article, even after he/she has terminated employment relations, in accordance with the law in force on protection of state and investigation secret.

SECTION II ORGANIZATION AND FUNCTIONING OF PRISON POLICE

Article 11 Organization of Prison Police

1. Prison Police functions as an administrative structure of the General Directorate of Prisons, which follows and fulfils protection of order and security in the institutions for the execution of criminal sentences, both during transfer and escort of prisoners to courts and other institutions, in accordance with the law and respecting human rights and freedoms.
2. The structure and organization of Prison Police is approved as part of the structure and organization of the General Directorate of Prisons, by Order of the Prime Minister, on proposal of the Minister of Justice. According to this paragraph, the special structure which performs relevant duties to ensuring the maintaining of order and security in the special regime of the high security institution, is also part of the structure and organization of the Prison Police, in accordance with the law in force on the rights and treatment of prisoners, and special protection in accordance with paragraph 2 of Article 19 of this Law.
3. Internal support services, financial management functions, and those of internal audit for the Prison Police are carried by the respective administrative structures in the General Directorate of Prisons.

Article 12 Duties of Prison Police

1. Prison Police, in the course of exercising its activity, has the following duties:
 - a) ensure security in institutions for the execution of criminal sentences and in institutions where the prisoners are escorted or transferred;
 - b) take security measures for the activities performed by inmates in institutions for the execution of criminal sentences;
 - c) provides the escort and physical security of prisoners during the performance of criminal procedural actions;
 - ç) apply rules of security during escort or transfer of prisoners from one institution to another;
 - d) apply rules of security during escort or transfer of prisoners to court hearings;

- dh) ensure protection of prisoners in public and private hospitals;
- e) take measures for protecting the life and health of prisoners, as well as ensuring the order and security in the institution in cases of emergency and natural disasters;
- ë) search prisoners for forbidden items, search the internal and external area, as well as search the staff and people entering and leaving the internal space.
- f) provide the service of physical protection of the premises and institutions under the Ministry of Justice, when necessary and in accordance with the Order issued by the Ministry of Justice.
- g) act alone or cooperate with the State Police or other structures in handling emergency situations and natural disasters.

In the cases set forth in letters “c”, “ç”, “d”, and “dh”, Prison Police has the obligation to take measures to expose the prisoner as little as possible before the public, to take the relevant protection measures to ensure his/her anonymity, as well to enable his/her movement under conditions that do not impair the dignity and do not aggravate his/her physical condition.

2. In addition to duties set forth in paragraph 1 of this Article, the special structure of the Prison Police performs the following functions:

- a) ensure the maintaining of order and security in the special regime of the institution of high security;
- b) preventing mates from communicating with criminal organizations they are part of or other criminal organizations with which they cooperate outside the penitentiary institution;
- c) prevent interactions among other inmates, who are part of the same organization or other criminal organizations with which they cooperate;
- ç) prevent communication or exchange of items within the institution among inmates who belong to other criminal bands;
- d) supervise family meetings of the inmates and check their mail, in compliance with provisions of the law in force on the treatment of prisoners;
- dh) to ensure special protection of Prison Police employees and directors of IECs in cases when their life, family, or assets are threatened by illegal actions as a result of the duty they perform or have performed;

e) perform any other function according to the law in force on the rights and treatment of prisoners.

3. In the course of carrying its activity, the Prison Police fulfils the duties set forth in paragraph 1 and 2 of this Article, guaranteeing the fulfilment of the aim of prisoners' reintegration into society after having completed the sentence.

4. Specification of the physical protection of premises of the institutions under the Ministry of Justice is approved by Order of the Minister.

Article 13

Use of Force

1. Prison Police employee shall not use force against sentenced persons and remand prisoners, unless this action is necessary for self-defense, for the prevention of violent actions, attempts of escape from the institution or in case of active or passive resistance against a lawful order. In these cases, force shall be used as the last resort and shall not have a punitive nature.

2. The degree of force used shall be the minimum possible and shall be used for the shortest possible time. In any case, use of force is prohibited for motives of torture, inhuman or degrading treatment or punishment.

3. The use of weapons and other restraint tools, while using force, shall be in proportion to the situation and the level of risk that the Prison Police employee faces.

4. The staff working directly with inmates, prior to taking on the duty, shall be trained in advance on techniques which enable minimal use of force, to restate self-control of the aggressive prisoners.

5. The use of force against sentenced juveniles and juveniles in remand prison shall be in compliance with the provisions of the Juvenile Justice Criminal Code.

6. The inmates, after the use of force on them, shall undergo medical examination and treatment. In all cases of the use of force, the Prison Police employee drafts a report stating the reasons, facts, and circumstances that led to the need for using force.

7. The detailed rules on the manners, techniques, and degrees of the use of force are defined in the general regulation of prisons, approved by Decision of the Council of Ministers.

Article 14

Carrying and Use of Weapons and Other Tools

1. Prison Police employee, in the course of exercising the duty and due to it, is entitled to carry weapons and other restraint tools only in cases and according to the criteria laid out in the legislation in force.
2. Employees of the special structure within the Prison Police, the escorting groups, heads of the shift in the internal and external areas, as well as the operational forces carry weapons in personal use and after service. The unit weapon, which is given to the employee before the shift or a particular operation is an exception and it is not carried after service hours.
3. Prison Police employee is prohibited from using weapons in the internal areas of the institutions for the execution of criminal sentences, except for emergency situations, in accordance with the law in force on the use of fire arms.
4. In any case, the use of chains and iron bars and any other tools which place the person under conditions of torture, inhuman and degrading treatment or punishment is prohibited. The use of other restraint tools in the internal area of the institution is allowed only in special cases, with the aim to:
 - a) Ensure the order and security of the institution, or personal physical or health security of the inmate;
 - b) prevent escape.
5. The use of other restraint tools is allowed even during transfer or escort, provided that they are removed when the prisoner appears in front of a judicial or administrative body, unless the proceeding institution decides otherwise.
6. The use of weapons and other restraint tools, according to paragraphs 1, 2, 3, and 4 of this Article, is only allowed after the Prison Police employee has successfully completed the compulsory training on the use of tools of force, in compliance with the rules established in the staff regulation.
7. In institutions where there are sentenced juveniles or juvenile in remand, Prison Police employee carry and use restraint tools in accordance with the rules provided for in the Juvenile Justice Criminal Code.
8. The detailed rules on defining the cases and manner of the use of weapons different from those provided in the law in force on the use of

fire arms and restraint tools, shall be approved by Decision of the Council of Ministers.

Article 15

Cooperation of Prison Police with Other Structures

1. In special cases, when order and security in the institution for the execution of criminal sentences are threatened, the Prison Police shall cooperate with other structures that operate in the field of order and security.
2. With regard to the case set forth in paragraph 1 of this Article, employees of structures that operate in the field of order and security, shall enter the institution for the execution of criminal decisions to handle conflicts according to rules laid out in the agreement signed between the General Director of Prisons and the General Director of the State Police.
3. The Agreement, set forth in paragraph 2 of this Article, provides the conditions and the rights of the employees of each structure, various types of force that can be used, circumstances under which any type of force can be used, the necessary level of competences prior to the use of force, and the reports that shall be drafted after the use of force.

Article 16

Searching

1. Prison Police employees carry out searches of grounds and of:
 - a) inmates;
 - b) persons who enter the security perimeter and have the status of visitor;
 - c) staff of the institution for the execution of criminal sentences.
2. Personal search is carried out by police employees of the same gender as the person being searched, in the presence of not less than two employees, and in a manner that avoids the possibility of being seen by the employee of the other gender.

The personal search the inmate shall be in proportion to the need and shall consider respecting the dignity of the person being searched, their beliefs and other characteristics.

3. In any case, it is prohibited the intimate search on persons who undergo search performed by the Prison Police employees. The intimate search

shall only be performed by the prison doctor when there is reasonable suspicion that the person being searched might be concealing forbidden items. The intimate search shall be carried out in accordance with the rules set forth in the law in force on the rights and treatment of prisoners.

4. Searches of sentenced juveniles or juveniles in remand shall be done according to the provisions of the Juvenile Justice Criminal Code.

5. The personal items of individuals being searched are also subject to search for cases set forth in paragraph 1 of this Article. The person being searched must be present during the search of personal items, with the exception of cases when technical search tools are used or when the presence of the person searched poses risk to the staff performing the search. The personal search or the search of personal items can also be carried out with technical search tools.

6. In all cases of entrance to and search on the grounds, the Prison Police employee drafts a report stating the reasons for entrance, for the search of grounds, and the search results.

7. The detailed rules on cases, type, and manner of carrying out the search shall be set forth in the general regulation of prisons.

Article 17 **On Call Service**

1. In cases when the rights of inmates are restricted or temporarily suspended collectively by order of the Minister of Justice, in accordance with the law in force on the rights and treatment of prisoners, the Prison Police employees are on call service.

2. The Prison Police go on call by order of the Minister of Justice, which must also determine the measures corresponding to the level of security in the institution, the level of classification of the emergency, in accordance with the risk assessment for situations set forth in the law in force on the rights and treatment of prisoners.

3. In urgent cases and when it is impossible to follow the procedure set forth in paragraph 2 of this Article, the General Director of Prisons and, in his/her absence, the deputy director, is entitled to order the immediate transition to on call service, provided that they take the approval of the Minister of Justice within 24 hours.

CHAPTER III
RIGHTS AND OBLIGATIONS OF PRISON POLICE

Article 18
Economic and Financial Benefits

1. Prison Police employee is entitled to economic and financial benefits which include the following:
 - a) monthly salary, which comprises payment for the rank, seniority supplements for each year of service, and supplements for the special nature of the job;
 - b) compensation for additional costs for distance of workplace, payment for transport, or rent and food allowance, when transport to the workplace is not provided by the institution itself.
2. Procedures for financial benefits of Prison Police employee, during his/ her period of employment, according to paragraph 1 of this Article, are set forth by decision of the Council of Ministers.
3. In so far as it is not provided for by Law, Prison Police employees are entitled to benefits in accordance with the law in force on supplemental social security as members of the Armed Forces, employees of the State Police, employees of the Guard of the Republic, employees of the State Intelligence Service, of the Defense Intelligence and Security Agency, of the Prison Police, of the Fire Protection and Rescue Police, and the Internal Audit Service of the Republic of Albania.

Article 19
Treatment for Families of Employees Who Die in Line of Duty

When the police employee loses his/her life in line of duty or due to his/ her duty, members of the family are entitled to financial and economic treatment in accordance with the provisions of the law in force on the manner of economic and financial treatment for providing immediate assistance to families of State Police employees, of the Guard of the Republic, Armed Forces, employees of the State Police, employees of the Guard of the Republic, Internal State Audit Service, Fire Protection and Rescue Police, of the Armed Forces, of the State Intelligence Service, and of the Prison Police.

Article 20

Special Protection

1. State Police ensures special physical protection of employees of the Prison Police and directors of IECs, whose life, family, or assets are at risk from illegal actions of third parties due to their duty.
2. In emergency situations, when due to the nature and complexity of the case, it is impossible for the State Police to guarantee the protection in accordance with paragraph 1 of this Article, special protection shall be provided to the Prison Police employees, directors of IECs, their families or assets by the special structure of the Prison Police, by order of the Minister of Justice.
3. The cases, conditions, and manner of special protection of Prison Police employees, directors of IECs, in accordance with paragraph 1 of this Article, are determined by a joint instruction of the Minister of Justice and the respective Minister of Internal Affairs.
4. The cases, conditions, and manner of special protection of these employees, in accordance with paragraph 2 of this Article, are determined by an instruction of the Minister of Justice.

Article 21

Care for Pregnant Women

1. Pregnant or breastfeeding employees cannot perform any work or service that might harm their or their child's health.
2. Employees provided for in paragraph of this Article are not allowed to work at night.

Article 22

The Right for Vacation

1. Prison Police employee is entitled to weekly vacation, paid annual leave, and other paid vacation pursuant to provisions of this Law and other legal acts in force.
2. Duration of paid annual leave for high level employees is 45 (forty-five) calendar days, for the medium level employees it is 40 (forty) calendar days, and for basic role employees and he aspiring employees it is 30 (thirty) calendar days.
3. The annual leave shall be postponed when the Prison Police employee has been in hospital, or has stayed home due to sickness or accident, during

the period of this leave, document by medical prescription. The employee shall notify of this fact the person in charge in the institution. Annual leave is extended equal to the period of incapacity defined in the medical prescription.

4. In addition to vacations defined in paragraph 2 of this Article, the Prison Police employee is entitled to paid leave even for occasions of marriage; birth of child; serious disease or death of spouse/cohabitant, or of their immediate family; in case of harm from natural disaster; moving house; change of domicile due to duty; preparation for or defense of academic titles related to the job.

5. Prison Police employee is entitled to request unpaid leave in special situations due to health reasons, personal reasons, for their children, spouse, or parents. The maximum length of all unpaid leave within a calendar year must not exceed the amount of paid annual leave.

6. Criteria for issuing vacation days and their length, as foreseen in paragraph 4 and 5 of this Article, are determined by a decision of the Council of Ministers.

Article 23

Political Rights

1. Prison Police functions as an apolitical structure.
2. Prison Police employee shall not be member of any political party.
3. Prison Police employee shall not publicly express their political beliefs or preferences while exercising public functions.

Article 24

The Right of Membership in Unions

1. Prison Police employees have the right to participate in unions that aim to protect their interests in employment relations.
2. Relations between union organizations and Prison Police employees shall be regulated by the union statute and the charter of rights and responsibilities that Prison Police employees agree to when joining.
3. Basic rights of Prison Police employees shall be regulated by the collective contract signed between the General Directorate of Prisons and the respective union organizations.

Article 25
Prohibition of strike

Prison Police employee shall be prohibited from the right to strike.

Article 26
Obligation of Accountability and Refusal to Obey Unlawful Orders

1. Prison Police employee shall bear full responsibility for the lawfulness of any action or non-action while in duty.
2. Prison Police employee shall be under obligation to act in accordance with the orders issued by their superiors, pursuant to laws and internal rules of the institution.
3. When the Prison Police employee deems the verbal order as unlawful, he/she requests that superior issue the order in writing.
4. When Prison Police employee, even after applying the procedure set forth in paragraph 3 of this Article, from the communication of the order until the issuance of it in writing, continues to have doubts about the unlawfulness of the superior's order, he/she shall not execute it; instead, without delay, he/she shall inform the superior of the person who issued the order and shall request written confirmation.
5. Prison Police employee has the obligation to notify, without delay, the relevant bodies in the Ministry of Justice for checking the lawfulness of the activity of Prison Police, if the order issued in writing, pursuant to paragraph 4 of this Article, is unlawful to their discretion.
6. In any case, failure to fulfil obligations and procedures deriving from this Article by the employee who has issued, confirmed, or executed the order, as long as it is not a criminal offence, shall constitute ground for the initiation of an administrative investigation.

Article 27
Carrying Symbols on the Job

1. Prison Police employee is obliged to wear uniform, signs, and symbols of the Prison Police only when on duty and in accordance with relevant legal rules.
2. The Flag, coat of arms, uniform, and the color and symbols on the vehicles of Prison Police are determined by order of the Council of Ministers.

CHAPTER IV
EMPLOYMENT RELATIONS, ADMISSION IN PRISON POLICE,
AND TREATMENT OF STAFF

Article 28
Employment Relation in Prison Police

1. Employment relations in the Prison Police are based on principles of equal opportunities, meritocracy, professional skills, and non-discrimination. Admission in Prison Police is done through a process of selection which is fair and transparent.
2. Rules and procedures on employment relations of the Prison Police employees are established in this Law. For issues not regulated in this Law, the Labor Code provisions shall apply.
3. Detailed rules on training and career development of the Prison Police Employees are laid out in the staff regulation, which is approved by order of the Council of Ministers, upon proposal of the Minister of Justice.

Article 29
Criteria for Admission in the Prison Police

1. The right to compete for admission in the Prison Police is granted to any person who meets the following criteria:
 - a) be of Albanian citizenship;
 - b) have full capacity to act;
 - c) be in good health and physical condition, capable to carry out relevant duties;
 - ç) have graduated from high school;
 - d) not to have criminal proceedings initiated against him/her, and is not sentenced with a final decision for committing a criminal offence or deliberate criminal misdemeanour;
 - dh) be a person with pure moral figure and with social integrity;
 - e) not to have any disciplinary measure of dismissal from duty or not to have effective disciplinary measures;
 - ë) be 35 years of age;
 - f) not to have been dismissed from State Police from provisional or periodic vetting, foreseen by the law in force on State Police employees;

2. The institution staff shall be fairly balanced between men and women and take into consideration specific needs of the institution.

