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CRIMINAL PROCEDURE ACT

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ROYAL DECREE OF 14 SEPTEMBER 1882 APPROVING THE CRIMINAL PROCEDURE ACT

MINISTRY OF GRACE AND JUSTICE

Official State Gazette no. 260, of 17 September 1882

Latest amendment: 6 October 2015

Reference: BOE-A-1882-6036

Taking account of the provisions of the Act approved on 11 February 1881 and enacted by virtue of the Royal Decree of 22 June 1882, which authorised my Government, subject to the rules contained within that Act, hearing, as has been done, the Section relating to the General Codifying Commission, and taking as the general Compilation of 16 October 1879 as a basis, to draw up and publish a Criminal Procedure Act; being in agreement with the proposal of the Ministry of Grace and Justice, in accordance with my Government Cabinet's opinion.

I decree as follows:

Article 1. *The draft Criminal Procedure Code attached is approved, as drawn up in accordance with the authorisation granted to the Government for the Act endorsed on 11 February 1881 and published by virtue of the Royal Decree of 22 June 1882.*

Article 2. *The new Criminal Procedure Code will begin to apply at the time and in the manner established in the following rules:*

1. It will be applicable and govern in its entirety from the day following that on which the Courts spoken about in the Act approved on 15 June 1882, and enacted by virtue of the Royal Decree of 22 June of the same year, are constituted.

2. It will be applicable and govern from the following 15 October in the part referring to the formation of the summary proceedings included from title IV of book II up to article 622 of title XI of the same book.

3. Cases for offences committed prior to the following 15 October will continue to be substantiated in accordance with the provisions of the procedure currently in force.

4. If the cases referred to in the previous rule have not reached the classification period, they may be substantiated in accordance with the provisions of the new Code if all the accused in each one of them choose the new procedure.

For this purpose, the Judge hearing the summary proceedings on the following 15 October will make all the accused appear before them, accompanied by their defence. If they do not have a defence, one will be appointed ex officio for the appearance. This will be recorded in the case by a certificate.

5. Where cases for offences committed after the following 15 October, and those referred to in the previous rule, reach the status of conclusion of the summary proceedings before the new Criminal Courts are constituted, they will be suspended in that status in the Courts hearing them and must be referred to the aforesaid Criminal Courts on the same day as these are constituted.

6. The Criminal Chambers of the current Courts will, as soon as the new ones are constituted, hear all appeals initiated in summary proceedings instructed or continued subject to the precepts of the new Law.

The Judges of first instance are, absolutely, considered to be instructing Judges in cases coming under the new procedure.

Article 3. *A Royal Decree will, suitably in advance, set the day on which the new Courts must be constituted.*

Article 4. *Once the current Promoters have left their posts, those municipal Prosecutors who are Lawyers will carry out Public Prosecutor duties during the first instance in cases which continue to be substantiated in accordance with the procedure currently in force, and, in their absence, those appointed by the Regional Court Prosecutors.*

Article 5. *The Supreme Court and the Courts', and in their day the new Courts, Governance Chambers will consult the Ministry of Grace and Justice directly for resolution of such queries as may arise on the wisdom and application of this Royal Decree.*

Delivered in San Ildefonso on 14 September 1882.

ALFONSO

The Ministry of Grace and Justice

MANUEL ALONSO MARTÍNEZ

CRIMINAL PROCEDURE ACT

BOOK I
GENERAL PROVISIONS

TITLE I
Preliminaries

CHAPTER I
General rules

Article 1.

No punishment whatsoever will be imposed as a result of punishable acts whose repression is the responsibility of ordinary jurisdiction, except in accordance with the provisions of this Code or of special Laws and by virtue of a judgment passed by a competent Judge.

Article 2.

All Authorities and civil servants intervening in criminal proceedings will take care, within the limits of their respect jurisdiction, to include and appreciate circumstances that are both adverse and favourable to the alleged convicted person, and will be under the obligation, unless there is express provision otherwise, to instruct the latter of their rights and the appeals that may be exercised while they are not assisted by defence counsel.

CHAPTER II
Pre-trial matters

Article 3.

As a general rule, the jurisdiction of the Courts charged with criminal justice extends to resolving, for the sole purpose of repression, civil and administrative pre-trial matters proposed on the grounds of the facts pursued, where such matters appear so closely linked to a punishable act that their separation is rationally impossible.

Article 4.

Nevertheless, if the pre-trial matter is decisive of guilt or innocence, the Criminal court will suspend the proceedings until it has been resolved by the appropriate person, but it may set a time limit, of not more than two months, for the parties to appear before the competent civil or contentious-administrative Judge or Court.

One the time limit has passed without the interested party having used it, the Court Clerk, will lift the suspension by legal measure and the proceedings will continue.

The Public Prosecution service will be a party to these trials.

Article 5.

Notwithstanding the provisions of the two previous articles, pre-trial civil matters referring to the validity of a marriage or the suppression of marital status, will always defer to the Judge or Court that should hear them and their judgment will serve as a basis for the Criminal court.

Article 6.

If the pre-trial civil matter refers to ownership rights over real property or other right in rem, the Criminal court may make judgment on this where such rights are founded in an authentic title or in unquestionable deeds of ownership.

Article 7.

The Criminal court will follow the Civil or administrative law rules, respectively, in pre-trial matters which, in accordance with the previous articles, it must pass judgment on.

TITLE II

On the criminal Courts and Tribunals jurisdiction

CHAPTER I

On the rules deciding jurisdiction

Article 8.

Criminal jurisdiction is always non-extendable.

Article 9.

The Courts and Tribunals having jurisdiction to hear a specific case will also have it for all of its instances, to give effect to court decisions in the proceedings and to enforce judgments, without prejudice to the provisions of article 801.

Article 10.

Criminal cases and trials will be heard by the ordinary jurisdiction, with the exception of such cases as are reserved by law to the Senate, the War and Naval Tribunals and the Administrative or Police authorities.

Article 11.

Hearing cases for offences where persons subject to ordinary jurisdiction appear alongside others subject to other jurisdictions, ordinary jurisdiction will apply, apart from the exceptions expressly included in the Laws relating to the competence of another jurisdiction.

Article 12.

Notwithstanding the provisions of the previous article, ordinary jurisdiction will always be competent to forestall cases for offences committed by those coming under other jurisdictions.

This competence is limited to instructing first legal measures and, once concluded, the ordinary jurisdiction will send the proceedings to the Judge or Court who must hear the case in accordance with Law and will make the arrested individual and effects held available to it.

The ordinary jurisdiction will cease first legal measures as soon as there is a record that the competent jurisdiction is prosecuting the case for the same offence.

Orders relinquishing jurisdiction of this type passed by instructing Judges in ordinary jurisdiction are appealable before the respective Court.

While the recourse to appeal is carried out and decided, the provisions of the second paragraph of article 22 will be complied with, for which purpose, and in order to carry out the appeal, the relevant testimony will be submitted.

Article 13.

Preliminary enquiries are considered to be recording evidence of the offence that may disappear, bringing in and placing in custody whatever may be appropriate for its verification and identification of the offender, detaining, as appropriate, those allegedly responsible for the offence, and protecting those wronged or aggrieved by them, their family members or other persons, and for this purpose precautionary measures, as referred to in article 544 a. or the protection order provided for in article 544 b. of this law may be agreed.

Article 14.

Outside the cases expressly and restrictively assigned by the Constitution and specific laws to Judges and Courts, the following will be competent:

1. The Examining Magistrate hearing and ruling on minor offences, except where competence lies with the Domestic Violence Judge in accordance with number 5 of this article.

2. The Examining Magistrate for the area where the offence was committed for case instruction, or the Domestic Violence Judge, or the Central Examining Magistrate, with respect to the cases determined by the Law.

3. The Criminal Court Judge for the constituency where the offence was committed, or the Criminal Court Judge for the constituency of the Domestic Violence Court, as appropriate, or the Central Criminal Court Judge within their scope, without prejudice to the competence of the Duty Examining Magistrate in the place where the offence was committed to pass judgment, or of the competent Domestic Violence Judge, as appropriate, under the terms provided for in article 801, along with the competent Magistrate's Courts for passing judgment in the process accepting the decree for hearings and rulings on cases for offences for which the Law provides for a term of imprisonment of not more than five years or the penalty of a fine, whatever its amount, or any others of different types whether they are single, joint or alternative, as long as they do not last for more than ten years, as well as minor offences, whether incidental or not, chargeable to the authors of these offences or other persons, where committing the minor offence or its evidence is related to them.

4. The Provincial Court in the constituency where the offence was committed, or the Provincial Court for the constituency of the Domestic Violence Court, as appropriate, or the Criminal Bench at the High Court, for hearings and rulings on all other cases.

Nevertheless, in cases where the Provincial Court is competent, if the offence is one to be heard by a Court with a Jury, this will hear and rule on it.

5. The Domestic Violence Courts will be competent in the following matters, and in all cases in accordance with the procedures and appeals provided for in this Law:

a) Instruction of proceedings to demand criminal liability for offences included under the titles in the Criminal Code relating to homicide, abortion, bodily harm, harm to the foetus, offences against freedom, offences against moral integrity, against sexual freedom and indemnity or any other offence committed with violence or intimidation, as long as it was committed against whoever is or has been their spouse or women who is or has been tied to the author by a similar emotional relationship, even if they were not living together, as well as those committed against their own descendants or those of the spouse or partner, or against minors or disabled living with them or who are subject to parental authority, protection, guardianship, fostering or de facto guardianship by the spouse or partner, where an act of domestic violence has also occurred.

b) Instruction of proceedings to demand criminal liability for any offence against family rights and duties, where the victim is one of the persons indicated as such in the previous letter.

c) Adoption of the relevant protection orders for the victims, without prejudice to the competences given to the Duty Judge.

d) Hearing and ruling in trials for offences typified in the second paragraph of section 7 of article 171, second paragraph of section 3 of article 172 and paragraph 4 of article 173 of Organic Law 10/1995, of 23 November, on the Criminal Code, where the victim is one of the persons indicated as such in letter a) of this section.

Article 14 a.

Where, in accordance with the provisions of the previous article, hearing and ruling on a case for an offence depends on the seriousness of the punishment indicated for it by the law, attention will be paid, in all cases, to the punishment legally provided for individuals, even where the proceedings are exclusively directed against an incorporated entity.

Article 15.

Where there is no record of the place where a misdemeanour or offence has been committed, the competent Judges and Courts to hear the case or trial will be as follows:

1. The one in the municipality, area or constituency where material evidence of the offence were discovered.

2. The one for the municipality, area or constituency where the alleged convict was detained.

3. The one for the alleged convict's place of residence.

4. Any one which may have had notice of the offence.

If competition arises between these Judges or Courts, a decision will be made giving preference to the order in which they are expressed in the preceding numbers.

As soon as there is a record of the place where the offence was committed, the Judge or Court hearing the case will agree to hand it over to the competent one, placing, as

appropriate, the arrested individuals at its disposal and agreeing, in the same decision, to pass on the legal measures and effects occupied.

Article 15 a.

In the event that any or the offences or misdemeanours are being dealt with which should be instructed or heard by the Domestic Violence Judge, territorial jurisdiction will be decided by the victim's place of residence, without prejudice to the adoption of the protection order or urgent measures in article 13 of this Law which may be adopted by the Judge for the place where the deeds were committed.

Article 16.

Ordinary jurisdiction will be competent to judge convicts for related offences, as long as one of them is subject to it, even though the others are from other jurisdictions.

The provisions of the previous paragraph is construed without prejudice to the exceptions expressly consigned to this Code or in special Laws and, uniquely, in War and Naval criminal Laws, with respect to certain offences.

Article 17.

1. Each offence will give rise to one single case being created.

Nevertheless, related offences will be investigated and tried in the same case where the joint investigation and evidence of the facts are expedient for its clarification and to determine the appropriate liabilities unless this involves excessive complexity or delay to the proceedings.

2. For the purposes of allotting jurisdiction and distribution of competence the following are considered to be related offences:

1. Those committed by two or more persons collectively.
2. Those committed by two or more persons in different places or times if there was prior agreement on them.
3. Those committed as way of perpetrating others of facilitate carrying them out.
4. Those committed to a procure impunity from other offences.
5. Offences of obtaining actual and personal benefit and money laundering in respect of the prior offence.
6. Those committed by various persons where reciprocal injuries or damages are caused.

3. Offences which are not related by which have been committed by the same person and have an analogy or relation between them, where they are the jurisdiction of the same judicial body, may be tried in the same case, at the request of the Public Prosecution Service, if the investigation and evidence of the facts as a whole are expedient for its clarification and to determine appropriate liabilities, unless this involves excessive complexity or delay to the proceedings.

Article 17 a.

The jurisdiction of the Domestic Violence Court will extend to the instruction and hearing of related offences and misdemeanours as long as the connection originates in one of the cases provided for in numbers 3. and 4. of article 17 of this Law.

Article 18.

1. The following are the competent Judges and Courts, in order, to hear cases for related offences:

1. The one for the territory where the offence for which a higher penalty is set was committed.

2. The first to commence the case in the event that the same penalty is set for the offences.

3. The one appointed by the Criminal Court or the Supreme Court, in their respective cases, where the cases began at the same time or there is no record of which one started first.

2. Notwithstanding the foregoing, the judge or court for the judicial area which is the headquarters for the relevant Provincial Court will be competent to hear related offences committed by two or more persons in different places, if there was prior agreement to do so, with preference over those indicated in the previous paragraph, as long as the various offences were committed in the territory of a single province and at least one of them was perpetrated in the judicial area which is the headquarters for the relevant Provincial Court.

CHAPTER II

On conflicts of jurisdiction between ordinary Judges and Courts

Article 19.

Jurisdiction may be advocated and upheld by:

1. Municipal Judges at any stage of the trial and the parties from the summons up until the appearance.

2. The Examining Magistrates during the summary proceedings.

3. The Criminal Courts during performance of the trial.

4. The Public Prosecution Service at any stage of the case.

5. The private prosecutor prior to lodging their first petition after appearing in the case.

6. The accused and the civil party, whether as claimant or appearing as perpetrator, within the three days following that on which the case is notified for classification.

Article 20.

Resolution of conflicts of jurisdiction will be done by hierarchical superiority, in the manner determined in the following articles:

1. The Examining Magistrate out of the Municipal Judges from the same area.

2. The Criminal Court for the Examining Magistrates for the same constituency.

3. The Regional Court in plenary session for the Criminal Courts in the same region.

4. The Supreme Court for Regional Courts or where jurisdiction is between a Criminal Court and the Criminal Chamber of a Regional Court.

Where any of the Judges or Courts mentioned in numbers 1., 2. and 3. do not have an immediate superior in common, jurisdiction will be decided by the next one in hierarchical order and, in default, by the Supreme Court.

Article 21.

The Supreme Court may not form or advocate jurisdictions and no Judge, Court or party may advocate them against it.

When any Judge or Court is hearing a case whose hearing is reserved to the Supreme Court, the latter will order the former, ex officio, at the request of the Public Prosecution Service or at the request of a party, that it abstain from all proceedings and refer the background facts within the second day, so that the hearing may be resolved.

The Supreme Court may, nevertheless, in the same order and whilst it resolves jurisdiction, authorise such legal measures as are obviously urgent or necessary to continue.

There can be no appeal whatsoever against the Supreme Court's decision.

Article 22.

Where two or more Examining Magistrates allege jurisdiction to act in a matter, if they do not come to an agreement on jurisdiction in the first notification, they will give account with a referral of testimony to their competent superior, and the latter, at their hearing, shall decide emphatically and with no later appeal which of the examining magistrates should act.

Until a decision is passed, each one of the Examining Magistrates will continue to take the necessary legal measures to prove the offence and such others as are considered to be of recognised urgency.

Once the conflict is settled by the competent superior, the Court Clerk at the Magistrate's Court which ceases to act will refer the legal measures taken and the objects collected to that declared competent, within the second day from the day when they receive the order from the superior to cease hearing the case.

Article 23.

If, during summary proceedings or at any stage of instruction of criminal proceedings, the Public Prosecution Service or any of the parties construe that the Examining Magistrate does not have jurisdiction to act in the case, they may make a claim to the relevant superior Court which, having received the reports it considers necessary, will emphatically resolve on the matter and this is not open to appeal.

At any event, the provisions of the second paragraph of the previous article will be complied with.

Article 24.

Once summary proceedings have ended, all conflicts of jurisdiction advocated will suspend proceedings until a decision has been passed on them.

Article 25.

The Judge or Court which considers itself competent should advocate jurisdiction.

Prohibition due to lack of jurisdiction will also be agreed in favour of the competent Court or Tribunal where it is considered that hearing the case does not fall to it, even where there has been no claim from the interested parties or the Public Prosecution Service.

Whilst no final judicial decision is made definitively resolving the conflict raised or accepting jurisdiction, the Examining Magistrate agreeing prohibition in favour of another at the same level will continue to carry out all the legal measures needed to prove the offence, ascertain and identify the possible guilty parties and protect those aggrieved or injured by them. For this purpose, the decision initially agreeing the prohibition will state this circumstance and this will solely be accompanied by testimony of the proceedings. Once the conflict is settled or jurisdiction accepted by final decision, the Court Clerk will send the original records and evidence to the Judge who has jurisdiction.

The writs of prohibition issued by Municipal or Examining Magistrates in favour of another Judge or jurisdiction will be appealable and, in this case, the provisions of the last paragraph of article 12 will be observed. An appeal in cassation may be lodged against those passed by the Provincial Courts.

Article 26.

The Public Prosecution Service and the parties will advocate jurisdiction by prohibitory or declinatory plea.

The use of one of these means absolutely excludes use of the other, both during consideration of jurisdiction and also once this has been determined.

The prohibitory plea will be proposed before the Judge or Court reputed to have jurisdiction.

The declinatory plea, before the Judge or Court reputed not to have jurisdiction.

Article 27.

The Municipal Judge before whom the prohibitory plea is made, with the Prosecutor hearing where they have not made it, will decide within the second day if the request for prohibition is appropriate, or not.

The order denying the request is appealable in both cases before the respective Examining Magistrate.

Article 28.

If the Municipal Judge upholds that the request for prohibition is appropriate, they will direct that it be made ex officio and this will contain the grounds for their order.

The writ will be sent within precisely twenty-four hours.

Article 29.

The Municipal Judge served with the prohibition, hearing the Prosecutor, will decide on the second day whether they abandon the hearing or maintain their jurisdiction.

In the first case, they will, within the following twenty-four hours, refer the legal measures taken to the serving Judge.

If they retain their jurisdiction, this will be notified within the same time limit, explaining the grounds for their decision.

Article 30.

Once the records are received by the serving Judge, they will declare, without further ado and within twenty-four hours, if they insist on jurisdiction or if they step aside from it.

In the first case, on the same day, the served Judge will be requested to refer the legal measures to the Judge or Court which must decide on jurisdiction, in accordance with the provisions of article 20, and the serving judge will refer theirs within the following twenty-four hours.

In the second case, the Judge served will take part, within the same time limit, so that they may continue with the hearing.

The writs that the served Judges issue agreeing to the prohibition will be appealable before the respective Examining Magistrate. Those issued by the serving parties withdrawing from the prohibition may also be appealed.

Article 31.

Once the legal measures are received by the Judge or Court called to decide on jurisdiction and the Prosecutor having been heard within the second day, a decision will be made within the three days following that on which the Public Prosecution Service made the transfer.

An appeal in cassation may be lodged against the decision of the Court or Provincial Court.

There can be no appeal whatsoever against the Supreme Court's decision.

Article 32.

Where a declinatory plea is made before a Municipal Judge, they will pass a decision on the second day, having previously heard the Prosecutor as to whether the prohibition is appropriate, or not.

The order rejecting the prohibition is appealable in both cases before the Court responsible for deciding on jurisdiction, which will substantiate the appeal in the manner provided for in the first paragraph of the previous article.

An appeal in cassation may be made against the Court's decision.

Article 33.

Prohibition before the Criminal Courts will be made in writing and signed by a Lawyer.

The writ will show the person proposing it, who has not made use of the declinatory plea. If to the contrary, an order for costs will be made against them, whether jurisdiction is decided in their favour or whether it is later abandoned.

Article 34.

The Court Clerk before whom the prohibition is proposed will transfer this to the Public Prosecution Service within one or two days, depending on the size of the case, if the latter did not make it, as well as to the other parties appearing in the case which may be, in turn, being heard by the Court which was requested to make the demand and, in their hearing, the Court will direct, within the following two days, that a writ of prohibition be issued, or will declare that there is no place for it.

Article 35.

Solely an appeal in cassation may be lodged against the order refusing the request for prohibition.

Article 36.

Testimony will be attached to the writ of prohibition as follows: The writ in which it was requested, the statements of the Public Prosecution Service and the parties, as appropriate, the order passed and anything else that the Court deems appropriate as grounds for their jurisdiction.

The testimony will be drawn up and sent within a non-extendable period of one to three days, depending on the size of the case.

Article 37.

The Clerk of the Court served will immediately acknowledge receipt and remit it to the Public Prosecution Service, the private prosecutor, if any, to those referred to in articles 118 and 520 who may have appeared and to those appearing as civil parties, within a time limit of not more than twenty-four hours, to each one, after which the Court will pass the writ of waiver or declare that there was no place for it.

The only appeal available against the writ of waiver passed by the Court will be that of judicial review.

Article 38.

Once the Court writ of waiver has been consented to or enforced, the Court Clerk will, within a time limit of three days, refer the case to the Court that proposed the prohibition

with a summons to the parties and placing the defendants, the material evidence and the attached assets at its disposal.

Article 39.

If prohibition is refused the order will be notified to the serving Court, with testimony of the statements of the Public Prosecution Service and the parties and everything else that is deemed appropriate.

The testimony will be issued and sent within three days.

The writ of referral will demand that the serving Court answers immediately in order to continue to act if it does not insist on prohibition, or on the other hand refers the case to the relevant body so that jurisdiction may be decided.

Article 40.

Once the writ mentioned in the previous article has been received, the Court that proposed prohibition will, without further ado, issue an order within the second day.

Solely an appeal in cassation may be lodged against an order desisting from prohibition.

Article 41.

Once the order in which the Court desists from the prohibition has been consented to or enforced, this will be notified within twenty-four hours to the party served with the prohibition, with all proceedings to date being sent at the same time for their attachment to the case.

Article 42.

If the serving Court retains jurisdiction, this will be notified within twenty-four hours to the party served with the prohibition so that they may refer the case to the Court responsible for deciding on it, sending all proceedings to date to it.

Article 43.

Jurisdiction will be decided by the Court within the three days following that on which the Public Prosecution Service issued its opinion, which will be done on the second day.

An appeal in cassation may be lodged against these orders when they are issued by the Provincial Courts.

There can be no appeal whatsoever against those delivered by the Supreme Court.

Article 44.

The Court resolving jurisdiction may make an order as to the costs incurred in the prohibition against the parties who may have sustained or contested it recklessly, determining, as appropriate, the proportion in which they should pay them.

Where there is no special award as to costs, those arising from jurisdiction will be construed ex officio.

Article 45.

Declinatory pleas will be substantiated as articles of prior pronouncement.

CHAPTER III

On jurisdiction rejection and those promoted by special Judges or Courts, and on appeals of complaint against the administrative authorities

Article 46.

Where the conflict of jurisdiction engaged in between two or more Judges or Courts is rejected as all of them refuse to hear the case, this will be decided by the superior Judge or Court or, as appropriate, the Supreme Court, following, for that purpose, the procedures prescribed for other jurisdictions.

Article 47.

In the event of rejection of jurisdiction between ordinary jurisdiction and another higher one, the ordinary one will open or continue with the case.

Articles 48 to 50. *(Repealed)*

Article 51. *(Repealed)*

TITLE III

On challenges and pleas to the Magistrates, Judges, Advisors and Auxiliaries in the Courts and Tribunals and on the abstention of the Public Prosecution Service.

CHAPTER I

General provisions

Article 52.

Magistrates, Judges and Advisors, whatever their level and hierarchy, may only be challenged with just cause.

Article 53.

In criminal cases only the following may challenge:

The representative of the Public Prosecution Service.

The private prosecutor or those who legally represent their actions and rights.

Persons finding themselves in the position in articles 118 and 520.

Those with civil liability for an offence or misdemeanour.

Article 54.

As regards their causes, abstention and challenging shall be governed by the Judiciary Act, and, as regards procedure, by the stipulations in the Civil Procedure Act.

Article 55.

Magistrates and Judges included under any of the cases set out in the previous article will decline jurisdiction to hear the matter without waiting to be challenged. There is no appeal against this refusal of jurisdiction.

In the same way, jurisdiction will be declined, with no appeal whatsoever, when they are challenged in any way and consider that the alleged cause is appropriate. In one or the other case they will direct that the legal measures be passed to whoever should replace them.

Article 56.

The challenge must be proposed as soon as the reason on which this is grounded becomes known, otherwise, it shall not be admitted to processing. More specifically, challenges shall not be given leave to proceed:

(i) When they are not proposed on appearing or intervening for the first time in the proceedings or in any of its phases if the reason for the challenge is known prior to the appearance.

(ii) When these are proposed when the proceedings have begun if the reason for the challenge is known prior to the procedural time when the challenge is proposed.

CHAPTER II

On substantiation of challenges of the Examining Magistrates and Senior Judges

Article 57.

The challenge will be made in writing signed by a Lawyer, Procurator and the challenger, if the latter knows how to sign and is in the place where the case is heard. The latter must be ratified before the Judge or Court.

Where the challenger is not present, only the Lawyer and Procurator will sign. In all cases the grounds for the challenge will be expressed clearly and precisely in the writ.

Article 58.

Notwithstanding the provisions of the previous article, the accused, if they are in solitary confinement, may propose the challenge verbally at the moment of receiving the declaration or may call the Judge via the Warden of the prison with the challenge.

In this case, the Examining Magistrate must appear accompanied by the Court Clerk who will make a record by legal measure of the motion for challenge and the reasons on which it is grounded.

Where the challenge is denied, they will be advised that it may be repeated once solitary confinement is lifted.

Article 59.

The order allowing or denying the challenge will be reasoned and it will be sufficient to notify the challenger's Procurator, even if they are in the town where the case is being heard and they have signed the writ of challenge.

Article 60.

Where the challenged party does not step down as they are not considered to be included under the alleged cause of the challenge, separate proceedings will be ordered.

This will contain the original writ of challenge and the order rejecting the challenge, with an express note of one and the other being left on the proceedings.

Article 61.

During substantiation of the separate proceedings, the challenged party may not take part in the case or in the challenge and will be replaced by the appropriate person in accordance with the Law.

If the challenged party is an Examining Magistrate, they must, nevertheless, under their remit, take such urgent legal measures as may not be delayed while their successor takes charge of continuing the instruction.

Article 62.

The challenge will not hold back running the case. An exception is the case where the challenge is not decided when the parties are summoned for the hearing of any conflict or incident or for an oral hearing to be held.

Article 63.

The following shall examine challenges:

a) When the party challenged is the President or one or more of the Senior Judges of the Criminal Bench of the Supreme Court, or the Criminal Bench of the High Courts of Justice, or of the Criminal Bench of the National Court, a Senior Judge of the Chamber to which the party challenged belongs, designated by virtue of a rota established by seniority.

b) When the party challenged is the President or one or more Senior Judges of a Provincial Court, a Senior Judge of a Section other than the one to which the party challenged belongs, designated by virtue of a rota established by seniority. If there is only one Section, the proceedings will continue in the manner provided for in the second paragraph of article 107 of the Civil Procedure Act.

c) When all the Senior Judges of a Court of Justice are challenged, the judge responsible shall be the Senior Judge by seniority from among those who make up the corresponding Court on condition that he is not affected by the challenge, and if all the Senior Judges who make up the corresponding Court of Justice, a Senior Judge designated by drawing lots among those who make up the Courts of the same territorial scope belonging to the rest of the jurisdictional orders.

d) When a Central Criminal Court Judge or a Central Examining Magistrate, a Senior Judge of the Criminal Bench of the National Court shall be designated by virtue of a rota established by order of seniority.

e) When the party challenged is an Examining Magistrate or a Criminal Court Judge, the judge responsible shall be a Senior Judge of the corresponding Provincial Court, designated by virtue of a rota established by order of seniority.

f) When the party challenged is a Justice of the Peace, the Judge responsible shall be the Examining Magistrate of the corresponding district or, if the district has several Examining Courts, the Judge responsible shall be the Judge holding the post designated by virtue of a rota established by order of seniority.

Article 64.

Once separate proceedings have been set up, the other party or parties to the case will be heard, for three days each, which may only be extended by a further two when, in the opinion of the Court, there is just cause to do so.

Article 65.

Once the time limit shown in the previous article has passed, extended, as appropriate, and the case admitted without the need for a request by the challenger, the challenge will be admitted to evidence, where the matter is in fact, for eight days, during which evidence will be taken as requested by the parties and admitted as appropriate.

Article 66.

There can be no later appeal against the order in which the Regional Courts or the Supreme Court admit or disallow the evidence.

Article 67.

Where, due to the matter being a question of law, evidence of the challenge has not been received or the time limit granted in article 65 has passed, an order will be made to summons the parties giving a day for the hearing.

Article 68.