3. Admission in Prison Police is done through an open competition at the national level, which is based on evaluation of the professional skills of candidates, their integrity, humanism, personal adaptability to the complexity of the job required of them. Admission in Prison Police includes a written exam, an oral exam, a psychological test, and an evaluation of physical and professional skills of candidates.

Article 30

Training

1. Successful candidates who are selected for admission in the Prison Police undergo the initial training in accordance with the rules foreseen in the relevant regulation. Upon completion of this training, the candidate has the right to exercise the duty for a one-year period, during which he/ she has the status of aspiring Prison Police employee. Upon completion of this period, the aspiring candidate shall be confirmed or not as an employee of the Prison Police.

2. After being appointed in the relevant position, Prison Police employee shall attend the continuous training to enhance professional skills within the Prison Police.

3. Prison Police employees who work with special groups of prisoners, such as: juveniles, women, people with disabilities, foreigners, persons with special needs, etc. shall complete special trainings and qualifications in the relevant fields.

4. Prison Police employee undergoes an annual evaluation by their direct superior concerning their work progress and acquisition of additional knowledge.

Article 31

Appointment of Prison Police Employees

1. Basic and medium role employees shall be appointed by the General Director of Prisons on the proposal of Prison Police Director, based on the list of successful candidates in descending order.

2. High level employees in leading positions shall be appointed by the Minister of Justice on the proposal of the General Director of Prisons.

Article 32

Criteria for Appointment of the General Director of Prisons

1. The person to be appointed Prison Police Director apart of the criteria laid out in paragraph 1, letters “a”, “b”, “c”, “d”, “dh”, “e”, “f” of Article 29 of this Law shall hold the rank of “Leader”, and shall have completed higher education in accordance with the law in force on higher education.
2. The person who does not hold the rank of “Leader” can be appointed as The Prison Police Director provided that, in addition to the criteria laid out in paragraph 1 of this Law, he/she shall meet the following criteria:
 - a) have completed the second cycle of higher education or an equivalent diploma, have completed higher education abroad or have a diploma recognized in the country in accordance with the law in force on higher education;
 - b) have at least 10 years of experience working in public administration, in the police, in the Armed Forces, in free professions or in any other position in the private sector equivalent to the above;
 - c) not to have been member, collaborator, or favored by the State Security before 1990, pursuant to Law No. 45/2015 “On the right of information to the documents of the former security service of the Socialist Republic of the People of Albania”;
 - ç) not to be subject of prohibitions, in accordance with the law in force, on guaranteeing integrity of persons elected, appointed, or exercising public function.

Article 33

Appointment and Release of Prison Police Director

The Prison Police Director is appointed and released by the Minister of Justice, on the proposal of the General Director of Prisons.

CHAPTER V

TRANSFER AND SECONDMENT

Article 34

Transfer

1. Transfer of Prison Police employee may be done by the General Director of Prisons on the written proposal of the Prison Police Director, solely for needs and interests of the job.

2. As a rule, a transfer is done with the consent of the employee.
3. Prison Police employees of basic and of medium role, who do not give their consent for transfer, shall appear on duty but they can file a complaint pursuant to the Code of Administrative Procedures. In any case, the deadline for the competent institution to dispose in relation to the complaint shall not exceed 30 (thirty) days.
4. With regard to basic role employees, transfer is only allowed to a distance up to 45 kilometres from their domicile.
5. When transport and food allowance is not provided by the General Directorate of Prisons, the transferred employee is entitled to financial treatment, in accordance to provisions of Article 18 of this Law.

Article 35 **Secondment**

1. Prison Police employee may be seconded on the written proposal of the Prison Police Director and by order of the General Director of Prisons, for the progress of or for the management of the workload in the prison system. The secondment period shall not exceed 6 (six) months.
2. During the secondment period, the employee retains his/her work position and is entitled to the salary of the function for which he/she is appointed.
3. The seconded employee benefits financial treatment, in accordance with provisions of Article 18 of this Law when accommodation, transport, and food allowance are not provided by the General Directorate of Prisons.

CHAPTER VI CLASSIFICATION OF ROLES AND RANKS IN PRISON POLICE

Article 36 **Roles in the Prison Police**

1. Roles in the Prison Police reflect the level of organization, execution, control of performance of duties, and they indicate the position of the Prison Police employees.
2. Roles are classified according to the following categories:
 - a) high role;

- b) medium role;
- c) basic role;

Article 37 **Ranks in Prison Police**

1. Each of the categories provided in Article 37 of this Law is classified in ranks, which indicate the position of the employee has in the hierarchical structure of the Prison Police:
2. Ranks for high role employees are as follows:
 - a) First Leader (Director of Police);
 - b) Leader
3. Ranks for medium role employees are as follows:
 - a) Chief-Commissar (head of security);
 - b) Commissar;
 - c) Vice-Commissar.
4. Ranks for high role employees are as follows:
 - a) Chief-Inspector;
 - b) Inspector;
 - c) Vice- Inspector.

Article 38 **Assigning Ranks according to Function**

1. Basic role employees shall have the ranks as follows:
 - a) Vice-Inspectors includes employees with an executive role in supervising position;
 - b) Inspectors include employees of basic role with executive and controlling functions;
 - c) Chief-Inspectors include the basic role employees with functions: assistant-specialist of police; head of shift in the special regime and head of the group in operational forces.
2. Medium level employees:

- a) Vice-Commissars include employees of medium role in support and management service positions and security in the sections;
 - b) Commissars include employees of medium role in management and leading positions within the IECs;
 - b) Chief-Commissars include employees of medium role in higher leading positions for security in the IECs, specialist of police in GDP and trainer at the training center;
3. High role employees:
- a) Leaders include heads of department in the General Directorate of Prisons and the head of the training center;
 - b) First Leaders include the Prison Police Director.

Article 39

Hierarchy of Roles and Ranks

1. The hierarchy of Prison Police employees within the role is determined from the highest to the lowest rank. The hierarchy of Prison Police employees in the roles is determined from the highest to the lowest role.
2. The hierarchy of Prison Police employees of the same rank is determined based on their position, whereas for functions of the same level, based on seniority of rank.

Article 40

Attainment of Rank

1. Attainment of rank by a Prison Police employee means his/her promotion according to the respective functions for each rank.
2. The rank of "First Leader" is issued by order of the Minister of Justice upon appointment in duty.
3. The rank of "Leader" is issued by order of the Minister of Justice on the proposal of the evaluation commission at the Ministry of Justice.
4. The ranks "Vise-Commissar", "Commissar", and "Chief-Commissar" for medium role employees are issued by the General Director of Prisons, on proposal of the evaluation commission at the General Directorate.
5. The rank for basic role is issued by the Prison Police director, on proposal of the evaluation commission at the General Directorate.

6. Vacancies in the structure of Prison Police are notified according to the role, rank, and function by March 31 of every year, and they are published on the official web page of the General Directorate of Prisons.

Article 41 Evaluation Commission

1. Evaluation commissions for issuing ranks for basic role, medium role, and high role shall propose that respective ranks be issued on the basis of the evaluation of the criteria on the attainment of ranks set forth in this law.
2. Composition and functioning of the evaluation commission for issuing ranks for basic and medium roles shall be established by order of the General Director of Prisons.
3. Composition and functioning of the evaluation commission for issuing high role ranks shall be established by order of the Minister of Justice.

Article 42 Rank Promotion

1. Promotion in rank from “Vice-Inspector” up to the rank of “Leader” occurs when the following criteria are met:
 - a) fulfilment of the timeframe of the rank;
 - b) successful completion of the professional training for attainment of the next rank;
 - c) positive annual evaluation of the performance for the period serving in the current rank;
 - ç) status of winner of the competition procedures for promotion in rank.
2. The employee has the right to express interest to compete in the selection process from the moment he/she has attained the rank, if there are vacancies, after meeting the criteria set forth in paragraph 1 of this Article, according to the following timelines:
 - a) basic role employees:

from “Vice-Inspector” to “Inspector”	4 years;
from “Inspector” to “Commisсар”	5 years;

iii. from “Chief-Inspector” to “Vice-Inspector” 5 years.

b) Medium level employees:

i. from “Vice-Commissar” to “Commissar: 3 years;

ii. from “Commissar” to “Chief-Commissar” 4 years.

c) High level employees:

i. from “Chief-Commissar” to “Leader” 5 years.

3. Seniority, with respect to the rank, is calculated for the period that the employee has served actively in the Prison Police structures and other institutions implementing the law.

4. The procedures for completion of the relevant training for the attainment of the next rank shall be defined in the staff regulation of the Prison Police, which shall include the composition of the testing commission, the application criteria, and application procedures.

Article 43

Presentation of Ranks

Presentation, form, and composition of ranks is approved by decision of the Council of Ministers.

Article 44

The Right of Complaint

1. In cases when the basic and medium role employee observes violation of the rules on promotion in ranks, he/she has the right to file a complaint to the General Director of Prisons, in accordance with the Code of Administrative Procedures.

2. In cases when the high role employee observes violation of the rules on promotion in ranks, he/she has the right to file a complaint to the Minister of Justice, in accordance with the Code of Administrative Procedures.

CHAPTER VII DISCIPLINARY PROCEDURES

Article 45 **Disciplinary Measures**

1. The Prison Police employee bears administrative responsibility for his/her actions or non-actions, while carrying out the duty or due to it, which are in contradiction with the law in force, unless they constitute a criminal offense. In this case, one of the following disciplinary measures shall be taken:

- a) written reprimand;
- b) reprimand with warning;
- c) postponement of the timeframe for promotion in rank with 1 year; ç) dismissal from Prison Police.

2. The disciplinary measure shall be in proportion to the violation committed, the consequences deriving from it, and the degree of guilt.

3. The effects of the disciplinary measure, given by the competent authority, start once the person is informed of the disciplinary measure taken against him.

4. The decision on the disciplinary measure shall be communicated in writing to the Prison Police employee within 5 (five) working days from the day it is taken, and the employee shall also be informed of the right of complaint against this decision.

5. Categories and types of disciplinary violations, criteria, rules, procedures for taking disciplinary measures, and the composition, organization, and functioning of the commission of complaints for Prison Police employees are defined in the discipline regulation approved by Order of the Minister of Justice.

Article 45 **Disciplinary Process**

1. Taking disciplinary measures and processing them shall be in accordance with a procedure that guarantees the right to be notified, to be heard, and to be defended.

2. Only one disciplinary measure shall be taken for each violation. The decision for the disciplinary measure shall be communicated in writing to the interested person, and the relevant note shall be made in the personal file.

Article 47

Authorities Taking Disciplinary Measures

The authorities which take disciplinary measures include:

- a) the General Director of Prisons in the General Directorate of Prisons, on own initiative or on proposal of the Prison Police Director, with regard to the disciplinary measures of “reprimand in writing” or “reprimand with warning”;
- b) the IECS Director in the IECS, ex officio or on proposal of the head of Prison Police for the disciplinary measures of “reprimand in writing” or “reprimand with warning”;
- c) Minister of Justice, on proposal of the General Prison Director, with regard to employees of high role for the disciplinary measure “postponement of the timeframe for promotion in rank with 1 year”
- ç) General Director of Prisons, on proposal in writing of the Prison Police Director, with regards to employees of medium role for the disciplinary measure “postponement of the timeframe for promotion in rank with 1 year”
- d) Prison Police Director, on proposal of IECS Director with regard to employees of basic role and employees in trial period in the capacity of aspiring candidate, for the disciplinary measure “postponement of the timeframe for promotion in rank with 1 year”
- dh) Minister of Justice, on proposal of the General Director of Prisons, with regard to the Director and heads of departments in the General Directorate of Prisons for the disciplinary measure “dismissal from prison police”
- e) General Prison Director, on written proposal of the Prison Police Director, with regard to the basic role employees and employees in trial period in the capacity of aspiring candidates for the disciplinary measure of “dismissal from Prison Police”

Article 48

Complaint

1. Prison Police employee against whom a disciplinary measure is taken, according to letters “a” e “b” of paragraph 1 of Article 46, of this Law, have the right to complain to the superior of the police officer who has taken the measure against him/her, within 5 (five) days from the date of receipt notification on the disciplinary measure.
2. Prison Police employee against whom a disciplinary measure is taken, according to letters “c” and “d” of paragraph 1 of Article 46 of this Law, has the right to complain in writing to the commission of appeals of disciplinary measures in the Ministry of Justice, within 10 (ten) days from the date of written notification on the disciplinary measure.

Article 4

Commission of Appeals of Disciplinary Measures

1. The Commission for appeals of disciplinary measures is set up and functions in the Ministry of Justice.
2. The composition and functioning of the commission shall be defined by order of the Minister of Justice.
3. The Commission of appeals of disciplinary measures has the power to uphold the disciplinary measure, when considered well-founded, to repeal it, or to request from the authority issuing the measure to review it.
4. The Prison Police employee against whom the measure is taken, shall appeal the final decision on the disciplinary measure, to the Administrative Court within the time limits foreseen by the law in force on organization and functioning of the administrative court and adjudication of administrative disputes.

Article 50

Deadlines for Expunction of Disciplinary Measures

1. Disciplinary measures of “reprimand in writing” and “reprimand with warning” shall remain in the personal file of a Prison Police employee for a period of 6 (six) months, and shall be expunged afterwards.
2. Disciplinary measure of “postponement of the timeframe for promotion in rank with 1 year” shall remain in the personal file of a Prison Police employee for a period of one year from the date of termination of the execution of the measure, and shall expunged afterwards.

3. Once the periods defined in paragraphs 1 and 2 of this Article are over, the entire documentation regarding disciplinary measures, defined in letters "a", "b", and "c" of paragraph 1, Article 46 of this Law, shall be removed from the employee's personal file. These data shall not be disclosed to any institution or structure without the written authorization of the General Prison Director.

4. The disciplinary measure "Dismissal from Prison Police" shall remain permanently in the personal file of a former Prison Police employee.

Article 51 Suspension

1. In cases when a criminal proceeding is initiated on a Prison Police employee, the latter shall be suspended from the function until the criminal process is concluded with a final decision. During this period, the employee is entitled to 50% of the salary for the rank.

2. In cases when innocence is proven with a final court decision, the Prison Police employee shall return in office and shall be compensated for the remaining part of the salary that would have been given if not suspended.

CHAPTER VIII TERMINATION OF EMPLOYMENT RELATIONS WITH PRISON POLICE

Article 52 Release from Prison Police

1. Prison Police employee shall be released from duty when:

- a) declared incapable due to health by decision of a medical commission determining incapacity;
- b) position is made redundant and the person does not accept to be appointed to vacancies equal or lower in position than the position held before;
- c) employed in other structures of the public administration;
- c) failed the test taken upon completion of the basic training course;
- d) submitting the request to resign.

2. The Prison Police Director shall be released from duty for the following reasons:

a) incapacity exercise the function for a period of more than 6 (six) months due to health reasons;

b) resigns from duty;

3. Basic role employee and medium role employee shall be released by the General Director of Prisons on proposal of the Prison Police Director.

4. High role employee shall be released by the Minister of Justice, on proposal of the General Director of Prisons.

Article 53

Dismissal from the Prison Police

1. Prison Police employee shall be dismissed from duty if sentenced with imprisonment with a final court decision, as well as if against him/her the disciplinary measure of dismissal from the Prison Police is taken.

2. The Prison Police employee shall be dismissed by order of the competent authority for the appointment, and the competent authority for taking the disciplinary measure of dismissal from Prison Police.

Article 54

Financial Treatment after Termination of Employment Relation

1. Prison Police employee is entitled to the following after termination of employment relations:

a) transitional payment;

b) early supplementary pension;

c) pension due to service;

ë) elderly supplementary pension;

d) job seniority.

2. Financial compensation following the termination of employment relations according to the cases set forth in paragraph 1 of this Article, shall be in accordance with the law in force on supplemental social security for members of the Armed Forces, employees of the State Police, employees of the Guard of the Republic, employees of the State Intelligence Service, of the Defense Intelligence and Security Agency, of the Prison Police, of

the Fire Protection and Rescue Police, and the Internal Audit Service of the Republic of Albania.

Article 55

Priority for Return or Admission in Prison Police Structures

1. Prison Police employee in transitional payment and who meets the conditions and criteria to continue the police career which has been interrupted due to redundancy, in any case has priority to return to service.
2. Priority to be admitted in Prison Police shall be given to citizens who have work experience in the State Police, Guard of the Republic, Armed Forces.

CHAPTER IX

COOPERATION WITH OTHER INSTITUTIONS

Article 56

Informing the Public

1. The Prison Police informs the public and media on duties performed in the field of public order and security in the institutions for the execution of criminal sentences in accordance with the law in force.
2. The Prison Police is prohibited from communicating unethically during public communications, or is prohibited from violating the principle of presumption of innocence, the principle of non-discrimination and dignity of sentenced persons or remand prisoners, especially of juveniles.
3. Prison Police employee is prohibited from making personal statements in media about issues that have to do with their duty.

Article 57

Cooperation with Public Administration Institutions

In fulfilment of its duties, the Prison Police collaborates with institutions of public administration, both physical and legal persons.

CHAPTER X
FINAL PROVISIONS

Article 58
Transitional Provisions

1. Financial effects set forth in the letter “a” of paragraph 1, Article 18 of this Law, for the seniority bonus for each year of service, shall be implemented starting from January 1, 2021.
2. Financial effects set forth in the letter “a” of paragraph 1, Article 18 of this Law, for the supplements due to the special nature of the job, shall be implemented from January 1, 2022.
3. Financial effects set forth in the letter “a” of paragraph 1, Article 18 of this Law, for the supplement for the rank, shall be implemented from entry into force of this law.
4. The sublegal issued in implementation of Law No. 10 032, dated 11.12.2008, “On Prison Police”, as amended, shall remain in force and shall be implemented for as long as they are not in contradiction with the provisions of this law, until the new sublegal acts are issued.

Article 59
Sublegal Acts

1. The Council of Ministers, within 6 months from entry into force of this law, is in charge of issuing sublegal acts pursuant to Articles 13, paragraph 7; Article 14, paragraph 8; Article 18, paragraph 2; Article 22, paragraph 6; Article 27, paragraph 2; Article 28, paragraph 3, and Article 43 of this law.
2. The Minister of Justice within 6 months from entry into force of this law, is in charge of issuing the sublegal acts pursuant to Articles 7, paragraph 4; Article 12, paragraph 4; Article 20, paragraph 4; Article 41, paragraph 3; Article 45, paragraph 5, and Article 49, paragraph 2 of this law.
3. The minister of Justice and the respective minister for internal affairs within 6 months from entry into force of this law is in charge of issues the sublegal act pursuant to Article 20, paragraph 3 of this law.

Article 60
Repeals

Law No. 10 032, dated 11.12.2008 “On Prison Police”, as amended, shall be repealed.

Article 61
Entry into force

This Law shall enter into force 15 days following publication in the Official Gazette.

S P E A K E R
Gramoz RUÇI

Passed on 25.06.202

LAW

No. 81/2020, dated 25.06.2020

ON THE RIGHTS AND TREATMENT OF CONVICTS AND DETAINEES

Pursuant to Articles 78 and 83, paragraph 1 of the Constitution, based on the proposal of the Council of Ministers,

THE ASSEMBLY
OF THE REPUBLIC OF ALBANIA

DECIDED:

PART 1
GENERAL PROVISIONS

CHAPTER I

Article 1
Object

The object of this law is to determine the rights and treatment of pre-trial detainees and convicts, the organization of the prison system, as well as the competencies and duties of the competent state bodies.

Article 2
Purpose

This purpose of this law is to guarantee the conditions for the dignified treatment of pre-trial detainees and convicts, the respect for their fundamental rights and freedoms, and the prevention of cruel, inhuman, degrading or degrading behavior or treatment.

Article 3
Definitions

For the purpose of this law, the following terms shall have the following meanings:

1. "Family members" of the pre-trial detainee and convict are the spouse, parents, children, grandparents, siblings, as well as the cohabitant, whose cohabitation has a stable and proven character.
2. "Prisoner" is any person either in pre-trial detention or is convicted by a final court decision, who is placed in a penitentiary institution (PI)
3. "Convicted persons" is any person, Albanian citizen, foreign or stateless, convicted by a final criminal court decision of the Albanian courts or convicted by a court decision issued by foreign courts, which decision has been recognized according to the legislation in force and the sentence is converted by a final decision of Albanian courts.
4. "Juvenile" is any person under the age of 18 who has reached the age of criminal responsibility and against whom a security measure of detention has been imposed, or a final court decision, which expressly provides for the deprivation of liberty in a penitentiary institution.
5. "Penitentiary institutions" are the detention institutions and institutions for the execution of imprisonment sentences.
6. "Open institution" is an institution or section outside the perimeter security fence of the penitentiary institution, wherein the convict serves the sentence with maximum level of supervision and security, without being locked up in the premises of the penitentiary institutions.
7. "Detainee" is any person, Albanian citizen, foreign or stateless, against whom a security measure of detention has been ordered.
8. "Disciplinary measure" is a coercive or prohibitive measure issued against a detainee or a convict in cases of violations provided for by this law.
9. "Special cases" are dangerous situations, which pose a serious threat, which affects or may directly or indirectly affect the life and/or health of the prisoner and that based on reliable data it turns out that it can not to be faced within the normal limits of management and administration of the institution.
10. "Emergency situation" includes, but is not limited to, one of the following situations:
 - a) natural disaster, which endangers the administration and management of the institution and may harm the life and health of prisoners;
 - b) armed attacks from outside the institution;

- c) massive or partial uprisings;
- ç) attempts or escapes from the institution;
- d) the spread of infectious/epidemic diseases;

11. "Torture" is any act by which prisoners are intentionally inflicted severe physical or mental pain or suffering, when such pain or suffering is caused by the staff of the institution or another person acting in fulfilling the official duty or with his encouragement or consent, carried out for one of the purposes provided for in the Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment.

Article 4 **Scope of application**

1. This law shall apply for detainees and persons convicted to imprisonment by a final criminal decision of the Albanian courts, as well as detainees and persons convicted by foreign court decisions pursuant to international agreements ratified by the Republic of Albania and legislation in force.
2. The rules provided for in this law shall apply to all prisoners, Albanian citizens, foreign nationals and stateless persons.

CHAPTER II

BASIC PRINCIPLES

Article 5 **Respect for human rights**

1. Prisoners shall be treated with dignity and with respect to the fundamental rights pursuant to the legislation in force, as well as international acts binding on the Republic of Albania. In any case, torture, inhuman or degrading treatment or punishment of prisoners shall be prohibited.
2. Prisoners shall be treated equally, without bias and without discrimination on any ground provided by the legislation in force on protection against discrimination.
3. Juvenile prisoners shall be treated with respect for their fundamental rights and freedoms. Treatment shall be based on the best interests of the

juvenile, social reintegration, education and prevention of recidivism of criminal offenses by the juvenile, in accordance with the conditions and rules provided for in the Criminal Justice for Children Code.

4. Women prisoners shall be treated with respect to their fundamental rights and freedoms and without discrimination on any ground provided by legislation in force on protection from discrimination, by preventing any act of gender-based violence that results in physical, sexual or psychological harm, suffering or any other form of abuse and ill-treatment, punishable under the legislation in force.

5. Prisoners with mental health disorders shall be guaranteed equal treatment, without discrimination, while respecting their physical integrity and human dignity. Their treatment shall be carried out according to health standards, which apply to the categories of persons with mental health disorders, outside the penitentiary institutions.

6. Prisoners with disabilities shall be guaranteed basic human rights and freedoms, treatment without discrimination of any kind due to disability, by meeting the specific needs for their capacitation and rehabilitation, taking into account the standards of the legislation in force on the inclusion and accessibility of people with disabilities.

7. Prisoners foreign nationals or stateless persons shall be treated taking into account their special situation and individual needs. The authorities of the institution shall take positive actions to avoid discrimination and to solve specific problems that these persons face in the penitentiary institutions during transfer and after release.

8. Special measures, which are necessary to be applied for the respect the rights and freedoms of certain groups of prisoners, shall not be considered discrimination within the meaning of this law.

9. In addition to the provisions of this article, prisoners belonging to marginalized categories shall be treated in accordance with the requirements of international human rights standards, taking measures so that their specific needs are taken into account during their stay in the institution and support their reintegration into society.

Article 6

Prevention of violence and treatment of the victim

1. Prisoners who have experienced physical, psychological or sexual violence, before or during their stay in the institution, shall be immediately provided with protection measures, legal support and counselling, in

order to rehabilitate them.

2. The staff of the Penitentiary Institutions shall pay special attention to the protection of the highest interest of the juveniles in accordance with the conditions and rules provided by the Criminal Justice for Children Code.

3. The staff of the Penitentiary Institutions shall pay special attention to the protection of the dignity, physical, social, professional, health and psychological needs of the prisoners.

4. In cases of violence, the authorities of the Penitentiary Institutions shall initiate an independent investigation by the competent structures and bodies charged by law, respecting the principle of privacy, protection and personal security.

Article 7

Differentiated legally justified treatment of prisoners

1. Differentiated treatment of prisoners, in accordance with the security conditions of the penitentiary institution, must be legal justified and result to be necessary due to the danger posed by the prisoner and be intended to fulfil the rehabilitative function of the punishment.

2. The detailed rules on the instances and manner of realization of the differentiated legally justified treatment of prisoners shall be determined in this law, the General Regulations of Prisons, and internal regulations of each institution.

Article 8

Individual restriction of the rights of prisoners

1. Prisoners shall enjoy all the rights that have not been restricted through the court decision on their conviction or on imposing a security measure of “detention”.

2. The rights of prisoners, under to this law, may be limited to the necessary minimum and only in fulfilment of a lawful purpose in the instances and according to the criteria provided for in this law.

3. Individual restriction of rights under this article may not restrict the right of the prisoner to communicate with his defense counsel and to file complaints in accordance with the provisions of this law.

Article 9

Group restriction of rights

1. The rights of prisoners may be temporarily restricted as a group, by order of the Minister of Justice, to the necessary minimum, in fulfilment of a lawful purpose and only in special cases of:

- a) state of emergency, declared by law;
- b) emergency situation;
- c) state of war;
- ç) state of emergency, in accordance with the legislation on civil emergencies;
- d) potential risks to the life and health of prisoners;
- dh) armed attacks from outside the institution or referral of information about carrying out possible attacks.

2. The order of the Minister of Justice on the group restriction of the rights of prisoners shall determine the type and extent of the rights being restricted and the duration of such restriction. In any case, the duration of the restriction of rights shall be determined at the extent and as long as it is justified by the circumstances that dictate this restriction and cannot be longer than the duration of the case due to which the restriction is established according to paragraph 1 of this Article.

3. The more detailed rules and procedures on group restriction of rights and the going into state of alert shall be defined in the legislation in force on Prison Police.

4. The group restriction of rights under this article may not infringe the right of prisoners to communicate with their defense counsel and to make complaints in accordance with the provisions of this law.

Article 10

The right to file complaints and requests

1. The prisoner shall, either individually or in groups, have the right to submit requests and appeals concerning the implementation of the legislation in force, the General Regulation of Prisons and the internal regulation of the institutions.

2. Requests and complaints shall be submitted directly to the competent public body to any office or branch thereof, in writing or in any other

appropriate form. In case the request and complaint are verbally presented, the penitentiary institution shall keep minutes to record the request or complaint presented.

3. The prisoner when he deems it necessary, may address any state body or non-profit organization inside and outside the country.

4. The staff of the penitentiary institution shall put at the disposal of the prisoner the necessary tools to present the request and complaint.

Article 11

Criminal offenses committed by prisoners

The prisoner, when being investigated and/or tried for another criminal offense during the serving of the sentence, shall continue to stay in the institution where the previous decision is being executed, unless the prosecutor and / or the court decides otherwise.

CHAPTER III TREATMENT

Article 12

Social rehabilitation and reintegration

1. The treatment of the prisoner aims at his/her rehabilitation for his/ her reintegration into family, social and economic life. Preparation for reintegration begins in detention, continues during the serving of the sentence and after the release from the penitentiary institutions.

2. An individual treatment plan shall be developed by the penitentiary institutions and is delivered by them or in cooperation with the structures responsible for education services, vocational training, employment and non-profit organizations. The individual treatment plan can be changed to suit the progress made and other circumstances. The prisoner shall be encouraged to cooperate in the implementation of re-education programs and activities in the institution.

3. The penitentiary institutions in cooperation with the Probation Service, structures responsible for social services in local self-government units and non-profit organizations shall develop a rehabilitation and close to release-reintegration programs for addressing the special needs of each prisoner.

4. In the case of a juvenile prisoner, the staff of the penitentiary

institutions shall provide the juvenile social, educative and educational, psychological, medical, assistance in accordance with the individual needs and in accordance with his/her age group, gender and personality, with the aim of his/her rehabilitate and reintegrate it into social life.

5. For the purposes of the implementation of paragraph 4 of this article, the staff of the penitentiary institutions for juveniles shall develop a rehabilitation and reintegration program in cooperation with the juvenile, his family and the juvenile protection structures. The rehabilitation and reintegration program for juveniles shall be drafted and notified according to the rules provided in the Criminal Justice for Children Code.

6. For prisoners belonging to national minorities, foreign prisoners or stateless persons, programs that respect their culture shall be prepared, as far as possible. The penitentiary institution shall cooperate with local and international institutions and organizations that work with these categories.

Article 13

Individualization of treatment

1. The treatment of the prisoner shall be carried out in accordance with his/her individual situation and needs.

2. Individualization of treatment shall be done by assessing the individual, psychological, social, gender, age, health status, sexual orientation or gender identity, cultural and economic situation, the environment in which the prisoner lived, risk factors and motivation to be included in the activities organized in the institution.

3. The assessment shall be made at the beginning of the treatment and its results shall be constantly verified during the serving of the sentence, adapting the treatment according to the needs of the prisoner.

Article 14

Individual treatment plan

1. Following the assessment process, an individual treatment plan shall be developed in cooperation with the prisoner. This plan should include a treatment, rehabilitation and reintegration program for each prisoner. For special categories of prisoners, the individual treatment plan shall be drafted taking into account their specific needs.

2. Special attention shall be paid to the psychosocial treatment of juvenile prisoners, young people aged 18 to 21, women, persons with mental health

disorders, either existing or acquired during imprisonment, persons with disabilities, persons with different sexual orientation, persons with chronic illness of drug addicted, the elderly, persons sentenced to long-term sentences, persons belonging to national minorities, foreign nationals and stateless persons.

3. For each juvenile prisoner, an individual rehabilitation and reintegration program shall be prepared, which takes into account his / her education, psychological assessment, emotional situation, his / her desires and abilities to attend general education and / or vocational education, if possible, outside the pre-trial detention and prison facilities, vocational training according to their interests and talents and that will help in their employment after leaving the institution. Special and individual education programs shall be organized for juvenile prisoners who have learning difficulties related to disability, as well as for juveniles who have not attended school. The individual treatment plan shall be developed according to the rules provided in the Criminal Justice for Children Code by the multidisciplinary group, which operates at the penitentiary institutions for juveniles and is supervised by the social worker. The juvenile shall be questioned and give his/her consent for the individual treatment plan according to the provisions of the Criminal Justice for Children Code.

4. An individual treatment plan shall be prepared for the young prisoner aged 18 to 21 years, which shall include his/her treatment, rehabilitation and reintegration. This plan shall provide basic compulsory education and/or vocational education, possibly outside of detention and prison premises, and, where appropriate, secondary or higher education. The staff of the institution shall create opportunities for vocational training according to his/her interests and talents and help in his/her employment after leaving the institution.

5. The evaluation, programming and realization of the treatment shall be done by the staff of the institution in cooperation with the relevant state bodies and institutions.

6. The staff of the penitentiary institutions shall encourage and support the contribution of non-profit organizations and special individuals in the realization of the individual treatment plan.

7. The Ministry of Justice shall support research and evaluation programs regarding the functioning of the prison system, its role in the reintegration of convicted persons into the society.

8. For purposes pursuant to this Article, the Ministry of Justice shall enter

into agreements with the Ministry responsible for vocational education and training or with organizations and agencies accredited in the field of protection of the rights and freedoms of prisoners.

9. Detailed rules on the drafting, developing and delivering the individual treatment plan shall be adopted by the Minister of Justice, on the proposal of the General Directorate of Prisons and the General Directorate of Probation Service.

PART II

INSTITUTIONS

CHAPTER I

TYPES OF INSTITUTIONS

Article 15

Penitentiary Institutions

1. Penitentiary institutions, based on the category of subjects against whom criminal decisions are being executed, shall be divided into:
 - a) institutions for adult convicted persons;
 - b) institutions for juvenile convicted persons
 - c) institutions for women; ç) detention institutions;
 - d) health care institutions for prisoners;
2. The health care institutions for persons for which the court has decided to implement mandatory medical measures shall be administered by the ministry responsible for health in accordance with the legislation in force on mental health, regarding the provision of services. Security measures for the protection of these institutions shall be provided by the Ministry of Justice.
3. Penitentiary institutions may be divided into sections according to the need of the administration.
4. Penitentiary Institutions or sections within them, on the basis of security, are categorized as follows:
 - a) high security institutions;

- b) ordinary security institutions;
- c) low security institutions;
- ç) open institutions.