Challenges shall be decided on by the following:

a) The court stipulated in article 61 of the Judiciary Act when the party challenged is the President of the Supreme Court or the President of the Criminal Bench or two or more Senior Judges of that Bench.

b) The Criminal Bench of the Supreme Court when one of the Senior Judges who form that Bench is challenged.

c) The Chamber referred to in article 77 of the Judiciary Act when the President of the High Court of Justice is challenged, the President of the Civil and Criminal Bench of the High Court or the President of the Provincial Court in the Autonomous Community or two or more Senior Judges of a Chamber or a Section or a Provincial Court.

d) The Chamber referred to in article 69 of the Judiciary Act, when the President of the National Court, the President of the Criminal Bench or more than two Senior Judges of a Section of this Bench.

e) The Criminal Bench of the National Court, when one or two Senior Judges are challenged.

f) The Civil and Criminal Bench of the High Courts of Justice when one of its Senior judges is challenged.

g) When the party challenged is a Senior Judge of a Provincial Court, a plenary meeting of the Provincial Court or, if this is composed of two or more Sections, the Section the challenged part does not belong to or the Section which follows the one the party challenged belongs to, in numerical order.

h) When a Central Judge is challenged, the Section of the Criminal bench of the National Court corresponding by rota by the Governing Chamber of this court, excluding the Section responsible for dealing with the appeals issued by the Court where the party challenged holds a post.

i) When the party challenged is a Criminal Court Judge or an Examining Magistrate, the Provincial Court or, if this is composed of two or more sections, the Second Section.

j) When the party challenged is a Justice of the Peace, the Examining Magistrate of the incident challenged shall decide.

Article 69.

Orders declaring that the challenge is justified, or not, always be grounded.

Only an appeal in cassation may be lodged against orders passed by the Provincial Courts.

No appeal whatsoever may be lodged against those passed by the Supreme Court.

Article 70.

For orders rejecting the challenge, an order as to costs will be made against the person advocating it. Where it can be appreciated that they acted recklessly or in bad faith, a fine of 200 to 2,000 pesetas will also be imposed where the party challenged was an Examining Magistrate; 500 to 2,500 pesetas, if it was a Senior Judge, and 1,000 to 5,000, if it was the Supreme Court.

The Public Prosecution Service is excepted from the awards as to costs and fines.

Article 71.

If the respective fines shown in the previous article are unpaid, the party fined will be subject to the relevant subsidiary individual liability, via payment enforcement order, under the terms provided for in the Criminal Code for criminal offences.

CHAPTER III

On substantiation of challenges of Municipal Judges

Article 72.

In trials for misdemeanours the challenge will be made at the same time as the appearance.

Article 73.

On sight of the challenge, if the alleged cause is one of those set out in article 54 and true, the Municipal Judge will consider themselves challenged and will pass the misdemeanour hearing to their alternate.

Article 74.

Where the party challenged does not consider the challenge to be legitimate, they will pass hearing of the incident to their alternate and make a record of this in a certificate.

There can be no appeal whatsoever against the decision of the Municipal Judge, either in this case or in that of the previous article.

Article 75.

The Municipal Judge challenged may not appear in the substantiation of the challenge proceedings and the misdemeanour trial will be stayed until they are decided.

Article 76.

The alternate Judge in charge of substantiation of the challenge proceedings will make the parties appear in their presence and, in the same act, will receive the evidence they offer and believe appropriate where the matter concerns fact.

When the parties make themselves heard they may request reinstatement against the order dismissing the evidence.

Article 77.

Once the evidence is received, or where a matter of law is being dealt with it is unnecessary, the alternate Municipal Judge will decide whether to admit or reject the challenge in a grounded order and in the same act, if possible. In no case must this be done later than on the second day. A certificate will be issued setting out the actions taken and the order.

If the challenge is dismissed, the party challenging will have costs awarded against them and a fine of between 25 and 100 pesetas with the subsidiary personal liability provided for in article 71.

The provisions of the second paragraph of article 70 will applicable to the penalty fines.

Article 78.

There can be no appeal whatsoever against the alternate Judge's order declaring the challenge upheld.

An appeal may be lodged with the Examining Magistrate against the order dismissing it.

Article 79.

The appeal will be lodged verbally in the appearance before the same alternate Judge, if the latter made a decision at that given moment.

If the decision is made on the second day, the appeal will be lodged in the same act as the notification as long as this is personal, and, if not, within the following twenty-four hours. In this case, the appeal will also be lodged verbally to the Court Clerk and will be recorded on a certificate.

Article 80.

If no appeal is lodged within the time limits shown in the previous article, the alternate Judge's order will be final.

If an appeal is lodged on time, the background will be sent to the relevant Examining Magistrate with a summons to the parties and at the cost of the appellant.

Article 81.

The Magistrate's Court will immediately be given account by the Court Clerk, without admitting writs, and the parties will be summoned to appear within the second day.

The interested parties or their attorneys may make such observations as they sustain verbally, with leave from the Examining Magistrate.

The latter will pass an order on the same day or the following and there can be no later appeal against their decision.

If the Examining Magistrate construes that the alternate municipal judge must reinstate the order dismissing the evidence referred to in the second paragraph of article 76, they will declare as such, abstaining from pronouncing on the grounds, and will order the return of the legal measures to the Municipal Court that they came from so that the proposed evidence may be taken and a new order issued.

The provisions of articles 68 to 81 will apply

Article 82.

Where the order is confirmatory, costs will be awarded against the appellant.

Article 83.

Once the challenge is declared appropriate by final order, the alternate judge will hear the trial.

If declare inappropriate, the challenged Judge will revert to hearing the misdemeanour.

CHAPTER IV

On the challenge to Assistants to the Courts and Tribunals

Article 84.

The Clerks to the Municipal Courts, Magistrate's Courts, Regional Courts and the Supreme Courts may be challenged.

Chamber Officers may also be challenged.

Article 85.

The requirements of this title are applicable to Court Clerks and Chamber Officials, with the amendments provided for in the following articles:

Article 86.

Where those challenged are Assistants to the Magistrate's Court, Regional Courts or the Supreme Court, the challenge proceedings will be instructed by the relevant Examining Magistrate or the newest Senior Judge and will be decided on by the same Judge or by the relevant Court.

The Judge or Examining Magistrate may delegate taking of such legal measures as they cannot carry out by themselves to one of the Examining Magistrates in the relevant constituency.

Article 87.

Court Assistants challenged may not act in the case which they were involved in nor in the challenge proceedings, with the relevant ones being replaced if the challenge is allowed.

Article 88.

In challenges to Municipal Court Clerks, the Municipal Judge, if there is only one, will instruct and rule on the challenge proceedings.

If there are two, the Judge for the Court that the challenged party does not belong to, and if there are three or more, the oldest.

Article 89.

Where the challenge is dismissed, an award as to costs will be made against the challenging party.

Article 90.

When the order allowing the challenge is final, the challenged party will be separated from all intervention in the case, and the replacement who had substituted them during substantiation of the challenge will continue to act; if this was a Municipal Court or Magistrate's Court Clerk, they will not receive any fees of any kind from when the challenge was requested or, being aware of the alleged motive, they did not stand aside from hearing the matter.

Article 91.

When the challenge is dismissed by final order, the Assistant challenged will return to the exercise of their duties; and if they are the Municipal Court or Magistrate's Court Clerk, the challenging party will pay the fees relating to the proceedings carried out in the case, making the same payment as to the person replacing the challenged party.

Article 92.

Court Assistants may not be challenged after the parties have been summoned for sentencing, or while any legal measure they are in charge of is being carried out, or once the oral hearing has commenced.

Article 93.

The following is applicable to current Rapporteurs and Chamber Clerks: 1. the provisions of the previous articles relating to challenges to Chamber Clerks, and 2. the provisions of articles 90 and 91 relating to payment of fees.

CHAPTER V
On excuses and challenges to the Assistants

Article 94.

Municipal Court Assistants, where these incidentally perform the duties of Examining Magistrates, will excuse themselves if any of the causes set out in article 54 of this Law exist.

The same Municipal Judge will peruse the excuse to admit or dismiss it. If they dismiss it, the Assistant may lodge an appeal of complaint to the relevant Provincial Court, and the latter, requesting reports and background, will make a final decision on what is appropriate, to which there can be no later appeal.

Article 95.

Those who are parties to a case may challenge the Assistant for any of the reasons shown in article 54.

The challenge will be made by a writ addressed to the Municipal Judge.

An appeal of complaint may be lodged with the relevant Provincial Court against Municipal Court decisions dismissing the challenge.

CHAPTER VI
On the abstention of the Public Prosecution Service

Article 96.

Representatives of the Public Prosecution Service may not be challenged, but will abstain from intervening in court proceedings where any of the grounds shown in article 54 of this Law exist.

Article 97.

If the Public Prosecutor for the Supreme Court or the Public Prosecutor for the Provincial Courts incurs in any of the grounds due to which they must abstain in accordance with the provisions of the previous article, they will appoint the Deputy Public Prosecutor to replace them and, in default the prosecuting counsel in order of category and seniority.

The provisions of the previous paragraph are applicable to Deputy Prosecutors or Prosecuting Counsel when they carry out the duties of their respective head.

Article 98.

Deputy Prosecutors and Prosecuting Counsel for the Supreme Court and Provincial Courts will present their excuse to their respective superior, who will relieve them from intervening in court proceedings and will choose whoever they deem appropriate to replace them from amongst their subordinates.

Article 99.

Where Public Prosecution Services representatives do not excuse themselves in spite of in falling within one of the grounds stated in article 54, those considering themselves to be aggrieved may resort to a complaint to the immediate superior.

The latter will hear the subordinate who is the subject of the complaint and, if they find this is grounded, will decide on their replacement. If they find no grounds, they may agree that they intervene in the proceedings. No appeal whatsoever may be lodged against this decision.

The Prosecutors for the Regional Courts will decide on the complaints made to them against the Prosecutors for the Criminal Courts.

If it was the Prosecutor for the Supreme Court who gave grounds for the compliant, this must be addressed to the Ministry of Grace and Justice via the President of that Court. The Ministry for Grace and Justice, having heard the Supreme Court Governance Chamber if it deems fit, will decide as it considers appropriate.

TITLE IV

On the persons who must initiate actions arising from offences and misdemeanours

Article 100.

All offences and misdemeanours give rise to criminal proceedings to punish the guilty party and may also give rise to civil action for the return of things, repair of damages and compensation for damages caused by the punishable act.

Article 101.

Criminal proceedings are public.

All Spanish citizens may exercise it in accordance with the requirements of the Law.

Article 102.

Notwithstanding the provisions of the previous article, criminal proceedings may not be initiated by:

1. Those not being entitled to full civil rights.
2. Those who have been convicted twice by a final decision as the convicted person for the offence of defamation or libel.
3. The Judge or Magistrate.

Those included in the numbers above may, nevertheless, initiate criminal proceedings for an offence or misdemeanour committed against their person or assets or the person or assets of their spouses, ascendants and descendants, whole or half blood brothers and sisters and relations.

Those included in numbers 2. and 3. may also initiate legal proceedings for offences or misdemeanours committed against the persons or assets which may be under their legal custody.

Article 103.

Criminal proceedings may also not be initiated between:

1. Spouses, unless it is an offence or misdemeanour committed by one against the person of the other or their children and for the offence of bigamy.
2. Ascendants, descendants and natural, adopted or related brothers and sisters, unless for an offence or misdemeanour committed by one against the person of the others.

Article 104.

Criminal proceedings arising from the offences of statutory rape, libel and slander may also not be initiated by other persons other than in the manner provided for in the relevant articles of the Penal code.

Offences consisting of the advertisement in the press of false facts, or relating to private life, which prejudice or offend private individuals, and minor insults may only be prosecuted by the aggrieved parties or by their legitimate representatives.

Article 105.

1. The civil servants at the Public Prosecution Service will be under the obligation, in accordance with the provisions of the Law, to initiate all criminal proceedings that they consider appropriate, whether or not there is a private prosecutor in the cases, except for those which the Criminal Code reserves exclusively for private lawsuits.

2. Offences which may be prosecuted at the request of the aggrieved person may also be indicted by the Public Prosecution Service if the person is a minor, a disabled person needing special protection or invalid.

The absence of a statement of case will not prevent preventative legal measures being taken.

Article 106.

Criminal proceedings for offences or misdemeanours which give rive to the ex officio procedure are not discontinued if the aggrieved person withdraws.

However they are discontinued for this reason when they arise from an offence or misdemeanour which cannot be prosecuted except by request from a party, and civil cases, whatever the offence or misdemeanour they arise from.

Article 107.

Withdrawals from waivable civil or criminal action will only prejudice the party withdrawing; criminal action will continue at the stage in which the case is to be found, or prosecuted once again by others who may also do so.

Article 108.

Civil action must be scheduled by the Public Prosecution Service together with the criminal action, whether or not there is a private prosecutor to the proceedings; but if the aggrieved party expressly waives their right to restitution, repair or compensation, the Public Prosecution Service will limit itself to requesting punishment of the guilt parties.

Article 109.

In the act the Judge receives the statement from the aggrieved party who has the necessary legal capacity, the Court Clerk will instruct them of the their right appear as a party in the proceedings and waive, or not, the restitution of things, repair of damages and compensation for damages causes for the punishable act. Furthermore, they will

be informed of the rights included under current legislation, and may delegate this function to personnel specialising in victim support.

If the person is a minor or has limited legal capacity, the same legal measure will be taken with their legal representative or person helping them.

Outside of the cases provided for in the two previous paragraphs, no notification of any kind will be made to the interested parties in civil or criminal actions which prolongs or detains the progress of the case, which does not remove the fact that the Court Clerk should endeavour to instruct the absent aggrieved party of that right.

At any event, in proceedings followed for offences included in article 57 of the Criminal Code, the Court Clerk will ensure the victim is notified of such procedural acts as may affect their safety.

Article 109 a.

1. Victims of offences who have not waived their right may take criminal action at any time prior to the classification procedure for the offence, although this will not allow retroaction or reiteration of the proceedings already pursued prior to their appearance.

In the event that the victim dies or disappears as a result of the offence, criminal proceedings may be taken by their spouse, not legally separated, or de facto partner and by their children or by the spouse, not legally separated, or de facto partner who, at the time of the victim's death or disappearance, lived with them; by the person who, until the moment of the death or disappearance, had been with the victim in a similar emotional relationship and by the children who, at the time of the victim's death or disappearance, lived with them; by their parents and lineal relatives or collaterally within the third degree who are under their custody, persons subject to their protection or guardianship or who are fostered by them.

In the event that the aforementioned do not exist, it may be taken by other lineal relatives and by their brothers and sisters with preference, amongst them, for whoever is the victim's legal representative.

2. The exercise of criminal proceedings by any of the persons authorised in accordance with this article does not prevent their later exercise by any other of those authorised. Where there are multiple victims, all of them may appear independently with their own representation. Nevertheless, in these cases, where the good order of the proceedings or the right to proceedings without undue delay may be affected, the Judge or Court, in a reasoned decision and having heard all of the parties, may impose grouping into one or several representations directed by the same or several defences, depending on their respective interests.

3. Criminal proceedings may also be initiated by associations of victims and by legal persons which the law recognises as having legitimacy to defend victims' rights, as long as this is authorised by the victim of the offence.

Where the purpose of the offence or misdemeanour committed was to prevent or obstruct members of local administration from doing their public functions, the Local

Administration in whose territory the punishable act was committed may also appear in the case.

Article 110.

The parties injured by an offence or misdemeanour who have not waived their right, may become a party to the case if they do so prior to the procedure classifying the offence and take such civil action as is appropriate, as they deem fit, without this causing a delay to the course of proceedings.

Even where the injured parties do not become party to the proceedings, this does not mean that they waive their right to restitution, repair or compensation which may be agreed in their favour in the final decision. It will be necessary to waive this right, as appropriate, in a clear and categorical manner.

Article 111.

Actions arising from an offence or misdemeanour may be initiated together or separately, but while the criminal action is pending the civil action may not be initiated separately until a final decision has been passed, always with the exception of articles. 4., 5. and 6. of this Code.

Article 112.

If only criminal proceedings are initiated, the civil action will also be understood to be included, unless the aggrieved or injured party waives it or expressly reserves it to initiate it after the criminal trial has ended, should it take place.

If only the civil proceedings which arise from an offence which may only be prosecuted in a private lawsuit, the criminal proceedings will be considered to be absolutely terminated.

Article 113.

The two actions may be taken by a single person or by several, but if they are two or more persons taking actions arising from an offence or misdemeanour this will be heard in a single proceedings and, if possible, under the same direction and representation, in the judgment of the Court.

Article 114.

Once a criminal trial to prove an offence or misdemeanour has been advocated, there can be no lawsuit for the same act; if one is underway, it shall be stayed, in the place where it is at the time, until a final decision is given in the criminal case.

This will not be necessary to initiate criminal proceedings which may have preceded the civil action arising from the same offence or misdemeanour.

The provisions of this article are without prejudice to the provisions of chapter II, title I of this book regarding pre-trial matters.

Article 115.

Criminal proceedings are extinguished by the death of the guilty party; but in this case the civil action subsists against their heirs and successors, which may only be taken before civil jurisdiction and by the civil route.

Article 116.

Termination of the criminal proceedings does not carry the civil action with it, unless the termination arises from a final decision stating that the act from which the civil action may have arisen did not exist.

In all other cases, the person entitled to take civil action may do so, before the appropriate civil jurisdiction and via the civil route, against whoever is under the obligation to reinstate the thing, repair the damage or compensate for the damages suffered.

Article 117.

Termination of the civil action does not carry with it the criminal proceedings arising from the same offence or misdemeanour.

The absolute final decision passed in the lawsuit pursued in taking civil action will not be an obstacle to taking the relevant criminal action.

The provisions of this article are without prejudice to the provisions of chapter II of title I of this book and articles 106, 107, 110 and the second paragraph of article 112.

TITLE V

In the right to a defence, free legal aid and translation and interpretation in criminal trials.

CHAPTER I

On the right to a defence and free legal aid.

Article 118.

1. All persons accused of a punishable act may exercise the right to a defence who will appear in the acts from the moment they are notified of their existence, whether they have been arrested or other precautionary measure of if their prosecution has been agreed, for which purpose, without undue delay, they will be instructed of the following rights:

a) The right to be informed about the acts ascribed to them and any relevant change in the subject of the investigation and the grounds on which the accusation was based. This information will be given with a sufficient amount of detail to enable effective exercise of the right to a defence.

b) The right to examine the proceedings sufficiently in advance to safeguard the right to a defence and, at any event, prior to their statement being taken.

c) The right to act in the criminal proceedings to exercise their right to a defence in accordance with the provisions of the law.

d) The right to appoint a lawyer freely, without prejudice to the provisions of paragraph 1 a) of article 527.

e) The right to request free legal aid, the procedure for doing so and the conditions to obtain it.

f) The right to translation and interpretation, free of charge, in accordance with the provisions of articles 123 and 127.

g) The right to remain silent and not make a statement if they do not wish to do so and not to answer some or any of the questions put to them.

h) The right not to make a statement against themselves and not to confess guilt.

The information referred to in this paragraph will be provided in understandable, simple language. For this purpose the information will be adapted to the age of the recipient, their degree of maturity, disability and any other personal circumstance which may give rise to a modification to the capacity to understand the scope of the information being provided to them.

2. The right to a defence will be exercised without further limitations than those expressly provided for in the law from being accused of the punishable act being investigated until the sentence has ended.

The right to a defence included learned assistance from a lawyer who may be freely appointed or, in default, the duty lawyer, with whom they may communicate and interview in private, even prior to their statement being received by the police, the prosecutor or the judicial authority, without prejudice to the provisions of article 527, and will be present for all their statements and identity parades, confrontations and reconstructions of events.

3. To take part in proceedings, persons under investigation must be represented by a procurator and defended by a lawyer, with these being appointed ex officio when they are not appointed by themselves and this is requested, at any event, where they do not have the legal capacity to do so.

If they have not appointed a procurator or lawyer, they will be required to do so or they will be appointed ex officio if, having been requested to do so no appointment is made, when the case reaches a stage at which the advice of the former is needed or an appeal is sought which makes it indispensable for them to act.

4. All communications between the party under investigation or the accused and their lawyer will be confidential in nature.

If these conversations or communications have been recorded or intercepted during execution of any of the legal measures regulated by this law, the judge will order the recording to be deleted, or the correspondence intercepted to be handed over to the recipient, and will leave a record of these circumstances on the proceedings.

The provisions of the first paragraph will not be applicable where there is objective evidence indicating that the lawyer took part in the criminal act under investigation, or of their involvement with the party under investigation or the accused in committing another criminal offence, without prejudice to the provisions of the General Prisons Act.

5. Admission of the report or complaint and any procedural step which results in charging an offence against a certain person or persons, will immediately be made know to those allegedly responsible.

Article 118 a.

When a Member of Parliament or a Senator is charged with a punishable act the procedure will be the same as in the previous article, and they may exercise their right to a defence under the terms provided for in the previous article, without prejudice to the provisions of article 71.2 and 3 of the Spanish Constitution.

Article 119.

1. When, in accordance with the provisions of article 118 of this Law, an incorporated entity must be charged, the appearance provided for in article 775 will be made, with the following particulars:

a) The summons will be made at the registered office of the incorporated entity, demanding the entity to appoint a representative as well as a Lawyer and Procurator for the proceedings, with the warning that, in the event this is not done, the latter two will be appointed ex officio. Non-appointment of a representative will not prevent carrying out the proceedings with the appointed Lawyer and Procurator.

b) The appearance will be made with the representative particularly appointed by the incorporated entity accompanied by its lawyer. Non-appearance in the act by such representative will mean that this will be carried out with the entity's Lawyer.

c) The Judge will inform the representative of the incorporated entity charged, or, as appropriate, the Lawyer, of the offences it is being charged with. This information will be provided in writing or by delivery of a copy of the report or claim submitted.

d) Appointment of a Procurator will replace the indication of an address for the purpose of notices, with the Procurator appointed receiving all later acts of notification, including those which are of a personal nature according to this Law. If the Procurator has been appointed ex officio, the incorporated entity charged will be notified of their identity.

Article 120.

1. The provisions of this Law which require or authorise the presence of the party under investigation in carrying out investigative acts or pre-trial evidence will always be understood to refer to the representative particularly appointed by the entity, who may attend accompanied by the lawyer in charge of its defence.

2. Non-appearance by the person particularly appointed will not prevent the investigative act or pre-trial evidence being carried out and this will be substantiated with the lawyer for the defence.

Article 121.

All those who are parties to the case, if they have not been given the right to free legal aid, are under the obligation to pay the fees of the procurator representing them, the fees for the lawyer defending them, those for the experts reporting at their request and compensation for the witnesses they present, where the experts and witnesses, when declaring, have made their claim to it and the Judge or Court allow it.

It will not be under the obligation to pay other court costs either during the case or once it has finished, unless costs are awarded against it.

Those who are eligible for free legal aid, may avail of their own choice of lawyer and procurator, but in this case they will under the obligation to pay them for their fees and costs, as provided for with respect to those who do not have such right, unless the freely chosen professionals waive receipt of fees or costs under the terms provided for in article 27 of the Free Legal Aid Act.

Article 122.

Folio size paper will be used in trials of misdemeanours and criminal cases, without prejudice to the relevant reimbursement if there is an award as to costs.

CHAPTER II

On the right to translation and interpretation.

Article 123.

1. Those charged or accused who do not speak or understand Spanish or the official language in which the proceedings are held will have the following rights:

a) The right to be assisted by an interpreter who uses a language that they understand during all the proceedings where their presence is needed, including questioning by the police of the Public Prosecution Service and all of the court hearings.

b) The right to have an interpreter for conversations held with their Lawyer and which are directly related to their later questioning or statement taking, or which are necessary to submit and appeal or for other procedural applications.

c) The right to interpretation of all the oral hearing proceedings.

d) The right to written translation of the documents which are essential to guarantee exercise of the right to a defence. Decisions resolving on imprisonment of the accused, the prosecution report and the sentence must, in all cases, be translated.

e) The right to submit a reasoned application for a document to be considered as essential.

The costs for translation and interpretation arising from the exercise of these rights will be borne by the Administration, regardless of the result of the proceedings.

2. In the event that a simultaneous interpretation service is not available, interpretation in oral hearing proceedings as referred to in letter c) of the previous paragraph will be made using consecutive interpretation in such a way that sufficiently ensures the defence of the defendant or accused.

3. In the case of letter d) of paragraph 1, translation of passages of essential documents which, in the opinion of the Judge, Court or competent Civil Servant, are not needed so that the defendant or accused knows the facts they are charged with may be foregone.

Exceptionally, written translation of documents may be replaced by an oral summary of their content in a language which they understand where, in this way, the defence of the defendant or accused is sufficiently ensured.

4. The translation must be made within a reasonable time limit and once it is agreed by the Court or Judge or Public Prosecution Service the procedural time limits which may be applicable will be stayed.

5. The assistance of the interpreter may be given by video conferencing or any means of telecommunication, unless the Court or Judge or the Prosecutor, ex officio or at the request of the interested party or their defence, agree to the physical presence of the interpreter to safeguard the rights of the defendant or accused.

6. Oral or sign language interpretations, with the exception of those provided for in letter b) of paragraph 1, may be documented with an audio-visual recording of the

original statement and the interpretation. In the cases or oral or sign language interpretation of the content of a document, a copy of the document translated and the audio-visual recording of the translation will be attached to the record. If recording equipment is not available, or it is not considered suitable or necessary, the translation or interpretation and, as appropriate, the original statement will be documented in writing.

Article 124.

1. The court translator or interpreter will be appointed from amongst those included on the lists drawn up by the competent Administration. Exceptionally, in such cases as require the urgent presence of a translator or interpreter and it not possible for a court translator or interpreter to appear who is registered on the lists drawn up by the Administration, as appropriate, in accordance with the provisions of paragraph 5 of the previous article, another person who is familiar with the language used who is deemed to have the capacity to perform such a task may be used as the eventual interpreter or translator.

2. The interpreter or translator appointed must respect the confidential nature of the service rendered.

3. Where the Court, the Judge or the Public Prosecution Service, ex officio or at the request of a party, finds that the translation or interpretation does not offer sufficient safeguards as to accuracy, it may order the appropriate checks to be carried out and, as appropriate, order a new translator or interpreter to be appointed. Likewise, deaf persons, or with impaired hearing, who find that the interpretation does not offer sufficient safeguards as to accuracy, may request that a new interpreter be appointed.

Article 125.

1. Where circumstance arise which may make the assistance of an interpreter or translator necessary, the President of the Court of the Judge, ex officio or at the request of the Lawyer for the defendant or the accused, will ascertain if the latter knows and sufficiently understands the official language in which the proceedings are being held and, as appropriate, will order appointment of an interpreter or translator in accordance with the provisions of the previous article and will decide which documents should be translated.

2. The decision of the Judge or Tribunal refusing the right to the interpretation or translation of any document or passage within it which the defence considers essential, or which rejects complaints from the defence in relation to the lack of quality in the interpretation or translation, will be documented in writing.

If the decision was made during the oral hearing, the defence for the defendant or accused may make a record of their protest on the court record.

An appeal may be lodged against these court decisions in accordance with the provisions of this Law.

Article 126.

Waiver of the rights referred to in article 123 must be express and of free will and will only be valid if it occurs after the defendant or accused has received sufficient, simple legal advice to be able to understand the consequences of their waiver. At any event, the rights referred to in letters a) and c) of paragraph 1 of article 123 may not be waived.

Article 127.

The provisions contained in the preceding articles are also applicable to persons with sensory disability who may be provided with means of support for oral communication.

Articles 128 to 140. *(Repealed)*

TITLE VI

On the manner of issuing decisions and the method for settling conflicts

CHAPTER I

On procedural rulings

Article 141.

Rulings of a judicial nature issued by the Courts and Tribunals will be known as:

Court decisions, where they resolve procedural matters reserved to the Judge and do not legally require to be in the form of an order.

Orders, where they decide on incidents or essential points directly affecting the investigated parties or accused, those with civil liability, private prosecutors or civil claimants; where they decide the jurisdiction of the Court or Tribunal, the appropriateness or impropriety of a challenge, where they decide appeals against court decisions or decrees, prison or provisional liberty or the right to legal aid or affect a fundamental right and, finally, any others which, according to Law, must be grounded.

Judgments, where they definitively decide the criminal matter.

Final judgments, where there can be no possible ordinary or extraordinary appeal against them apart from for judicial review and reversal.

The formal public document containing a final judgment is known as executory.

The formula for court decisions will be limited to the decision on that ordered and the Judge or Court hearing them, with no more grounds or additions than the date on which it is agreed, the signature or initials of the Judge or President and the signature of the Court Clerk. Nevertheless, they may be succinctly reasoned without being subject to any requirements where deemed appropriate.

Orders will always be grounded and will contain separate numbered paragraphs of the background in fact and the grounds in law and, lastly, the substantive part. They will be signed by the Judge, Magistrate or Magistrates issuing them.

All decisions shall include mention of the place and date on which they are adopted and whether it is final or can be appealed against, specifying, in the latter case, the type of appeal that can be lodged, the court with which it must be lodged and the time limit granted to appeal.

Article 142.

Judgments will be drawn up subject to the following rules.

1. They will begin by expressing: The place and the date on which they were passed, the facts giving rise to the case being made, the names and surnames of the private claimants, if there are any, and the accused, the sobriquets or nicknames they are known by, their age, marital status, legal character, address, trade or profession and, in default, all other circumstances under which they may have appeared in the case, as well as the name and surname of the Rapporteur Magistrate.

2. Numbered Therefore clauses will contain the facts linked to the matters which must be resolved by the ruling, with express, definitive statement of those considered to be proven.

3. The definitive conclusions of the prosecution and the defence will be included along with that, as appropriate, proposed by the Court, in accordance with the provisions of article 733.

4. Numbered paragraphs beginning with the word whereas will also include:

One. Doctrinal and legal grounds classifying the facts which are upheld as proven.

Two. Doctrinal and legal grounds determining the participation that each one of the accused may have had in the aforementioned facts.

Three. Doctrinal and legal grounds classifying mitigating or aggravating circumstances or those exonerating criminal liability, if these exist.

Four. Doctrinal and legal grounds classifying the facts that are upheld as proven in relation to the civil liability incurred by the accused or by the persons subject to it who may have been heard in the case, and those relating to decisions which may have been made as to costs and, as appropriate, a declaration of a defamatory lawsuit.

Five. Citation of the legal provisions considered to be applicable, and, lastly, pronouncing the ruling which will condemn or absolve not just for the main offence and associated offences by also for incidental misdemeanours which became known during the case, classifying as incidental misdemeanours those which the accused may have committed prior to, at the same time as or after the offence as a means or perpetrating or concealing it.

The judgment will also resolve on all matters relating to civil liability which may have been subject to the hearing and the lawsuit will be declared defamatory where appropriate.

Article 143.

Executory judgments will be headed in the name of the King.

Article 144.

Acquittal is understood to be free from charges in all cases.

Article 144 a.

The decisions of the Court Clerks shall be called certificates and decrees.

Unless the Law provides to the contrary, an order of the Court Clerk to move the proceedings forward will be issued when the purpose of the decision is give orders the course provided for by the Law. Certificates of record, communication or execution shall be issued for the purposes of recording facts or acts of a procedural significance in the proceedings.

The decision issued by the Court Clerk where it is necessary or appropriate to reason their decision is called a decree.

Certificates will be limited to expressing the facts, the place, the date and the name and signature of the Court Clerk issuing them. Orders of the Court Clerk to more the proceedings forward will also include a succinct reasoning where this is provided for by the Law or where the Court Clerk deems it be appropriate.

Decrees shall always be reasoned and shall contain separate numbered paragraphs setting out the background in fact and the grounds in law on which the subsequent substantive part is based. They will state the place, date and the name of the Court Clerk issuing them and be signed in full.

All decisions by the Court Clerk shall include mention of whether they are final or can be appealed against, specifying, in the latter case, the type of appeal that can be lodged, the court with which it must be lodged and the time limit granted to appeal.

Article 145.

Three Senior Judges will be sufficient to issue orders in matters being heard by the Supreme Court and seven will be needed to pass judgments, unless the Law provides otherwise.

Three Senior Judges will be sufficient to issue orders and judgments in the Provincial Courts, the National Court and the High Courts of Justice.

Where sufficient Senior Judges to constitute a Chamber are not in attendance, the provisions of the Judiciary Act will apply.

Two Senior Judges will be sufficient to issue court decisions in any Court, if they are in agreement.

Article 146.

There will be a Rapporteur Magistrate for each case.

The Senior Court Judges will take turns in this post, with the exception of the presiding judge.

Where Courts or Chambers solely consist of a President and two Senior Judges, the former will also take one in every five turns to be Rapporteur.

Article 147.

The Rapporteurs:

1. Inform the Court of the applications from the parties.

2. Examine everything related to the evidence put forward and inform the Court about its suitability or unsuitability.

3. Receive statements from witnesses and carry out any evidence taking where, according to the Law, these must not or cannot be taken before the Court ordering them, or they are made outside the town where the Court is found and no commission is given to the Examining or Municipal Magistrates to taken them.

4. Propose orders or judgments which must be submitted to the Court for discussion and definitively draw then up in the terms agreed.

Where the Rapporteur does not have a majority vote, another Senior Judge will be entrusted with drawing up the judgment; but in this case the former will be under the obligation to cast a dissenting vote.

5. Read the judgment at a public hearing.

Article 148.

If, due to any circumstance, judgment cannot be made in any case on the relevant day, this will not prevent others being decided or sentenced which were heard later on, without this altering the order other than as absolutely essential.

Article 149.

Immediately after the oral hearing has been held, or on the following day, prior to office hours, the Court will discuss and vote on matters of fact and law which have been the subject of the hearing. The judgment approved will be drawn up and signed within the time limit provided for in article 203.

Article 150.

The discussion and vote on the judgments will be carried out in all Courts in closed sessions and prior to or after ordinary office hours.

Article 151.

Once the judgment proposed by the Rapporteur has been discussed, the Rapporteur will vote first, followed by the other Senior Judges in reverse order of seniority.

Article 152.

Where the importance of the discussion demands it, the presiding judge must make a brief summary of it prior to the vote.

Article 153.

Court decisions, orders and judgments will be passed by absolute majority of votes, except in cases where the Law expressly demands a higher number.

Article 154.

If, after the hearing and prior to the vote, any Senior Judge is precluded and cannot attend the act, they will cast their vote, grounded and signed, and send it directly to the President. If they are unable to write or sign, the assistance of the Court Clerk shall be requested.

Votes cast in this way will be kept, initialled by the presiding judge, in the judgments book.

Where the Senior Judge cannot vote, even by this method, the case will be voted on by those who are unhandicapped who attended the hearing and, if they are enough to form a majority, they will pass judgment.

Where there is no majority, the provisions ordered by the Law with respect to conflicts will apply.

Article 155.

Where any Senior Judge is transferred, retired, separated or suspended, they will vote on the cases where they attended the hearing and which still have to be judged.

Article 156.

Once the vote on a judgment has commenced it may not be interrupted except due to an insurmountable impediment.

All those taking part in the vote on a court decision, order or judgment will sign what is agreed, even if they may have dissented from the majority; however, they may, in this case, withhold their vote, which will be inserted with their signature at the foot of the book of dissenting votes, within the following twenty-four hours.

Article 157.

Dissenting votes will not be included in the certificates or testimonies of judgments issued by the Courts, but they will be sent to the Supreme Court and be made public where an appeal in cassation is lodged and admitted.

Article 158.

Judgments will be signed by all Senior Judges who are not incapacitated.

Article 159.

Each court shall keep, under the custody and at the responsibility of the Court Clerk, a book of judgments, which shall incorporate all final judgments, orders of the same nature and the dissenting votes that have been cast, which shall be included in correlative order according to their publication date.

Article 160.

Final judgments will be read and notified to the parties and their Procurators in all oral hearings on the same day as they are signed, or on the following day at the latest.

If, due to any circumstance or mishap, the parties are not to be found when going to make the notification, this will be recorded on a legal measure and, in this case, it will be sufficient that the notification is served on their Procurators.

Orders resolving incidents will solely be notified to the Procurators.

Where instruction of the case fell to a Domestic Violence Judge, the judgment will be sent to them immediately by way of testimony, with an indication of whether it is final or not.

Article 161.

The Courts cannot alter the decisions issued by them once they have been signed, although they may clarify any obscure concept and rectify any material error contained therein.

The clarifications referred to in the preceding paragraph may be made ex officio by the Court or the Court Clerk, as applicable, within the two working days following that of the publication of the decision, or at the request of a party or the Public Prosecutor made within the same time limit, in which case the request shall be resolved by whoever issued the decision within three days following the presentation of the written request for clarification.

Evident material errors and arithmetic mistakes committed in the decisions of the Courts and Court Clerks may be rectified at any time.

Omissions and defects that may be contained in judgments and orders, and which need to be remedied in order for such decisions to be fully effective, may be corrected, by means of an order, within the same time limits and following the same procedure as provided for in the preceding paragraphs.

If judgments and orders are being dealt with which have manifestly omitted rulings relating to the claims made and substantiated appropriately in the proceedings, the Court, on written request from a party within a time limit of five days from notification of the decision, after the Court Clerk has transferred such a request to the other parties, for written allegations within another five days, will pass an order resolving either to complete the decision with the omitted ruling or that there is no need to complete it.

If, in the judgments or orders issued by it, the Court becomes aware of the omissions referred to in the preceding paragraph, it may, within a time limit of five days following the date of passing such judgment or order, proceed to complete its decision ex officio by means of an order, albeit without modifying or rectifying that agreed.

In the same manner as established in the preceding paragraphs, the Court Clerk may, when necessary, correct or complete the decrees issued by them.

No appeal may be lodged against decisions resolving on the clarification, rectification, correction or completion referred to in the preceding paragraphs of this article, notwithstanding the appeals that may be lodged, as appropriate, against the decision referred to in the request or the procedure carried out ex officio by the Court or the Court Clerk.

The time limits for appeals arising against the decision in question will be halted from when their clarification, rectification, correction or completion is requested and, at any event, will start to be calculated from the day following notification of the decision which admits or rejects the omission in the pronouncement and agrees or refuses to remedy it.

Article 162.

The Courts will methodically keep collections of minutes of the orders resolving incidents and judgments they pass, making reference to each one in the corresponding entry in the orders and judgments books of the Court.

The sheets of the Courts' orders and judgments books will be numbered and sealed and initialled by the relevant President.

CHAPTER II
On the manner of settling conflicts

Article 163.

Where, when voting on a final judgment, order or procedural court order, there is not majority of votes on any of the rulings on fact or on law which must be made or on a decision which must be passed, the points on which there were dissenting voters will be discussed and voted on once again.

Article 164.

If, in the following vote, the dissenters persist in their respective opinion, only the two votes most favourable to the accused will be submitted to a new discussion, and between these precisely all voters must choose, so that one of the two will be approved.

In this case, the following words will be placed in an appropriate place in the judgment: "In the light of the result of the vote, the law decides:...".

The decision on which of the two opinions is most favourable to the accused will be made by plurality of the vote.

The provisions of this article and preceding one are not applicable in the case referred to in the second paragraph of article 153.

Article 165.

In judgments passed by the Supreme Court in appeals for judicial review or review there can be no dissent, and for this purpose the whereas and therefore clauses which do not obtain an absolute majority of votes will be dismissed.

TITLE VII

On notifications, summons and orders to attend

Article 166.

Acts of notification will be carried out under the direction of the Court Clerk.

Notifications, summons and orders to attend served outside the courtroom of the Court or Tribunal will be made by the relevant civil servant. When the Court Clerk considers it be appropriate, they may be made by registered post with proof of delivery, with the Court Clerk certifying on the records as to the content of the envelope sent and attaching the proof of delivery to it.

Notifications, summons and orders to attend will be served in the manner provided for in chapter V of title V of book I of the Civil Procedure Act.

Notifications, summons and orders to attend sent by post will be understood to have been served on the date that the recipient confirms their receipt on the proof of delivery.

Registered post sent in accordance with the provisions of the preceding paragraphs will be post-paid and its cost will not be included in the appraisal of costs.

Those taking place in the courtrooms will be served by reading the decision in its entirety to the person being notified, giving them a copy simultaneously, even if they did not request it, and pointing out each once in the court record drawn up, which will be signed by the Court Clerk or the civil servant carrying it out.

Article 167.

For service of notifications, the Court Clerk taking part in the case will draw up a writ which will contain:

1. Statement of the subject of the case and the names and surnames of those who are a party to it.
2. A verbatim copy of the decision which is to be notified.
3. The name and surnames of the person or persons who must be notified.
4. The date on which the writ is issued.
5. The signature of the Court Clerk.

Article 168.

A short note will be made on the court records of the issue of the writ and the Officer of the Chamber or Sheriff entrusted with its execution.

Article 169.

The official receiving the writ will take, and authorise with their signature, as many copies as there are persons to be notified.

Article 170.

The notification will consist of reading the decision to be notified in its entirety, handing over a copy of the writ to the person being notified and making a record of delivery by a short note at the foot of the original writ.

Article 171.

The record will note the day and time of delivery and will be signed by the person to whom this is made and by the civil servant serving the notification.

If the person to whom delivery is made does not know how to sign, another person will do so at their request and if they do not wish to sign, two witnesses sought for that purposes will sign. These witnesses may not refuse to act as such, under penalty of a fine of 25 to 100 pesetas.

Article 172.

Where, at the first attempt of service the person to be notified is not found at their address, whatever the reason may be and the length of their absence, the writ shall be delivered to such relative, family member or servant, over fourteen years of age, as may be found at such address.

If nobody is there, delivery will be made to one of the nearest neighbours.

Article 173.

The record of delivery will state the obligation on whoever receives the copy of the writ to hand it over to whoever must be notified as soon as they return to their domicile, on penalty of a fine of 25 to 200 pesetas if delivery is not made.

Article 174.

Where a notification cannot be served due to a change of address by the person to be notified and it not being possible to ascertain the new one, or for any other reason, this will be recorded on the original writ.

Article 175.

Summons and orders to attend will be served in the manner provided for notifications, with the following differences:

The writ of summons will contain:

1. A statement of the Judge, Court or Court Clerk issuing the decision, its date and the case it relates to.

2. The names and surnames of those to be summoned and their addresses. If these are unknown, any other circumstances by which the place in which they are to be found may be described.

3. The purpose of the summons and the capacity in this they are summoned.

4. The place, day and time at which the person summoned must attend.

5. The obligation, if appropriate, to attend on the first call, on penalty of a fine of €200 to €5,000, or, if it is the second call being made, that of attending with the warning of being pursued as an offender under the offence of obstruction of justice as set out in article 463.1 of the Criminal Code.

The order to attend writ will contain the requirements 1), 2) and 3) above for the summons and, in addition, the following:

1. The time limit within which the person ordered to attend must appear.

2. The place where they must appear and the Judge or Court before which they must do so.

3. The warning that, if they do not appear, they will be liable for such damages as are provided for by law.

Article 176.

When the person summoned does not appear in the place and on the day and time indicated to them, whoever served the summons will return to the address of the person who received a copy of the writ, making a record on the original of the reason why appearance was not made. If this reason is not legitimate, the Judge or Court which agreed the summons will be immediately proceeded to in order to carry out the relevant punishment, from amongst those provided for in number 5. of the previous article.

Article 177.

Where notifications, summons or orders to attend are served in the territory of a different Spanish judicial authority, a request, plea or order, as appropriate, will be issued which will contain the requirements for the writ's content.

If served abroad, the procedures prescribed in the treaties, if any, will be observed and, in default, the principle of reciprocity will apply.

Article 178.

If the person to be notified, summoned or ordered to attend does not have a known address, the Examining Magistrate will order as appropriate to ascertain it. In this case, the Court Clerk will contact the Judiciary Police, official Registries, professional associations, entity or companies in which the interested party carries out their activity concerning such enquiry.

Article 179.

Once the notification, summons or order to attend has been served or a record made of the reason preventing this, the original writ, or the request, plea or order issued, will be attached to the court records.

Article 180.

Notifications, summons and orders to attend which are not served in accordance with the provisions of this chapter will be null and void.

Nevertheless, where the person notified, summoned or ordered to attend has acknowledged service at the hearing, the legal measure will then have full effect as if it had been made in accordance with the provisions of the law. However this will not relieve the assistant or subaltern from the disciplinary action provided for in the following article.

Article 181.

Any assistant or subaltern who delays in performing the functions corresponding to them under this chapter, or if any of the formalities provided for within it are lacing, they will be subject to disciplinary action by the Judge or Court they come under with a fine of 50 to 500 pesetas.

Article 182.

Notifications, summons and orders to attend may be made to the parties' Procurators.

Except for:

1. Summons which, by express provision of the Law, must be served on the interested parties themselves in person.
2. Summons providing for their compulsory appearance.

TITLE VIII

On requests, pleas and orders

Article 183.

The Judges and Courts will mutually assist each other in taking all the legal measures necessary to substantiate criminal cases.

Article 184.

Where legal proceedings must be enforced by a Judge or Court other than that ordering it, they will commend its performance by a request, plea or order.

The request will be used when addressing a Judge or Court of a higher level; a plea, where addressing one of the same level, and an order or order letter, when addressing a subordinate.

Article 185.

The Judge or Court ordering service of legal proceedings may not address Judges or Courts of a lower category or grade which are not subordinate to them and they must contact the higher of these, having jurisdiction at the same level as them, directly.

Cases where the Law expressly provides otherwise are excepted.

Article 186.

The order will be used to order the issue of certification or testimony and the practice of any legal proceedings whose execution corresponds to Land Registrars, Notaries, assistants or subalterns of the Courts or Tribunals and civil servants of the judiciary police who are at their orders.

Article 187.

Writs or briefs will be used where Judges or Courts have to address Authorities or civil servants at other levels, as the case may require.

Article 188.

Requests, pleas or orders in cases where offences are tried which are not those which may only be tried by private criminal lawsuit will be issued ex officio and will be directly processed by the Judge or Court issuing them for their performance.

Those arising from criminal offence cases which may only be prosecuted by virtue of a private lawsuit may be served with a receipt on the interested party or their representative, at whose request they were issued, setting a time limit to submit them to those who must comply with them.

Cases where the Law expressly provides otherwise are excepted.

Article 189.

The person receiving the documents will submit them, within the time limit set, to the Judge or Court to which they have entrusted completion, giving notice, straightaway, of having done so to the Judge or Court they come from.

On verifying submission, the relevant civil servant will draw up a court record, running on from the request, plea or order letter, stating the date of its delivery and the person submitting it, who will be given a receipt, and both will sign the record. Such civil servant will also account to the Judge or Court on the same day or, if this is not possible, on the following day.

Article 190.

Where they are sent ex officio, the Judge or Court receiving them will immediately acknowledge receipt to the sender.

Article 191.

The Judge or Court receiving, or which has been presented with, a request, plea or order letter, will agree to perform it, without prejudice to claiming the jurisdiction that they deem relates to them, and will rule accordingly so that the legal measures are carried out within the time limit, if this is set in the plea, or as soon as possible in any other case.

Once complete, this will be returned without delay in the same form as it was received or in which it was submitted.

Article 192.

If there is a delay in completing a request of more time than absolutely necessary, taking into account the distance and type of legal measure to be served, the Judge or Tribunal that issued it will send, ex officio or at the request of a party, as appropriate, a reminder to the Judge or Court invoked.

If delay in completion is for a plea, instead of a reminder a request will be sent to the immediate superior of the party pleaded to, making them aware of the delay.

This same remedy will be valid for whoever issued an order letter to oblige their delaying inferior that it be returned completed.

Article 193.

Pleas to foreign Courts are send by the diplomatic route, in the manner provided for in the treaties and, in failing this, that determined by the general provisions of the Government.

In any other case the principle of reciprocity will be applied.

Article 194.

The same rules provided for in the previous article will be observed for completion in Spain of pleas from foreign Courts requiring the practice of any legal proceedings.

Article 195.

Communication with the Authorities, civil servants, agents and Heads of the armed forces who are not under the direct orders of the Judges and Courts will be made via writ of notification, unless the urgency of the case requires it to be verified verbally, and a record will be made on the case.

Article 196.

Judges and Tribunals will address Colegislative Bodies and Ministers of the Crown in a brief sent via the Ministry of Grace and Justice, both to assist the Justice Administration in its own work as well as so that they may oblige the Authorities, their subordinates, to supply the data or provide the services that have been requested of them.

TITLE IX
On judicial time limits

Article 197.

Decisions of the Courts, Tribunals and Court Clerks, and court orders, will be passed and served within the time limits indicated for each one of them.

Article 198.

When no time limits are established, it shall be construed that they must be passed and served without delay.

Article 199.

The Judges and Courts will, as appropriate, impose such disciplinary action on their assistants and subalterns, without the need from a request from a party and, if they do not do so, they will themselves become liable.

Article 200.

Those considering themselves prejudiced by unjustified delays to judicial terms may make a complaint to the Ministry of Grace and Justice which, if upheld as grounded, will be sent to the relevant Prosecutor so that they may initiate, ex officio, the appropriate appeal for liability in accordance with the Law.

Article 201.

All the days and times of the year shall be working days and times for the examination of criminal cases, with no need for special authorisation.

Article 202.

Court time limits will be non-extendible where the Law does not expressly provide to the contrary.

However, they may be suspended or reopened, if this is possible without backtracking the case from the stage that it had reached, where there is just, proven cause.

Just cause will be that which makes it impossible to pass a decision or carry out legal proceedings, regardless of the will of those who should have done so.

Article 203.

Judgments will be passed and signed within the three days following that on which the hearing for the incident was held or the case was closed.

Judgments in misdemeanour cases are an exception and these must be passed on the same day or on the following day.

Article 204.

Orders and decrees will be issued and signed on the day following that on which the pleas were made which they must resolve on or the proceedings have reached a stage where they should be issued.

Court decisions and legal measures will be issued and signed immediately where the proceedings dictate the need to issue them, or on the same day or the following day on which the pleas which they return on have been submitted.

Article 205.

Orders, decrees, court decisions and legal measures which must be issued in a shorter time so that the progress of a public trial is not interrupted, or so that no legal provision is breached by delay, are excepted from the provisions of the previous article.

Article 206.

The Court Clerk will give account to the Judge or Court of all written pleas on the same day as they are delivered, if delivery is made prior to, or during, trial times and on the following day if they are delivered afterwards.

In all cases, immediately on receiving it and in the presence of whoever delivers it, a short note will be made at the foot of the plea recording the day and time of delivery and the interested party requesting it will be provided with a document which is sufficient to prove it.

Article 207.

Notifications, summons and orders to attend which must be served in the capital of the Judge or Court will be served, at the latest, on the day following issue of the decision which must be notified, or by virtue of which a summons or order to attend must be served.

Article 208.

If such legal measures need to be served outside the capital, the Court Clerk will deliver the writ to the Chamber Officer or subaltern, or will send the request, plea or order ex officio or deliver it to the party, as appropriate, on the day after the decision is passed.

Article 209.

The legal measures cited in the previous article will be served within a time limit not exceeding one day for every 20 kilometres between the capital and the point where they must take place.

Article 210.

All other legal measures will be served in the time limits set for them when the decision ordering them is issued.

Article 211.

Appeals for reconsideration or pleas against the decisions of the Judges and Courts will be lodged within a time limit of the three days following notification to those who are a party to the case.

Appeals for reversal and for review against the decisions of the Court Clerks will be lodged within the same time limit.

Article 212.

The recourse to appeal will open within five days after the day following that of the last notification of the judicial decision that is its subject, made as set out in the previous article.

A judicial review will be prepared within the five days following the day of the last notification of the judgment or order against which it is sought.

Recourse to appeal against the judgment passed in a misdemeanour case is excepted. For this appeal, the time limit will be the first day following that on which the last notification was served.

Article 213.

An appeal of complaint for which the Law does not indicate a time limit may be lodged at any time while the case is still unresolved.

Article 214.

Court Clerks are under the obligation, without the least delay and at their own liability, to make the Judge or Court aware of expiry of the legal time limits, recording this in a court record.

Article 215.

Once the time limit set by the Law or by the Judge or Court, as appropriate, has passed the proceedings will continue ex officio at the stage which they had reached.

If the proceedings are in the power of another person, they will be collected without the need for a procedural court order, at the liability of the Court Clerk, with a fine of 25 to 250 pesetas being imposed on whoever causes the collection if they do not immediately hand them over or if they hand them over without despatch where they were under the obligation to formulate an opinion or claim. In the second case, the Judge or Court will indicate a second prudential time limit and if, once passed, the cleared proceedings are not returned, the person referred to in this article will be prosecuted as guilty of disobedience.

The person who, even when fined, does not return the proceedings will also be prosecuted for this offence.

TITLE X

On appeals against procedural rulings

CHAPTER I

On appeals against decisions of the Courts and Tribunals

Article 216.

The remedies of reconsideration, appeal and compliant may be exercised against decisions by the Examining Magistrate.

Article 217.

The remedy of reconsideration may be lodged against all orders by the Examining Magistrate. An appeal may only be lodged in the cases provided for in the Law and will be admitted for both purposes only where this is expressly provided for by the Law.

Article 218.

An appeal of complaint may be lodged against all non-appealable orders by the Judge and against decisions refusing admission of a resource to appeal.

Article 219.

Resources of reconsideration and appeal will be lodged before the same Judge as issued the order.

The appeal of complaint will be made to the competent superior Court.

Article 220.

In accordance with the previous article, the same Judge that the recourse of reconsideration was lodged with will be competent to hear it.

The competent Court to hear the recourse to appeal will be that hearing the oral trial of the case.

The same Court will be competent to hear the appeal against an order of non-admission of a complaint.

The Judge or Court competent to hear an appeal of complaint will be the same one that it was lodged with, in accordance with the second paragraph of article 219.

Article 221.

Recourses of reconsideration, appeal and complain will always be lodged in a writ authorised by a Lawyer's signature.

Article 222.

The recourse to appeal may not be lodged until after that of reconsideration has been exercised. However, both may be lodged in the same writ, in which case the appeal will be proposed as an alternative, in case the reconsideration is dismissed.

Whoever lodges the recourse of reconsideration will submit, with the writ, as many copies of it as there are parties to it, and such copies must be delivered to them.

The Judge will decide on the appeal on the second day after the copies are delivered, whether or not the other parties have submitted a writ.

Article 223.

Once the recourse to appeal has been lodged, the Judge will admit it, for one or both effects, as appropriate.

Article 224.

If the appeal is admitted for both effects, the Court Clerk will send the original records to the Court which is to hear the appeal and summon the parties to appear before it within a time limit of fifteen days, if it is the Supreme Court, or ten, if it is the High Court of Justice or Provincial Court.

Article 225.

If the appeal is only admissible for one single purpose, the Judge, in the same decision declaring it as such, in compliance with article 223, will order testimony to be taken of the first appealed order, of the writs referring to the recourse of reconsideration, of the order appealed and any other such details as they deem need to be included, setting the time limit within which the testimony must be issued with such time limit beginning on the date following the decision setting it.

Within the ten days following notification of this procedural court order, without the need for any other, the Public Prosecution Service and the appellant may request the Judge to include such particulars as they believe appropriate to include, and the Judge will decide on the request, within the following day, without further appeal, always taking into account the reserved nature of the summary proceedings. Where several parties request testimony from the same individual, this will only be inserted once and new insertion of those that the Judge has agreed to include will be dismissed.

The time limit which, as stated in the first paragraph of this article, must be set by the Judge for the issue of testimony must never exceed fifteen days and may be extended up to this limit at the request of the actuary if it was granted for a shorter period of time. However, if, prior to expiry of the fifteen days, the actuary exhibits more than one hundred written pages of testimony to the Judge, without this being final, the Judge may agree to an extension for a prudential period of time, which, in no case, will exceed ten days. Exhibition of written pages greater than one hundred in number, prior to the first time limit expiring, will be recorded on a court record, which the Judge and the actuary will sign in the place where the testimony has effect on being exhibited, with all the parties having the right to be shown the court record when they are notified of the procedural court order for extension.

Article 226.

When setting a date for the individuals who have to give evidence, the appellant may not see the orders which are considered to be reserved from them.

Article 227.

Testimony having been taken, the parties will be summoned so that, within the time limit set in article 224, they appear at the Court which must hear the appeal.

Article 228.

Once the records are received by the Supreme Court, if, during the summons' time limit, the appellant has not appeared, the Court Clerk will declare, ex officio, by order, that the appeal has been abandoned, with immediate notification to the Judge via certification and returning the original records if the appeal had been admitted for both effects. A direct appeal for judicial review may be lodged against this order.

On the same day that the High Court receives the testimony substantiating an appeal, or on the following day, the Court Clerk will acknowledge receipt from the instructing Judge and it will be attached to the summary. If the receipt is not received, the Court Clerk will claim it from the Clerk of the Court which is competent to hear the appeal, and if, even then, it is not received, they will make this known directly to the Governance Clerk, for the appropriate purposes.

Article 229.

If the appellant appears, the Court Clerk will allow them to see the records for a period of three days for instruction.

After this, the sight will be given, for the same length of time, to the other parties to the proceedings and, finally the Prosecutor, if the case is for a crime which gives rise to ex officio proceedings, or which may be prosecuted by a claim from the interested parties.

Notwithstanding the provisions of the previous paragraphs, sight will not be given to the parties of that which, for them, is reserved in nature, as decided by the Judge or Court.

Article 230.

Once the records are returned by the Prosecutor or, if the latter is not a party to the case, such persons as they have been delivered to, the Court Clerk will indicate a day for the hearing on which the Prosecutor, if taking part, and the defenders of the other parties, may inform as they deem fit within their rights.

The hearing will be held on the day indicated, whether the parties attend or not, without there being more than ten days between the date being set and the hearing. Attendance by the Public Prosecution Service is compulsory in all cases it takes part in. A stay may not be agreed for any reason whatsoever, with any claims for stay made being entirely rejected, with no further appeal.

The competent Court Clerk, will take care that, at his own liability, the appeal is substantiated within the shortest possible period of time, and there shall not, in any

case whatsoever, pass more than two months from the day the testimony for the appeal, or for summary, as appropriate, entered the Court and the day of the hearing.

Article 231.

The parties may, prior to the day of the hearing, submit such documents as they deem appropriate to justify their claims.

No other means of evidence will be admissible.

Article 232.

When the order passed is final, the Court Clerk will notify the Judge for its performance, returning the proceedings to them if the appeal was for both effects.

The Clerk for the Court which heard the appeal will take care, at their own liability, that, without exception, orders are returned to the instructing Judge and ensure that the decision made is notified to them within the three days following when it became final, where the summary proceedings still have not ended. The Clerk of the competent Court will immediately acknowledge receipt and, if they do not so, it will be claimed from them by the Court Clerk with the warning that, if it is not done, they will make the facts known to the Governance Clerk.

Article 233.

Where an appeal of complaint is lodged, the Court will order the Judge to report within the short time limit given for that purpose.

Article 234.

Once this report has been received, the Court Clerk will pass it to the Prosecutor, if the case is for crime in which they must act, so that they issue a written opinion within three days.

Article 235.

On sight of this opinion, if any, and from the report of the Judge, the Court will decide as it deems just.

The order passed cannot affect the stage at which the case is at when the appeal was lodged outside the ordinary time limit for appeals, without prejudice to whatever the Court may agree at the time when it comes to hear it.

Article 236.

An appeal for reversal against orders of the Criminal Court may be lodged at the same court that passed them and an appeal may only be lodged in the cases expressly provided for in the Law.

Article 237.

An exception are those against which the Law expressly grants another type of appeal.

Article 238.

The appeal for reversal against an order by any Court will be substantiated using the procedure set out for the appeal for reconsideration which is instituted against any decision of an Examining Magistrate.

CHAPTER II

On the appeal for judicial review against decisions by Court Clerks

Article 238 a.

An appeal for reversal may be lodged against orders of the Court Clerks to move proceedings forward before the Clerks themselves.

An appeal for reversal may also be lodged against Court Clerks' orders, except in such cases as a direct appeal for judicial review may be lodged as it is expressly provided for by the Law.

The appeal for reversal lodged, which will always be in a writ authorised with a Lawyer's signature and accompanied by as many copies as there are parties to the proceedings, will state the breach which, in the opinion of the appellant, has been incurred in the decision and in no case will this have suspensory effects.