5. Except for the rules determined by law on the Organization and Functioning of State Administration Bodies, the establishment, classification and closure of penitentiary institutions or special sections in these institutions shall be made by order of the Minister of Justice.

Article 16

High Security Penitentiary Institutions

1. High Security Penitentiary Institutions are the institutions where the following imprisonment sentences are executed:

- a) for any criminal offense committed by a structured criminal group, criminal organizations, terrorist organizations and armed gangs, according to the determinations of the Criminal Code;
- b) for criminal offenses for which the Criminal Code provides for a life imprisonment sentence;
- c) for criminal offenses committed by recidivists, for whom the court has given a sentence of no less than 15 years of imprisonment.
- ç) for crimes against life, for which the court has given a sentence of no less than twenty years of imprisonment;
- d) for sexual crimes with juveniles, according to the determinations of the Criminal Code.

2. In addition to the above, also sentences against other convicted persons, who in the commission of the criminal offense or during the execution of the sentence have been characterized by attitudes or behaviors that make it impossible for them to stay in prisons of other categories, shall be executed in High Security Penitentiary Institutions.

3. The initial assignment of a convicted person in the high security penitentiary institution shall be carried out by the court that has given the imprisonment sentence. In cases when the court has not determined in the decision the category of the penitentiary institution and the convicted person in committing the criminal offense has been characterized by attitudes and behaviors that make it impossible for him/her to stay in ordinary security institutions, at the request of the prosecutor, the court may order that the execution of the conviction decision is carried out in a

high security penitentiary institutions. In these cases, the prosecutor shall, immediately and in any case no later than 48 hours from the notification of the court decision, submits the request for the designation of the high security penitentiary institution.

4. Change of the security classification for convicted person serving sentences in high security penitentiary institutions and for convicted persons who during the execution of the sentence have been characterized by attitudes or behaviors that make it impossible for them to stay in institutions of other categories and must be transferred to a high security institution, shall be done by the court based on the request of the convicted person, his defense counsel or prosecutor. The prosecutor shall be activated at the request of the head of the institution. The court shall require the Risk Assessment Committee to submit a risk assessment report based on the security risk assessment report, drafted by the penitentiary institution where the convicted person is serving the sentence.

5. During the examination of the case by the court, the convicted person shall stays in the high security penitentiary institution.

6. At high security penitentiary institutions, restrictions on the rights of convicted persons shall be imposed at instances and according to the criteria defined in this law.

Article 17

Special regime at the high security penitentiary institutions

1. In special cases, a special regime may be applied for the exercise of the rights of convicted person at high security penitentiary institutions and detainees who are investigated or tried for criminal offenses provided for in Articles 79, letter “ ç ”, 79 / a, 79 / b, 230, 230 / a, 230 / b, 230 / c, 230 / ç, 231, 232, 232 / a, 234, 234 / a, 234 / b, 265 / a , 265 / b, 283, paragraph 3, 283 / a, paragraph 3, 284, paragraph 3, 284 / a, 284 / c, paragraph 3, 284 / d, paragraph 3, 333, 333 / a and 334 of the Criminal Code, committed in the framework of participation in a structured criminal group, criminal organization, armed gang, terrorist organization or for criminal offenses of terrorist purposes.

2. Notwithstanding the provisions of paragraph 1 of this Article, the special regime may also apply to prisoners who are at high risk due to links with members of criminal organizations, terrorist organizations, armed gangs or groups of structured criminal.

3. The decision on the placement of prisoners in the special regime in the high security penitentiary institutions shall be taken by the Minister of

Justice on the reasoned request of the Head of the Special Prosecution Office. To make this decision, the Minister of Justice shall be based on consultation with the Minister of Interior, the data / information of the General Director of State Police, the State Intelligence Service, the General Director of Prisons and specialized bodies in the fight against organized crime and terrorism, according to areas of responsibility.

4. The establishment of a special regime for the exercise of rights in the high security penitentiary institutions shall be based only on maintaining order and security and / or preventing communication with the criminal organization to which they belong or with other organizations, referred to in point 1 of this Article, by taking internal and external measures of high security, which are mainly related to the need to prevent:

- a) contacts with the criminal organization to which they belong or with other organizations with which they cooperate;
- b) possible conflicts with elements of other organizations;
- c) interaction with other prisoners who belong to the same organization or other organizations which they cooperate with;
- ç) communication or exchange of items between prisoners belonging to different groupings.

5. The special regime for the exercise of rights consists of:

- a) allowing a monthly meeting with family members, which is carried out at regular intervals and in certain environments, where the entry of persons or other objects is prohibited and which are subject to audio and video recording. Meeting with persons other than family members, for the convicted persons, shall be allowed upon the proposal of the director of the institution and upon approval of the General Director of Prisons. For detainees, meeting with persons other than family members shall only be allowed upon approval of the prosecutor. The provisions under this letter shall not apply to meetings with defense counsels;
- b) allowing the prisoner to have a telephone conversation a month, with a maximum duration of ten minutes, which is recorded. Conducting telephone conversations for the convicted person shall be authorized by a reasoned decision of the General Director of Prisons upon the proposal of the director of the institution, while for detained persons it shall be authorized by a reasoned decision of the prosecutor. The provisions of this letter shall not apply

to telephone conversations with the institution of the People's Advocate and with local or foreign organizations operating in the field of human rights;

c) prohibition of the use of monetary values, items and objects, which the prisoner may receive from outside, according to the provisions of the internal regulations of the institution;

ç) control of correspondence, except the correspondence with subjects defined in paragraph 1 of article 51 of this law, or with international organizations, which exercise their activity in the field of protection of human rights;

d) reduction of stay in open air outdoors for up to 2 hours, but not less than 1 hour a day;

dh) exclusion from the representative bodies of prisoners.

The observance of the rights provided for in this paragraph for prisoners placed in the special regime shall be monitored by the People's Advocate.

6. The duration of the special regime for the exercise of rights in the high security prison is one year and may be extended for other periods of one year. The extension of this regime shall be decided when it turns out that there are still conditions that the prisoner maintains connections with the criminal organization, the structured criminal group, the armed gang or the terrorist organization. For the extension of this regime, the criminal profile of the prisoner must be taken into account, the role he plays in the criminal organization, the time he has been engaged in this criminal organization, the bringing of new charges against him that were not reviewed before, his behavior in the penitentiary institution and the standard of living of his family members. No later than 30 (thirty) days from the date of completion of each one-year period, the Head of the Special Prosecution Office may propose to the Minister of Justice the extension of this regime.

7. The Minister of Justice, on the basis of the proposal of the Head of the Special Prosecution Office, shall re-evaluates whether the conditions for the continuation of the special regime of exercising the rights against the convicted person or detainee are in place. In cases where the Minister of Justice decides not to approve the extension of the stay in the special regime of exercise of rights, the General Director of Prisons shall orders the sending of the convicted person to the institution where he was serving his sentence or of the detainee to the detention institution he was staying before placement in the special regime.

8. Against the decision of the Minister of Justice for the placement or extension of the special regime, the prisoner, his defense counsel or the Head of the Special Prosecution Office may file an appeal within 20 days from the moment of notification of the decision.

9. The appeal shall be submitted to the First Instance Court against Corruption and Organized Crime, which is competent to adjudicate the case, in accordance with the provisions of Article 471 of the Code of Criminal Procedure. The adjudication of the case shall not suspend the decision of the Minister of Justice.

10. In cases when the request against the decision of the Minister of Justice is accepted by the court, the Minister of Justice shall decide according to the decision of the court.

Article 18

Ordinary Security Penitentiary Institutions

1. Ordinary Security Penitentiary Institutions are institutions where the sentences of all convicted persons are executed, with the exception of those placed at high security institutions, low security institutions and open institutions.

2. When in its decision, ordering the imprisonment sentence, the court has not specified the type of institution where the sentence will be executed, the convicted person shall be placed in an ordinary security institution, by preserving the right of the prosecutor according to the provisions of article 16, paragraph 3, of this law.

3. The change of the classification of the security of the convicted persons, whose sentence is being executed at an ordinary security institution, shall be made by the Committee for the Assessment of the Risk of Convicted Persons, except for the cases provided in article 16 of this law.

4. Against the decision of the Committee for the Assessment of the Risk of Convicted Persons, the convicted person, his legal representative or the prosecutor may file an appeal to court within 15 days from the date of notification of the decision. The review of the appeal by the court shall suspend the decision of the Committee for the Assessment of the Risk of Convicted Persons, on the change of security classification for the convicted person.

Article 19

Law Security Penitentiary Institutions

1. Law security Penitentiary Institutions are the institutions where the sentence for criminal misdemeanours, for criminal offenses committed in negligence and for other criminal offenses which punishment does not exceed five years of imprisonment is executed.
2. The Committee for the Assessment of the Risk of Convicted Persons, shall decide on the transfer of convicted persons from an ordinary security institution to a low security institution at the request of the director of the institution where the decision against the convicted person is being executed, or his legal representative, in cases where the convicted person has served not less than 2/3 of the sentence.

Article 20

Open institution

1. An open institution is an institution or section where sentences are executed against:
 - a) persons convicted to imprisonment, who have less than six months of imprisonment left to serve, and when the report of the Committee for the Assessment of the Risk of Convicted Persons, evaluates that he/she does not pose a risk to the security of the institution or society;
 - b) persons convicted to semi-liberty.
2. Transfer to an open institution shall be carried out only for those sentenced to imprisonment whose sentence execution is carried out at a low security institution. This transfer shall be approved by the Committee for the Assessment of the Risk of Convicted Persons, at the request of the director of the institution where the sentence is being executed, of the convicted person or his legal representative.
3. In case the convicted person violates the general regulation of prisons or the internal regulation of the institution, the Committee for the Assessment of the Risk of Convicted Persons, after assessing the circumstances, may decide to return the convicted person to a low security institution.

Article 21
Detention institutions

Detention institutions are the institutions where individuals against whom the court has imposed a security measure of “detention” are kept.

Article 22
Placement of justice collaborators

1. In the penitentiary institutions special sections shall be created for the placement of prisoners, who enjoy the status of justice collaborators according to the legislation in force on the protection of witnesses and collaborators of justice.
2. The General Directorate of Prisons, in cooperation with the General Directorate of State Police, shall take measures to ensure the life of the prisoners, who enjoys the status of a justice collaborator and for carrying out the individual plan of their treatment.

Article 23
Penitentiary Institutions for women and juveniles

1. Juveniles shall serve their sentences in penitentiary institutions for juveniles and, if not impossible, in separate sections of other institutions, according to the criteria set out in the Criminal Justice for Children Code.
2. The juvenile defendant, against whom the security measure of “detention” is imposed, shall only be placed in the juvenile section in the detention facilities, while the juvenile sentenced to imprisonment shall be placed in a penitentiary institution for juveniles.
3. The juvenile prisoner shall be placed separately from the adult prisoner. It shall be forbidden to place, hold or move a juvenile outside the institution together with an adult prisoner. As an exception to this rule, during the performance of rehabilitation, educational, cultural, sports and other activities of cultural and educational nature, juveniles may stay together, regardless of gender, or together with adults, but in any case in the presence of staff of the institution where the juvenile resides.
4. A juvenile who participates in the activities listed in paragraph 3 of this Article, shall be accompanied and supervised in any case by the staff of the General Directorate of Prisons during the whole time of the development of the respective activity.

5. In order to provide a safe environment for juveniles in the institution / section for them, juveniles shall be divided based on age group, type and importance of the criminal offense, risk of recurrence of the offense, physical and mental development, and other characteristics, taking into account the best interests of the juvenile.
6. Juvenile female prisoners shall be placed separately from male juvenile prisoners.
7. The services in the penitentiary institutions where juveniles are placed must be in accordance with the requirements of respecting the health and dignity of the juvenile and in function of re-socialization, reintegration, rehabilitation and prevention of re-offending or committing another criminal offense, by providing the juveniles care, assistance and supervision. To guarantee the best interests of the juvenile, the relevant institution must have sufficient, specialized and continuously trained personnel.
8. Detained women or girls shall be placed in separate rooms or sections by men. Convicted women or girls shall serve their sentences in penitentiary institutions in accordance with this law.
9. Convicted females shall be allowed to carry their children up to the age of 3 years. The institution shall create the opportunity for the convicted female to live with the child in the special section for women with children. Special nurseries shall also operate for the care and assistance of these children. The decision to remove the child from the mother before the age of 3 can be made by the court in cases when it is dictated by the best interests of the child, based on the request of the other parent, legal guardian or child protection structures.
10. More detailed rules on detention facilities and of execution of prison sentences for juvenile and women or girls prisoners shall be set out in the General Regulation of Prisons.

Article 24

Designated places for the execution of criminal decisions

The execution of criminal decisions shall be carried out only in places specifically designated according to this law. Exceptionally, the Minister of Justice, in cases of emergency, force majeure, of the performance of important works, and when the life and health of the prisoner is endangered, may order that the execution of criminal decisions is carried out temporarily in other appropriate places, in accordance with the conditions provided for in this law.

Article 25

The General Regulation of Prisons and internal regulations of institutions

1. The rules for the organization and functioning of the prison system, the internal discipline and the treatment of prisoners shall be defined in the General Regulation of Prisons, approved by a decision of the Council of Ministers.
2. Each institution shall have its own internal regulations, approved on the basis of the General Regulation of Prisons. The regulation of the institution shall define the organization, internal discipline and detailed rules of the treatment of prisoners in the conditions of the institution.
3. The internal regulation of the penitentiary institution shall be drafted by the Committee set up by the Director of the institution and approved by the General Director of Prisons.

CHAPTER II

PRISON MANAGEMENT BODIES

Article 26

General Directorate of Prisons

1. The General Directorate of Prisons is an institution under the subordination of the Ministry of Justice, which follows up and implements the organization and functioning of the penitentiary system and the treatment of prisoners.
2. The General Director of Prisons shall be appointed, released from duty or dismissed by a decision of the Council of Ministers, upon the proposal of the Minister of Justice.
3. The proposed candidate for Director General of Prisons must meet the following criteria:
 - a) be an Albanian citizen;
 - b) to have completed the second cycle of university studies or equivalent degree, according to the legislation in force on higher education in the Republic of Albania;
 - c) have at least 10 years of work experience, of which at least 5 years in the position of senior management level;

- c) to have integrity and a clean moral figure;
 - d) not to have been convicted of a criminal offense by a final court decision;
 - dh) no disciplinary measure of dismissal from office was taken against him before or no disciplinary measure is in force against him.
4. The Deputy General Directors of Prisons shall be appointed according to the criteria and procedures determined by the legislation on civil servant and its implementing sub-legal acts.
 5. The working relations of the civil servants of the General Directorate of Prisons and of the penitentiary institutions shall be regulated as per the legislation in force on civil servant.
 6. Labor relations of the supporting staff in the General Directorate of Prisons and in the penitentiary institutions shall be regulated according to the provisions of the Labor Code.
 7. The General Directorate of Prisons shall continuously inform the public about its activity, so that the role of the prison system in the treatment of prisoners is better understood.

Article 27

Committee for the Assessment of the Risk of Convicted Persons

1. The Committee for the Assessment of the Risk of Convicted Persons, is part of the General Directorate of Prisons and consists of 5 members, namely, one representative of the security service, one representative of the legal sector, one representative of the social affairs sector, one representative of the health service and the specialist of the social care sector, who treats the convicted persons within the institution.
2. 4 members of the Committee, except for the social care sector specialist, shall be appointed by order of the General Director of Prisons and changes once a year.
3. The Committee for the Assessment of the Risk of Convicted Persons, shall decide on the change of the security classification of the convicted person and his transfer from an ordinary security institution to a low security institution and vice versa. The Committee for the Assessment of the Risk of Convicted Persons, shall decide on the transfer of the convicted person from a low security institution to an open institution and vice versa in accordance with Article 20 of this law.

4. The assessment of the dangerousness of the convicted person shall be based on the following criteria:

- a) analysis of risk factors and the possibility of repeating the criminal offense;
- b) the nature of the criminal offense;
- c) the risk of the convicted person to escaping;
- ç) the risk of committing another criminal offense by the convicted person and its impact on society;
- d) personality, general behavior and behavior analysis with other convicts;
- dh) conduct against the victim of a criminal offense;
- e) the fact whether or not it is repetitive;
- ë) if he is a user or has become addicted to narcotics;
- f) if there are mental health disorders and how he / she was treated while serving the sentence;
- g) if he has had other benefits during the serving of the sentence;
- gj) as well as any other data, which is considered important for management, security and the order of the institution, and the well-being and security of other convicts.