Once the appeal for reversal is given leave to proceed by the Court Clerk, the Public Prosecution Service and the other parties to the proceedings will be granted a mutual period of two days to submit their allegations in writing, after which a decision will be made without further steps.

No appeal whatsoever may be lodged against the order of the Court Clerk resolving the appeal for reversal.

Article 238 b.

The appeal for judicial review will be lodged with the Judge or Court with functional jurisdiction at the stage of the proceedings where the order of the Court Clerk being challenged was made, in a writ which must cite the infringement committed, authorised with a Lawyer's signature, and which must be submitted in as many copies as there are parties to the proceedings.

Once the appeal for judicial review is given leave to proceed by the Court Clerk, the Public Prosecution Service and the other parties to the proceedings will be granted a mutual period of two days to submit their allegations in writing, after which a decision will be made without further steps. No appeal whatsoever may be lodged against the order deciding on the appeal for judicial review.

The system for appeals against decisions of the Court Clerks issued for enforcement of the judgment's civil rulings, and to carry out the precautionary measure of attachment of assets provided for in articles 589 and 615 of this Law, will be that provided for in the Civil Procedure Act.

TITLE XI

On procedural costs

Article 239.

Orders or judgments closing a case or any of the incidents must make an award as to payment of procedural costs.

Article 240.

This decision may consist of:

1. Declaring costs ex officio.

2. Awarding payment of costs against those prosecuted, indicating the proportional part that each one of them must pay, if there are several of them.

Costs will never be awarded against those prosecuted who are acquitted.

3. Awarding payment of costs against the private plaintiff or civil claimant.

The latter will have payment of costs awarded against them where it ensures that they have acted recklessly or in bad faith in the proceedings.

Article 241.

Costs will consist of:

1. Reimbursement for the sealed paper used in the case.

2. Payment of the Tariff fees.

3. The fees due to Lawyers and experts.

4. The relevant compensation for witnesses who have claimed it, if they were paid, and such other expenses as may have been incurred in instruction of the case.

Article 242.

When costs are declared ex officio, the amounts referred to in numbers 1 and 2 of the previous article will not be payable.

Procurators and Lawyers who have represented and defended any of the parties, and the Experts and witnesses who have made statements at their request, may, if they were not granted free legal aid, demand payment of the entitlements, fees and compensation due to them, making a claim for them to the Judge or Court hearing the case.

They will be collected by payment enforcement order if, once the relevant claims have been submitted and made known to the parties, they are unpaid within the prudential time limit set by the Court Clerk and have not been struck out as undue or excessive. In

the latter case, the procedure will be in accordance with the provisions of the Civil Procedure Act.

The Court Clerk intervening in enforcement of the judgment will make an appraisal of the costs mentioned in numbers 1 and 2 of the previous article. Lawyers and Experts' fees will be substantiated by signed fee notes for the fees accrued. Compensation to witnesses will be calculated in the amount which, at the relevant time, was set in the case. All other expenses will be regulated by the Court Clerk on sight of the supporting documents.

Article 243.

Once costs have been appraised and regulated, they will be submitted to the Public Prosecution Service and the party against whom costs have been awarded, so that they may declare as they deem fit within a time limit of three days.

Article 244.

Once the time limit set in the previous article has passed with no challenge to the appraisal of costs made, or if some fee items have been struck out as undue or excessive, the procedure will continue in accordance with the provisions of the Civil Procedure Act.

Article 245.

Once the appraisal and regulation have been approved or amended, the costs will be recovered by the enforcement proceedings provided for in the Civil Procedure Act over the assets of those who had costs awarded against them.

Article 246.

If the convicted person's assets are not sufficient to cover all pecuniary liabilities, the procedure for order and priority of payment, in accordance with the provisions of the respective articles of the Criminal Code, will apply.

TITLE XII

On the obligations of Judges and Courts in relation to judicial statistics

Article 247.

Municipal judges are under the obligation to send the President of the relevant Regional Court, each month, a statement of the trials for misdemeanours which were heard the previous month.

Article 248.

Examining Magistrates will send the President of the relevant Criminal Chamber or Court, each month, a statement of the summary proceedings initiated, in progress and concluded during the previous month.

Article 249.

The Presidents of the Chambers or Courts will send the President of the Regional Court, each quarter, a summary statement of those received monthly from the Examining Magistrates and another for the cases in progress and concluded before their Court during the quarter.

Quarters will be counted from the beginning of the judicial year.

Article 250.

The Presidents of the Regional Courts will send the Ministry of Justice, in the first month of each quarter, statements summarising those received from the Municipal Judges and the Criminal Courts.

Article 251.

The Second and Third Chambers of the Supreme Court will send the Ministry of Justice a statement of the appeals for judicial review in progress and ruled on by them during the quarter.

Where the Criminal Chamber of any Regional Court or the Third Chamber of the Supreme Court, or the latter in plenary session, initiate or rule on any criminal case particularly entrusted to them, they will make this known to the Ministry of Justice immediately, submitting, as appropriate, testimony of the judgment.

Article 252.

The Courts will send signed notes directly to the Central Registry of Accused and Convicted Persons, within the Ministry of Justice, of the final judgments where a

punishment is imposed for a crime and of the orders declaring judgment by default, in accordance with the forms sent to them for that purpose.

Article 253.

The Court passing final judgment with a conviction in any criminal case will send testimony of the substantive part of it to the Examining Magistrate for the place where the summary proceedings were held.

Article 254.

All Examining Magistrates will maintain a book under the title Registry of Convictions.

The pages of this book will be numbered, sealed and initialled by the Examining Magistrate and their Governance Clerk.

This book will contain extracts of the certifications set out in the previous article.

Article 255.

All Examining Magistrates will also have another book entitled “Registry of Default Judgments” with the same formalities prescribed for the convictions book.

This book will contain notes of all cases where the accused were declared in default and registration will be made on the entry for each one of when the defaulter was located.

Article 256.

The Criminal Courts or Chambers will also have a book, as set out in the previous article, to register the accused declared in default after conclusion of the summary proceedings.

Article 257.

Without prejudice to the provisions of this title, the Ministry of Justice will establish, via the relevant Regulations, the criminal statistics service which must be organised in that Centre and the rules that must be observed by the Judges and Courts in consonance with it.

TITLE XIII
On disciplinary actions

Article 258.

Without prejudice to the special actions provided for by this Law for specific cases, the provisions contained in title XIII of book I of the Civil Procedure Act are also applicable to such persons, whether or not they are civil servants, as attend or in any other way intervene in criminal cases, with it being the Municipal Judges, Examining Magistrates, Criminal and Supreme Courts who, respectively, as appropriate, may impose the relevant disciplinary actions.

BOOK II
ON THE SUMMARY PROCEEDINGS

TITLE I
On reporting the crime

Article 259.

Any person witnessing the perpetration of any public crime is under the obligation to make it known immediately to the Examining Magistrate, Justice of the Peace, local or municipal judge or Prosecutor's officer wherever they may be, under penalty of a fine of 25 to 250 pesetas.

Article 260.

The obligation provided for in the previous article does not include the pre-pubescent or those who are not fully of sound mind.

Article 261.

The following are also not under the obligation to report a crime:

1. The spouse of the offender who is not legally separated, or de facto partner or the person living with them in a similar emotional relationship.

2. The ascendants and descendants of the offender and their blood relatives up to the second degree, inclusive.

Article 262.

Those who, by virtue of their posts, professions or offices, hear of any public crime are under the obligation to report it immediately to the Public Prosecution Service, the competent Court, the Examining Magistrate and, in default, to the municipal police, or employee of the police, nearest to the place if it is in flagrante delicto.

Those not complying with this obligation will incur the fine indicated in article 259, which will be imposed as a disciplinary action.

If the omission to report was by a Professor of Medicine, Surgery or Pharmacy and was related to the practice of their professional activities, the fine may not be less than 125 pesetas or more than 250.

If the person incurring in the omission is a civil servant, this will also be made known to their immediate superior for the appropriate purposes in the administrative field.

The provisions of this article are applicable where the omission does not cause liability in accordance with Law.

Article 263.

The obligation imposed in the first paragraph of the previous article does not include Lawyers or Procurators with respect to instructions or explanations received from their clients. Nor does it include the clergy or ministers of breakaway cults with regard to information which may have been revealed to them in carrying out the duties of their ministry.

Article 263 a.

1. The competent Examining Magistrate and the Public Prosecution Services, along with the Heads of the Organic Units of Judicial Police, whether central or provincial, and their superior command, my authorise controlled movement or delivery of toxic drugs, narcotics or psychotropic substances and other banned substances. This measure must be agreed by grounded decision in which the purpose of the authorisation or supervised handing over is, as far as possible, explicitly determined along with the type and quantity of the substance in question. For these measures to be adopted, their need for the purposes of investigation will be taken into account in relation to the seriousness of the crime and the opportunities for supervision. The Judge issuing the decision will send a copy of it to the Senior Court in their jurisdiction, which will hold a register of such decisions.

Controlled movement or delivery may also be authorised for the equipment, materials and substances referred to in article 371 of the Criminal Code, the assets and gains referred to in article 301 of that Code in all the cases provided for within it, as well as the assets, materials, objects and animal and plant species referred to in articles 332, 334, 386, 399 a, 566, 568 and 569, also in the Criminal Code.

2. Controlled movement or delivery will be understood to be the technique consisting of allowing illegal or suspect consignments of toxic drugs, psychotropic substances and other banned substances, and the equipment, materials and substances referred to in the previous paragraph, the substances which may have replaced those previously mentioned, and the assets and gains arising from the criminal activities listed in articles 301 to 304 and 368 to 373 of the Criminal Code, to move around Spanish territory or leave and enter it without obstructing interference by the authorities or their agents and under their control, for the purpose of discovering or identifying the persons involved in committing some crime related to such drugs, substances, equipment, materials assets and gains, and to give assistance to foreign authorities for these same purposes.

3. The recourse to controlled delivery will be sought case by case and, internationally, will tailored to the provisions of international treaties.

The Head of the central or provincial Organic Units of the Judicial Police, or their higher command, will immediately account to the Public Prosecution Service for the authorisations granted it in accordance with paragraph 1 of this article and, if there are legal proceedings open, to the competent Examining Magistrate.

4. Interception and opening of postal consignments suspected to contain narcotics and, as appropriate, the later substitution of the drug which may be inside, will be carried out respecting, at all times the legal safeguards, provided for in the legal system, with the exception of the provisions of article 584 of the Law.

Article 264.

The person who, via any other means from those mentioned becomes aware of the perpetration of any crime which must be prosecuted ex officio, must report it to the Public Prosecution Service, the competent Court or the Examining magistrate or municipal judge, or to the police, without this meaning that they are under the obligation to prove the facts reported or bring an action.

The person reporting the crime will not incur in any other liability than that for the crimes they may have committed in the report or by making it.

Article 265.

Reports may be made in writing or verbally, personally or by means of a representative holding special power of attorney.

Article 266.

Reports made in writing must be signed by the person reporting the crime and it they cannot do so, by another person at their request. The authority or civil servant receiving it will initial and seal all the pages in the presence of the person submitting it, who may also initial it themselves or via another person at their request.

Article 267.

Where the report is verbal, the authority or civil servant receiving it will draw up a certificate, in the form of a statement, which will set out as much information as the reporting party has in relation to the incident reported and its circumstances, and both of them will sign it at the bottom. If the reporting party cannot sign, this will be done by another person at their request.

Article 268.

The Judge, Court, authority or civil servant receiving a verbal or written report will make a record on a personal writ, or by other sufficiently reputable means, of the identity of the person making the report.

If the latter demands it, they will be given a receipt of having formally made the report.

Article 269.

Once the report is formalised, the Judge or civil servant to whom it was made will proceed or be ordered to proceed immediately to verify the incident reported, unless the latter is not classified as a crime or the report is manifestly false. In either of these two cases, the Court or civil servant will abstain from all proceedings, without prejudice to the liability they incur if they dismiss it inappropriately.

TITLE II

On filing complaints

Article 270.

All Spanish citizens, whether or not they are aggrieved by the crime, may file a complaint, exercising the "actio popularis" provided for in article 101 of this Law.

Foreigners may also file a complaint for crimes committed against their persons or property or the persons or property of their representatives, having previously complied with the provisions of article 280, if they are not included under the last paragraph of article 281.

Article 271.

Public Prosecution Service officials will also initiate criminal proceedings, in the form of a lawsuit, in cases where they are obliged to do so in accordance with the provisions of article 105.

Article 272.

The complaint will be filed before the competent Examining Magistrate.

If the defendant must, by special provision of the Law, submit to a particular Court, the complaint will be lodged before that Court.

The same will be done where there are several defendants for the same crime, or for two or more related crimes, and any of them are exceptionally subject to a Court which is not the one, as a general rule, called to hear the crime.

Article 273.

In the cases in the previous article, where a crime in flagrante delicto or those which do not leave permanent signs of their perpetration are concerned, or there is a well-grounded fear of concealment or flight of the alleged perpetrator, the private individual attempting to file a complaint about the crime may, of course, go before the nearest Examining Magistrate or Municipal judge or to any member of the police, for the purpose that the first legal measures needed to record the truth of the facts and detain the offender are taken.

Article 274.

The individual complainant, whatever their jurisdiction may be, will be subject, for all purposes of the trial instigated by them, to the Examining Magistrate or Court which is competent to hear the crime which is the subject of the complaint.

However, they may withdraw from the complaint at any time, remaining, nonetheless, subject to the liabilities which may arise from their previous acts.

Article 275.

If the complaint is for a crime which can only be prosecuted at the request of a party, it will be understood to be abandoned by the person filing it if they do not initiate proceedings within the ten days following notification of the order in which the Judge or Court agreed to them.

For this purpose, ten days after having taken the last legal measures requested by the complainant, or if the case is paralysed due to a lack of communication from them, the Judge or Court acquainted with the records will order that they request what they are entitled to under law within the time limit set in the previous paragraph.

Article 276.

The complaint will also be considered to be abandoned where, if the complainant cannot continue the action due to death or disability, none of their heirs or legal representatives appear to sustain it within thirty days following the summons which, for this purpose, will be served on them making them aware of the complaint.

Article 277.

The complaint will always be filed by a Procurator with sufficient power of attorney and signed by a Lawyer.

It will be drawn up on legal paper and will state:

1. The Judge or Court before which it is submitted.
2. The name, surnames and residence of the complainant.
3. The name, surnames and residence of the defendant.

   If these circumstances are unknown, the defendant must be designated by a description which may best make them known.

4. A circumstantial description of the act, with statement of the place, year, month, day and time it was committed, if known.
5. A statement of the legal measures which must be taken to prove the act.
6. A plea that the complaint be admitted, that the legal measures indicated in the previous number be carried out, that the alleged offender be arrested and put in prison or that bail for provisional liberty be posted, and that an attachment on their assets be agreed for the necessary amount in cases where this is appropriate.
7. The signature of the complainant, or another person, at their request, if they do known know how to, or cannot, sign where the Procurator does not have special power of attorney to file the complaint.

Article 278.

If the subject of the complaint is a crime which may only be prosecuted at the request of a party, except for rape or abduction, the certification accrediting that a conciliation

hearing has been held, or attempted, between the complainant and the defendant will be also attached.

Nevertheless, urgent legal measures to verify the facts or arrest the offender may be taken without this requirement, with the proceedings being suspended afterwards until completion of the provisions of the previous paragraph is accredited.

Article 279.

For crimes of slander or libel committed during the trial, the licence of the Judge or Tribunal that heard it will also be submitted, in accordance with the provisions of the Criminal Code.

Article 280.

The private complainant will give a bond of the type and in the amount set by the Judge or Court to respond to the results of the trial.

Article 281.

The following are exempt from complying with the provisions of the previous article:

1. The aggrieved party and their heirs or legal representatives.

2. For crimes of murder or homicide, the spouse of the deceased or person linked to them by a similar emotional relationship, the ascendants and descendants and their blood relatives up to the second degree, inclusive, the heirs of the victim and the fathers, mothers and children of the offender.

3. Associations of victims and legal persons which the law recognises as having legitimacy to defend victims' rights, as long as initiating criminal proceedings is expressly authorised by the victim themselves.

Exemption from the bond is not applicable to foreigners unless they are entitled to it by virtue of international treaties or the principle of reciprocity.

TITLE III

On the Judicial police

Article 282.

The Judiciary Police's purpose, and obligatory on all those who are a part of it, is to verify public crimes committed in its territory or division; take, depending on their powers, the necessary legal measure to ascertain them and discover who the offenders are, and collect, for all purposes, instruments or evidence of the crime which may be in danger of disappearing, placing them at the disposal of the judicial authority. Where the victims come into contact with the Judiciary Police, it will comply with the duties of disclosure provided for by current legislation. Furthermore, they will assess the personal circumstances of the victims to decide what protection measures should provisionally be adopted to ensure their proper protection, without prejudice to the final decision which must be taken by the Judge or Court.

If the crime is one which may only be prosecuted at the request of the legitimate party, they will have the same obligation as stated in the previous paragraph, if a request is made to them for that purpose. The absence of a report will not prevent the first legal measures for prevention and assurance of crimes relating to intellectual and industrial property being taken.

Article 282 a.

1. For the purposes provided for in the previous article, and where investigations affecting activities related to organised crime are concerned, the competent Examining Magistrate or the Public Prosecution Services, giving immediate account to the Judge, may authorise the Judiciary Police, with a grounded decision and taking into account its necessity for the purposes of the investigation, to act under an assumed identity and to acquire and transport objects, effects and instruments of the crime and defer confiscation of them. The assumed identity will be granted by the Ministry of Internal Affairs for a period of six months, extendable for identical periods, and they will be legitimately entitled to act in all aspects of the specific investigation and to take part in legal and social dealings under such identity.

The decision agreeing this must contain the real name of the agent and the assumed identity under which they will act in the specific case. The decision will be reserved and must be stored away from the proceedings with proper security.

The information received by the undercover agent must be made known to whoever authorised the investigation as soon as possible. Furthermore, such information must be provided to the proceedings in its entirety and will be conscientiously assessed by the competent judicial body.

2. Judiciary Police who may have acted in an investigation under an assumed identity in accordance with the provisions of paragraph 1 may retain that identity when they testify in such proceedings as may arise from the events in which they have intervened, and will always do so when this is agreed by a reasoned judicial decision, with the provisions of Organic Law 19/1994, of 23 December also being applicable.

No member of the Judiciary Police may be forced to act as an undercover agent.

3. Where the proceedings in an investigation may affect fundamental rights, the undercover agent must request the competent judicial body for the authorisations established for that purpose in the Constitution and the Law, and also comply with all other applicable legal provisions.

4. For the purposes shown in paragraph 1 of this article, organised crime is considered to be the association of three or more persons to engage, either permanently or repeatedly, in behaviour which has the purpose of committing one or several of the following crimes:

a) Crimes of procurement and illegal trafficking of human organs and their transplant, provided for in article 156 a of the Criminal Code.

b) Crime of abduction of persons provided for in articles 164 to 166 of the Criminal Code.

c) Crime of human trafficking provided for in article 177 a of the Criminal Code.

d) Crimes relating to prostitution provided for in articles 187 to 189 of the Criminal Code.

e) Crimes against property and against socio-economic order provided for in articles 237, 243, 244, 248 and 301 of the Criminal Code.

f) Crimes relating to intellectual and industrial property provided for in articles 270 to 277 of the Criminal Code.

g) Crimes against workers' rights provided for in articles 312 and 313 of the Criminal Code.

h) Crimes against the rights of foreign citizens provided for in article 318 a of the Criminal Code.

i) Crimes of trafficking endangered species of flora or fauna provided for in articles 332 and 334 of the Criminal Code.

j) Crime of trafficking nuclear and radioactive material provided for in article 345 of the Criminal Code.

k) Crimes relating to public health provided for in articles 368 to 373 of the Criminal Code.

l) Crimes of currency forgery, provided for in article 386 of the Criminal Code, and forgery of credit or debit cards or travellers' cheques, provided for in article 399 a of the Criminal Code.

m) Crime of arms, munitions or explosives trafficking and warehousing provided for in articles 566 to 568 of the Criminal Code.

n) Crimes of terrorism provided for in articles 572 to 578 of the Criminal Code.

o) Crimes against historical heritage provided for in article 2.1.e of Organic Law 12/1995, of 12 December, on repression of smuggling.

5. The undercover agent is exempt from criminal liability for such actions that are a necessary consequence of the evolution of the investigation, as long as they maintain due proportionality with the purpose of it and do not constitute provocation to commit the crime.

In order to initiate criminal proceedings against them for actions carried out for the purposes of the investigation, the Judge competent to hear the case, as soon as they become aware of the action of any undercover agent in it, will request a report relating to such circumstance from whoever authorised the assumed identity, in consideration of which they will resolve as they deem appropriate.

6. The Examining Magistrate may authorise members of the Judiciary Police to act under an assumed identity in communications held on closed communication channels for the purposes of solving any of the crimes referred to in paragraph 4 of this article, or any of the crimes provided for in article 588 b a.

The undercover computer specialist, with specific authorisation to do so, may exchange or send, by themselves, files which are illegal due to their content and analyse the results of the algorithms applied to identify such illegal files.

7. During an investigation carried out using an undercover agent, the competent Judge may authorise images to be obtained and conversations to be recorded which may be held in the meetings foreseen between the agent and the party under investigation, even where these take place inside a residence.

Article 283.

The Judiciary Police, who will be assistants to the Criminal Judges and Courts and the Public Prosecution Service, with the obligation to following instructions received from those authorities for the purpose of investigating crimes and prosecution of the offenders, is made up of:

One. The administrative authorities in charge of public security and prosecution of all crimes or of some in particular.

Two. The employees or subalterns of the security police, whatever they may be known as.

Three. The Mayors, Vice-Mayors and local Mayors.

Four. The Head, Officers and individuals of the Civil Guard or any other force devoted to the prosecution of miscreants.

Five. The Watchmen, Guards and any other municipal Agents of the urban or rural police.

Six. Mountain, countryside and seed crop rangers, sworn in or approved by the Administration.

Seven. Members of the Special Prison Corps.

Eight. Judicial agents and subalterns of the Courts and Tribunals.

Nine. Personnel coming under the Central Traffic Authority, in charge of technical accident investigation.

Article 284.

1. As soon as members of the Judiciary Police become aware of a public crime or are requested to prevent the instruction of proceedings due to some private crime, they will inform the judicial authority or the representative of the Public Prosecution Service, if they can do so without ceasing to carry out preventive legal measures. Otherwise, they will do so when they have completed them.

2. Nevertheless, where there is no known perpetrator of the crime, the Judiciary Police will retain the statement at the disposal of the Public Prosecution Service and the judicial authority, without sending it to them, unless any of the following circumstances occur:

a) That it concerns crimes against life, physical integrity, sexual freedom and integrity or crimes related to corruption;

b) That any legal measure is taken after seventy-two hours have passed from opening the police statement and the former has had some result; or

c) That the Public Prosecution Service or judicial authority request its referral.

In accordance with the right recognised in article 6 of Law 4/2015, of 27 April, on the Standing of Victims of crimes, the Judiciary Police will, in the event of the perpetrator not being identified within seventy-two hours, notify the plaintiff that the proceedings will not be referred to the judicial authority, without prejudice to their right to reiterate the report before the public prosecutor or the Magistrate's Court.

3. If arms, instruments or effects of any type have been collected which may be related to the crime and are found in the place where it was committed or in the vicinity, or in possession of the accused or of another known party, a record will be drawn up stating the place, time and occasion on which they were found, which will include a meticulous description which gives a complete picture of them and the circumstances in which they were found, which may be replaced by a photographic report. The report will be signed by the person in whose possession they were found.

4. The confiscation of the effects which may belong to a victim of the crime will be notified to them. The person affected by the confiscation may appeal the measure at any time before the examining magistrate, in accordance with the provisions of the third paragraph of article 334.

Article 285.

If there is any member of the Judiciary Police of a higher rank than the one acting, the latter must make all their actions known to the former, placing themselves entirely at their disposal.

Article 286.

When the Examining Magistrate or Municipal Judge appear for pre-trial proceedings, the preventive legal measures being taken by any Authority or member of the police will

cease and the latter must immediately deliver them to the Judge, along with the effects relating to the crime that may have been collected, and placing the individuals arrested, if any, at their disposal.

Article 287.

The civil servants making up the Judiciary Police will carry out, without delay, depending on their respective powers, the legal measures entrusted to them by the Public Prosecution Service to prove the crime and investigation of the offenders and any others which, during the course of the case, may be entrusted to them by the Examining Magistrates or Municipal Judges.

Article 288.

The Public Prosecution Service, Examining Magistrates and Municipal Judges may deal with members of the Judiciary Police, whatever their rank may be, directly, for all the purposes of this title. However, if the service required of them implies a wait, they must go to the respective superior of the member of the Judiciary Police, as long as they do not need immediate assistance from the latter.

Article 289.

The member of the Judiciary Police who, for whatever reason, cannot perform the request or order received from the Public Prosecution Service, Examining Magistrate, Municipal Judge or the Authority or agent providing for the first legal measures, will make it known immediately to whoever made the request or gave the order so that they may provide for a different manner of carrying it out.

Article 290.

If the reasons are not legitimate, whoever gave the order or made the request will make this known to the hierarchical superior of the person excusing themselves so that disciplinary action may be taken, unless they have incurred in greater liability in accordance with law.

The hierarchical superior will notify the Authority or civil servant making the complaint of the decision made with respect to their subordinate.

Article 291.

The head of any public force which cannot provide the assistance requested of it by the Examining Magistrates or Municipal Judges or a member of the Judiciary Police, shall also proceed in accordance with provisions of article 289.

The person making the request will make it known to the immediate superior of the person excusing themselves in the manner and for the purpose set out in the paragraphs of the previous article.

Article 292.

Members of the Judiciary Police will, either on sealed or ordinary paper, draw up a statement of the legal measures carried out, which will specify with greater precision the facts ascertained by them, inserting the statements and reports received and

recording all the circumstances that they have observed and which may be evidence or an indication of the crime.

The Judiciary Police will send a report with the statement giving account of the prior arrests and the existence of the arrest warrants where there is a record of this on its databases.

Article 293.

The statement will be signed by whoever drew it up and, if they have a seal, this will be stamped and initialled on all pages.

The persons present, experts and witnesses who may have intervened in the legal measures relating to the statement will be invited to sign it on the part referring to them. If they do not do so, the reason will be stated.

Article 294.

If the civil servant who must do so is unable to draw up the statement, this will be replaced by a substantiated verbal report, which will be taken down in writing in an irrefutable manner by the civil servant for the Public Prosecution Service, the Examining Magistrate or the Municipal Judge to whom the statement should be submitted, stating the reason why it was not written up in the normal way.

Article 295.

Members of the Judiciary Police may, in no case whatsoever, let more than twenty-four hours pass before making the judicial authority or the Public Prosecution Service aware of the legal measures they may have taken, except in cases of force majeure and the provisions of paragraph 2 of article 284.

Those infringing this provision will be subject to disciplinary action with a fine of 250 to 1,000 pesetas, if the omission does not merit classification as an offence, and, at the same time, such infringement will be considered to be a serious misdemeanour on the first occasion and a very serious misdemeanour on the following occasions.

Those who, without exceeding the twenty-four hour time limit, delay more than necessary in making the information available, will be subject to disciplinary action with a fine of 100 to 350 pesetas, and, in addition, the infringement will, for the purposes of the interested party's personnel file, constitute a minor misdemeanour on the first occasion, be serious on the two following and very serious on any others.

Article 296.

Where legal measures are taken by order or request of the Judicial Authority or the Public Prosecution Service, the result obtained will be notified within the time limits set in the order or request.

Article 297.

The statements drawn up and declarations made by members of the Judiciary Police as a result of the investigations carried out will be considered to be crime reports for legal purposes.

All other declarations made must be signed and will considered to be witness statements in as far as they refer to facts of inside knowledge.

At any event, members of the Judiciary Police are under the obligation to strictly adhere to legal formalities in any legal measures they take and will abstain, at their own liability, from using investigative methods which are unauthorised by the Law.

Article 298.

Examining Magistrates and Public Prosecutors will classify, on a reserved register, the behaviour of the civil servants providing services to the Judiciary police under their inspection, and every six months, with reference to that register, they will notify the superiors of each one of them, for the appropriate purposes, the grounded classification of their behaviour.

Where members of the Judiciary Police who may have been subject to disciplinary action in accordance with this Law are of a superior rank to that of the judicial authority or prosecutor finding that they have committed a misdemeanour in the legal measure, the latter will abstain from imposing the disciplinary action themselves, limiting themselves to making the events known to the immediate superior of the person who must be subject to disciplinary action.

TITLE IV
On instruction

CHAPTER I
On pre-trial proceedings and the authorities competent to instruct them

Article 299.

Pre-trial proceedings are the proceedings directed at preparing the case and practised to investigate and prove the perpetration of the crimes, with all the circumstances that may influence their classification and the guilt of the offenders, securing the persons and their pecuniary liabilities.

Article 300. *(Abolished).*

Article 301.

The court records of the pre-trial proceedings are reserved and will not become public until the oral trial is opened, with the exceptions provided for in this Law.

A Lawyer or procurator for any of the parties inappropriately revealing the content of the pre-trial hearing will be penalised with a fine of 500 to 10,000 Euros.

The same fine will be incurred by any other person, who is not a civil servant, committing the same misdemeanour.

In the case of the previous paragraphs, the civil servant will incur in the liability indicated by the Criminal Code in the relevant place.

Article 301 *a.*

The Judge may agree, ex officio or at the request of the Public Prosecution Service or the victim, to adopt any of the measures referred to in paragraph 2 of article 681 where it is necessary to protect the privacy of the victim or due respect to them or their family.

Article 302.

The parties to the proceedings may acquaint themselves with the acts and intervene in all the legal measures of the proceedings.

Nevertheless, if the crime is public, the Examining Magistrate may, at the proposal of the Public Prosecution Service, or any of the parties to the proceedings or ex officio, declare it, by order, to be completely or partially secret for all the parties to the proceedings, during a time of not more than one month where it is necessary to:

a) Prevent a serious risk to the life, liberty or physical integrity of another person; or

b) Prevent a situation which may seriously compromise the result of the investigation or proceedings.

The secrecy of the pre-trial proceedings must, necessarily, be lifted at least ten days prior to the conclusion of the pre-trial proceedings.

The provisions of this article are understood to be without prejudice to the provisions of the second paragraph of paragraph 3 of article 505.

Article 303.

Constitution of the pre-trial proceedings, whether initiated ex officio or at the request of a party, will fall to the Examining Magistrates for the crimes committed in their respective area or district and, in default, to those in the same city or town, where there is more than one, and pre-empting them, or at their delegation, to the Municipal Judges.

This provision is not applicable to cases particularly entrusted by organic Law to certain Courts, as for these the latter may appoint a special instructing Judge or authorise the ordinary judge to proceed with the pre-trial proceedings.

The appointment of the Examining Magistrate may only be a Magistrate in the same Court, or a civil servant of the judicial order in active service, out of those existing within such Court's territory. Once appointed, they will act under their own, independent jurisdiction.

Where the instructor is a Magistrate, they may delegate their functions, in the case of imperative necessity, to the Examining Magistrate for the point where legal measures must be taken.

Where the crime is, due to its nature, one of those which can only be committed by Authorities or civil servants subject to a superior jurisdiction, ordinary Examining Magistrates may, in urgent cases, agree such precautionary measures as are necessary to prevent its concealment. However, they will send the legal measures to the competent Court in the shortest possible period of time, which may never exceed three days, and the latter will resolve on initiating pre-trial proceedings and, at the right time, if prosecution of the Authority or civil servant accused is appropriate or not.

Article 304.

The Governance chambers of the regional Courts may also appoint a special Examining Magistrate where the cases concern crimes whose extraordinary circumstances, or those of the place and time they were committed, or the persons being party to them as offenders or aggrieved give grounded reasons for their appointment for the most judicious investigation or for the surest proof of the facts.

The powers of the governance chambers will be extensive for cases coming from Courts included within their demarcation and appointments must be made from the same civil servants stated in the previous article out of those existing in the region, preferably, if

possible, one of the Magistrates from within it, where the Examining Magistrate is not authorised to hear the pre-trial proceedings.

The Governance chambers and the Courts, when they make use of the power stated in this and the preceding article, will give a reasoned account to the Ministry of Justice.

The Governance chamber of the Supreme Court will have the same power to appoint, where appropriate, a special Judge to hear the crime or crimes committed in places coming under the jurisdiction of more than one Regional Court, or in such cases where, due to the circumstances of the event, such Chamber is deemed appropriate, and the appointment must be made from civil servants in active service in the judicial profession.

Jurisdiction of the respective Court which the proceedings must be submitted to after the pre-trial proceedings are concluded will be allotted according to the rules of article 18 of this Law.

Article 305.

The appointment of special Examining Magistrates made in accordance with the previous articles will and must be understood to be solely for the instruction of the pre-trial proceedings, in all of its incidences. Once these are concluded, they will be referred by the special Judge to the Court which, according to current provisions, must hear the case to prosecute and judge it in accordance with law.

CHAPTER II

On the formation of the pre-trial proceedings

Article 306.

In accordance with the provisions of the previous chapter, Examining Magistrates will form the pre-trial proceedings for public crimes under the direct examination of the Prosecutor for the competent Court.

The examination will be made either by the Prosecutor themselves or through their assistants at the side of the Examining Magistrates, or by sufficiently expressive, descriptive testimony, which will be submitted to the Examining Magistrate periodically and as many times as it is requested, with the Prosecutor, in this case, being able to present their observations in an attentive notification and make their claims using equally attentive requests. They may also delegate their duties to the Municipal Prosecutors.

As soon as initiation of the trial proceedings before a Court with a Jury is ordered, this will be made known to the Public Prosecutor who will appear and intervene in as many acts as are carried out before it.

Where the judicial bodies have the necessary technical means, the prosecutor may intervene in the proceedings in any criminal proceedings, including the appearance in article 505, via video conferencing, or similar system, which allows two-way communication and simultaneous sound and vision.

Article 307.

In the event that the Municipal Judge commences instruction of the first legal measures of the pre-trial proceedings, once the most urgent, and all those foreseen by the Examining Magistrate, have been taken, the case will be sent to them and it must never be retained for more than three days.

Article 308.

As soon as the Examining Magistrates, or Justices of the Peace, as appropriate, are informed of the perpetration of a crime, the Court Clerk will make this known to the Prosecutor for the respective Court and will also notify its President of the formation of the pre-trial proceedings in a succinct, sufficiently expressive account of the event, its circumstances and its perpetrator, within the two days following that on which instruction was initiated.

Justices of the Peace will give immediate account of the preventive nature of the legal measures to the relevant Examining Magistrate.

Article 309.

If the person against whom there are charges is one of those subject, by virtue of the special provision of the Organic Law, to a special Court, once the first legal measures have been taken and prior to taking proceedings against them, orders will be awaited from the competent Court for the purposes of the provisions of the second paragraph and last part of the fifth paragraph of article 303 of this Law.

If the crime is one which gives grounds for preventive custody in accordance with the provisions of the Law, and the alleged guilty party was caught in flagrante, they may be arrested and imprisoned, if necessary, without prejudice to the provisions of the preceding paragraph.

Article 309 *a.*

Where, from the terms of the report of the crime or the circumstantial account of the facts of the case, and when any procedural step results in a specific person or persons being accused of a crime which must be prosecuted before a Court with a Jury, the Judge will proceed to initiate the proceedings provided for in its regulating law in which, in the manner provided for within it, such accusation will be made known to the alleged perpetrators immediately.

The Public Prosecutor, the other parties to the proceedings and the party under investigation may, at any event, may institute it in this way, and the Judge must decide in a hearing. If they do not do so, or dismiss the petition, the parties may complain to the Provincial Court which will decide within eight days, with the Examining Magistrate's report being submitted by the fastest route.

Article 310.

Examining Magistrates may delegate the practice of all acts and legal measure not exclusively reserved to them by this Law to Municipal Judges where a just cause prevents them from practising them themselves. However, they will endeavour to make

limited use of this power and the immediately superior Court will ensure that it prevents and corrects unjustified frequency of such delegations.

Article 311.

The Judge instructing the pre-trial proceedings will take such legal measures as are proposed by the Public Prosecution Service or any of the parties to the proceedings if they do not consider them to be futile or prejudicial.

An appeal may be lodged against the order rejecting the legal measures requested, which will be admitted with devolutive effect before the respective competent Court or Tribunal.

Where the Prosecutor is not in the same place as the Examining Magistrate, instead of appealing they will make a complaint to the competent Court, attaching, for that purpose, testimony of the pre-trial legal measures considered necessary, testimony of which must be provided by the Examining Magistrate and, having received a report on it, the Court will decide as it deems appropriate.

Article 312.

Where a complaint is lodged, the Examining Magistrate, having admitted it if appropriate, will order the legal measures proposed in it to be taken, unless they consider them to be contrary to law or unnecessary or prejudicial to the subject of the complaint, in which case it will be denied in a grounded decision.

Article 313.

The complaint will be dismissed in the same way where the facts on which is grounded do not constitute a crime, or where they do not consider themselves competent to instruct the pre-trial proceedings subject to it.

An appeal may be lodged against the order referred to in this article, which will be admissible in both effects.

Article 314.

Legal measures requested and denied in pre-trial proceedings may be proposed again in the oral trial.

Article 315.

The Judge will make a record of all legal measures taken at the request of a party.

Of those ordered ex officio, only those whose result was appropriate to the subject of the pre-trial proceedings will be recorded.

Article 316. *(Repealed)*

Article 317.

The Municipal Judge will have the same powers not to notify the private complainant about the proceedings carried out as the Examining Magistrate.

Article 318.

Notwithstanding the duty on Municipal Judges to instruct, as appropriate, the first legal measures of the pre-trial proceedings, where the Examining Magistrate is informed of a crime which is serious in nature, or the proof of which is difficult due to special circumstances, or which may have caused alarm, it will immediately be transferred to the place of the crime and pre-trial proceedings will be initiated, taking charge of the proceedings which may have been carried out by the Municipal Judge and receiving the investigations and information provided by members of the Judiciary Police. It remain in that place for the time needed to take all the legal measures whose delay may be inexpedient.

Article 319.

Where the Prosecutor of the respective Court becomes aware of the perpetration of any of the crimes provided for in the previous article, they must transfer it personally, or agree its transfer by one of their subordinates, to the place of the event in order to give the Examining Magistrate better, early clarification of the facts, if other similar or more serious duties do not prevent it, without prejudice to proceeding in the same manner in any other case in which it is considered appropriate.

Article 320.

The intervention of a civil claimant in the pre-trial proceedings will be limited to procuring the practice of such legal measures as may lead to the greater success of their action, discretionally appraised by the Examining Magistrate.

Article 321.

Examining Magistrates will constitute the pre-trial proceedings before their Clerks.

If the latter are not present, in urgent and extraordinary cases they may proceed with the intervention of a Notary, or two good men, of legal age, who know how to read and write, who will swear to remain true and sworn to secrecy.

Article 322.

The legal measures for the pre-trial proceedings which must be taken outside the constituency of the Examining Magistrate or the district of the Municipal Judge ordering them will take place in the manner provided for in title VIII of book I and will be reserved for all those not taking part in them.

Article 323.

Notwithstanding the provisions of the previous article, where the place in which any legal measure for the pre-trial proceedings must be taken is outside the jurisdiction of the Examining Magistrate, but in a place near to that where this is located, and there is a danger of delay to the measures, the Examining Magistrate may take them themselves, with immediate notification to the competent Judge.

Article 324.

1. The preparatory enquiry will take place during a maximum period of six months from the order to commence pre-trial proceedings or preliminary investigations.

Nevertheless, prior to expiry of this time limit, the instructor, at the request of the Public Prosecution Service and after hearing the parties, may declare the enquiry to be complex for the purposes provided for in the following paragraph where, due to circumstances arising during the investigation, this cannot be completed within the time limit stipulated, or any of the circumstances provided for in the following paragraph of this article arise.

2. If the enquiry is declared complex, the time limit for the duration of the enquiry will be eighteen months, which may be extended by the instructor of the case for the same period, or a shorter one, at the request of the Public Prosecution Service and after hearing the parties. The request for extension must be submitted in writing, at least three days prior to the maximum time limit expiring.

There can be no appeal against the order dismissing the request for extension, without prejudice to the request being repeated at the appropriate moment in the proceedings.

The investigation will be considered to be complex where:

a) it devolves on criminal groups or organisations,

b) it has numerous punishable acts as its subject,

c) it involves a large number of parties being investigated or victims,

d) it demands examination of evidence or collaborations by the judicial body which involve the examination of abundant documentation or complicated analysis,

e) it involves proceedings abroad,

f) it requires review of the management of public or private legal persons, or

g) a crime of terrorism is concerned.

3. The time limits provided for in this article will be interrupted:

a) in the event of agreeing secrecy of the proceedings, while they last, or

b) in the event of agreeing provisional dismissal of the case.

When secrecy is lifted or the enquiry is reopened, the investigation will continue for the remaining time until the time limits provided for in the previous paragraphs are reached, without prejudice to the possibility of agreeing the extension provided for in the following paragraph.

4. Exceptionally, prior to expiry of the time limits provided for in the previous paragraphs or, as appropriate, the extension that may have been agreed, if requested by the Public Prosecution Service or any of the parties to the proceedings, as reasons arise that justify this, the Examining Magistrate, having heard the other parties, may set a new maximum time limit for the enquiry to be finalised.

5. Where the Public Prosecution Service, or the parties, as appropriate, have not made use of the power granted to them in the previous paragraph, they may not seek the supplementary investigative measures provided for in articles 627 and 780 of this Law.

6. The Judge will conclude the instruction when they understand that its purpose has been fulfilled. Once the maximum time limit, or its extensions, have passed the examining magistrate will pass an order concluding the pre-trial proceedings or, in fast-track proceedings, the decision applicable in accordance with article 779. If the examining magistrate has not passed any of the decisions mentioned in this paragraph, the Public Prosecutor will request the judge to reach the appropriate judgment. In this case, the examining magistrate must decide on the application within a time limit of fifteen days.

7. The investigative measures agreed prior to the legal time limits expiring will be valid, without prejudice to their receipt after these have expired.

8. The mere lapse of the maximum time limits set in this article will never give rise to the proceedings being filed away unless the circumstances provided for in articles 637 or 641 arise.

Article 325.

The Judge, ex officio or at the request of a party, for reasons of practicality, security or public order, and in such cases where the appearance of whoever must intervene in any kind of criminal proceedings as the party under investigation or accused, witness, expert, or in any other capacity, is particularly onerous or prejudicial, may agree that the appearance is made via video conference or other similar systems allowing two-way, simultaneous communication of sound and vision, in accordance with the provisions of paragraph 3 of article 229 of the Judiciary Act.

TITLE V

On proof of the crime and investigating the offender

CHAPTER I

On visual inspection

Article 326.

Where the crime being prosecuted has left material traces or evidence of its perpetration, the Examining Magistrate, or the one acting in their place, will order their collection and custody for the oral trial, if possible, and for this purpose make a visual inspection and a description of everything that may be related to the existence and nature of the event.

For this purpose, the court records will contain the description of the scene of the crime, the location and state in which the objects found there are in, the lie of the land or layout of the rooms and all other details which may be used both for prosecution and defence.

Where fingerprints or traces are found to exist whose biological analysis may contribute to clarifying the event investigated, the Examining Magistrate will adopt, or order the Judiciary Police or forensic doctor to adopt, the measures needed so that the collection, custody and examination of such samples are verified under conditions which guarantee their authenticity, without prejudice to the provisions of article 282.

Article 327.

Where appropriate, for greater clarity or proof of the facts, a sufficiently detailed plan of the scene will be drawn up, or a portrait will be drawn of the persons subject to the crime, or the copy or design of their effects or instruments which may have been found.

Article 328.

If a robbery, or any other crime committed by breaking and entering or with violence, the Examining Magistrate must describe the traces left and will consult the opinion of experts on the manner, instruments, means or time in which the crime was committed.

Article 329.

To carry out the provisions of the previous articles, the Examining Magistrate may order that, while the description is being recorded, the persons who may have been found at the scene of the crime remain there and that those found in any other place nearby also appear immediately, with the appropriate statement being taken from each one separately.

Article 330.

Where no fingerprints or traces of the crime giving rise to the pre-trial proceedings remain, the Examining Magistrate will ascertain and record, if possible, whether the disappearance of material evidence has occurred naturally, coincidentally or intentionally, and the causes for it or the means that may have been used for it, immediately preceding to collect and include in the pre-trial proceedings such evidence of any kind as may be acquired regarding the perpetration of the crime.

Article 331.

Where the crime is one where no traces of its perpetration are left, the Examining Magistrate will endeavour to record the execution of the crime and its circumstances by witness statements and other means of verification, along with the pre-existence of the thing where the purpose of the crime was its theft.

Article 332.

All the legal measures included in this chapter will be drawn up in writing at the same time as the visual inspection and will be signed by the Examining Magistrate, the Prosecutor, if in attendance, and the Court Clerk and persons there present.

Article 333.

Where, when the legal measures set out in the previous articles are carried out, there is any person declared to be accused as the alleged perpetrator of the punishable act, they may witness them, on their own or assisted by the defence chosen by them or appointed ex officio, if they request to do so; one or the other may, during the act, make such observations as they deem appropriate, which will be placed on record if they are not accepted.

For this purpose the Court Clerk will make the accused aware of the agreement relating to the practice of the legal measure as far in advance as its nature permits and that it will not be suspended if the accused or their defence do not appear. The same right applies to whoever is imprisoned as a result of these legal measures.

CHAPTER II
On the corpus delicti

Article 334.

The Examining Magistrate will, firstly, order collection of such arms, instruments or effects of any kind as may be related to the crime and are found at the scene in which it was committed, or in the vicinity, or in possession of the accused or another known party. The Court Clerk will draw up a record expressing the place, time and occasion on which they were found, describing them in minute detail so that a complete picture may be formed of them and the circumstances in which they were found.

The record will be signed by the person in whose possession they were found, who will be notified of the court order ordering their collection.

The person affected by the confiscation may appeal the measure before the Examining Magistrate at any time. This appeal will not require intervention by a lawyer when it is submitted by third parties other than the accused. The appeal will be taken as lodged when the person affected by the measure, or one of their family members, of legal age, have stated their disagreement at the time it is taken.

The effects belonging to the victim of the crime will be returned to them immediately, unless, exceptionally, they must be retained as evidence or for the practice of other legal measures, without prejudice to their return as soon as may be possible. The effect will also be returned immediately where they are retained as evidence or for the practice of other legal measures, but their preservation can be ensured by imposing the duty to keep them available to the Judge or Court on the owner. The victim may, at any event, appeal this decision in accordance with the provisions of the previous paragraph.

Article 335.

Taking into account the person or thing subject to the crime, the Examining Magistrate will describe their status and circumstances in detail and, particularly, those which are related to the punishable act.

If, due to the fact that a crime of forgery committed on documents or effects existing in Public Authority offices is concerned, it is absolutely necessary to have sight of them for their expert examination and examination by the Judge or Court, the Court Clerk will claim them from the relevant Authorities, without prejudice to returning them to the relevant official offices once the case has concluded.

Article 336.

In the cases in the two previous articles, the Judge will also order examination by experts, as long as this is appropriate for better appreciation of the details of the crime, of the scenes, arms, instruments and effects referred to in those articles, with a court record being made of the expert examination and report.

The accused and their defence may also attend this legal measure under the terms set out in article 333.

Article 337.

When, in the act of describing the person or thing subject to the crime and the scenes, arms, instruments or effects related to it, and there are present, or known, persons who may make statements about the method and way in which it was committed, and the causes for the changes observed in such scenes, arms, instruments or effects, relative to their previous state, they will be questioned immediately after the description proceedings and their statements will be considered supplementary to them.

Article 338.

Without prejudice to the provisions of Chapter II a. of this title, the instruments, arms and effects referred to in article 334 will be collected in such a way that ensures their integrity and the Judge will agree their seizure, preservation or despatch to a suitable body for their deposit.

Article 339.

If it is appropriate to receive an expert report on the means used for the corpus delicti to disappear, or on the evidence of any type that, in its absence, has been collected, the Judge will immediately order this in the manner provided for in chapter VII of this title.

Article 340.

If the instruction took place due to violent death, or one suspected of criminality, prior to burying the body, or immediately after it is exhumed, once the systematic description in article 335 has been made, it will be identified by witnesses who, having seen it, give sufficient confirmation of recognition.

Article 341.

If there are no witnesses, if the state of the body permits it, it will be shown to the public prior to an autopsy being carried out, for a minimum of twenty-four hours, and a poster, which will be hung on the door of the mortuary, will show the place, time and day when it can be found, and the Judge instructing the pre-trial proceedings, for the purposes of having some data which may contribute to recognition of the body or clarification of the crime and its circumstances will notify the Examining Magistrate.

Article 342.

When, in spite of such precautions, the body is not recognised, the Judge will order that all personal effects found with it be collected, for the purpose that in due time they may serve to make identification.

Article 343.

In the pre-trial proceedings referred to in article 340, even where an external inspection may show the cause of death, an autopsy will be carried out on the body by Forensic doctors or, as appropriate, by those appointed by the Judge who, after describing the operation exactly, will report on the cause of death and its circumstances.

The autopsy will be carried out in accordance with the provisions of article 353.

Article 344.

There will be a practitioner with the title Forensic Doctor for each Magistrate's Court, in charge of assisting the Justice Administration in all cases and proceedings where the intervention and services of their profession are needed or appropriate at any point in the judicial district.

Article 345.

The Forensic doctor will live in the capital of the Court where they are appointed and may not absent themselves without permission from the Judge, the President of the Criminal Court or the Ministry of Justice, according to whether this is for eight days, at the most, in the first case, twenty, in the second, and for the time which the Ministry considers suitable in the third.

Article 346.

During absences, illness and vacancies, the Forensic doctor will be replaced by another Professor carrying out the same post in the same district and, if there is none, the one appointed by the Judge, giving account of this to the President of the Criminal Court.

The same will occur when, for whatever reason, the Judge cannot avail of the Forensic doctor. Anyone refusing to comply with this duty or evading it, will incur a fine of 125 to 500 pesetas.

Article 347.

The Forensic doctor is under the obligation to practice all the acts or measures of their profession and institute with the zeal, dedication and promptness demanded by the nature of the case and required by the Justice Administration.

Article 348.

Where, in a particular case, apart from the intervention of the Forensic doctor, the Judge deems the cooperation of one or more practitioners necessary, they will make the appropriate appointment.

The provisions of the previous paragraph will also take place where, due to the seriousness of the case, the Forensic doctor believes the cooperation of one or more co-professors is necessary and the Judge upholds this.

Article 349.

As long as this is compatible with the good administration of justice, the Judge may reasonably grant a period of time for the Forensic doctor to make their statements, issue reports and enquiries and draw up such other documents as are necessary, and allowing them to choose the times which they deem most appropriate to carry out autopsies and exhume bodies.

Article 350.

In cases of poisoning, injuries or any other lesions, the Forensic doctor will be entrusted with the patient's medical care, unless the latter or their family prefer that of one or more professionals that they may choose, in which case the former will retain the inspection and monitoring which they are responsible for in order to complete the relevant forensic medical service.

The accused will have the right to appoint a Professional who, along with those appointed by the Examining Magistrate or the one appointed by the plaintiff, take part in caring for the patient.

Article 351.

Where the Forensic doctor or, in default, the one or those appointed by the Examining Magistrate are not in agreement with the treatment or healing plan used by the practitioners appointed by the patient or their family, they will report this to the Examining Magistrate for the appropriate purposes in law. The same may be done, as appropriate, by the practitioner appointed by the accused.

When such disagreement arises, the Examining Magistrate will appoint a greater number of Professionals so that they may state their opinion and, once all the necessary information has been recorded, this will be taken into account when it comes to pass judgment on the case.

Article 352.

The provisions of the previous articles are applicable when the patient is admitted to prison, hospital or other establishment and is cared for by the Practitioners there.

Article 353.

Autopsies will be carried out in a public building which, in each town or district, is designated by the Administration for that purpose and as a mortuary. Nevertheless, the Examining Magistrate may, when they consider it appropriate, order that the operation be carried out in a different place or in the home of the deceased, if the family requests it and this does not prejudice the success of the pre-trial proceedings.

If the Examining Magistrate cannot attend the anatomical examination, they will delegate a member of the Judiciary Police, and the Clerk to the case will certify their attendance along with all that occurring therein.

Article 354.

Where death occurs as a result of an accident on the railway lines involving a moving train, the train will only be stopped for the time needed to remove the body or bodies from the line, with a record of their situation and condition being made beforehand either by the authority or member of the Judiciary Police who immediately arrives at the scene of the accident, or by those who happen to be on the train itself, or, in default of these persons, by the highest ranking employee responsible, in which case Government employees or agents are to be preferred.

Arrangements will be made so that, without prejudice to the train continuing its journey, the Authority that must instruct preliminary enquiries and agree to the bodies being moved is notified, and the above-mentioned persons will collect the necessary data and background promptly on the spot which will be notified to the competent Authority as soon as possible for instruction of the first legal measures for the purpose of clarifying the reason for the accident.

Article 355.

If the criminal act causing the case to be initiated consists of lesions, the Doctors caring for the injured party will be under the obligation to report their condition and developments in the periods of time indicated to them, and immediately where any change occurs which merits being made known to the Examining Magistrate.

Article 356.

Chemical analyses demanded by substantiation of the criminal proceedings will be carried out by Doctors of Medicine, Pharmacy, Physiochemistry or by Engineers who are specialists in chemistry. If there are no Doctors in these sciences, Graduates may be appointed who have sufficient knowledge and experience to carry out such analyses.

Examining Magistrates will, from amongst those included in the previous paragraph, appoint experts who must analyse the substances as demanded in each case by the Justice Administration.

Where, in the judicial district where the proceedings are instructed, there are no experts as referred to in the first paragraph, or it is legally or physically impossible for those residing there to carry out the analysis, the Examining Magistrate will make this known to the President of the Criminal Chamber or Court who will appoint the expert or experts to carry out such service from amongst the persons provided for in the first paragraph living in the region. At the same time, they will notify the experts' appointment to the Examining Magistrate so that they may, with the due precautions and formalities, make the substances which are to be analysed available to them.

The accused will have the right to appoint an expert who comes under those designated by the Judge.

Article 357.

The aforementioned Professionals will provide the service as expert witnesses and may not refuse to do so without just cause, and if this is not the case the provisions of the second paragraph of article 346 will be applicable to them.

Article 358.

Each one of the aforementioned Professionals reporting as an expert by virtue of judicial order will receive, by way of fees and compensation for such expenses as incurred in the performance of the service, the amount set in the regulations. They will not be under the obligation to work for more than three hours per day, except in urgent and extraordinary cases, which will be set down on the court records.

Article 359.

Once the analysis is concluded and the relevant statement signed, the Professionals will pass a signed note to the Examining Magistrate or the President of the Criminal Chamber or Court, as appropriate, of the objects or substances analysed and the fees they are entitled to in accordance with the provisions of the previous article.

The Court will send this note, with such observations as it deems reasonable, to the President of the Criminal Court, who will process it by sending it to the Ministry of Justice, unless it finds that the number of hours assumed to be spent on any analysis is excessive, in which case it will agree to inform three professional colleagues of the one reporting, and, in the light of their opinion, will confirm or reduce the fees claimed to that which is just, submitting all this together with the report to the Ministry.

The same will be done by the President of the Court where the analysis is carried out during the oral trial.

Article 360.

The Ministry of Justice may also, if it perceives the fees to be excessive, prior to order their payment, request a report and, as appropriate, a new appraisal of them from the Academy of Exact, Physical and Natural Sciences, and in the light of that put forward or

the new appraisal carried out by that Body, confirm or reduce to the fees to those which are fair and order their payment.

Article 361.

To ascertain this, the Ministry of Justice will include the amount it considered necessary in the budget for each year.

Article 362.

The aforementioned Professionals may not claim any other fees than those previously set by virtue of this service, or demand that the Judge or Court provide the material resources of laboratory or reagents, or subaltern assistants to fill their commitment.

Where, due to a lack of experts, laboratory or reagents, it is not possible to carry out the analysis with the Criminal Court's district, it will be carried out in the capital of the province or, in the last resort, that of the Kingdom.

Article 363.

The Courts and Tribunals will order chemical analyses to be carried out solely in such cases as they consider it to be absolutely essential to the judicial investigation needed and correct administration of justice.

As long as there are proven reasons justifying it, the Examining Magistrate may agree, in a grounded decision, to obtaining such biological samples from the suspect as are essential to determine their DNA profile. For this purpose they may decide to carry out such acts of bodily inspection, examination or intervention as are pertinent to the principles of proportionality and reasonableness.

Article 364.

In cases of robbery, theft, fraud and any others where the pre-existence of the things robbed, stolen or defrauded must be proven, if there are no witnesses to the event, information will be received on the background of the person appearing as the aggrieved party and on all the circumstances which give indications that they were in possession of them at the time that the crime was committed.

Article 365.

Where, to classify the crime or its circumstances, it is necessary to calculate the value of the thing which was the subject of it, or the amount of damages caused, or which may have been caused, the Judge will hear the owner or aggrieved party, and will then agree to the expert examination provided for in chapter VII of this title. The Court Clerk will provide the things and direct elements for appraisal on which the report must be made to the experts appointed. If such effects are not at the disposal of the judicial body, the Court Clerk will provide such appropriate data as it may be possible to gather so that, in this case, the appraisal and regulation of the damages may be made in a prudent manner, in accordance with the data supplied.

The valuation of merchandise stolen from commercial establishments will be set using their sale price to the public.

Article 366.

The legal measures provided for in this, and the previous, chapter will be carried out with precedence over the others in the pre-trial proceedings, with their execution only being suspended to guarantee the person who is the presumed culprit or to give the necessary assistance to those aggrieved by the crime.

Article 367.

The Judge will not, in any case whatsoever, admit claims or actions during the pre-trial proceedings aimed at the return of the effects constituting the corpus delicti, whatever their category may be and whoever claims them.

CHAPTER II A

On the destruction and advanced implementation of the judicial effects

Article 367 a.

Judicial effects will, in criminal law, be considered to be all assets placed at the disposal of the courts, attached, seized or apprehended during the course of the criminal proceedings.

Article 367 b.

1. The destruction of the judicial effects may be ordered, leaving sufficient samples, where it is necessary or appropriate due to the nature of the effects themselves or due to the real or potential danger involved in their storage or custody, after hearing the Public Prosecution Service and the owner, if known, or the person in whose possession the effects it is intended to destroy were found.

Where toxic drugs, narcotics or psychotropic substances are concerned, the administrative authority holding custody of them, once the relevant analytical reports have been carried out, ensuring conservation of the minimal, essential samples which, in accordance with scientific criteria, are needed to ensure later testing or investigation, and after notification to the Examining Magistrate, will proceed with their immediate destruction if, after one month has passed since the reports, the judicial authority has not ordered conservation of such substances in their entirety with a grounded decision. At any event, whatever is conserved will always be kept at the disposal of the competent judicial body.

2. In all cases, the Court Clerk will draw up the appropriate court record and, if destruction has been agreed, there must be evidence on the records of the nature, grade, amount, weight and measurement of the effects destroyed. If there has been no prior appraisal, a record will also be made of their value if this would be impossible to set after their destruction.

3. The provisions of the two previous paragraphs are also applicable to effects seized in relation to the commission of crimes against intellectual and industrial property. They may also be destroyed early once such effects have been expertly examined, ensuring conservation of such samples as may be necessary to ensure later testing or

investigations, unless the judicial authority agrees to their entire conservation within a period of one month from the request for destruction by a reasoned decision.