5. The Committee shall interview the convicted person in each case that it reviews a request for a change in his treatment. The findings of the interview with the convict become part of the risk assessment report.

6. The Committee for the Assessment of the Risk of Convicted Persons, shall presents a risk assessment report based on the security risk assessment report, drafted by the penitentiary institution, where the convicted person serves the sentence, whenever the court requests it on the basis of paragraph 4 of Article 16 of this law.

7. The Committee for the Assessment of the Risk of Convicted Persons, shall presents a risk assessment report of the convicted person in accordance with Article 68, point 2, of this law.

8. Special rules for the establishment, organization and functioning of the Committee for the Assessment of the Risk of Convicted Persons, shall be defined in the General Regulation of Prisons.

Article 28
Risk assessment tool

1. The risk assessment tool and rules on its implementation shall be defined in the General Regulation of Prisons.
2. The risk assessment tools shall be separately designed for adult and juvenile prisoners respectively.
3. The risk assessment tools for juvenile prisoners shall be prepared in accordance with the rules set out in the Juvenile Justice Code.

The General Directorate of Prisons shall collect the opinion of the Child Rights Protection Unit of the jurisdiction where the juvenile resides.

Article 29
Penitentiary Institutions

1. Penitentiary institutions are territorial branches of the General Directorate of Prisons, which are responsible for the reception, settling, treatment, rehabilitation and reintegration of prisoners.
2. Penitentiary institutions shall be supervised and represented by the director, who is appointed and dismissed by the Minister of Justice, upon the proposal of the General Director of Prisons.

Article 30
Staff of the institution

1. The staff of the penitentiary institution shall implement the individual treatment plan of the prisoners according to assigned tasks.
2. The staff of the penitentiary institution shall act according to the highest professional and ethical-moral standards, taking into account the needs of each convict/detainee/prisoner with the view of his /her rehabilitation and reintegration into society.
3. The staff of the penitentiary institution shall at all time uphold the honour and dignity of profession, behave professionally and humanely, in accordance with the rules of ethics while protecting the rights and freedoms of every prisoner.
4. Staff working in penitentiary institution or sections where prisoners are placed, provided for in paragraph 2 of article 14 of this law, must be specialized in the relevant field.
5. The relevant detention institution or penitentiary institution should

have necessary personnel, specialized and continuously trained to guarantee the rights of prisoners, with the view of their reintegration, rehabilitation and prevention of re-offending the criminal offense or commission of another criminal offense by them.

6. At detention and penitentiary institutions for juveniles a multidisciplinary group, consisting of doctors, nurses, psychologists and social workers operates. Sufficient staff of psychologists and social workers, specialized and trained for these ages, shall be employed in these institutions.

7. The penitentiary institution shall ensure the possibility of treatment of the prisoner by the specialist doctor, according to the concrete needs and according to a well-defined control regime.

8. The General Directorate of Prisons takes care to enable special trainings and qualifications in the respective fields.

9. In the employment of the staff of the penitentiary institution, the needs and characteristics of prisoners in the institution, as well as respect for gender equality, shall as far as possible be taken into account, according to the provisions of this law.

Article 31 Prisons Police

1. The Prison Police shall be responsible for:

- a) maintaining order and security in the penitentiary institution as well as during transfers and escorts of prisoners to courts and other institutions;
- b) guarding prisoners in public and private health care institutions;
- c) ensuring the life and health of prisoners; and
- ç) guaranteeing the order and security of the institution in exceptional cases and natural disasters, in accordance with international human rights instruments and applicable law.

2. The organization and functioning of the Prison Police shall be regulated by a special law.

CHAPTER III
LIVING CONDITIONS IN THE INSTITUTION

Article 32
Buildings

1. The buildings of the penitentiary institutions shall be designed, constructed, and reconstructed in order to meet the standards for guaranteeing security, appropriate hygienic-sanitary conditions and to enable the development of joint activities of prisoners, the implementation of the individual plan of their treatment and employment.
2. The detailed rules and criteria for the technical, safety, suitability and accessibility of persons with disabilities conditions, which must be met by the buildings of the penitentiary institutions shall be defined by decision of the Council of Ministers.

Article 33
Living and sleeping premises

1. Premises provided to prisoners and in particular the sleeping premises shall respect human dignity and, as much as possible, privacy, as well as meet the health and hygiene requirements, paying due attention to the conditions of the climate, the necessary space, cubic content of air, lighting, heating and ventilation.
2. When it is not possible to ensure sleep in individual rooms, the placing of a prisoner in the same room shall be made in such a way as to avoid mutual conflicts and negative influences.

For this purpose, the criteria of the age group, the type of criminal offenses committed and the intellectual and psychic characteristics of the prisoners shall be used, and as far as possible also the demands of the prisoners.

3. Each prisoner shall be provided with a separate bed and a suitable sleeping set.
4. In the placement of prisoners, the concrete conditions and possibilities of each penitentiary institution, as well as the conditions and possibilities of prisoners, shall be taken into account but in any case ensuring the volume of internal space not less than 9 m³ and the living area not less than 4 m² for each prisoner, windows that provide sufficient ventilation and normal natural light to read and work.

5. Artificial light standards must be acceptable, similar to artificial lighting standards, used outside the Penitentiary Institution and in accordance with the technical standards set by the legislation in force.

6. Prisoners shall be provided with electricity necessary for lighting and personal hygiene.

Article 34

Clothing and equipment

1. Each prisoner shall be provided with clothing and other individual equipment in sufficient quantities to ensure the fulfilment of normal living requirements and in accordance with the climatic conditions.

2. Prisoners may be authorized by the personnel of the penitentiary institution to wear clothing and personal use items or items that have a special moral or personal value. Detailed rules are set out in the General Regulation of Prisons.

Article 35

Personal and environmental hygiene

1. Prisoners shall be provided with the necessary facilities and equipment to guarantee personal hygiene.

2. Each institution shall provide periodic services of maintenance and cleaning of premises, clothing, personal equipment, and personal care items. Special attention shall be paid to prisoners with special health needs, as well as the hygiene of women and girls prisoners. Each institution shall provide hot water for the personal hygiene of prisoners.

3. Exceptionally, for special hygienic-sanitary reasons, the provision of personal hygiene and personal care may be exercised compulsorily by the staff of the penitentiary institution upon the request of the medical service and by order of the director of the institution.

4. Detailed rules for hygienic-sanitary standards in the penitentiary institutions shall be defined in the General Regulation of Prisons.

Article 36

Food

1. Prisoners shall be provided with healthy and adequate food, appropriate for their age, health status, and nature of work, climatic conditions, religious beliefs and special needs.

2. Juvenile prisoner shall be provided with food in accordance with his age, condition and special needs, in accordance with the provisions of the Juvenile Criminal Justice Code.
3. The prisoner who is employed in heavy work, with chronic diseases, pregnant prisoners and of female prisoners who has given birth shall be provided with food according to the doctor's recommendation.
4. The food provided by the institution must be varied, rich in nutritional values, altered at least once every two weeks and adapted to climatic conditions.
5. Food shall be prepared and given as a rule in designated premises for this purpose. With the authorization of the director of the institution, in special cases, prisoners can prepare and consume food individually.
6. Food may be accepted in the penitentiary institutions, which are provided by the prisoners at their own expense in whole or in part, respecting the requirements provided in the internal regulations of the institution.
7. Drinking water should be provided to prisoners on an ongoing basis.
8. The daily food norm shall be determined by a joint guideline of the Minister of Justice and the Minister responsible for health.

Article 37

Fresh air time

1. Prisoners who do not work outdoors and all other prisoners, during non-working days, shall be entitled to stay for fresh air in open space for at least 2 hours a day, except in the cases provided for in Article 17 of this law.
2. Exceptionally, for special reasons or extraordinary circumstances, this period of time may be reduced, but not less than 1 hour per day and only by reasoned order of the director of the institution.
3. Taking fresh air outdoors shall be done in groups, except for the cases provided in article 17 of this law and in letters "b", "c" and "ç" of paragraph 1 of article 68 of this law.
4. Juvenile prisoners have the right to stay in the air for at least 2 hours and at least 2 times a day, except for time for social-educational activities. Taking fresh air for this category shall be carried out separately from adults and in accordance with the provisions of the Criminal Justice for Children Code.

5. The penitentiary institution shall enable the appropriate infrastructure in cases when the atmospheric conditions are unfavourable for the prisoner to take fresh air.

PART THREE
ADMISSION AND TRAINING OF CONVEICTED PERSONS AND
DETAINEES IN THE INSTITUTION

CHAPTER I
ADMISSION

Article 38
Admission in the institution

1. A reception committee shall be set up in each institution to admit the newly arrived prisoners.
2. The reception committee shall inform the prisoner in a language he understands about his rights and obligations, his rights to legal counselling and legal aid guaranteed by the state, on the rules and procedures for filing claims and complaints, on the regulation of the institution. The / prisoner shall have the right to obtain the information in writing.
3. The reception committee consists of one representative of the legal sector, a representative of the social affairs sector, a representative of the health service and a representative of the security service.
4. Foreign prisoners, stateless persons or belonging to national minorities, shall be provided with the necessary information on their rights and obligations in the institution in verbal and written form in a language they understand.
5. Prisoners with speech and hearing disabilities shall be assisted by a sign language interpreter or communication facilitator.
6. Immediately after admission, the director of the institution shall create conditions for foreign prisoners to notify the family, the defense counsel, the legal guardian, the consular representative or the competent organization operating in the field of human rights protection.
7. Foreign nationals who do not have diplomatic or consular representation in the Republic of Albania, persons who enjoy refugee status or stateless persons shall be provided with the conditions of communication with

the diplomatic missions of the state that protects their interests or with national or international authority whose duty is to protect the interests of these persons.

8. Immediately after admission in the institution, the prisoner shall undergo an examination visit and a medical interview by the doctor of the institution for learning about the physical and psychological health condition, in order to prevent the spread of infectious diseases in the institution, suicides, registration of signs of physical injuries, which were caused outside the institution at the time of the inspection.

9. Admission in the penitentiary institution of juvenile prisoners shall be made in accordance with the rules of medical and psychological control provided in the Code of Criminal Justice for Juveniles.

10. Signs of physical damage, identified during the admission visit, must be recorded in a special register together with explanations about the circumstances caused. If there are data and facts that create a reasonable conviction that a criminal offense has been committed against him, the criminal proceeding bodies shall be notified in accordance with the provisions of the Code of Criminal Procedure.

11. The doctor, if he is required, must provide the newly arrived prisoner with a medical report explaining his health condition. A copy of this report becomes part of the medical file of the newly arrived prisoner and is made available to him.

12. At the moment of admission, an inventory of the personal belongings of the prisoner shall be kept. Items that cannot be carried by them shall be kept in the security box and the prisoner shall sign an inventory for them. The institution shall take the necessary measures to keep and store the items of the prisoners.

13. The Penitentiary institution shall evaluate the individual data of the prisoner on his personality based on the accompanying documentation, the explanations given by him, the data declared in the risk assessment form and the medical report prepared according to the provisions of this article.

14. Based on the data defined in point 13 of this article, the register of the reception committee shall be drafted and the individual treatment plan for the prisoner shall be prepared.

Article 39
Organization of the institutions for the prisoners

1. Special institutions and sections shall be organized according to the needs of individual or group treatment of prisoners.
2. Determination of the number of prisoners in institutions and sections, their settling and activation aims, as far as possible, to favor individualized treatment.
3. Prisoners may participate in special activities organized in the institutions or sections of a different category from those where they are assigned, except in cases provided for in Article 17 of this law, or when the prisoner serves his sentence at a high security institution.
4. The placement of a prisoner in a penitentiary institution shall be done taking into account the possibility that he will benefit from a differentiated treatment in the group, in accordance with his requests and engagement.
5. Prisoners, as a rule, shall be assigned to institutions near the residence of their families, according to the reference legal documentation.

CHAPTER II
DIRECTIONS AND FORMS OF TREATMENT

Article 40
Treatment

1. The social-educational treatment of the prisoner shall take place through individual activities and training activities. The treatment shall be carried out by the staff of the institution, which has the appropriate training in the relevant field and professional skills in cooperation with other employees of the institution.
2. Communication with family members and other persons outside the institution shall be encouraged and ensured in accordance with the individual treatment plan and treatment programs, rehabilitation and reintegration, except when special regime is applied under Article 17 of this law.
3. The treatment of the prisoner shall be done by providing the appropriate facilities and means in accordance with his personality and special needs.

Article 41

Health care services

1. Health care services shall be provided during the stay in the institution by the General Directorate of Prisons and are covered by compulsory health care insurance, despite the possible refusal of the prisoner to receive health care.
2. Prisoners shall be included in the category of economically inactive persons, within the meaning of the legislation in force, and shall benefit free of charge from all services provided by the health insurance scheme, according to this law.
3. The General Directorate of Prisons shall provide the conditions, means and personnel for the protection of the health of convicted persons. The organization and realization of health care is done by the administration of the institution in cooperation with the prison hospital center and with the relevant state health bodies.
4. The prisoner shall be subject to the same treatment and health care that is applicable to society in general.
5. The prisoner has the right to make medical visits by a doctor and / or to a health care institution within the country, provided that he covers his own medical expenses and any other expenses arising as a result of his choice of doctor. Exceptionally, prisoners in high security penitentiary institutions may benefit from medical visits by a doctor and / or in a health care institution chosen by them only after assessing the risk of the prisoner. The right to make medical visits by a physician and / or to a hospital selected by prisoners shall not apply to prisoners placed under special regime in the high security prison, as provided for in Article 17 of this law, except of cases when the required service is not provided by the health care service in the penitentiary institution and the prison hospital center.
6. Healthcare services shall provide:
 - a) prevention, diagnosis and treatment of diseases;
 - b) the supply of medicines and medical equipment in cases of health emergencies when they are not covered by compulsory health care insurance;
 - c) prophylaxis for diseases, taking special care of infectious and transmit table diseases;

ç) ensuring environmental hygiene and sanitary education of detainees and convicted persons.

7. Every institution has a health and pharmaceutical service that responds to the needs for the prevention and maintenance of the health of prisoners.

8. A prisoner suspected of or having an infectious disease shall be immediately isolated in special facilities and treated according to the same standards as persons of the same category outside the institution.

9. In the penitentiary institutions for women and girls, there are specialized services in the service of pregnant women and those with breastfeeding children.

10. Medical personnel shall visit every day the sick prisoner, who makes a written or verbal request to the health staff or security personnel in the regime, and periodically checks all other prisoners according to a schedule drawn up by the directorate of the institution.

11. The medical staff shall immediately identify and notify about the diseases that require specialized treatment.

12. For cases of infectious diseases or other diseases, the diagnosis and treatment of which cannot be provided in the conditions of the institution, the prisoner shall be transferred to the prison hospital center and, when necessary, transferred to the University Hospital Center Tirana or in regional hospital institutions under its subordination.

13. Diagnosis and treatment at the University Hospital Center and regional hospital institutions shall be made in accordance with the rules set by the joint guideline of the Minister of Justice and the Minister responsible for health.

14. In case of emergency, when the life of the prisoner is endangered, he shall be transferred for treatment to the prison hospital center or to the regional health care institutions.

15. The state structure responsible for health inspection, as well as any of its subordinate institutions, shall inspect, at least twice a year, the institution for the execution of criminal decisions, the hygienic-sanitary condition of the premises and the measures taken by the health service of the institution for prevention of infectious diseases.

16. Health experiments involving prisoners that may cause physical harm, mental disorder or other harm shall be prohibited.

17. The detailed rules on the manner of providing health care services

and the functioning of the health insurance scheme for prisoners shall be determined by a joint guideline of the Minister responsible for health and the Minister of Justice.

Article 42

Healthcare services for specific categories

1. The health care service in the penitentiary institution shall be guaranteed to every prisoner without discrimination on any ground provided by the legislation for protection against discrimination.
2. The treatment of persons with mental health disorders shall be ensured in accordance with the provisions of the legislation in force on mental health. The prisoner who is in the penitentiary institutions and who has mental health disorders enjoys the right to special health treatment at specialized health structures for the treatment of mental health diseases or in the prison hospital center, as appropriate.
3. The health treatment of prisoners includes a complete control to determine the needs of primary health care including, but not limited to:
 - a) sexually transmitted diseases;
 - b) congenital blood diseases;
 - c) mental health care;
 - d) posttraumatic disorders;
 - d) the risk of suicide or self-harm; dh) history of reproductive health;
 - e) the presence of drug addiction;
 - ë) sexual abuse and other forms of violence, which may have occurred before admission in the institution.
4. Juvenile prisoners shall be provided with medical care and treatment in accordance with the Criminal Justice for Children Code.
5. Women and juvenile prisoners shall be provided with specific programs and services in accordance with their age and gender. They shall be informed in a language they understand about health care, prevention of various diseases, personal hygiene, forms of violence and any kind of abuse. Women and minors who have experienced physical, psychological and sexual violence shall be subjected to health care programs for their treatment and rehabilitation.

6. In the case of women prisoners, the institution provides periodic check-ups by a gynecologist, psychiatrist and periodic check-ups to prevent and diagnose breast cancer and other diseases for women. The penitentiary institutions shall provide the necessary and special conditions for the care and treatment of pregnant women, before and after childbirth. The birth of a child takes place in a health institution outside the prison system. If a child is born while the mother is serving the sentence, this fact is not mentioned in the birth certificate.

7. Prisoners who show signs of drug use, psychotropic substances, and alcohol or show signs of stress shall be subject to the same health and social programs that are implemented outside the institution.

8. Persons carrying infectious diseases, including HIV, shall be treated in accordance with the standards applicable to these categories in hospital institutions.

9. Prisoners with chronic diseases or elderly shall receive health care services according to the standards that apply to these categories at specialized institutions outside the prison system.

10. The General Directorate of Prisons shall guarantee the provision of necessary health care services in the penitentiary institutions and, if the provision of these services is impossible to be performed in these institutions, the services shall be enabled in specialized health structures outside the prison system.

11. For the purposes of application of paragraph 2 of this article, the Ministry of Justice and the Ministry responsible for health shall sign joint cooperation agreements.

Article 43

Employment

1. A prisoner who is able to work has the right to perform a decent job and chosen by him. Forced labor or as a form of disciplinary punishment shall be prohibited.

2. Work performed by a prisoner shall be remunerated and included in work seniority for retirement purposes.

3. The employment of prisoners is intended to guarantee the acquisition, maintenance and development of work skills and professional knowledge, as well reintegration into society after the completion of the servicing of the sentence.

4. The general description of the work performed by the prisoner should be in accordance with his health condition, knowledge and skills for the job, vocational training, special personality characteristics, as well as his perspective of his reintegration into society.

5. The prisoner shall be employed by the administration of penitentiary institution or by private legal entities inside or outside the penitentiary institution. Employment out of the institution of the prisoner who is placed in high security institutions, shall be prohibited. An employment contract entered into with a prisoner must not indicate that he or she is serving a sentence.

6. The staff of the institution shall encourage and create conditions for the self-employment of the convicts.

7. Prisoners with disabilities may be employed by providing them a reasonable adjustment according to the type of work or by using the work for therapeutic purposes.

8. Employment outside the institution of prisons may be allowed by the General Director of Prisons upon the proposal of the director of the institution in cases when the security needs are not violated and the risk assessment of the convict allows that.

9. The detailed rules for the protection and security of prisoners, who are employed outside the penitentiary institution, shall be defined in the General Regulation of Prisons.

10. A juvenile prisoner may be employed only if such a thing facilitates his vocational education, his employment after release and does not impede his education. The employment of juveniles in light work is carried out in accordance with the rules set out in the Criminal Justice for Children Code.

11. Employment of detainees outside the institution may be allowed only by decision of the prosecutor. In any case, leaving the institution and performing the work shall always be carried out accompanied by the staff of the institution and guarded by the Prison Police.

12. The special rules for the employment of prisoners, the working conditions and its duration are determined by a decision of the Council of Ministers.

Article 44
Remuneration of work

1. A prisoner shall have the right to a monthly remuneration for his work. The remuneration for each category shall be set at a fair value in proportion to the amount and quality of work performed and the organization of work regulated by a decision of the Council of Ministers.
2. The prisoner shall have the right to freely dispose of forty percent of the income earned from work.

Article 45
Education

1. Education and cultural and professional training shall be done through the organization of educational programs, as well as professional courses, according to the legislation in force on the pre-university education system and the legislation in force for education and vocational training.
2. Prisoners who have not completed the nine-year education shall be provided with conditions for its completion through a special program, approved by the ministry responsible for education.
3. The prisoner has the right to continue secondary and higher education during his stay in the institution, according to the rules provided in the legislation on pre-university education and higher education and scientific research in higher education institutions.
4. As far as possible, the education of prisoners is integrated with the education system and the vocational training system to facilitate the continuation of vocational education and training without difficulty after the completion of the sentence. The education and vocational training of prisoners shall take place under the supervision of external educational and vocational training institutions.
5. The General Directorate of Prisons, as well as the penitentiary institutions, shall promote the benefit, recognition and certification of professional qualifications, as well as the performance and facilitation of attending vocational courses using part-time courses.
6. Special attention shall be paid to the cultural and professional training of prisoners under the age of 29.
7. Juvenile and young prisoners shall be provided with compulsory basic education and, where appropriate, secondary or higher education. The organization of educational and training programs for juvenile and

young prisoners shall be carried out in accordance with the Criminal Justice for Children Code.

8. Prisoners belonging to national minorities who do not understand or do not speak Albanian, foreign nationals or stateless persons who do not understand the Albanian language, shall be provided with written materials in their own language or in a language they better understand.

9. More detailed rules for the manner of development of vocational education and training shall be determined by a joint guideline of the Minister of Justice and the Minister responsible for vocational education and training.

Article 46

Cultural, recreational and sports activities

1. The organization of cultural, recreational and sports activities should aim at maintaining and developing the physical and mental abilities of prisoners.

2. For juvenile prisoners, a special program of involvement in cultural, creative and sports activities, shall be drafted in cooperation with the juvenile.

3. Prisoners with disabilities shall be provided with rehabilitation, recreational, cultural and sports training programs, which provide a reasonable adaptation.

4. The institution shall cooperate with other institutions, non-profit and religious organizations for the organization of cultural, creative and sports activities, inside and outside the institution.

Article 47

Environment and treatment conditions

1. In penitentiary institutions, depending on the needs of treatment, facilities, suitable and necessary conditions for the development of work, pre-university education and vocational education, leisure, cultural activities and any other joint or individual activities shall be provided.

2. A library with contemporary and periodical publications shall be established at each penitentiary institution. In juvenile institutions, publications and periodicals take into account the needs of juvenile prisoners.

Article 48
Family connections

1. Penitentiary institutions shall pay special attention to maintaining, improving or restoring the prisoner's connections with the family.
2. The prisoner has the right to immediately inform the family members on his admission to the institution or when he is transferred from it. Upon consent of the prisoner, communication can also be made by the staff of the institution.
3. Juvenile prisoners shall be guaranteed contact with family members and the social circle in accordance with the provisions of the Criminal Justice for Children Code.
4. The institution shall immediately notify the family members in the event of death, serious physical or mental illness, serious injury of convict/ prisoner or his transfer to the prison hospital center.
5. The institution shall immediately notify the prisoner when he is informed of the death or serious illness of his family members.
6. Penitentiary institutions shall designs an individualized program to favor the connections of the prisoner with the family members depending on the needs of juvenile prisoner and female prisoners with juvenile children.

Article 49
Meetings, visits, correspondence and information

1. A prisoner shall have the right to visit at least four times a month with family members lasting at least 1 (one) hour. When the organization of the institution allows, the prisoner may be authorized to stay with family members beyond the prescribed time limit. The visits shall take place in special facilities under the supervision of the staff of the institution, not of hearing, according to the rules provided in the general regulation of prisons.

In the case of detainees, the prior written consent of the prosecutor shall be obtained.

2. Special rules apply to visits made to women prisoners by their children and more frequent visits shall be enabled.
3. Prisoners shall be entitled to communicate with the media, unless there are reasonable reasons to justify not allowing these contacts related

to: maintaining security within the Penitentiary institution, with the integrity of victims, other prisoners or staff of the institution.

4. The General Director of Prisons, based on the motivated request, authorizes the entry of the media in the premises of the penitentiary institution. During the review of the request for authorization, all security aspects provided for in point 3 of this article shall be taken into account. In the case of detainees, the prior written consent of the prosecutor shall be obtained.

5. The penitentiary institution shall enable confidential meetings of prisoners with persons provided for in Article 51 of this law: members of the Committee for the Execution of Criminal Decisions, commissioners established by special law, representatives of the Directorate of Legal Aid guaranteed by the state, representatives of international organizations, representatives of non-profit organizations, either domestic or foreign, acting in the field of human rights, children's rights, women, youth, with whom the General Directorate of Prisons has signed agreements cooperation.

6. In the case of juvenile prisoners, telephone correspondence and meetings with family members shall be carried out in accordance with the rules provided for in the Criminal Justice for Children Code.

7. The staff of the institution shall make available to the prisoner the necessary means for the realization of the correspondence. For prisoners who do not have the financial means, the staff of the institution shall provide credited simcard or provides online meetings from the institution.

8. The institution shall ensure the creation of appropriate environments for the stay of the convicts with the family members. This right shall be enabled without discrimination on the basis of gender and security of the institution, with the exception of the restrictions provided in Article 17 of this law.

9. Prisoners shall be allowed to have telephone conversations with family members, relatives and in special cases with third parties. Telephone conversations take place under the visual supervision of the institution's staff. The director of the institution, by decision of the prosecutor or the court, shall restrict the right of the detainee or convict to telephone conversations.

10. Prisoners are allowed to keep newspapers, magazines and books that are for free sale and to use other means of information.

11. The control of the correspondence of the convict/prisoner shall be made in accordance with the provisions of the Code of Criminal Procedure.

12. Control of correspondence with the People's Advocate, defense councils and competent international organisms competent in the field of human rights shall not be permitted.

13. Exceptionally, for the prisoner to whom the special regime is applied, the rights provided for in this Article shall apply to the extent that they do not conflict with the requirements of Article 17 of this Law.

14. Detailed rules on performing visits, meetings and holding correspondence shall be set out in the general regulation of prisons.

Article 50

The right to faith and the practice of religious rites

1. Prisoners shall have the right to faith and practice rites. The institution shall provide special facilities to allow the practice of religion and the pursuit of religious belief by prisoners.

2. Convicts shall have the right to meet with representatives of religious communities designated in agreement between the General Directorate of Prisons and legally recognized religious communities and keep books relating to religion or faith.

Article 51

Entry into the institution

1. Penitentiary institutions may be visited without authorization by: the President of the Republic, the President of the Assembly, the Prime Minister, the President of the Constitutional Court, the Deputy Speaker of the Assembly, the Deputy Prime Minister, the Minister of Justice, the President of the High Court, the Prosecutor General, the Head of the Special Prosecution Office, MPs, the Deputy Minister of Justice, the People's Advocate, his commissioners and assistant commissioners, the Commissioner for Protection against Discrimination, the General Director of Prisons and his deputies, the Director of the Prisons Police, the Director and the Inspectors of Internal Prison Control, members of the commission for the execution of criminal decisions, judges and prosecutors in the exercise of their duties, defense counsels of prisoners, as well as delegated judicial police officers.

2. Persons accompanying the subjects mentioned in paragraph 1 of this article, shall not be provided with authorization in case of visits to the

Penitentiary institutions, but in any case they cannot be more than two.

3. Defense counsels of prisoners may be accompanied only by lawyer candidates who perform the internship with them, according to the provisions of the legislation in force for the profession of lawyer in the Republic of Albania.

4. Representatives of international institutions shall have the right to enter the penitentiary institutions, within the commitments undertaken by the Republic of Albania, during the monitoring visits.

5. Persons authorized in the inspection order issued by the Minister of Justice, shall enjoy the right to enter the penitentiary institutions.

6. Other persons, which are not foreseen in paragraph 1 and 2 of this article, can enter the institution only upon the authorization of the director of the institution.

7. Persons provided for in paragraph 5 of this article, shall have the right to complain to the General Director of Prisons in case of refusal without reasonable cause of authorization by the director of the institution.

8. The rules provided for in this Article shall also apply to representatives of religious communities.

PART FOUR

INSTITUTION REGIME

CHAPTER I

RULES OF CONDUCT, INDEMNITY AND DISCIPLINARY LIABILITY

Article 52

Behavioral norms in the institution

1. The General Regulation of Prisons and the internal regulation of the penitentiary institution shall define rules for the treatment, regime and behavior of prisoners in the institution, in accordance with the provisions of this law, and with the aim of rehabilitation and reintegration of prisoners.

2. The staff of the institution from the moment of admission to the institution, shall inform the prisoner with his rights and duties, the rules of treatment and discipline and the regulation of the penitentiary

institution. During the stay in the institution, the prisoner is obliged to respect the rules provided in the internal regulations of the institution.

3. No prisoner may be assigned duties in the services of the services of the penitentiary institution which give him a more favourable position compared to other prisoners.

Article 53 **Liability for damages**

1. The prisoner must take care of the items made available to him, as well as avoid any damage to the items of others.

2. A prisoner who causes material damage to the staff of the institution or other persons, is obliged to compensate the damage caused.

3. Detailed rules on the manner and criteria of compensation for damage shall be set out in the General Prisons' Regulation.

Article 54 **Personal search of the prisoner**

1. A prisoner shall be subjected to personal search in any case of entry or exit from the penitentiary institution and in cases where there are reasonable suspicions that he carries prohibited items.

2. The personal search of the prisoner must be in proportion to the need that dictates its performance and is done by respecting his dignity, trust and other characteristics.

3. Searches may be exercised only by persons of the same gender with the convict, in the presence of not less than two employees, in order to avoid the possibility of visual contact by personnel of the opposite sex.

4. The search of women and girls prisoners shall be carried out only by the staff of the same sex, trained with appropriate search methods, in accordance with the procedures set out in the general prisons regulation.

5. The search of juvenile prisoner shall be carried out in accordance with the rules provided in the Criminal Code of Juvenile Justice.

6. In any case, the intimate search of the prisoner by the employee of the Prison Police shall be prohibited. Intimate search shall only be performed by the doctor of the institution, with the authorization of the director of the institution only when there is a reasonable suspicion that the person being checked may have hidden prohibited items. Intimate search shall

be made in accordance with the rules and according to the procedure provided in the general regulation of prisons.

Article 55

Search of room premises

The search of the premises and rooms where the prisoners stay shall be performed by the specialized staff in the presence of the prisoner, except when his presence poses a risk to the physical safety of the employees of the General Directorate of Prisons.

Article 56

Personal search of visitors and staff

Personal search shall be applied to subjects that have the status of visitors and to the staff of the penitentiary institution, according to the rules and procedures provided in the General Regulation of Prisons.

Article 57

Escorting of the prisoner

1. The movements of prisoners outside the institution are made as far as possible within a short time and in any case escorted by the staff of the Prison Police, according to the rules set out in the General Regulation of Prisons.
2. The escort of women and juvenile prisoners shall be carried out by the staff of the same sex, while the escort of sick prisoners shall be carried out in the presence of the medical staff.
3. Proper care shall be taken during the movement to expose the prisoner as little as possible to the public, taking appropriate protective measures to ensure the protection of his identity and conditions, which do not infringe his dignity or worsen his physical condition.
4. The use of handcuffs or other coercive devices shall be mandatory in group movements. The means of coercion used during the movement of prisoners must be in proportion to the level of danger and the purpose for which they are used.

Article 58

Requests and complaint

1. A prisoner shall be entitled to address a request or complaint to the staff of the institution, the General Directorate of Prisons, the Minister

of Justice, the Ombudsman, international organizations, non-profit organizations, either domestic or foreign, the prosecutor or the court of the place of execution of the criminal decision, as well as persons who according to article 51 of this law have the right to visit the institution.

2. The request shall be submitted in writing or, exceptionally, verbally. The complaint submitted verbally and addressed to the staff of the institution, if requested by the prisoner, shall be recorded in minutes.

3. The prisoner shall be informed of the possibility of meetings with the director of the institution or the personnel responsible for matters of his interest or which constitute a concern.

4. The staff of the institution shall help the prisoner to maintain contact with the outside world and shall make available to him the necessary means for the preparation of the request or complaint.

5. Authorized personnel shall organize periodic meetings with prisoners, in order to create opportunities for the submission of requests or complaints. The rules and procedures on frequency, timing of meetings and the way they are conducted shall be determined by order of the General Director of Prisons.

6. The request or complaint, after being registered in a special register, shall be submitted to the director of the institution, who shall assign the relevant employee for its handling and responding to the prisoner.

7. Based on the complaint submitted by the prisoner, the head of the institution may request the initiation of an inspection procedure or file a criminal report when he finds that there are elements of a criminal offense.

8. Each institution shall maintain and update a register of requests or complaints of prisoners in written and electronic form. The format and content of the register, as well as the procedure for providing a response shall be defined in the general Prisons' regulation.