4. If the objects cannot, due to their nature, be conserved in their original condition, the Judge will decide as they deem fit in order to conserve them in the best possible manner.

Article 367 c.

1. Judicial effects which are legal trade may be realised, without waiting for judgment to be passed or final, as long as they are not pieces of evidence or must remain at the expense of the proceedings, in any of the following cases:

a) Where they are perishable.

b) Where their owner expressly abandons them.

c) Where the costs of conservation and storage are higher than the value of the object itself.

d) Where its conservation may be a danger to public health or safety, or may give rise to a significant decrease in its value, or may seriously affect its normal use and functioning.

e) Where the effects, without undergoing material impairment, substantially depreciate over the course of time.

f) Where the owner, having been duly requested about the destination of the judicial effect, makes no declaration for that purpose.

2. Where any of the cases provided for in the previous paragraph occurs, the judge, ex officio or at the request of the Public Prosecution Services, the parties or the Asset Recovery and Management Office, and after hearing the interested party, will agree the realisation of the judicial effects, unless any of the following circumstances occur:

a) An appeal lodged by the interested party against the attachment or decommission of the assets or effects is pending a decision.

b) The measure may be disproportionate, in the light of the effects it may have on the interested party and, in particular, on the greater or lesser relevance of the evidence that the cautionary decommission measure was based on.

3. Notwithstanding the provisions in the previous paragraphs, where the asset in question is attached in execution of an agreement adopted by a foreign judicial authority in application of the Law on mutual recognition of criminal judgments in the European Union, it may not be realised without previously obtaining authorisation from the foreign judicial authority.

Article 367 d.

1. Realisation of the judicial effects may consist of:

a) Delivery to non-profit making organisations or the Public Authorities.

b) Realisation by a specialist person or entity.

c) Public auction.

2. The judicial effect may be delivered to non-profit making organisations or the Public Authorities where it is of negligible value or it is foreseen that realisation by a specialist person or entity or by public auction would not be economical.

3. Realisation of judicial effects will be done in accordance with the regulatory procedure provided for. Notwithstanding the foregoing, prior to agreement, the Public Prosecution Service and the interested parties will be granted a hearing.

The proceeds of the realisation of the effects, assets, instruments and gains will be used for the expenses which were caused by conservation of the assets and in the procedure for their realisation and the surplus will be paid into the court or tribunal deposit account, being held for the payment of such civil liabilities and costs as are declared, as appropriate, during the proceedings. They may also be definitively totally or partially allotted, under the terms and using the procedure set by the regulations, to the Asset Recovery and Management Office and to the bodies of the Public Prosecution Service in charge of repressing the activities of criminal organisations. All of the above is without prejudice to the provisions on the Fund of assets decommissioned due to illegal drug trafficking and other related crimes.

In the case of realisation of an asset attached or decommissioned by order of a foreign judicial authority, the provisions of the Law on mutual recognition of criminal judgments in the European Union will apply.

Article 367 e.

1. Provisional use of the assets or effects decommissioned as a precautionary measure may be authorised in the following cases:

a) Where the circumstances set out in letters b) to f) of paragraph 1 of article 367 c, and the use of the effects will be more advantageous to the Administration than with early realisation, or their early realisation is not considered appropriate.

b) Where effects particularly suited to provision of a public service are concerned.

2. Where any of the cases provided for in the previous paragraph occurs, the judge, ex officio or at the request of the Public Prosecution Services, the parties or the Asset Recovery and Management Office, and after hearing the interested party, will agree the provisional use of the judicial effects, unless any of the circumstances provided for in the second paragraph of paragraph 2 of article 367 c occur.

3. The Asset Recovery and Management Office will be responsible, in accordance with legal and regulatory provisions, for deciding on awarding the use of the assets decommissioned as a precautionary measure and on the conservation measures to be adopted. The office will notify the judge or court, and the Public Prosecutor, of its decision.

Article 367 f.

The judge or court, ex officio or at the request of the Public Prosecution Service, or the Asset Recovery and Management Office itself, may entrust the location, conservation and management of the effects, assets, instruments and gains arising from criminal

activities committed within the framework of a criminal organisation to the Asset Recovery and Management Office.

The organisation and operation of that Office will be legally regulated.

CHAPTER III

On the identity of the offender and their personal circumstances

Article 368.

Whoever directs a charge at a specific person must legally identify them, if the Examining Magistrate, the plaintiffs or the accused themselves conceive that a legal measure is fundamentally necessary to identify the latter, in relation to the designators, so that there can be no doubt who is the person that they are referring to.

Article 369.

The identification proceedings will be held by placing the person to be identified in front of the person who must confirm identification, making the former appear together with others with similar external appearances. In the presence of all of them, or from a point from which they cannot be seen, as the Judge deems most appropriate, the person who must make the identification will state if the person referred to in their statements is to be found in the parade or group and, if affirmative, will clearly and firmly identify them.

The court record drawn up will record all the circumstances of the act, along with the names of all of those who formed part of the parade or group.

Article 370.

Where there are several people who must identify one person, the procedure provided for in the previous article must be carried out separately for each one of them, and they may not communicate with each other until the last identification has been made.

Where there are several people who must be identified by the same person, all of them may be identified in a single act.

Article 371.

The person arresting or apprehending an alleged culprit will take the necessary precautions so that the arrested individual or prisoner does not make any changes to their person or appearance which may make their identification by the relevant person difficult.

Article 372.

Similar precautions must be taken by Prison Wardens and the Heads of detainment centres; and, if there is a uniform which must be worn in the establishments they are in charge of, they will keep the clothes worn by the prisoners or detainees when they entered the establishment carefully, so that they may wear them as often as appropriate for the identification procedures.

Article 373.

If any doubt arises as to the identity of the accused, attempts will be made to prove it using as many means as are appropriate for that purpose.

Article 374.

The Judge will record, as thoroughly as possible, the distinguishing features of the accused, for the purpose that the court record may serve as proof of their identity.

Article 375.

To prove the accused's age and verify their identity, the Court Clerk will bring certification to the pre-trial proceedings of their birth registration on the Civil Register or their Baptism Certificate, if they are not registered on the Register.

At any event, if it is not possible to find out the Civil Register or parish where the accused's birth or baptism should be registered, or registration or entry do not exist; and where, as the accused states that they were born in a far-flung place, there would be the need to spend a long time in bringing the relevant certification to the case, the pre-trial proceedings will not be delayed and the document in the previous article will be substituted by reports on the age of the accused given, after physical examination, by the Forensic doctors or those appointed by the Judge.

Article 376.

Where there is no doubt as to the identity of the accused and it is known that they are of the age required in the Criminal Code to demand criminal liability to its full extent, the justification set out in the previous article may be dispensed with, if carrying it out would present some difficulty or cause extraordinary delay.

In successive proceedings and during the trial, the accused will be called by the name they are known by or that which they say they have.

Article 377.

If the Examining Magistrate considers it to be appropriate, they may request reports on the accused from the municipal authorities or from the relevant members of the police in the town or towns where they may have resided.

These reports will be grounded and, if it not possible to ground them, a statement will be made as to the cause preventing this.

Those providing the reports will not incur in any liability, except in the case of wilful misconduct or serious negligence.

Article 378.

The Judge may also take statements about the accused's conduct from all persons who, from their knowledge of the accused, can elaborate on it.

Article 379.

The accused's criminal record will be brought to the case, with those prior to the creation of the Central Criminals Register on 2 October 1878 being requested from the

Courts where it is presumed they are recorded, as appropriate, and later records solely from the Ministry of Justice.

The Head of the Registry at the Ministry is under the obligation to give the criminal records being claimed, or a negative certification, if appropriate, within a non-extendable period of three days from the date on which the request was received and, if they do not do so, they will give the legitimate reason that prevented this.

The Courts will give precedence to completion of this service and civil servants delaying it will be subject to disciplinary action.

Article 380.

If the accused is over nine years old and under fifteen, the Judge will take information about their judgment and, in particular, their capacity to appreciate the criminality of the event giving rise to the case.

For this information, they will hear such persons as may be able to give reliable evidence, due to their personal circumstances and the relationship they have had with the accused before and after committing the crime. In their default, two primary school Teachers will be appointed who, together with the Forensic doctor or the person replacing them, will examine the accused and issue and opinion.

Article 381.

If the Judge notices that the accused shows signs of mental derangement, they will immediately submit them to observation by the Forensic doctors in the establishment where they are a prisoner, or in a public one, if more appropriate, or they are at liberty.

The Doctors will, in this case, give their report in the manner provided for in chapter VII of this title.

Article 382.

Without prejudice to the provisions of the previous article, the Judge will take information about the mental derangement of the accused in the manner provided for in article 380.

Article 383.

If the derangement occurred after committing the crime, if the pre-trial proceedings are concluded, the competent Court will order the case to be filed until the accused recovers their health, also providing, with respect to the latter, that proscribed by the Criminal Code for those carrying out a crime in a deranged state.

If there is another accused of the same crime who does not come under the aforementioned case, the case will continue with sole reference to them.

Article 384.

When the pre-trial proceedings show some rational indication of criminality against a specific person, an order will be issued declaring them to be prosecuted and ordering that legal measures be taken in the form and manner provided for in this title and the others of this Law.

From the moment they are accused, the accused may take advice from a Lawyer, unless they are incommunicado, and use them either to request early termination of the pre-trial proceedings, or to request the practice of such legal measures as may be of interest, and to make pleas affecting their position. In the first case, they may lodge an appeal of compliant to the Provincial Court, and in the other two appeal before the same court if the Examining Magistrate does not accede to their wishes.

These appeals will only be admissible for a single effect.

To comply with the provisions of this article, the Examining Magistrate will order that the underage accused be provided with a Procurator and Lawyer, unless they themselves, or their legal representative, appoint persons they can trust for such representation and defence.

An appeal for reversal may be lodged against the orders issued by Examining Magistrates decreeing that a person to be prosecuted by the person's representative, within three days after that on which the decision was notified; and an appeal may be lodged against the order dismissing the reversal, for a single effect, within the five days following that on which the dismissal order was notified to the appellant representative. An appeal may also be lodged, for a single purpose, with that for reversal, in which case the Examining Magistrate will declare the former to be admitted and the latter dismissed. If the reversal is admitted, with the prosecution previously agreed being rendered ineffective, the provisions of the following paragraph will apply in relation to repetition of the request for prosecution before the Provincial Court.

Only those requesting prosecution will be granted the right lodge an appeal for reversal against a nolle prosequi order, making use of this right within the three days following notification. There can be no recourse to appeal or other type of recourse against nolle prosequi orders pursued in this way. However, the request for prosecution may be repeated before the relevant Provincial Court by the party to whom it may have been denied where, appearing before such Court, if they make use of such right, present the transfer referred to in article 627 of this Law, precisely within the time limit within which such transfer was granted to them. The Court, in such cases, when issuing the order required by article 630, will decided what is appropriate, with grounds for it; and without this being left to the instructor, the decision, where the declarations for prosecution requested are considered appropriate, will be directed by the Examining Magistrate making them. The accused to whom these decisions by the instructor refer, may use the recourse to appeal for a single effect directly, without the prior need to use that for reversal.

Where the decision on the appeal for reversal lodged against a nolle prosequi order is in favour of the appellant and, therefore, the prosecution first requested against the decision declaring as such is agreed, the representatives of the accused affected may use the same recourses of reversal and appeal granted directly to the accused in this article.

Article 384 a.

Once an order for prosecution is final and provisional imprisonment ordered for the crime committed by the person involved or related to armed gangs or terrorist or rebel individuals, the accused who may have held a public post or duty will automatically be suspended from its exercise whilst imprisonment lasts.

CHAPTER IV
On the statements of the accused

Article 385.

The Judge, ex officio or at the request of the Public Prosecution Service or private complainant, will make the accused give as many statement as they deem appropriate to ascertain the facts, and the private prosecutor or civil claimant may not be present at the questioning where the Examining Magistrate orders this.

Article 386.

If the accused has been arrested, the first statement will be made within a time limit of twenty-four hours.

This time limit may be extended by a further forty-eight hours, if the case is serious, and this will be stated in the procedural court order agreeing to the extension.

Article 387. *(Repealed).*

Article 388.

In the first statement, the accused will be asked their name, paternal and maternal surnames, nickname, if any, age, nature, residence, marital status, profession, art, office or way of living, if they have children, if they have been prosecuted previously, for what crime, before which Judge or Court, what sentence was imposed, if it was completed, if they know how to read and write and if they understand the reason why they are being prosecuted.

Article 389.

The questions asked in all the statements that they must make will be directed at ascertaining events and the participation in them of the accused and any other persons who may have contributed to their execution or concealment.

The questions will be direct and may never, for any reason, be made in a confusing or suggestive manner.

No type of coercion or threat may be used with the accused.

Article 390.

The statements made or answers given by the accused will be verbal. Nevertheless, the Examining Magistrate, always taking into account their circumstances and the nature of the case, may allow them to draw up, in their presence, a written reply to points which are difficult to explain, or that they may also consult annotations or notes in their presence.

Article 391.

The accused will be shown all of the objects making up the corpus delicti, or those which the Judge considers appropriate, for the purpose that they identify them.

They will be interrogated on the origin of such objects, their use and the reason why they were found in their possession and, in general, they will always be interrogated about any other circumstance which leads to clarification of the truth.

The Judge may order the accused, without using any type of coercion, to write some words or sentences in their presence, where this measure is considered useful to dispel doubts arising about the legitimacy of a writ attributed to them.

Article 392.

Where the accuse refuses to answer or pretends to be mad, deaf or dumb, the Examining Magistrate will warn them that, notwithstanding their silence and simulated illness, instruction of the proceedings will continue.

The Court Clerk will make a record of these circumstances and the Examining Magistrate will then investigate the truth about the illness which the accused is feigning, observing, for this purpose, the provisions in the respective articles of chapters II and VII of this title.

Article 393.

If examination of the accused is protracted for some time or the number of questions they are asked are so considerable that they have lost the composure of judgment needed to answer the questions still to be asked, the examination will be suspended, giving the accused the time needed to rest and recover their composure. The time spent on the interrogation will always be recorded in the statement itself.

Article 394. *(Repealed)*

Article 395. *(Repealed).*

Article 396.

The accused will be allowed to state as much as they deem appropriate for their acquittal or to explain the facts, with the citations made and other measures proposed being processed urgently, if the Judge considers them conducive to proving the statements.

Charges and counterclaims may not be made against the accused, nor will any part of the pre-trial proceedings be read apart from their statements, if they request it, unless the Judge authorises their publicity in whole or in part.

Article 397.

The accused may dictate the statements themselves. If they do not do so, it will be done by the Court Clerk who will, as far as possible, procure that the same words are used as the accused asserted.

Article 398.

If the accused does not know the Spanish language or is deaf and dumb, the provisions of articles 440, 441 and 442 will apply.

Article 399.

When the Judge considers examination of the accused at the scene of the events on which they must be examined, or before the persons or things related to them, the provisions of article 438 will apply.

Article 400.

The accused may make statements as many times as they wish and the Judge will receive the statement immediately if it is related to the case.

Article 401.

The statement will contain the questions and answers in their entirety.

Article 402.

The accused may read the statement, and the Judge will inform them that they have this right.

If they do not make use of it, the Court Clerk will read it in their presence.

Article 403.

The provisions of article 450 will apply with respect to deletions or corrections.

Article 404.

The court record will be signed by all those taking part in the act and will be authorised by the Court Clerk.

Article 405.

If, in the aforementioned statements, the accused contradicts their first statements or retracts previous confessions, they must be questioned about the motive for their contradictions and the reasons for their retraction.

Article 406.

A confession by the accused will not exempt the Examining Magistrate from carrying out all the investigations needed to be convinced of the truth of the confession and the existence of the crime.

For this purpose, the Examining Magistrate will question the self-confessed accused so that they explain all the circumstances of the crime and whatever may contribute to ascertaining their confession, whether they were the perpetrator or accomplice and whether they know any persons who were witnesses or had knowledge of the act.

Article 407.

Regarding solitary confinement of the accused, the provisions of articles 506 to 511 will apply.

Article 408.

The accused will not be read the grounds for the solitary confinement order when they are notified of it, nor will they be given a copy of them.

Article 409.

It will not be necessary to appoint a procurator to take a statement from the accused who is a minor.

Article 409 *a.*

Where an incorporated entity is being prosecuted, a statement will be taken from the representative particularly appointed for that purpose, assisted by their Lawyer. The statement will be directed at investigating the facts and the participation in them by the entity concerned and any other persons who may also have intervened in committing it. The provisions of the precepts of this chapter will be applicable to such statement, unless they are incompatible with its special nature, including the right to remain silent, not to incriminate oneself and not to confess guilt.

Nevertheless, non-appearance by the person particularly appointed by the incorporated entity to represent it will determine that this act has been held, with it being understood that it avails itself if its right not to testify.

CHAPTER V
On the statements of the witnesses

Article 410.

All those residing in Spanish territory, whether Spanish or foreign nationals, who are not prevented from doing so, are under the obligation to attend to the judicial call to testify as much as they know about what they are asked about if, for this reason, they are summoned with the formalities provided for in the Law.

Article 411.

The following are excepted from the provisions of the previous article: the King, the Queen, their respective consorts, the Crown Prince and the Regents of the Kingdom.

Diplomats accredited in Spain are also exempt from the duty to testify, in all cases, along with the administrative, technical or service personnel of the diplomatic missions and their family members, if they incur in the requirements demanded in the treaties.

Article 412.

1. All other members of the Royal Family will also be exempt from appearing when called by the Judge, but not from testifying, which they may do in writing.

2. The following are exempt from appearing when called by the Judge, but not from testifying, and they may provide written reports on the facts that they are aware of due to the posts they hold:

1. The President and all other members of Government.
2. The Presidents of Parliament and the Senate.

3. The President of the Constitutional Court.

4. The President of the General Council of the Judiciary.

5. The Chief Public Prosecutor.

6. The Presidents of the Autonomous Regions.

3. If it is appropriate to take a statement from any of the persons referred to in paragraph 2 above on matters that they were not aware of due to the post they hold, this will be taken at their residence or official office.

4. Those who may have held the posts referred to in paragraph 2 of this article are also exempt from appearing when called by the Judge, but not from testifying, and may provide a written report of the facts that they may have been aware of due to holding that post.

5. The following will also be exempt from appearing when called by the Judge, but not from testifying, and they may do so in their official office or at the headquarters of the body they are members of:

1. Members of Parliament or Senators.

2. Magistrates of the Constitutional Court and Members of the General Council of the Judiciary.

3. Prosecutors of the Supreme Court Bench.

4. The Ombudsman.

5. The Judicial Authorities of any law courts which are of a higher level than that receiving the statement.

6. The Presidents of the Legislative Assemblies of the Autonomous Regions.

7. The President and Permanent Councillors of the Council of State.

8. The President and Councillors of the Court of Auditors.

9. The Members of the Governing Councils of the Autonomous Regions.

10. Secretaries of State, Under-secretaries and similar, Government Delegates in the Autonomous Regions and in Ceuta and Melilla, Civil Governors and Delegates of the Tax Office.

6. If posts whose jurisdiction is territorially limited are concerned, the relevant exemption will only be applicable in relation to the statements that must be made in their territory, with the exception of the Presidents of the Autonomous Regions and their Legislative Assemblies.

7. With regard to members of Consular Offices, the provisions of current International Conventions will be applicable.

Article 413.

To take the statement referred to in paragraph 3 of the previous article, the Judge will go to the residence or official office of the person concerned, giving prior notice indicating the day and time.

The Judge will proceed in the same manner to take the statement from any of the persons referred to in paragraph 5 of the previous article where this is to take place in their official office or the headquarters of the body they are members of.

Article 414.

The resistance of any of the persons referred to in paragraphs 3 and 5 of article 412 to receiving the Judge in their home or official residence, or to testify as much as they know about what is asked of them with respect to the facts of the pre-trial proceedings, will be made known to the Public Prosecution Service for the appropriate purposes.

If the persons mentioned in paragraph 7 of that article put up the aforementioned resistance, the Judge will immediately notify the Ministry of Justice, sending instructive testimony, and will abstain from any further proceedings involving them until notified by the Ministry of the decision issued on the case.

Article 415.

The persons mentioned in the second paragraph of article 411 and paragraph 7 of article 412 will be invited to make their statement in writing, with the Ministry of Justice, with a courteous notification to the Ministry of Foreign Affairs, will send a questionnaire for that purpose including all the points that they must answer so that they may do so via the diplomatic route.

Article 416.

The following are exempt from the obligation to testify:

1. Family members of the accused in direct ascendant or descendant lines, their spouse or person linked to them by a de facto relationship similar to marriage, their whole or half blood brothers and sisters and blood lines up to the second civil degree, and the family members referred to in number 3 of article 261.

The Examining Magistrate will advise any witness included under the previous paragraph that they are not under the obligation to testify against the accused, but they may make such statements as they deem appropriate, and the Court Clerk will record the answer that they give to this advice.

2. The Lawyer for the accused with regard to the facts confided in them in their capacity as defence.

If any of the witnesses come under any of the relationships indicated in the preceding paragraphs with one or several of the accused, they will be under the obligation to testify with respect to the others, unless their statement may compromise their family member or person defended.

3. Translators and interpreters of conversations and communications between the defendant, person prosecuted or accused and the persons referred to in the previous paragraph, in relation to the facts that their translation or interpretation refers to.

Article 417.

The following may not be obligated to give statements as witnesses:

1. The clergy and ministers of breakaway cults, on facts that were revealed to them in the exercise of the duties of their ministry.

2. Public officials, whether civil or military, of whatever type, where they cannot testify without breaching the secrecy that, due to the positions they hold, they are under the obligation to keep, or when, acting by virtue of due obedience, they are not authorised by their hierarchical superior to make the statement requested of them.

3. The physically or morally disabled.

Article 418.

No witness may be obligated to testify on a question whose answer may, materially or morally and in a direct and significant manner, prejudice either the person or the fortune of any of the family members referred to in article 416.

Cases where the crime is extremely serious as it undermines the security of the State, public peace or the sacrosanct person of the King or his successor are excepted.

Article 419.

If the witness is physically unable to attend the call to court, the Examining Magistrate who must take their statement will go to their residence, as long as questioning does not place the life of the patient in danger.

Article 420.

Any person who is not physically unable but does not appear on the first judicial call, except for the persons mentioned in article 412, or if they resist testifying to whatever they know about the events they are questioned on, if they are not included under the exemptions in the previous articles, will incur a fine of 200 to 5,000 Euros and, if they persist in their resistance, will be brought, in the first instance, before the Examining Magistrates by agents of the authority, and prosecuted for the crime of obstruction of justice provided for in article 463.1 of the Criminal Code, and, in the second instance, will also be prosecuted for the crime of serious disobedience of authority.

The fine will be imposed in the act of the misdemeanour being noted or committed.

Article 421.

The Examining Magistrate, or municipal judge, as appropriate, will order the witnesses cited in the report of the crime or complaint, or in any other statements or legal measures, and all others who know about the facts or circumstances, or who possess appropriate information for the investigation or verification of the crime and the criminal, to appear in their presence.

It will, nevertheless, be endeavoured that the issue of irrelevant or unnecessary summons is omitted.

Article 422.

If the witness lives outside the district or municipality of the Judge instructing the pre-trial proceedings, the Judge will abstain from ordering them to appear in their presence, unless this is considered absolutely necessary for verification of the crime or identification of the offender, in which case this will be ordered in a reasoned court order.

The appearance must also be avoided of public vigilance employees who reside at a point outside the capital of the Court, station masters, engineers, stokers, drivers, telegraphists, ticketmasters, collectors, switch operators or other agents carrying out similar duties, who will be summoned via their immediate manager where it is absolutely essential that they appear.

Article 423.

In the case of the general rule included in the first paragraph of the previous paragraph, and that in the second, where the statement is so urgent that the delay resulting in summoning the witness via their immediate manager is not permissible, and the employee in question cannot abandon the service they provide without serious danger or detriment to the public, the Examining Magistrate for the case will commission the statement to be taken by the relevant person in the district or municipality where the witness is to be found.

Article 424.

If the witness resides abroad, a request will be sent through diplomatic channels and via the Ministry of Justice to the foreign Judge who is competent to take the statement. The request must contain the necessary background and indicate the questions to be put to the witness, without prejudice to the fact that the Judge may expand on them as their discretion and prudence advises.

If the appearance of the witness before the Examining Magistrate or Court is essential and they do not appear voluntarily, this will be made known to the Ministry of Justice so that it may make the appropriate decision.

Article 425.

If the person called to testify holds a public post or functions, notification will be given, at the same time as the summons are served, to their immediate superior so that a replacement may be appointed during their absence, if this is demanded in the public interest or security.

Article 426.

Witnesses will be summoned in the manner provided for in title VII of the first book of this Code.

Article 427.

Where the witness does not need to appear before the Examining Magistrate to give a statement, the request, writ or order issued will record the precise circumstances for designation of the witness and the questions they must answer, without prejudice to

those that the Judge or Court taking the statement deem to be appropriate for greater clarification of the facts.

Article 428.

The Clerk to the commissioned Judge who must authorise the statement will issue the writ provided for in article 175, with all the circumstances expressed within it, and that of having received the statement by virtue of a request, writ or order.

Article 429.

Witnesses coming under military jurisdiction may, as the Examining Magistrate deems appropriate, be cross-examined by the latter, like all other witnesses, or by the competent Military Judge. In the first case, the Examining Magistrate must order that the summons served on the witness is made known to the Commander of the Corps they belong to. In the second case, the provisions of the two previous articles will apply.

If any witness coming under military jurisdiction declines to appear before the Examining Magistrate, or refuses to take an oath or reply to such questioning as it put to them, the Examining Magistrate will address the superior of the disobedient witness and such superior, in addition to disciplining the witness, which will immediately be made known to the Examining Magistrate, will make them appear before the latter to testify.

Article 430.

Witnesses may be summoned personally where they are present.

Where cross-examination of a witness is urgent, they may be verbally summoned to appear in the act, without waiting for the issue of the writ provided for in article 175, with a record being made, nevertheless, of the reason for the urgency on the court records.

In the same case, the Examining Magistrate may go to the residence of a witness or the place where they are to be found to take the statement.

Article 431.

The Examining Magistrate may empower members of the police to serve verbal or written summons, if they consider it appropriate.

Article 432.

If the witness has no known address or their whereabouts is unknown, the Examining Magistrate will order as appropriate to ascertain it. In this case, the Court Clerk will contact the Judiciary Police, official Registries, professional associations, entity or companies in which the interested party carries out their activity concerning such enquiry.

Article 433.

When appearing to testify, witnesses will deliver the copy of the writ of summons to the court clerk.

Witness of legal age will take an oath or promise to tell everything they know with respect to the questions put to them, with the Judge being under the obligation to inform them, in clear, comprehensible language, of their obligation to tell the truth and the possibility of incurring in a crime of perjury in a criminal case.

Witnesses who, in accordance with the provisions of the Victims of Crime Statute, have the status of victims of the crime, may be accompanied by their legal representative and by a person of their choice during the practice of these legal measures, unless, in this latter case, the Examining Magistrate resolves, with grounds, to the contrary to ensure the correct performance of them.

In the case of witnesses who are minors or persons with altered legal capacity, the Examining Magistrate may agree, where, given the lack of maturity of the victim, this is necessary to avoid causing them serious prejudice that their statements be taken with the intervention of experts and the intervention of the Public Prosecution Service. For this purpose, it may also be agreed that the questions are put directly to the victim by experts or, in addition, exclude or limit the presence of the parties in the place where the victim is examined. In these cases, the Judge will do whatever is necessary to facilitate the possibility of passing on the parties' questions or requesting clarifications from the victim, as long as this is possible.

The Judge will order the statement to be recorded using audio-visual media.

Article 434.

The oath will be sworn in the name of God.

The witnesses will make the oath in accordance with their religion.

Article 435.

Witnesses will testify separately and secretly in the presence of the Examining Magistrate and the Court Clerk.

Article 436.

The witness will first state their name, paternal and maternal surnames, age, marital status and profession, if they know the accused and the other parties, or not, and if they are family, friends or relations of any other kind, if they have been prosecuted and the sentence that was imposed. If the witness is a member of the Security Forces in exercise of their functions, their personal registration number and the administrative unit to which they are attached will be sufficient for identification.

The Judge will let the witness narrate the facts on which they are testifying without interruption and will only demand such supplementary explanations as are appropriate to dispel obscure or contradictory concepts. Afterwards, they will put the questions to them that they deem appropriate to clarify the facts.

Article 437.

The witnesses will declare viva voce, and may not read the statement or any other answer they have in writing.

They may, however, consult notes or memoranda containing data which are difficult to remember.

The witness may dictate the answers themselves.

Article 438.

The Examining Magistrate may order that the witness is taken to the scene where the events occurred and cross-examine them there or show them objects which relate to the statement.

In the latter case, the Examining Magistrate may show the witness such objects, on their own or mixed with other similar ones, and also taking such measures as prudence dictates for the greatest accuracy of the statement.

Article 439.

Confusing or leading questions will not be put to the witness, nor will coercion, deception, promise or any contrivance be used to obligate or induce them to testify in a certain direction.

Article 440.

If the witness does not understand or speak the Spanish language, an interpreter will be appointed, who will appear under oath of acting properly and faithfully in the performance of their job.

The questions will be made and answers received from the witness by this means and the witness will testify via this channel.

In this case, the statement must be recorded in the proceedings in the language used by the witness and then translated into Spanish.

Article 441.

The interpreter will be chosen from amongst those qualified as such, if there are any in the town. In default, a teacher of the relevant language will be appointed and, if there is none, any person with knowledge of it.

If, even in this way, the translation cannot be obtained and significant revelations are expected of the witness, the sheet of questions to be put to them will be drawn up and sent to the Language Interpretation Office of the Ministry of State so that, with preference over all other work, they are translated into the language the witness speaks.

The translated questions will be delivered to the witness so that, in the presence of the Judge, they can acquaint themselves with their content and draw up the relevant answers in writing in their own language, which will be sent in the same way as the questions to the Language Interpretation Office.

These measures will be taken actively by the Judges.

Article 442.

If the witness is deaf, an appropriate sign language interpreter will be appointed through whom the questions will be put and answers received.

The appointee will take an oath in the presence of the deaf person prior to commencing performance of the post.

Article 443.

The witness may read the record of their statement for themselves; if they cannot, due to falling within one of the cases included in articles 440 and 442, it will be read to them by the interpreter, and by the Court Clerk in all other cases.

The Judge will always advise the interested parties of their right to read their statements for themselves.

Article 444.

Statements will be signed by the Judge and by all those intervening in them, if they know how to and can do so, and the Court Clerk will certify them.

Article 445.

Statements from witnesses which, according to the Judge, are manifestly inappropriate for proving the facts which are subject to the pre-trial proceedings will not be entered on the court records. Witness declarations which fall within the same case will also not be entered in the statement; but whatever may serve as evidence for and against will always be entered.

In the first case, a record will be made of the witness' appearance and the reason why their statement was not written down.

Article 446.

Once the statement is made, the Court Clerk will make the obligation to appear to testify again before the competent Court, when summoned to do so, known to the witness, as well as that of making the Court Office aware of changes of address that may occur until summoned for the oral trial, with the warning that if they do not comply they will be subject to a fine of 200 to 1,000 Euros, unless they incur in criminal liability due to the misdemeanour.

These warnings will be recorded at the end of the court record of the statement itself.

Article 447.

The Court Clerk, when sending the pre-trial proceedings to the competent Court, will make it aware of any changes of address that may have been notified by the witnesses.

They will do the same with respect to changes notified after the pre-trial proceedings are sent, until the case ends.

Article 448.

If the witness, when the warning referred to in article 446 is made, declares that is impossible to attend as they will be absent from Spanish territory, and also in the case where there is sufficient, rational reason to fear death or physical or intellectual disability prior to the oral trial opening, the Examining Magistrate will order the statement to be taken immediately, ensuring against the possibility of contradiction by the parties. To do this, the Court Clerk will notify the accused to appoint a lawyer within a time limit of twenty-four hours, if they do not have one, or, otherwise, that one will be appointed ex officio, in order to advise them when receiving the witness statement. Once such time limit has passed, the Judge will cross-examine the witness again under oath, in the presence of the accused and their defence lawyer and also in the presence of the Prosecutor and the plaintiff, if they wish to attend, with the latter being allowed to cross-examine as many times as they deem appropriate, except for those dismissed by the Judge as manifestly impertinent.

The Court Clerk will record the answers to these questions and the court record will be signed by all those present.

Statements from witnesses who are minors and persons with modified legal capacity may be made avoiding visual confrontation with the accused, using any technical means to do this which makes it possible to take this evidence.

Article 449.

In the event of imminent danger of death of a witness, a statement will be taken, with the utmost urgency, in the manner set out in the previous article, although the accused may not be assisted by a Lawyer.

Article 450.

The records of the pre-trial proceedings will not contain deletions, amendments or writing between the lines. Any mistakes that may have been made will be entered at the end of them.

CHAPTER VI
On confrontation of witnesses and accused

Article 451.

Where witnesses or the accused, between or amongst themselves, disagree about any fact or any circumstance of interest in the pre-trial proceedings, the Judge may hold a confrontation between those who are in disagreement, without this legal measure, as a general rule, taking place between more than two persons at once.

Article 452.

The confrontation will be verified before the Judge, with the Court Clerk reading the statements made to the accused or witnesses between whom the act takes place and with the Judge asking the witnesses, having reminded them about their oath and the penalties for perjury, if they ratify them or if they have some change to make.

The Judge will, immediately, express the discrepancies in such statements and will invite those in confrontation to come to agreement amongst themselves.

Article 453.

The Court Clerk will certify everything that happens in the act of confrontation and the questions, answers and counterclaims made mutually by those in confrontation, as well as observations about their attitude during the act, and will sign the record with all those present, expressing, if someone has not done so, the reason why it was invoked.

Article 454.

The Judge will not permit those in confrontation to insult or threaten each other.

Article 455.

Confrontations will only be held where there is no other known manner of proving the existence of the crime of the guilt of any of the accused.

Confrontations will not be held with witnesses who are minors, unless the Judge considers this to be essential and not adverse to the interests of such witnesses, having received an expert report beforehand.

CHAPTER VII
On the expert report

Article 456.

The Judge will agree to an expert report when, to understand or appreciate some significant fact or circumstance in the pre-trial proceedings, scientific or artistic knowledge is necessary or appropriate.

Article 457.

The experts may or may not be qualified.

Qualified experts are those with an official qualification in a science or art the practice of which is regulated by the Government.

Unqualified experts are those who, although they do not have an official qualification do have special knowledge or practice of some science or art.

Article 458.

The Judge will avail of qualified experts in preference to those who are unqualified.

Article 459.

All expert examination will be done by two experts.

An exception to this is the case where there is only one at the scene and it is not possible to wait for the other to arrive without serious disadvantage to the course of the pre-trial proceedings.

Article 460.

The appointment will be made known to the experts by a writ, which will be delivered to them by the Court bailiff or porter, with the formalities provided for summoning the witnesses, with the original writ, for the purposes of article 175, being replaced by an attestation drawn up by the bailiff or porter entrusted with its delivery.

Article 461.

If the urgency of the case requires it, the call may be made verbally on the order of the Judge, and this will be noted on the records, but the attestation provided for in the previous article will always be drawn up by the person entrusted with performance of the call order.

Article 462.

Nobody may refuse to attend to the Judge's call to perform an expert service, unless they are legitimately prevented from doing so.

In this case, they must make it known to the Judge as soon as they receive the appointment, so that provisions can be made appropriately.

Article 463.

The expert who, without giving a grounded excuse, does not attend the call of the Judge or refuses to provide a report, will incur in the liabilities indicated for witnesses in article 420.

Article 464.

Whoever the aggrieved person may be, an expert report on a crime may not be given by those who, according to article 416, are not under the obligation to testify as witnesses.

Any expert who, falling within any of the cases in that article, provides the report without making this circumstance known to the Judge appointing them beforehand will incur a fine of 200 to 5,000 Euros, unless the deed gives rise to criminal liability.

Article 465.

Those providing reports as experts by virtue of a judicial order will have the right to claim such fees and compensation as are just, if such experts are not in receipt of a fixed remuneration paid by the State, Province or Municipality.

Article 466.

Once the experts are appointed, the Court Clerk will immediately notify the Public Prosecution Service, private plaintiff, if there is one, and the accused, if they are at the disposal of the Judge or are to be found in the place of instruction, or their representative, if they have one.

Article 467.

If the expert examination and report may be repeated in the oral trial, the experts appointed cannot be challenged by the parties.

If it will not be produced in the oral trial, a challenge may be made.

Article 468.

The following are reasons for challenging the experts:

1. Blood relationship or kinship within the fourth degree to the plaintiff or the accused.
2. Direct or indirect interest in the case or in another similar case.
3. Intimate friendship or manifest enmity.

Article 469.

The claimant or accused attempting to challenge the expert or experts appointed by the Judge must do so in writing prior to the expert investigation commencing, expressing the reason for the challenge and the evidence offered, accompanied by documentary evidence or stating the place in which it is to be found if it is not at their disposal.

A Procurator will not be obligatory for submission of this writ.

Article 470.

The Judge, without interrupting proceedings, will examine the documents produced by the challenger and will hear the witnesses called by them, deciding on the challenge as they deem just.

If appropriate, the expert examination will be suspended for the time strictly needed to appoint the expert who must replace the one challenged, make this known to them and for the appointee to appear in the relevant place.

If the challenge is not admitted, the case will proceed as if the power to challenge had not been used.

When the challenger cannot produce the documents but names the archive or place where they can be found, the Court Clerk will claim them and the Examining Magistrate will examine them once received, without this delaying the progress of the proceedings. If it ensues from them that the cause for the challenge is justified, the expert report given will be annulled and an order passed for a new report to be carried out.

Article 471.

In the case of the second paragraph of article 467, the complainant will have the right, at their own cost, to appoint an expert to intervene in the expert examination.

The accused will have the same right.

If there are several claimants or accused they will, respectively, reach agreement amongst themselves to make the appointment.

These experts must be qualified, unless there are none of this type in the district or demarcation, in which case unqualified experts may be appointed.

If the expert examination cannot wait, it will proceed as the circumstances allow so that the claimant and the accused may intervene in it.

Article 472.

If the parties make use of the power granted to them in the previous article, they will notify the Judge of the name of the expert and will offer, while making this notification, the proof that the person appointed is in fact an expert.

This power may not be made use of in any case whatsoever once the examination has begun.

Article 473.

The Judge will decide on the admission of such experts in the manner provided for in article 470 for challenges.

Article 474.

Prior to commencing the expert examination, all the experts, whether appointed by the Judge or by the parties, will take an oath, in accordance with article 434, that they will proceed well and faithfully in their actions and with no other purpose than that of discovering and stating the truth.

Article 475.

The Judge will clearly and firmly state the purpose of the report to the experts.

Article 476.

In the case of the second paragraph of article 467, the expert examination may be attended by the complainant, if any, with their representative, and the accused with theirs, even where they are imprisoned, in which case the Judge will take the appropriate precautions.

Article 477.

The expert examination will be presided by the Examining Magistrate or, if delegated by them, the Municipal Judge. They may also, in the case of article 353, delegate to a member of the Judiciary Police.

The Court Clerk acting in the case will always attend.

Article 478.

If possible, the expert report will include:

1. A description of the person or thing subject to it in the state or in the manner in which it is found.

   The Court Clerk will draw up this description, dictated by the experts and signed by all those present.

2. A detailed description of all the operations carried out by the experts and their result, drawn up and authorised in the same manner as the foregoing.

3. The conclusions that, in the light of such data, are reached by the experts in accordance with the principles and rules of their science or art.

Article 479.

If the experts need to destroy or alter the objects they analyse they must retain, if possible, a part of them at the disposal of the Judge so that, if necessary, a new analysis may be made.

Article 480.

The parties attending the operations or examinations may make such observations as they deem fit to the experts, all of which will be placed on the court record.

Article 481.

Once the examination is made, the experts, if they so request, may retire for such time as is absolutely necessary to the place indicated by the Judge so that they may deliberate on and draw up their conclusions.

Article 482.

If the experts need to rest, the Judge, or civil servant representing them, may grant them the necessary time to do so.

The legal measure may also be suspended until another time or day where its nature requires it.

In this case, the Judge, or whoever represents them, will take the appropriate precautions to prevent any material alteration to the expert examination.

Article 483.

The Judge may, on their own initiative or where claimed by the parties present or their defence, pose such questions to the experts, when they produce their conclusions, as they deem fit and request any clarifications needed.

The experts' answers are considered to be a part of their report.

Article 484.

If the experts are in disagreement and they are even in number, the Judge will appoint another.

With the intervention of the new appointee, the examinations carried out by the others will be repeated, if possible, and such others as they deem appropriate will be executed.

If it is not possible to repeat the examinations or carry out new ones, the intervention of the last appointed expert will be limited to deliberating with the others, in the light of the examination procedures carried out, and later, along with whoever they agree with, or separately if they do not agree with any of them, formulate their reasoned conclusions.

Article 485.

The Judge will provide the expert with the material means needed to carry out the examination entrusted to them, claiming them from the Public Authorities, or addressing a prior notification to the relevant authority if preparations for such purpose exist, except for the particular provisions of article 362.

TITLE VI

On the summons, arrest and provisional detention

CHAPTER I

On the summons

Article 486.

The person charged with a punishable act must be summoned simply to be heard, unless provided otherwise by the law, or that it follows that they must be arrested.

Article 487.

If the party summoned in accordance with the provisions of the previous article does not appear, or justify a legitimate reason preventing them from doing so, the summons to appear may become an arrest warrant.

Article 488.

During instruction of the case, the Examining Magistrate may order as many persons to appear as they deem fit to hear as there are grounded indications of guilt against them.

CHAPTER II

On the arrest

Article 489.

No Spanish or foreign national may be arrested except in the cases and in the manner provided for by law.

Article 490.

Any person may arrest:

1. A person intending to commit a crime at the time they go to commit it.
2. The offender in flagrante.
3. The person escaping from the penal institution where they are serving their sentence.
4. The person escaping from the prison where they were waiting transfer to a penal institution or place where they must serve the sentence imposed in a final judgment.
5. The person escaping when being taken to the institution or place mentioned in the previous number.

6. The person escaping being a detainee or prisoner due to a pending case.

7. The accused or convict who is in default.

Article 491.

The private individual arresting another will justify, if the latter demands it, having acted on sufficiently rational grounds to believe that the arrested individual fell under one of the cases in the previous article.

Article 492.

The Authority or member of the Judiciary Police are under the obligation to arrest:

1. Anyone included in any of the cases in article 490.

2. The person being prosecuted for a crime which, in the Code, carries a sentence greater than that of correctional imprisonment.

3. The person prosecuted for a crime with a lesser sentence, if their background, or the circumstances of the deed, imply that they will not appear when called by the Judicial Authority.

The accused providing bail considered, by the Authority or agent attempting to arrest them, to be sufficient to assume, rationally, that they will appear when called to do so by the competent Judge or Court is excepted from the provisions of the previous paragraph.

4. The person falling within the case of the previous number, although not yet prosecuted, where the two following circumstances occur: 1. That the Authority or agent has sufficient rational reasons to believe in the existence of an event qualifying as a crime. 2. That they also have sufficient reasons to believe that the person they are attempting to arrest took part in it.

Article 493.

The Authority or member of the Judiciary Police will take a note of the name, surname, address and other circumstances sufficient to ascertain and identify the person of the accused or offender who they do not arrest as they are not included in any of the cases in the previous article.

This note will be promptly delivered to the Judge or Court hearing, or which will hear the case.

Article 494.

Such Judge or Court will also agree the arrest of those included under article 492, by way of preventive custody, with the Authorities and members of the Judiciary Police.

Article 495.

Arrests may not be made for simple misdemeanours, unless the alleged guilty party has no known address or does not give enough bail, in the opinion of the Authority or agent attempting to arrest them.

Article 496.

The private individual, Authority or member of the Judiciary Police arresting a person by virtue of the provisions of the preceding articles, must set them free or hand them over to the Judge nearest to the place where the arrest was made within the twenty-four hours following the arrest.

If the hand over is delayed, they will incur in the liability provided for in the Criminal Code if the delay exceeds twenty-four hours.

Article 497.

If the Judge or Court the hand over was made to is the proper one for the case and the arrest was made in accordance with the provisions of numbers 1., 2. and 6., and the case referring to the accused in 7. of article 490, and 2., 3. and 4. of article 492, the arrest will be raised to prison, or annulled, with a time limit of seventy-two hours from when the arrested individual was handed over.

The Judge or Court will do the same, and within the same time limit, with respect to any person whose arrest they themselves have agreed.

Article 498.

If the arrested individual, by virtue of the provisions of number 6. and the first case in number 7. of article 490, and 2. and 3. of article 492, is handed over to a Judge other than the Judge or Court hearing the case, the former will draw up a court record describing the person making the arrest, their address and other circumstances sufficient to seek and identify them, of the grounds that they state they had for the arrest and the name, surnames and circumstances of the arrested individual.

This court record will be signed by the Judge, the Court Clerk, the person making the arrest and all others present. Two witnesses will sign for anyone not signing.

Immediately afterwards, these records will be sent and the person arrested placed at the disposal of the Judge or Court hearing the case.

Article 499.

If the individual was arrested because they fell under numbers 1. and 2. of article 490, and number 4. of 492, the Examining Magistrate to whom they are handed over will take the first legal measures and elevate the arrest to imprisonment, or order the arrested individual to be set free, as appropriate, within the time limit shown in article 497.

Once this has been done, if the Judge is not the competent Judge, they will refer the court records and the prisoner, if there is one, to the one that is.

Article 500.

Where the individual is arrested by virtue of the causes in 3., 4. and 5., and the case referring to the convict in 7. of article 490, the Judge they are handed over to or who has agreed the arrest will order that they are immediately sent to the institution or place where they must serve their sentence.

Article 501.

The order elevating the arrest to imprisonment, or annulling it, will be made known to the Public Prosecution Service, and the private complainant, if there is one, and the accused will be notified. The latter will also be informed of their right to request, verbally or in writing, reversal of the order and their statements will be recorded on the notification.

CHAPTER III
On provisional detention

Article 502.

1. The Judge or Examining Magistrate, the judge taking the first legal measures, and the Criminal judge or court hearing the case may order provisional detention.

2. Provisional detention will only be ordered where, objectively, it is necessary, in accordance with the provisions of the following articles, and where there are no less onerous measures for the right to liberty by which the same purpose as provisional detention may be achieved.

3. The judge or court will, when ordering provisional detention, take into account the repercussions that this measure may have on the person investigated or accused, taking their circumstances and the facts of the case into account, as well as the length of the sentence that may be imposed.

4. Provisional detention will never be ordered when the investigations carried out rationally infer that the facts of the case do not constitute a crime or that it was committed with justified cause.

Article 503.

1. Provisional detention may only be ordered where the following requirements exist:

1. There is evidence in the case of the existence of one or several acts qualifying as an offence punishable by a maximum penalty of two or more years in prison, or a shorter term where the accused has a criminal record which has not been and is not likely to be cancelled, arising from a conviction for a premeditated crime.

Where there are several grounds on which the accusation was based, the special sentencing rules will apply, in accordance with the provisions of section 2.a of chapter II, title III, book I of the Criminal Code.

2. There are sufficient grounds in the case to believe that the person against whom the detention order is ordered is criminally responsible for the crime.

3. Provisional detention is intended to achieve one or more of the following purposes:

a) Guarantee the presence of the investigated party or accused in the proceedings where it is reasonable to assume a risk of them absconding.

To assess whether such risk exists, account will be taken of the nature of the act, the severity of the sentence which may be imposed on the accused, their family, employment and financial situation and whether the oral trial is imminent, particularly in cases proceeding under the fast-track procedure regulated by title III of book IV of this Law.

Provisional detention of the accused may be ordered on these grounds where, in the light of the background to the proceedings, at least two summons and arrest warrants have been issued against them by any judicial body within the past two years. In these cases, the limit in respect of sentences provided for in paragraph 1. of this paragraph will not apply.

b) Prevent the concealment, alteration or destruction of sources of evidence relevant to the proceedings in cases where there is a grounded, specific risk.

Provisional detention will not be ordered on these grounds where such risk is inferred solely with respect to the right to a defence or the accused's failure to cooperate with the investigation in progress.

Assessment of the existence of this risk will take into account the capacity of the accused to access the evidence, on their own or through third parties, or to influence other accused, witnesses or experts or those who may become them.

c) Prevent the accused from violating the victim's legal rights, particularly where the victim is one of the persons referred to in article 173.2 of the Criminal Code. In these cases, the limit in respect of sentences provided for in paragraph 1. of this paragraph will not apply.

2. Provisional detention may also be ordered where the requirements provided for in paragraphs 1. and 2. or the previous paragraph occur, in order to prevent the risk of the accused committing other criminal acts.

To assess the existence of such risk, the circumstances of the act will be taken into account, along with the seriousness of the crimes that may have been committed.

Provision detention may only be ordered on these grounds where the alleged criminal act is premeditated. Nevertheless, the limit provided for in paragraph 1 of the previous paragraph will not be applicable where the accused's record and other information or circumstances provided by the Judiciary Police, or arising from the proceedings, may reasonably infer that the accused was acting in collusion with another person or persons in an organised manner to commit criminal offences, or is a habitual offender.

Article 504.

1. Provisional detention will last for as long as it is essential to achieve any of the purposes provided for in the previous article and for as long as grounds still exist justifying its order.

2. Where provisional detention is ordered by virtue of the provisions of paragraphs a) or c) of paragraph 1.3, or paragraph 2 of the previous article, it may not exceed one year if the crime carries a sentence of three years imprisonment or less, or two years if the sentence is more than three years imprisonment. However, where circumstances occur

which make it likely that the case may not be tried within those time limits, the judge or tribunal may, under the terms provided for in article 505, agree, by order, a single extension of up to two years, if the crime carries a sentence of more than three years, or up to six months if the crime carries a sentence of three years or less.

If the accused is convicted, provisional detention may be extended up to a maximum of half the sentence effectively imposed in the judgment, where this is appealed.

3. Where provisional detention is ordered by virtue of the provisions of paragraph 1.3. b) of the previous article, it may not exceed six months.

Nevertheless, where solitary confinement or secrecy of proceedings has been ordered, if, prior to the time limit set out in the previous paragraph, the isolation or secrecy is lifted, the judge or court will must give grounds for continuing provisional detention.

4. Release due to completion of the maximum time limits on provisional detention will not prevent it being ordered in the case that the accused, without legitimate reason, does not appear when summoned by the judge or court.

5. Calculation of the time limits set out in this article will take into account the time spent by the accused in detention or provisional detention on the same grounds.

Such calculation will not, however, include the time caused by delays which are not attributable to the Justice Administration.

6. Where the provisional detention ordered exceeds two-thirds of its maximum term, the judge or court hearing the case and the Public Prosecution Service will notify this circumstance to the president of the governance chamber and the chief prosecutor of the relevant court, respectively, so that appropriate measures may be taken to expedite proceedings as soon as possible. For these purposes, expediting the proceedings will take precedence over all others.

Article 504 a. *(Annulled)*

Article 504 a 2. *(Repealed)*

Article 505.

1. Where the arrested individual is brought before the Examining Magistrate or court hearing the case, unless the latter orders conditional release without bail, will convene a hearing in which the Public Prosecution Service or plaintiffs may argue that provisional detention is ordered for the accused or that they be conditionally released on bail.

In the case of proceedings regulated by title III of book IV of this Law, this procedure will be held in accordance with the provisions of article 798, except where the hearing has already been held.

2. The hearing provided for in the previous paragraph must be held as soon as possible within 72 hours of the arrested individual appearing before the court and the accused, who must be assisted by the lawyer chosen by them or appointed ex officio, the Public Prosecution Service and other parties to the proceedings will be summoned to attend. The hearing must also be held to seek and order, as appropriate, provisional detention of the accused who is not in custody, or their conditional release on bail.

3. At the hearing, if the Public Prosecutor or a plaintiff requests an order for the accused to be placed in provisional detention, or conditionally released on bail, those present may make allegations and submit evidence which may be examined immediately or within seventy-two hours, as indicated in the previous paragraph.

The lawyer for the accused will, in all cases, have access to the elements of the proceedings which are essential to contest the imprisonment of the accused.

4. The judge or court will decide on the applicability or otherwise of imprisonment or bail. If none of the parties request it, it will necessarily order the immediate release of the accused being held in custody.

5. If, for any reason, the hearing cannot be held, the judge or court may order provisional detention, if the provisions of article 503 are met, or conditional release on bail. Nevertheless, within the following 72 hours, the judge or court will convene another hearing, taking such measures as may be required due to the failure to hold the first hearing.

6. Where the arrested individual is brought before a judge other than the judge or court hearing, or which is to hear the case, and the arrested individual cannot be brought before it within 72 hours, the former will proceed in accordance with the provisions of the previous paragraphs. However, once the judge or court for the case receives the preliminary proceedings, the accused will be heard, assisted by their lawyer, as soon as possible and the appropriate decision will be issued.

Article 506.

1. Rulings passed on the personal situation of the accused will be made in the form of an order. An order imposing provisional detention, or extending it, will set out the grounds on which the measure was considered necessary and proportionate with respect to the purposes for which it was ordered.

2. If secrecy of proceedings is ordered, the provisional detention order will set out such details of the proceedings that, for the purposes of secrecy, must be omitted from the copy to be issued. In no case shall the order issued omit a succinct description of the grounds on which the accusation was based and which purpose or purposes provided for in article 503 detention is intended to achieve. When secrecy is lifted, the full text of the order will be notified immediately to the accused.

3. Orders relating to the personal situation of the accused will be made known to those directly aggrieved or harmed by the crime and whose safety may be affected by the decision.

Article 507.

1. Decisions ordering, extending or denying provisional detention, or ordering the release of the accused, may be challenged by an appeal under the terms provided for in article 766, which will be processed with priority. An appeal against a provisional detention order must be decided within a maximum of 30 days.

2. Where, by virtue of the provisions of paragraph 2 of the previous article, the accused has not been notified of the provisional detainment order in full, they may appeal

against the full order, when this is notified, in accordance with the provisions of the previous paragraph.

Article 508.

1. Where, due to illness, imprisonment would entail serious risk to the accused's health, the judge or court may order provisional detention of the accused at their residence, with such security measures as are necessary. The judge or court may authorise the accused to leave their residence during the time needed to treat their illness, subject to the required security.

2. In cases where the accused is undergoing drug or alcohol rehabilitation treatment and imprisonment may interfere with the results of such treatment, provisional detention may be replaced by admission to an official centre, or legally recognised institution, to continue treatment, as long as the events subject to the proceedings took place prior to starting treatment. In this case, the accused may not leave the centre without authorisation from the judge or court ordering the measure.

Article 509.

1. The Examining Magistrate or court may, exceptionally, by reasoned decision, order solitary detention or confinement where any of the following circumstances occur:

a) the urgent need to prevent serious consequences which may place the life, liberty or physical integrity of a person in danger, or

b) the urgent need for immediate action by the examining magistrates to prevent serious compromise to criminal proceedings.

2. Solitary confinement will last for as long as strictly necessary to take urgent legal measures aimed at preventing the risks referred to in the previous paragraph. Solitary confinement may not last for longer than five days. In cases where imprisonment is ordered grounded on one of the crimes referred to in article 384 a. or other crimes committed concertedly and in an organised manner by two or more persons, solitary confinement may be extended by another period of not more than five days.

3. The order imposing solitary confinement or, as appropriate, its extension must set out the grounds on which this measure was ordered.

4. Minors under sixteen years old may never be placed in solitary confinement.

Article 510.

1. The incommunicado detainee may, with the due precautions, attend the proceedings this law provides for them to intervene in, when their presence cannot distort the purpose of being incommunicado.

2. The prisoner will be allowed to have such effects as they provide themselves, as long as, in the opinion of the judge or court, they do not defeat the purpose of being incommunicado.

3. The prisoner may not make or receive any communication. Nevertheless, the judge or court may authorise communications which do not defeat the purposes of solitary confinement and, as appropriate, will order suitable measures.

4. If the prisoner in solitary confinement requests it, they will have the right to be examined by a second forensic doctor appointed by the judge or court competent to hear the case.

Article 511.

1. Two orders will be issued to carry out the provisional detention order: one to the Judiciary Police or judicial agent, as appropriate, who must execute it, and another to the director of the institution receiving the prisoner.

The order will contain the personal details of the accused, the crime giving rise to proceedings and if imprisonment will be in solitary confinement, or not.

2. The directors of the institutions will not receive anyone as a prisoner unless they have received the provision detention order.

3. Once the order agreeing to the prisoner's release is issued, an order will immediately be issued to the director of the institution.

Article 512.

If the suspect is not found at their residence and their whereabouts is unknown, the Judge will order that they be sought in arrest warrants sent to the Examining Magistrates in whose territory there are grounds to suspect they are to be found, and the Court Clerk will issue the relevant writs. In all cases these will be published in the Official State Gazette and the official newspaper of the relevant Autonomous Region, with certified copies also being placed, by way of edict, in the office of the Court or Tribunal hearing the case and in that of the Examining Magistrates receiving the order.

Article 513.

The arrest warrant will set out the name and surnames, post, profession or trade, if known, of the accused in default and their identifying features, the crime for which they are being prosecuted, the territory where it is assumed they are to be found and the prison they are to be taken to.

Article 514.

The original arrest warrant and a copy of each newspaper in which it was published will be attached to the case record.

Article 515.

The Judge or Court ordering imprisonment of the accused in default, and the Examining Magistrates receiving the arrest warrants, will make the circumstances mentioned in article 513 known to the Authorities and the members of the Judiciary Police in their respective territories.

Article 516.

The Judge will include such particulars of the case as are necessary to be able to determine the personal situation of the wanted person, once found, in the decision ordering the arrest warrant. Once the judicial decision and the particulars have been

attested by the Court Clerk, they will be sent to the Duty Court or they will be recorded on the computer system existing for that purpose.

Article 517.

Without prejudice to the provisions of article 505.6, once the arrest warrant is submitted to a Duty Court, the Judge, if necessary, may request assistance from the judicial body that issued the arrest warrant or, in default, the one on duty in the latter judicial district, so that they may provide the documentation and information referred to in the previous article.

Article 518.

Orders imposing or refusing imprisonment or release will only be appealable with a devolutive effect.

Article 519.

All provisional detention measures will be heard as a separate element.

CHAPTER IV

On the exercise of the right to a defence, assistance of a Lawyer and treatment of detainees and prisoners.

Article 520.

1. Arrest and provisional detention must be carried out in the manner least prejudicial to the detainee or prisoner's person, reputation and assets. Whoever agrees the measure, those in charge of carrying it out and later transfers will ensure their constitutional rights to honour, privacy and image in relation to the fundamental right to freedom of information.

Provisional detention may not last for longer than is strictly necessary to carry out the investigations directed at clarifying the facts. The detainee must be released or brought before the judicial authority within the time limits provided for in this Law and, at any event, within a maximum of seventy-two hours.

The police statement must reflect the place and time of the arrest, being brought before the judicial authority or, as appropriate, release.