Article 59

Deadlines for reviewing a complaint and are quest

1. The competent bodies, shall according to this law, review the complaint and the request as soon as possible, but not later than 14 days from the submission, except when this law provides for special deadlines for their review.

2. Against the decision given according to paragraph 1 of this article, or

in the case when the competent bodies do not express themselves with a decision, the prisoner shall be entitled to make an administrative complaint to the General Directorate of Prisons within 30 days from receiving the notification. Against the decision of the General Directorate of Prisons, the prisoner has the right to address the competent court according to the provisions of article 80 of this law.

3. The prisoner has the right to submit requests and complaints to the Commission for the Execution of Criminal Decisions. The rules, procedures and deadlines for reviewing requests and complaints by the Commission for the Execution of Criminal Decisions shall be determined in accordance with the legislation in force on the execution of criminal decisions.

Article 60

Rules of Discipline

1. Rules of Discipline shall apply in a way to stimulate the prisoner's sense of responsibility and self-control. They are designed to suit his gender, age, physical, mental and psychological condition.

2. For juvenile prisoners, prisoners diagnosed with mental health disorders, prisoners who have had experienced physical, psychological or sexual abuse, a mitigating disciplinary regime shall be applied in accordance with their needs.

3. The rules of the mitigating disciplinary regime and the procedures for its implementation shall be defined in the General Regulation of Prisons.

Article 61

Rules of application of disciplinary measures

1. Disciplinary measures should be the final form of behavior correction. In cases where it is possible, the staff of the institution shall use mediation to resolve conflicts between convicts themselves, or the prisoners and the staff of the institution.

2. Disciplinary measures may not be imposed on prisoners for a fact that is not expressly provided for as a violation of this law.

3. The disciplinary measure may be given only after the prisoner's right to be heard has been respected and after verification of the claims submitted by him.

4. Disciplinary measures shall be determined in accordance with the type

and importance of the violation, the attitude of the prisoner towards it, his age, personality, as well as the physical or psychological condition of the convict/prisoner.

5. In the case of juvenile prisoners, the types of disciplinary measures and the limits of their application shall be given in accordance with the provisions of the Criminal Justice for Children Code.

6. Disciplinary measures shall be applied in such a way as to promote a sense of responsibility and the ability of the prisoner to exercise self- control.

7. Collective punishments, corporal punishment, punishment by placing in dark rooms and other forms of degrading or degrading punishment shall be prohibited.

Article 62

Classification of disciplinary violations

1. Disciplinary violations are classified into:

- a) minor violations;
- b) serious violations;
- c) very serious violations.

2. Minor disciplinary violations are:

- a) negligence in performing personal cleaning of the room or common areas;
- b) disease simulation.

3. Serious disciplinary violations are:

- a) the use of inappropriate and insulting words towards other convict/prisoners or the staff of the institution;
- b) performing actions or acts for profit purpose;
- c) failure to implement the orders of the personnel of the institution or unjustified delay in their implementation

4. Very serious disciplinary violations are:

- a) organization, participation and promotion of activities that violate security measures in the penitentiary institution;

- b) violent opposition of the employees of penitentiary institution;
 - c) exercising physical or mental violence against other prisoners;
 - ç) preparation and attempt to leave the penitentiary institution or during the escort of the convicts/prisoner;
 - d) misappropriation or intentional damage to the property of the penitentiary institution or of other prisoners;
 - dh) verbal violence or aggressive behaviour towards other prisoners;
 - e) carrying, use and circulation of prohibited items, when it is not a criminal offense;
 - ë) use of narcotics and alcoholic beverages;
 - f) violation of the deadline for returning to the penitentiary institution after the permit, without proven objective reasons.
5. Disciplinary proceedings may not be instituted against prisoners in cases where their conduct, actions or omissions do not constitute disciplinary violations.

Article 63

Preventive measures

1. The director of the penitentiary institution may order the separation of the prisoner only for very serious disciplinary violations, according to the provisions of Article 62 of this law, placing him in the desegregation facilities until the meeting of the disciplinary committee. These facilities must comply with the minimum standards applicable to the stay of prisoners.
2. The preventive measure aims to guarantee security in the penitentiary institution and the prevention of injuries or consequences that may come from the behavior or actions of the prisoner.
3. Preventive measures shall be imposed without discrimination and must be proportionate to the situation and the level of risk.

Article 64

Disciplinary measures

1. The following measures shall apply to disciplinary violations:
 - a) individual counseling;

- b) exclusion from joint activities for up to 10 days;
- c) exclusion from group taking of fresh air for up to 10 days; ç) exemption from joint activities for up to 14 days.
2. Punishment of prisoners twice for the same violation for which the competent disciplinary body has previously issued a decision shall be prohibited.
3. A prisoner against whom a disciplinary measure has been imposed, in accordance with letters “b” and “ç” of point 1 of this article, shall be placed in disaggregation rooms, which shall comply with the minimum standards applicable to the saying of convicts, until the end of the disciplinary measure duration.
4. The measures provided for in letters “b”, “c” and “ç” of paragraph 1 shall be granted for up to half of the time foreseen, in the cases of women convicts/prisoners. Only the disciplinary measure provided in letter “a” of paragraph 1 of this article shall be applied to female prisoners who are pregnant or who have a child under care in the institution.
5. Disciplinary measures, provided for in letters “b” and “ç” of paragraph 1 of this article, may be not imposed on prisoners with different physical abilities or mental health disorders if they affect the deterioration of their condition, based on the medical report drafted in accordance with Article 65, paragraph 4, of this law.
6. Disciplinary measures of exclusion from joint activities, provided in letters “b” and “ç” of paragraph 1 of this article, cannot be implemented without having a preliminary report issued by the doctor, which confirms the physical and mental condition of the prisoners.
7. The implementation of the disciplinary measure of exclusion from joint activities is subject to daily medical control. When applying this disciplinary measure, contact with family members should be guaranteed at least once and at least one hour of fresh air each day if atmospheric conditions allow.
8. Disciplinary measures, types and limits of their application to juvenile convicts/prisoners shall be provided for in the Criminal Justice for Children Code. The special rules for their implementation shall be provided in the General Regulation of Prisons.
9. Disciplinary measures shall be administered in the personal file of the convict.

Article 65
Competent body for imposing disciplinary measures

1. The disciplinary measure of individual counselling shall be given by the director of the institution.
2. The disciplinary measures provided by letters “b”, “c”, “d” of article 64 of this law shall be decided by the disciplinary committee. The disciplinary committee consists of 5 members as follows:
 - a) the director of the institution, in the capacity of the chairman;
 - b) the head of the legal sector;
 - c) the head of the security sector;
 - ç) the head of the social care sector; and
 - d) the specialist of the social care sector who treats the convict.
3. The disciplinary committee shall be established and operate based on the order of the director of the institution, who convenes the disciplinary committee no later than 48 hours from the moment of finding the violation.
4. Before the commencement of the disciplinary review, the doctor shall prepare a medical report stating the health condition of the prisoner against whom the disciplinary procedure has been initiated. The report shall be made available to the disciplinary committee and shall be reviewed by him for the purpose of determining the disciplinary measure. The medical doctor shall participate in the meetings of the disciplinary committee without the right to vote and has the right to give explanations if this is required by the disciplinary committee.

Article 66
Procedure for issuing disciplinary measures

1. The disciplinary committee shall take a decision on imposing of a disciplinary measure after having previously heard the prisoner against whom the disciplinary proceedings has been initiated.
2. The institution shall take measures to notify the commencement of disciplinary proceedings. The notification of the interested person or his refusal to appear before the disciplinary committee shall be confirmed against the signature of the interested party and, in cases of his objection, by the signature of two other persons from the staff of the institution, who are not involved in the event which served as the cause for initiating disciplinary proceedings.

3. A prisoner against whom disciplinary proceedings have been instituted shall be entitled to:

a) be informed immediately in a clear and understandable language to him on the facts, violations and disciplinary measures that may be imposed;

b) be heard and given sufficient time and facilities to file claims and evidence in his defense;

c) be assisted by a defense counsel when he so requests; ç) request the summoning and hearing of witnesses; and

d) receive free assistance of a translator when he does not understand or speak the Albanian language.

4. A prisoner with a speech and hearing disability shall be assisted by a sign language interpreter or communication facilitator.

5. The procedure for imposing disciplinary measures on a juvenile prisoners shall be carried out in accordance with the Criminal Justice for Children Code. Special rules regarding disciplinary measures for juveniles and relevant authorities shall be defined in the General Regulation of Prisons

6. A reasoned decision of the disciplinary committee on adopting a disciplinary measure shall be taken within 20 days from the finding of the violation and shall be notified to the prisoner.

Article 67

Appeal of disciplinary measures

1. A prisoner shall be entitled to appeal a disciplinary measure before the Disciplinary Measures Appeals Committee at the General Directorate of Prisons, within 15 days from the written notification of the decision to impose a disciplinary measure.

2. The Appeals Committee shall decides to uphold, repeal or remand the decision for of the disciplinary committee within 14 days of receiving the appeal. The Appeals Committee shall notify the prisoner on its decision in writing.

3. Against the decision of the appeals committee, the prisoner has the right to appeal to the competent court within 15 days from the written notification of the decision.

4. The disciplinary measure shall begin its effect from the moment the Disciplinary Committee takes a decision. The disciplinary measures, provided for in letters “b” and “ψ” of point 1 of article 64 of this law, start the effects from the moment of implementation.

5. Disciplinary measures shall be recorded in the register of disciplinary measures, in the psychosocial file and in the personal file of the prisoner immediately after the decision is issued by the disciplinary committee. In the case when the appeal committee or the court by a final decision has decided to accept the appeal of the prisoner and to repeal the disciplinary measure, the disciplinary measure shall be considered as not given and this fact is reflected in the register of disciplinary measures, in the psychosocial file and in the personal file of the prisoner.

6. Disciplinary measures shall be considered as not given in case of non-repetition and when from the date of their issuance the following periods have passed:

a) 6 months for the disciplinary measure provided in letter “a” of paragraph 1 of article 64 of this law;

b) 1 year for the disciplinary measures provided in letters “b”, “c”, and “ç” of paragraph 1 of Article 64 of this law.

7. Detailed rules for the composition, organization and functioning of the appeals committee shall be defined in the General Regulation of Prisons.

Article 68 **Special supervision regime**

1. A prisoner may be placed under special supervision for a period not exceeding 3 months when:

a) he endangers the safety of the staff of the institution, visitors, or when there is a risk that he harms himself or others;

b) there is a risk that he obstructs the activity of other prisoners through violence or threats;

c) there is a risk that he forces other prisoners to submit to him or takes advantage of them;

ç) he prevents other prisoners from regularly applying the rules individually or in groups or promotes their violation.

2. The placement of the prisoner under the special supervision regime shall be made by means of a reasoned decision of the director of the

institution after receiving the evaluation report from the Committee for Assessment of the Risk of Convicts. The decision shall be immediately notified to the prosecutor, the General Director of Prisons, the prisoner and his defense counsel.

3. After taking the decision according to paragraph 2 of this article, the director of the institution shall order the transfer of the prisoner to the special supervision regime. The prisoner shall have the right to appeal the order of the director of the institution to the competent court within 10 days from the notification of the order.

4. The special supervision regime shall be applied in the internal premises of the institution where the prisoner is located.

5. Placement in special supervision regime of juvenile and women prisoners shall be prohibited.

Article 69

Organization of special supervision regime

1. The special supervision regime may limit, as far as necessary, and in fulfilment of a lawful purpose, certain rights provided for in this law only for the purpose of:

- a) maintaining order and security in the penitentiary institution;
- b) the exercise of the rights of other prisoners.

2. Restrictions applied during the special supervision regime may not prejudice the provisions of this law with regard to hygiene, health care, clothing, food, storage, purchase and receipt of food or other facilities provided for by the institution's regulations; access to library service, freedom of expression and belief, use of permitted personal items, fresh air, meetings with defense counsel, meetings with family members and relatives.

Article 70

Use of physical force and coercive means

1. The use of physical force against a prisoner is not allowed, unless it is necessary for self-defense, to stop violent acts, physical attack on another prisoner, attempts to leave the institution, self-harm, or in case of active or passive resistance to a lawful order. Force is used as a last resort and should not have a punitive character.

2. The amount of force used must be at the minimum possible and used

in the shortest possible time.

3. The prisoner, after the use of force, must undergo examination and medical treatment. In all cases of use of force, the employee of the institution, who for any reason has used physical force against the prisoner, must immediately notify in writing the director of the institution through a report, which gives the reasons, facts and circumstances that have dictated the need to use force, to what extent and by what means the force has been exercised, as well as whether or not it has caused physical injury to the prisoner or to the prison staff.

4. Means of physical coercion may be used to avoid attempts to leave the institution, violence against the staff of the institution, of other prisoners, damage to objects, as well as to guarantee the health of the prisoner himself. The use of means of physical coercion as a means of punishment shall be prohibited.

5. The staff, who deals directly with prisoners, shall be trained in advance before taking over the assignment on techniques that enable the minimum use of force.

6. The use of means of physical coercion shall be carried out in an escalating manner, in proportion to the situation and the level of risk and must be limited in time. The use of means of physical coercion, for a period longer than 48 hours, shall be made with the approval of the prosecutor.

7. During physical coercion, the prisoner must be under the constant control of the health service.

8. In the case of convicted juveniles, the force and means of physical coercion shall be used only in accordance with the exceptional cases and limits set out in the Criminal Justice for Children Code. Force and other means of coercion may not be used in any case for the pregnant juvenile, unless she intends to self-harm.

Article 71

Types and nature of force and means of coercion

1. The use of means of force and those of coercion, which are considered weapons, or narcotics in the sense of the Criminal Code shall be prohibited.

2. In any case, the use of force for purposes of torture, inhuman or degrading treatment or punishment shall be prohibited. The use of means of coercion should not exceed the restrictions set out in the

European Convention on Human Rights.

3. Service employees within the institution must not carry weapons, except in cases provided for in the legislation in force on the Prison Police.

4. Detailed rules on the types, ways, nature, techniques of use of force and means of coercion, as well as the rules and measures of their use with preventive function and in accordance with the individuality of the prisoners shall be defined in the General Regulation of Prisons.

CHAPTER II LEAVES, BONUSSES AND CHANGE OF CIVIL STATUS

Article 72 **Bonus leave**

1. Convicted persons who respect the rules of discipline, the internal regulations of the institution, are motivated to participate in rehabilitation and reintegration programs, and do not pose a social danger, shall be entitled to obtain bonus leave, but no more than 20 days a year. For juvenile convicts, the duration of the total bonus leave shall be determined in accordance with the Criminal Juvenile for Children Code.

2. Bonus leave shall be granted in case of fulfilment of the following conditions:

- a) convicted persons up to 3 years in prison, after having served not less than 1/4 of the sentence;
- b) convicted persons from 3 to 10 years of imprisonment, after having served not less than 1/2 of the sentence;
- c) convicted persons over 10 years of imprisonment, after having left to serve less than 5 years of imprisonment.

3. The bonus leave in the high security institutions shall be given only by order of the Minister of Justice, or, upon his authorization, by the General Director of Prisons.

4. The bonus leave in ordinary and low security institutions shall be given by order of the director of the institution.

5. Within 7 days from the receipt of the request for leave, the responsible body shall decide on whether to approve or reject the request, based on the annual planning and evaluation reports for the fulfilment of the

conditions provided for in paragraphs 1 and 2 of this article.

6. Against the decision to refuse the bonus leave, the convict in the ordinary or low security institutions or his legal representative may file an appeal within 5 days to the Minister of Justice, according to the rules provided in the Code of Administrative Procedures. An appeal may be lodged with the competent court against the decision of the Minister of Justice. Against the decision to refuse the bonus leave, the convict in the high security institutions or his legal representative may file an appeal to the competent court within 5 days from receiving notification.

7. Procedures on authorizing of bonus leave shall be determined by guideline of the Minister of Justice.

Article 73 **Special leave**

1. The prisoner shall be entitled to obtain special leave in case of serious illness, which endangers the lives of his family members, certified by a medical report, or of important family events, such as death, birth or marriage, as well as in cases the convict undergoes an exams himself. This period shall be included in the time of serving the sentence.

2. The special leave for the convict shall be given by the director of the institution, while for the detainee it shall be given by the director of the institution, upon prior consent of the prosecutor.

3. Special leave shall be granted for a duration of up to 48 hours. The special leave may be extended at the request of the prisoner for another 24 hours only for cases of serious illnesses, which are confirmed by the relevant documentation. The extension of the leave shall be approved in accordance with paragraph 2 of this article.

4. Against the decision of the director of the institution for the refusal of the special leave, an appeal can be made to the competent court within 5 days from receiving the notification on the refusal decision.

5. The decision for granting the special permit shall be immediately notified to the structures of the State Police, of the jurisdiction of the place where the prisoner will stay.

6. The rules and procedures for reviewing the application for a special leave and the accompanying documentation shall be defined in the General Regulation of Prisons.

Article 74

Obligations during the leave and liability for violations

1. The prisoner shall be obliged to respect the duration of the leave, spend it at the obligatory place of staying, to respect the established obligations and restrictions and to notify the institution of any imposed deviation.
2. In case of non-compliance with the rules set out in paragraph 1 of this article, the director of the penitentiary institution shall decide to terminate the leave and submits a criminal report when he finds that there are elements of the criminal offense of the leaving of the prisoner away from the place of staying, according to the provisions of the Criminal Code.

Article 75

Reduction of the sentence

1. The convicted person who applies the internal rules of the penitentiary institution and has a good behavior by showing active and positive participation in rehabilitation and reintegration activities while serving his sentence, based on the evaluation report, prepared by the institution, can benefit from a reduction of the sentence up to 90 days in each year of serving the sentence. In the high security penitentiary institutions the reduction of the sentence shall be made for up to 45 days a year.
2. The reduction of the sentence for the convicts who meet the criteria of this article, shall start not earlier than 12 months from the beginning of the serving of the imprisonment sentence, pursuant to the final criminal court decision.
3. A sentence reduction may not be granted before at least 12 months from the reduction benefited has passed.
4. For giving this special bonus, the attitude of the convicted person from the previous reduction or during the last 12 months shall be evaluated.
5. Reduction of the sentence shall be done by a court decision, based on the request of the convicted person, or his representative, or the director of the institution.
6. Detailed rules on the criteria, procedure and format of the evaluation report, according to paragraph 1 of this article, shall be determined by order of the Minister of Justice, on the proposal of the General Director of Prisons.

Article 76

Changes in the civil status

1. The penitentiary institution shall record in a special register the facts of births, marriages or deaths that occurred in the institution.
2. The director of the institution shall immediately inform the competent bodies to make the relevant notes in the national civil registry, according to the legislation in force on civil status.
3. In case of death of a the prisoner, the institution shall take measures to carry out legal procedures related to the verification of the case, the cause of death, the performance of procedural investigative actions, as well as other actions to clarify and document the fact of death.
4. The director of the institution shall immediately inform the prosecution office, the court, family members and the General Directorate of Prisons about the death of the prisoner.
5. The personal belongings and the monetary means of the prisoner shall be handed over to the family members according to the respective procedures and documentation.
6. In case the prisoner is not taken by his family members or relatives, the staff of the institution shall take care of his burial in the public cemetery, covering the necessary costs and making the appropriate note in the basic [civil] register. The Ministry responsible for Foreign Affairs shall be notified on the death of a foreign national or a stateless person and of his or her placement in a public cemetery.
7. The Ministry of Justice, the Ministry responsible for civil status and the Ministry responsible for foreign affairs shall sign cooperation agreements for the implementation of this article

Article 77

Prisoners' monetary means

1. A prisoner may not hold monetary means during his stay in the penitentiary institution.
2. If the prisoner at the time of arrival at the institution possesses monetary means, they shall be placed in a bank account opened on his name, unless he decides otherwise.
3. The detailed rules for the amounts of monetary means which the prisoner freely disposes and the amount he deposits in the savings account shall be defined in the General Prisons Regulation.

CHAPTER III
TRANSFERS AND RELEASE

Article 78
Transfer rules

1. The transfer of a prisoner is done for the following reasons:
 - a) when order and security in the institution are violated;
 - b) when the life or health of the prisoner is endangered by others;
 - c) when there is overcrowding in the institution; ç) for the needs of investigation and trial;
 - d) for health and family reasons;
 - dh) due to the implementation of the vocational training program;
 - e) pursuant to the order of execution of the prosecution office for final court decisions.
2. The transfer of a prisoner is made by order of the General Director General of Prisons, based on the request of the prisoner or members of his family, the prosecutor of the case or the director of the institution.
3. In case of refusal of the transfer request, the prisoner shall be notified in writing. Against the decision of refusal, the prisoner shall have the right to file an appeal to the Minister of Justice within 15 days from receiving information.
4. Transfers create, as far as possible, the possibility for prisoners to serve their sentences as close as possible to the residence of their family members.
5. The transfer of a foreign prisoner shall take into account, as far as possible, family, linguistic, cultural, social and economic relations and the conditions of prisons in the State where he will serve his sentence, before a final decision is made, with the view facilitating his reintegration and respect for his rights.
6. The prisoner shall, before the transfer, undergo a personal search and a check by the medical doctor, who verifies his physical and psychological condition.
7. The relevant procedural body, the prosecution and / or the court shall be notified of the transfer of detainees.

8. A juvenile prisoner may be transferred to another juvenile institution if such a measure is necessary for his safety or for the safety of other juveniles. The transfer of the juvenile prisoner shall be immediately notified to the parent or legal guardian. In the case of a juvenile convict who reaches adulthood two months before his or her release, the competent authorities must consider, on a case-by-case basis, his non-transfer to the penitentiary institution for adults.
9. The prisoner shall be transferred together with his personal belongings, personal file and psychosocial file.
10. The rules and procedures for submitting the request for transfer, the procedure for its review and the execution of the transfer shall be determined in the general regulation of prisons.

Article 79 **Release**

1. The release of a convict shall be made when the execution of the sentence decision is completed or, according to the law, by a decision of the competent body. The staff of the institution performs the actions based on the written order of the director of the institution.
2. The released persons who do not have sufficient financial means, shall, by order of the director of the institution, be provided with the necessary assistance for covering the transport costs to their place of residence at the amount and according to the criteria defined in the General regulation of prisons.
3. In order to support the process of reintegration of the released person in cases when it turns out that he will face difficulties after leaving the institution, the relevant local self-government unit of his residence shall be notified to enable further assistance.
4. For a juvenile convict, the prior notification of his parents or legal guardian is mandatory. Support after the release of juveniles, in order to reintegrate them into society, shall be made according to the provisions of the Juvenile Criminal Justice Code.
5. For women convicts woman, before being released from the penitentiary institution, a rehabilitation plan shall be determined according to their specific needs, which is followed-up by the responsible local structure of the social service at the dwelling or residence of the convict.
6. The court that issued the decision, the prosecutor who ordered the

execution of the decision, the ministry responsible for public order and security and the State Police shall be immediately notified of the release of the convict and in special cases in advance. Concerning foreign citizens, the Ministry responsible for Foreign Affairs shall be notified through the Ministry of Justice.

7. The penitentiary institution shall provide the released person with a certificate in which the duration of the sentence, the reductions and benefits due to the law shall be specified, as well as the duration of the type of work performed in the institution.

8. Upon the request of the released person, the institution may issue a certificate with data on the professional training acquired during the serving of the sentence, as well as on his stay and behaviour within the institution.

PART FIVE REVIEW OF APPEALS AND ROLE OF THE PEOPLE'S AVOCATE

Article 80 Competent court

An appeal may be lodged against the decision of the penitentiary institution or of the Director General of Prisons before the court of the place of execution of the criminal decision, in accordance with the provisions of the Code of Criminal Procedure.

Article 81 National Mechanism for the Prevention of Torture, Cruel, Inhuman or Degrading Treatment or Punishment and its Competencies

1. The National Mechanism for the Prevention of Torture, cruel, inhuman or degrading Treatment or Punishment, hereinafter referred to as the National Mechanism, established in accordance with the legislation on the Ombudsman, shall oversee the implementation of this law on the protection of prisoners' rights.

2. In order to implement this law, the national mechanism exercises the following competencies:

a) regularly monitors the treatment of individuals deprived of their liberty in custody and detention facilities, and penitentiary institutions, in order to strengthen, when necessary, the protection

of individuals from torture, cruel, inhuman or degrading treatment or punishment;

b) make recommendations to the relevant authorities in order to improve the treatment and conditions of individuals deprived of their liberty and to prevent torture, cruel, inhuman or degrading treatment or punishment.

Article 82

Guarantees in the activities of the national mechanism

The following shall be guaranteed to the national mechanism during the exercise of its duty:

a) obtaining of any information on the number of individuals deprived of their liberty in the places of deprivation of liberty, as well as the number of places and location;

b) obtaining all information on the treatment of these individuals, as well as conditions of detention;

c) access to all documentation kept and administered by the institution in line with the functions performed by it, according to the legislation in force;

ç) free access to all places and premises of where the freedom of the individual is deprived, without prior notice. In order to realize this right, the national mechanism may use such devices as: camera, equipment for measuring ambient temperature and humidity, for measuring internal space volume and surfaces of living rooms, specific appliances for recording complaints;

d) conducting private interviews, without witnesses, with individuals who have been deprived of their liberty, in person or with an interpreter when necessary, as well as with any other individual who may provide the necessary information;

dh) free choice of places it seeks to visit and of individuals it seeks to interview.

Article 83

Forms of supervision

1. Supervision of the national mechanism is realized through:

a) acceptance of requests or complaints by the prisoners, or by their

legal representatives and organizations which exercise this right, after prior consent has been given by the prisoner;

b) obtaining information, complaints or requests of prisoners, or from individuals who have the status of visitors, or state bodies, or non-profit organizations, which have checked or visited the institution according to the competence recognized by law, as well as from the defense counsel the prisoners;

c) requesting information from the staff of the institution;

ç) verification of documents, objects, equipment or premises related to the prisoner, inside and outside the institution.

2. For the realization of the supervision process, the national mechanism may also take specialists in the respective fields. In any case and, regardless of whether violations and irregularities are found during the verification, the specialists of this mechanism shall keep minutes, which is signed by the director of the institution or the person in charge of it, with the right to reflect observations.

Article 84

Personal data protection and the right to information

1. The storage and processing of personal data of prisoners by the General Directorate of Prisons and the penitentiary institutions shall be done in accordance with the legislation in force on personal data protection.

2. The provision of information to the public and media shall be made in accordance with the rules, procedure and restrictions provided for in the legislation in force on the right to information.

3. Penitentiary Institutions must, in their public notifications, respect the principle of the presumption of innocence, the principle of non-discrimination, professional ethics and the dignity of prisoners, especially juveniles.

4. The detailed rules on the nature and type of information made available to the media and the public, and the authority responsible for providing it, shall be defined with in the General Regulation of Prisons.

Article 85

Inspection by state institutions

1. The Ministry of Justice, the Internal Control Service in penitentiary system and the General Directorate of Prisons are the competent state

bodies for conducting inspections at penitentiary institutions.

2. The authorized persons, by order of the Minister of Justice or the General Director of Prisons, shall enjoy the right to inspect the penitentiary institutions and to make verifications with a general or thematic scope.

3. For the purposes of the implementation of this law, the object of the inspection are the assessment of the observance of the provisions of this law regarding the rights and treatment of prisoners, as well as the concrete issues defined in the inspection order.

4. Upon completion of the inspection, the persons authorized to carry out the inspections shall prepare recommendations, as appropriate, for the Minister of Justice, the Director General of Prisons, or the Director of the institution to take the necessary measures for the violations found.

5. Detailed rules for conducting inspections in the penitentiary institutions, rights and duties of inspectors and inspected entities are defined in the legislation in force on the internal control service and complaints in the penitentiary system.

Article 86

Independent monitoring

The General Directorate of Prisons and penitentiary institutions shall create the necessary conditions for conducting independent monitoring by international organizations or agencies and by state institutions, which enjoy the right to visit institutions and monitor the conditions of detention and treatment of prisoners.

PART SIX

TREATMENT OF PRE –TRIAL DETAINEES

Article 87

Treatment and placement of detainees

1. Detainees shall enjoy all the rights enjoyed by persons convicted to imprisonment.

2. Detainees shall be treated with dignity and humanism. In respect of the principle of presumption of innocence, no detainee may be treated as a convicted person or as a person who may be convicted in the future.

3. Within the regime of the institution, detainees shall be subject to the rules provided for in the general regulation of prisons and in the internal regulations of the penitentiary institution.

4. In any case, the detainees shall be held in separate sections from the section of those convicted to imprisonment.

5. Juvenile detainees shall be placed only in the juvenile section of the detention facilities separately from adult detainees. Juvenile female detainees shall be placed separately from male juvenile detainees and held only under the supervision and care of staff of the same sex.

6. Female detainees shall be placed in separate rooms or sections from men and only kept under the supervision and care of staff of the same sex.

Article 88

Admission of detainees to the institution and release

1. The admission of pre-trial detainees shall be carried out in accordance with the rules provided in Article 38 of this Law and is accompanied by the following documentation:

- a) the decision of the court for imposing the security measure of “detention”;
- b) the minutes of the apprehension or arrest on the spot;
- c) the minutes of the personal search;
- ç) medical control document;
- d) identification form with two photos and finger prints;
- dh) personal certificate and identification document, and in their absence, identification document prepared by the State Police.

2. The release of detainees shall be made only by a decision of the court or prosecution office. In cases when the released detainee has no possibility of housing or transport to his family, the director of the institution in cooperation with the local self-government units, as well as other organizations shall enable his settling and transportation.

3. In case of objective impossibility to leave the institution after release, the detainee, shall, at his request, be provided with accommodation in the institution, in a suitable environment for living, until the objective obstacle for his departure had ended.

4. The head of the institution shall cooperate with local self-government bodies of the person's residence to enable his housing in one of the programs provided by the legislation in force on social housing or orients him for the procedures he can follow.

Article 89 **Rights of detainees**

1. Detainees, who are in detention facilities or detention sections, shall enjoy the rights defined in articles 5, 6, 7, 8, 9, 10, 12, 13, 14, 32-50, 5867 of this law, as well as all the rights provided for in this section of the law.

2. Detainees shall be allowed to immediately inform their family of their arrest and whereabouts. They shall be provided all necessary conditions to meet with their family members, unless this hinders or is not in the interest of conducting the investigation and trial. Foreign pre-trial detainees shall be allowed to inform the consular or diplomatic mission of their country. In case the detainee is a stateless person or a refugee, he shall be allowed to notify an international organization.

3. The director of the detention institution shall restrict the right of the detainee to receive visits, correspondence or telephone conversations, when it is necessary, for the performance of criminal procedural actions ordered by the relevant proceeding body.

4. In no case may detainees be forced to work. If detainees choose to work, they shall be subject to the same working conditions as those foreseen for those convicted to imprisonment.

Article 90 **Legal aid**

1. Detainees shall be informed in any case on their right to receive legal aid guaranteed by the state, if the defense is mandatory or when they do not have the financial means to have a defense counsel, in accordance with the legislation in force on legal aid guaranteed by state.

2. The premises where detainees are held shall provide the opportunity for them to meet privately and communicate with the defense counsel and to have sufficient time and facilities to prepare the defense throughout the trial.

3. Juvenile detainees shall be guaranteed legal and psychological aid, as well as the exercise of all rights provided for in the Code of Criminal Procedure and the Criminal Justice for Children Code.

PART SEVEN
FINAL PROVISIONS

Article 91
Sub-legal acts

1. The Council of Ministers shall be responsible to adopt the general regulation of prisons, within six months from the entry into force of this law.
2. The Council of Ministers shall be responsible to issue adopt the sub- legal acts pursuant to Articles 32, paragraph 2, 43, paragraph 12, and 44, paragraph 1, of this law, within six months from the entry into force of this law.
3. The Minister of Justice shall be responsible to issue orders and guidelines pursuant to this law, within six months from the entry into force of this law, unless a different deadline is provided in this law.
4. The Minister of Justice and the Minister responsible for health shall be responsible to issue sub-legal acts pursuant to Articles 36, paragraph 8, 41, paragraph 13 and 17 of this law, within three months from the entry into force of this law.
5. The Minister of Justice and the Minister responsible for vocational education and vocational shall be responsible to issue the sub-legal act pursuant to Article 45, paragraph 9 of this Law, within three months from the entry into force of this law.
6. The General Director of Prisons shall be responsible to adopt the internal regulations of each penitentiary institution, within three months from the entry into force of the General Regulation of Prisons.

Article 92
Repeals

1. Law No. 8328, dated 16.4.1998, “On the rights and treatment of persons convicted to imprisonment and detainees”, as amended, shall be repealed.
2. Sub-legal acts adopted pursuant to Law No. 8328, dated 16.4.1998, “On the Rights and Treatment of Persons Convicted to Imprisonment and Detainees”, as amended, shall remain in force until the adoption of the new sub-legal acts, insofar as they do not conflict with the provisions of this law.

Article 93
Entry into force

This law shall enter into force 15 days after its publication in the Official Gazette.

SPEAKER
Gramoz RUÇI

Adopted on 25.6.2020