2. All arrested or imprisoned persons will be informed, in writing, in easily understandable language, in a language which they can understand immediately, of the acts they are accused of and the grounds giving rise to their imprisonment, and also their rights, particularly the following:

a) The right to remain silent, not making a statement if they do not wish to, not answering some or any of the questions put to them or declaring that they will only make a statement to a Judge.

b) The right not to make a statement against themselves and not to confess guilt.

c) The right to appoint a lawyer, without prejudice to the provisions of paragraph 1.a) of article 527, and to be advised by them without unjustified delay. In the event that, due to geographical distance, it is not possible for the lawyer to attend immediately, the detainee will be provided with communication with them via telephone or video conferencing, except where such communication is impossible.

d) The right to access such elements of the proceedings as are essential to challenge the legality of the arrest or imprisonment.

e) The right to make their imprisonment known to a family member or person nominated by them, without unjustified delay, and the place where, at any given moment, they are in custody. Foreigners will have the right to the aforementioned circumstances being notified to their country's consulate.

f) The right, without unjustified delay, to communicate on the telephone with a third party chosen by them. This communication will be held in the presence of a member of the police or, as appropriate, a civil servant appointed by the judge or prosecutor, without prejudice to the provisions of article 527.

g) The right to be visited by their country's consular authority and to communicate and correspond with them.

h) The right to be assisted by an interpreter, free of charge, where a foreigner does not understand or speak Spanish or the official language of the proceedings in question, or deaf people, or those with impaired hearing, or other people with language difficulties are concerned.

i) The right to be examined by a forensic doctor or their legal replacement and, in default, by the doctor at the institution they are in, or by any other coming under the State or other Public Authorities.

j) The right to request free legal aid, the procedure for doing so and the conditions to obtain it.

Furthermore, they will be notified of the maximum legal time limit on the arrest prior to being brought before the judicial authority and the procedure by which they may challenge the legality of their arrest.

Where a statement of rights is not available in a language that the detainee understands, they will be informed of their rights via an interpreter as soon as this is possible. In this case, a written statement of rights must be delivered to them in a language that they understand afterwards and without undue delay.

In all cases the detainee will be allowed to keep the written statement of rights for as long as the detention lasts.

2 a. The information referred to in the previous paragraph will be provided in a language that can be understood and that is accessible for the recipient. For this purpose the information will be adapted to the age of the recipient, their degree of maturity, disability and any other personal circumstance which may give rise to a limitation on the capacity to understand the scope of the information being provided to them.

3. If the detainee is a foreign national, their country's consul will be notified of their arrest and the place of custody and communication will be allowed with the consular

authority. Where the detainee has two or more nationalities, they may choose which consular authorities should be notified that they have been imprisoned and with whom they wish to communicate.

4. If a minor is concerned, they will be brought before the Public Prosecutor's Minors Section and the event and place of custody will be notified to whoever exercises parental authority, wardship or de facto guardianship over them, as soon as underage status is ascertained.

Where there is a conflict of interest with those exercising parental authority, wardship or de facto guardianship of the minor, a counsel for the defence will be appointed who will be notified of the event and the place of detention.

If the detainee is legally incapacitated, the information provided for in paragraph 2 of this article will be notified to whoever exercises their wardship or de facto guardianship, giving account of this to the Public Prosecution Service.

If the detainee who is a minor or is legally incapacitated is a foreign national, the arrest will be notified ex officio to the Consul for their country.

5. The detainee may freely appoint a lawyer and, if they do not do so, will be assisted by a lawyer ex officio. No authority or agent will make any recommendation about the lawyer to be appointed other than to inform them of their right.

The authority holding the detainee in custody will immediately notify the Lawyers' Association of the name of the lawyer appointed by the detainee to advise them in order to locate them and send the professional assignment or, if appropriate, notify the request to appoint a lawyer ex officio.

If the detainee has not appointed a lawyer, or the one chosen refuses the engagement or cannot be found, the Lawyers' Association will immediately appoint a duty lawyer ex officio.

The lawyer appointed will attend the detention centre with maximum haste, which must be within three hours of receiving the appointment. If they do not appear within this time limit, the Lawyers' Association will appoint a new duty lawyer ex officio who must appear as soon as possible and within the time limit indicated, without prejudice to the disciplinary action which may be demanded be taken against the lawyer not appearing.

6. The lawyer's assistance will consist of:

a) Request, as appropriate, that the detainee or prisoner is informed of the rights provided for in paragraph 2 and proceed, if necessary, with the medical examination indicated in letter i).

b) Appear when statements are taken from the detainee, in the records of the examination they are subject to and in the reconstructions of events that the detainee takes part in. The lawyer may request the judge or civil servant taking the legal measure they intervened in, once it has concluded, such the statement or extension of the facts as they deem fit, along with inclusion in the record of any incident which may have taken place while they were taken.

c) Inform the detainee of the consequences of giving or refusing consent to the practice of such legal measures as are requested.

If the detainee opposes collection of samples by buccal swab, in accordance with the provisions of Organic Law 10/2007, of 8 October, regulating the police database on identification obtained using DNA, the Examining Magistrate, at the request of the Judiciary Police or the Public Prosecution Service, may order compulsory enforcement of this measure by recourse to the minimum essential measures of force, which must be proportionate to the circumstances of the case and respect the detainee's dignity.

d) Interview the detainee in private, including prior to making a statement to the police, the prosecutor or the judicial authority, without prejudice to the provisions of article 527.

7. Communication between the accused and their lawyer will be confidential in nature under the same terms and with the same exceptions provided for in paragraph 4 of article 118.

8. Nevertheless, the detainee or prisoner may waive mandatory assistance of a lawyer if they were arrested for acts liable to be exclusively classified as crimes against road safety, as long as they have been provided with sufficient, clear information in plain, understandable language about the content of such right and the consequences of the waiver. The detainee may revoke their waiver at any time.

Article 520 a.

1. All persons arrested as suspects of any of the crimes referred to in article 384 a. will be brought before the competent Judge within seventy-two hours of their arrest. However, the detention may be extended for the time needed for investigations, up to a maximum of a further forty-eight hours, as long as, once this extension is requested in a reasoned communication within the first forty-eight hours after the arrest, this is authorised by the Judge within the following twenty-four hours. Both authorisation and refusal of the extension will be ordered in a reasoned decision.

2. Where a person is arrested for the reasons set out in the previous number, the Judge may be requested to order their solitary confinement, and the Judge must reach a reasoned decision within a time limit of twenty-four hours. Once solitary confinement is requested, the detainee will, in all cases, be kept incommunicado, without prejudice to their right to a defence and the provisions of articles 520 and 527, until the Judge has issued the relevant decision.

3. During the detention, the Judge may, at any time, request information and make themselves aware, personally or represented by the Examining Magistrate for the district or demarcation where the detainee is to be found, of the detainee's situation.

Article 520 b.

Those arrested in marine areas for alleged commission of the crimes included under article 23.4.d) of Organic Law 6/1985, of 1 July, on the Judiciary, will have the rights recognised in this chapter in as far as they are compatible with the human and material resources existing on board the ship or aircraft where the arrest is made, and they

must be released or brought before the competent judicial authority as soon as possible, and always within a period of seventy-two hours. The committal may be carried out via the electronic means available on the ship or aircraft where, due to the distance involved or isolation, it is not possible to bring the detainees physically before the judicial authority within the aforementioned time limit.

Article 521.

If possible, the detainees will be separated from each other.

If separation is not possible, the Examining Magistrate or Court will ensure that persons of the opposite sex or informants are not in the same prison and that young people and first offenders are separated from older people and repeat offenders.

When making this separation, the detainee's level of education, age and the nature of the crime they are accused of will be taken into account.

Article 522.

All detainees and prisoners may, at their own expense, purchase such comforts or pastimes as are compatible with the purpose of their arrest and the regime of the institution where they are held in custody, as long as this does not compromise their security or the confidentiality of the pre-trial proceedings.

Article 523.

When a detainee or prisoner wishes to be visited by a minister of their religion, a doctor, their family member or person with whom they have an ongoing relationship, or persons who may give them advice, this must be permitted, under the conditions provided for in the prisons' regulations, if it does not affect the confidentiality and success of the pre-trial proceedings. Communication with the defence Lawyer may not be prevented whilst they are allowed to communicate.

Article 524.

The Examining Magistrate will, as long as this does not prejudice successful instruction, authorise the means of correspondence and communication that may be used by the detainee or prisoner.

However, detainees or prisoners must never be denied the freedom to write to senior officials of the judicial order.

Article 525.

No extraordinary security measures will be taken against the detainee or prisoner except in cases of disobedience, violence or revolt, or where they have attempted or prepared to escape.

This measure may be temporary and will only last for as long as is strictly necessary.

Article 526.

The Examining Magistrate will visit prisons in the area once a week, without prior warning and on no specific day, accompanied by a member of the Public Prosecution

Service, who may be the municipal Prosecutor delegated for that purpose by the Prosecutor of the relevant Provincial Court; and where this Court exists, the visit will be made by its President or the president of the Criminal Chamber, with a member of the Public Prosecution Service, and the Examining Magistrate in attendance.

During the visit they will find out all about the situation of the prisoners or detainees and will take such measures as fall within their powers to correct any abuses noted.

Article 527.

1. In the cases in article 509, the detainee or prisoner may be deprived of the following rights if the circumstances of the case justify it:

a) Appointment of a trusted lawyer.

b) Communication with all or any of the persons with whom they have the right to do so, except for the judicial authority, the Public Prosecution Service and the Forensic Doctor.

c) Confidential meetings with their lawyer.

d) Access by them or their lawyer to proceedings, except for the essential elements needed to challenge the legality of the arrest.

2. Solitary confinement or restriction of any right in the previous paragraph will be agreed by court order. When the restriction of rights is requested by the Judiciary Police or the Public Prosecution Service, the measures provided for in paragraph 1 which have been requested for a maximum of twenty-four hours will be understood to have been ordered, and the Judge must decide on the request within that time limit, and also whether ordering that the proceedings be secret is appropriate. Solitary confinement and application of any of the exceptions referred to in the previous paragraph to the detainee or prisoner will be imposed by court order, with grounded reasons justifying adoption of each one of the exceptions to the general regime in accordance with the provisions of article 509.

The judge will effectively control the conditions under which solitary confinement is carried out, for which purpose they may demand information to monitor the state of the detainee or prisoner and respect for their rights.

3. Medical examinations of the detainee who has their right to communicate with all or any of the persons with whom they have the right to do so restricted will be carried out at least twice every twenty-four hours, depending on the practitioner's criterion.

TITLE VII

On conditional release of the accused

Article 528.

Provisional detention will only last for as long as the reasons for it subsist.

The detainee or prisoner will be released at any stage of the case where they are found to be innocent.

All the Authorities intervening in proceedings will be under the obligation to shorten arrest and provisional detention of those found innocent or accused as far as possible.

Article 529.

Where provisional detention of the accused is not ordered, the judge or court will, in accordance with the provisions of article 505, order whether or not the accused must post bail to continue in conditional liberty.

If the judge or court orders bail, the same court order will set the type and amount that must be posted.

This court order will be notified to the accused, the Public Prosecution Service and the other parties to the proceedings and may be appealed in accordance with the provisions of article 507.

Article 529 a.

Where the prosecution is ordered of a person holding a driving licence for a crime committed as a result of their driving, if the accused must be released, the Judge, at their discretion, may provisionally take away their driving licence, ordering that it is taken from them and included in the proceedings. The Court Clerk will notify the administrative body that issued it.

Article 530.

The accused who is given conditional liberty, with or without bail, will appear apud acta on the days set out in the relevant court order and as many other times as they are called before the judge or court hearing the case. To ensure compliance with this obligation, the judge or court may order, with grounds, retention of their passport.

Article 531.

In order to calculate the type and amount of bail, the nature of the crime and the social status and record of the accused will be taken into account, along with any other circumstance that may influence the greater or lesser interest of the accused in placing themselves out of the reach of the Judicial Authority.

Article 532.

Bail will be posted to ensure the appearance of the accused when called by the Judge or Court hearing the case. Its amount will be used to pay costs incurred in the separate file opened for it and the remainder will be awarded to the State.

Article 533.

All the provisions of articles 591 et seq up to 596, inclusive, of title IX of this book regarding the nature, form of constitution, admission and classification and substitution of bail are applicable to bail posted to obtain provisional liberty of a defendant.

Article 534.

If, on the first court summons, the accused does not appear, or does not justify the impossibility of doing so, the Court Clerk will give the personal guarantor, or the owner of the assets of any kind posted as bail, a time limit of ten days for the defaulter to appear.

Article 535.

If the personal guarantor, or owner of the bail assets, does not present the defaulter within the time limit set, the bail will be called on and be declared as awarded to the State and handed over to the nearest Revenue Authority, with a deduction of the costs shown at the end of article 532.

Article 536.

Where bail is forfeited, the Court Clerk will proceed with an enforcement order in accordance with the provisions of Chapter IV, Title IV, of Book III of the Civil Procedure Act.

If personal bail is concerned, an enforcement order will also be made against the guarantor's assets until the amount set when accepting bail is met.

Article 537.

Where the bail assets are owned by the accused, they will be forfeited and awarded to the State as soon as the accused fails to appear after the court summons or justify the impossibility of doing so.

Article 538.

The Public Prosecution Service will intervene in all the procedures for disposal of bail assets and delivery of their sum total to the Treasury Department.

The Prosecutor at the Court may delegate their intervention to the municipal Prosecutor where the Examining Magistrate is to be found, or request that the file is sent to them when it is in conditions, and, if possible, will make their claims in a single writ.

Article 539.

Imprisonment, provisional release and bail orders may be altered throughout the duration of the case.

As a result, the accused may be imprisoned or released as many times as may be appropriate and bail may be changed as necessary to ensure the consequences of the trial.

In order to impose the imprisonment or provisional liberty on bail of a person who is at liberty, or increase the conditions on the provisional liberty already ordered by replacing it with imprisonment or provisional liberty on bail, a request will be required from the Public Prosecution service or any prosecuting party, with a decision being made after the appearance referred to in article 505.

Nevertheless, if, in the opinion of the judge or court, the provisions of article 503 occur, they will pass a court order changing the precautionary measure, or imposing imprisonment, if the accused is at liberty, but must convene the aforementioned appearance for within the next 72 hours.

Whenever the Judge or Court deems that liberty, or change to provisional liberty, in more favourable terms for the subject of the measure is appropriate, they may order it, at any time, ex officio and without being subject to a request from any party.

Article 540.

If the accused does not post, or increase, bail within the time limit set they will be sent to prison.

Article 541.

Bail will be cancelled:

1. When the guarantor requests it, bringing in the accused at the same time.
2. When the accused is put in prison.
3. When a final dismissal order or final acquittal is passed or, if a conviction, the convicted person hands themselves over to serve the sentence.
4. Due to the death of the accused while the case is pending.

Article 542.

If the accused is convicted in a final judgment and does not appear on the first summons, or does not justify the impossibility of doing so, bail will be awarded to the State under the terms provided for in article 535.

Article 543.

Once the bail is awarded, the guarantor will have no action available to request its return and will only have the right to claim compensation from the accused or co-accused.

Article 544.

The court records on imprisonment, conditional liberty and bail will be recorded in a separate file.

Article 544 a.

In cases where one of the crimes mentioned in article 57 of the Criminal Code is being investigated, the Judge or Court may, with grounds and where this is strictly necessary to protect the victim, impose a ban on the accused residing in a specific place, area, municipality, province or local district, or Autonomous Region as a precaution.

Under these same terms, as a precaution, a ban may be imposed on them going to specific places, areas, municipalities, provinces or other local districts, or Autonomous Regions, or from approaching or communicating with specific persons, to the degree deemed appropriate.

When ordering these measures, the accused's financial situation and health requirements, family situation and employment will be taken into account. Particular attention will be given to the continuity of the latter while the measure is in force and after it has ended.

In the event that the accused breaches the measure ordered by the judge or court, the latter will convene the appearance regulated in article 505 to order provisional detention under the terms of article 503, for the protection order provided for in article 544 b. or another precautionary measure involving greater limitation on their personal liberty, for which the occurrence of the breach, the reasons for it, its severity and circumstances will be taken into account, without prejudice to the liabilities that may be incurred due to the breach.

Article 544 b.

1. The Examining Magistrate will issue a protection order for victims of domestic violence in the cases where, as there exist grounded indications of a crime or misdemeanour against the life, physical or moral integrity, sexual freedom, freedom or safety of any of the persons mentioned in article 173.2 of the Criminal Code, there is an objective risk situation for the victim which requires adoption of one of the protection measures regulated by this article.

2. The protection order will be imposed by the duty judge, or at the request of the victim, or person related to them as indicated in the previous paragraph, or the Public Prosecution Service.

Without prejudice to the general duty to report crimes provided for in article 262 of this law, public or private care bodies or organisations who are aware of any of the events mentioned in the previous paragraph must immediately make them known to the duty judge, or the Public Prosecution Service, so that the procedure for adopting the protection order may be initiated or commenced.

3. The protection order may be applied for directly from the judicial authority or Public Prosecution Service, or from the Security Forces, victim care units or social services or care institutions coming under

Public Authorities. Such application must immediately be sent to the competent judge. In the event of any doubts arising about the territorial jurisdiction of the judge, the proceedings for adoption of the protection order must be initiated and decided on by

the judge before whom it was applied for, without prejudice to later referral of the proceedings to the judge having jurisdiction.

The social services and institutions referred to previously will provide the victims of domestic violence who they must care for with the application for the protection order, and, for this purpose, provide them with information, forms and, if appropriate, internet communication channels with the Justice Administration and Public Prosecution Service.

4. Having received the application for the protection order, the duty Judge, in the cases mentioned in paragraph 1 of this article, will call the victim, or their legal representative, the applicant and the alleged aggressor assisted, as appropriate, by their Lawyer, to an urgent hearing. The Public Prosecution Service will also be called.

This hearing may be held simultaneously with that provided for in article 505, where convening it is appropriate, with the hearing regulated by article 798 in cases processed in accordance with the procedure provided for in Title III of Book IV of this Law or, as appropriate, with the misdemeanour hearing. Where, exceptionally, it is not possible to hold the hearing during the duty service, the Judge before whom the application was made will convene it as soon as possible. At any event, the hearing must be held within a maximum of seventy-two hours after submission of the application.

During the hearing the duty Judge will take the necessary measures to prevent confrontation between the alleged aggressor and the victim, their children and other family members. For this purpose they will order that their statements in this hearing will be made separately.

After the hearing, the duty Judge will decide, by court order, as appropriate on the application for the protection order and on the content and duration of the measures included in it. Without prejudice to the foregoing, the Examining Magistrate may, at any time during the course of the case, adopt the measures provided for in article 544 a.

5. The protection order grants the victim of the events mentioned in paragraph 1 comprehensive statutory protection with includes the precautionary civil and criminal measures provided for in this article and such other measures for care and social protection as provided for in the legal system.

The protection order is valid before any authority and Public Administration.

6. Precautionary measures of a criminal nature may consist of any of those provided for in criminal procedural legislation. Their requirements, content and duration will be those provided, in general, in this law. They will be adopted by the examining magistrate taking into account the victim's need for immediate, comprehensive protection.

7. Measures of a civil nature must be requested by the victim or their legal representative, or by the Public Prosecution Service where there are minor children or persons who are legally incapacitated, determining their compliance regime and, if appropriate, such supplementary measures as are necessary, as long as they have not previously been ordered by a civil judicial body, and without prejudice to the measures provided for in article 158 of the Civil Code. Where there are minors or persons who are legally incapacitated living with the victim and dependent on them, the Judge must

make an order, in all cases, including ex officio, on the relevance of adopting such measures.

These measures may consist of allocation of the use and enjoyment of the family home, determination of the regime for care and custody, visits, communication and stays with the minors or persons who are legally incapacitated, maintenance payments and any other provision considered appropriate to avert risk or prevent them from harm.

The measures of a civil nature contained in the protection order will have a temporary duration of 30 days. If, within this period, civil jurisdiction family proceedings are initiated at the request of the victim or their legal representative, the measures adopted will remain in force during the thirty days following submission of the claim. The measures must be ratified, amended or annulled by the competent Judge of first instance within this time.

8. The protection order will be notified to the parties, and immediately communicated by the Court Clerk, in full, to the victim and the relevant Public Authorities so that protection measures may be adopted, whether for safety or social, legal, health, psychological or any other type of care. For this purpose, a regulatory system will be set up for comprehensive administrative coordination that ensures agility of communication.

9. The protection order will involve the duty to report to the victim permanently on the status the accused's proceedings and also on the scope and duration of the precautionary measures adopted. In particular, the victim will be kept informed, at all times, of the penitentiary situation of the alleged aggressor. For this purpose, the Prison Authority will be informed about the protection order.

10. The protection order will be registered at the Central Registry for the Protection of Victims of Domestic and Gender-based violence.

11. In cases where, during the course of criminal proceedings in progress, a situation of risk arises for any of the persons linked to the accused by any of the relationships shown in paragraph 1 of this article, the Judge or Court hearing the case may impose an order protecting the victim in accordance with the provisions of the previous paragraphs.

Article 544 c.

1. Where an incorporated entity has been charged, the precautionary measures which may be imposed are those expressly provided for in Organic Law 10/1995, of 23 November, on the Criminal Code.

2. The measure will be ordered having received an application from a party and held a hearing to which all the parties to the proceedings will be summoned. The order resolving on the precautionary measure may be appealed and this will be processed as a matter of preference.

Article 544 d.

1. In cases where one of the crimes cited in article 57 of the Criminal Code is being investigated, the Judge or Court, where needed to protect a victim who is underage or

who is legally incapacitated, as appropriate, will order, with grounds, one of the following measures:

a) Suspension of the parental authority of one of the parents. In this case, a regime for visits or communication may be set in the interest of the minor or person who is legally incapacitated and, as appropriate, the conditions and safeguards under which this must be carried out.

b) Suspension of wardship, guardianship, custody or fostering.

c) Establish a regime supervising exercise of parental authority, guardianship or any other type of custody or protective or support function for the minor or person who is legally incapacitated, without prejudice to the jurisdiction of the Public Prosecution Service and competent public bodies.

d) Suspension or amendment of the regime for visits or communication with any non-cohabitant or other family member which may be in force, where this is necessary to ensure protection of the minor or the person who is legally incapacitated.

2. When, in the course of the proceedings, the existence of a situation of risk or possible distress arises for the minor and, at any event, when any of the measures in letters a) or b) of the previous paragraph have been ordered, the Court Clerk will immediately inform the competent public body legally entrusted with the protection of the minors and the Public Prosecution Service so that they may take such protection measures as are necessary. For the same purposes, they will be notified if they are lifted or any other amendment, as well as the decision referred to in paragraph 3.

3. Once the proceedings have concluded, the Judge or Tribunal, exclusively in appreciation of the interests of the affected person, will ratify or lift such protection measures as may have been adopted. The Public Prosecution Service and the parties affected by the measure may apply to the Judge for them to be amended or lifted in accordance with the procedure provided for in article 770 of the Civil Procedure Act.

TITLE VIII

On investigative measures limiting rights recognised in article 18 of the Constitution

CHAPTER I

On entry and search of premises

Article 545.

Nobody may enter the home of a Spanish national or foreign national resident in Spain without their consent, except in the cases and in the manner expressly provided for under law.

Article 546.

The Judge or Court hearing the case may order entry and search, during the day or night, of all public buildings and places, wherever they may be located, where there are indications that the accused, or effects or instruments of the crime, or books, papers of other objects which may serve for discovery and verification are to be found there.

Article 547.

For the purposes of the provisions of this chapter, public buildings or places are considered to be:

1. Those used for any official, military or civil service of the State, Province or Municipality, even if those in charge of such services, or those maintaining and keeping the building or place, live there.

2. Those used for meeting or recreation rooms, whether or not these are legal.

3. Any other buildings or enclosed spaces which are not a private home in accordance with the provisions of article 554.

4. State-owned vessels.

Article 548.

To enter and search the Chambers of any of the Co-Legislative Bodies, the Judge will need authorisation from the relevant President.

Article 549.

To enter and search churches and other religious places, sending a message to the persons in charge of them will be sufficient.

Article 550.

Furthermore, the Examining Magistrate may, in the cases shown in article 546, order entry and search, day or night, if urgency makes this necessary, of any building or enclosed space, or part of it, which is the domicile of any Spanish national or foreign national resident in Spain, but always with the prior consent of the interested party in accordance with the provisions of article 6 of the Constitution, or, if there is no consent, by virtue of a reasoned warrant which will be notified to the interested party immediately, or, at the latest, within twenty-four hours of being issued.

Article 551.

It will be understood that consent is given when, on the request of whoever must enter and search for their permission to do so, the necessary acts that they must carry out in order for the warrant to be effected are executed, without invoking the sanctity of the home recognised in article 6 of the Spanish Constitution (*).(*) Currently article 18.2 of the Spanish Constitution.

Article 552.

When searches are carried out, pointless inspections should be avoided, the interested party should not be prejudiced or inconvenienced more than necessary, and all the necessary precautions will be taken so as not to damage their reputation, respecting their secrets if they are not of interest to the proceedings.

Article 553.

Members of the police may also, under their own authority, immediately arrest persons where there is an arrest warrant for them, where they are caught in flagrante delicto, where an offender, immediately chased by Members of authority, hides or takes refuge in a house or, in cases of exceptional or urgent need, where those allegedly responsible for the acts referred to in article 384 a. are concerned, wherever the place or domicile they hide or take refuge in may be. They may also, for these reasons, search such places and seize such effects and instruments as are found in them and which may be related to the crime prosecuted.

Immediate account will be given to the competent Judge of the search carried out, in accordance with the provisions of the previous paragraph, with an indication of the reasons causing it and the results obtained from it, with particular reference to such arrests that, as appropriate, may have been made. Furthermore, the persons intervening and the incidents occurring will also be recorded.

Article 554.

For the purposes of the previous articles, domicile is considered to be:

1. The Royal Palaces, whether or not inhabited by the Monarch at the time of entry and search.
2. The building or enclose space, or part of it, mainly used as the residence of any Spanish national, or foreign national resident in Spain, and their family.
3. Spanish merchant vessels.

4. Where incorporated bodies are accused, the physical space which is their management centre, whether this is their registered office or a branch establishment, or such other places where documents or other media of their day-to-day life are to be found which are confidential from third parties.

Article 555.

To search the Palace where the Monarch resides, the Judge will seek a royal warrant via His Majesty's High Steward.

Article 556.

In Royal Houses where the Monarch is not to be found in residence at the time of the search, a warrant will be needed from His Majesty's Head of service, or employee, who is in charge of custody of the building, or the person substituting them at the time of the request, if the former is absent.

Article 557. *(Annulled)*

Article 558.

A warrant for entry and search of a private domicile will always be grounded and the Judge will specify in it the building or enclosed space where it must take place, if it will only take place during the day and the Authority or civil servant carrying it out.

Article 559.

To enter and search buildings used as the residence or offices of the representatives of foreign national accredited by the Spanish Government, the Judge will request their leave to do so, with a respectful communiqué which will request that they answer within twelve hours.

Article 560.

If this time limit passes without them having done so, or if the foreign representative refuses leave to do so, the Judge will immediately notify the Ministry of Justice, via telegraph, if there is one. Until the Ministry notifies its decision, no entry and search of the building may be made, but the surveillance measures referred to in article 567 will be adopted.

Article 561.

For foreign warships, if there is no authorisation from the Commander, this will be requested from the Ambassador or Ministry for the nation it belongs to.

Article 562.

The residences and offices of Foreign Consulates may be entered having sent a polite message beforehand and observing the formalities provided for under the Spanish Constitution and in law.

Article 563.

If the building or enclosed space is in the Examining Magistrate's own territory, they may entrust entry and search to the Municipal Judge for the territory in which the

building or enclosed space are located, or to any Authority or member of the Judiciary Police. It the warrant is ordered by the Municipal Judge, they may also entrust it to such Authorities or members of the Judiciary Police.

Where the building or enclosed space is outside the Judge's territory, they will entrust the operations to be carried out by the Judge of the same level in the territory where they are located, who, in turn, may entrust them to the Authorities or members of the Judiciary Police.

Article 564.

If a public building or place included under numbers 1. and 3. of article 547 is concerned, the Judge will send a writ to the Authority or Manager in charge of them in the same district.

If the latter does not reply within the time limit fixed in the writ, the entry and search warrant will be notified to the person in charge or maintenance or care of the building or place which must be entered and searched.

If State vessels are concerned, communications will be addressed to the relevant Commanders.

Article 565.

Where the building or place is included under number 2. of article 547, notification will made to the person in charge of the meeting or recreations rooms, or whoever replaces them if they are absent.

Article 566.

If entry and search must be made of a domicile of a private individual, they will be notified of the warrant; and if they are not found on first service of the warrant, to the person in charge of it.

If the person in charge of it is not found, the notification will be made to any other person of legal age at the domicile, with individuals from the family of the interested party being preferable for this purpose.

If nobody is to be found, a record will be made of this, which will be drawn up with attendance by two neighbours, who must sign it.

Article 567.

From the moment the Judge Orders entry and search of any building or enclosed space, suitable surveillance measures will be taken to prevent the accused escaping or theft of instruments, effects of the crime, books, papers or any other things which may be the subject of the search.

Article 568.

Once the measures set out in the previous articles have been taken, entry and search will take place, with the help of the police force, if necessary.

Article 569.

The search will be made in the presence of the interested party or the person legitimately representing them.

If the former is not there or did not wish to appear or appoint a representative, it will be carried out in the presence of a member of their family, of legal age.

If there is none, it will be done in the presence of two witnesses who reside in the same town.

The search will always be made in the presence of the Clerk of the Court or Tribunal authorising it, or the Clerk to the duty service taking their place, who will draw up a record of the result, of the legal measure and its incidences, which will be signed by all those present. Nevertheless, where needed, the Court Clerk may be substituted in the manner provided for in the Judiciary Act.

Resistance by the interested party, their representative, family members and witnesses to attend the search will give rise to the liability stated in the Criminal Code for those convicted of serious disobedience to Authority, without prejudice to the measure being carried out.

If the persons or objects sought are not found and there is no suspicious prima facie evidence, a certification of the act will be issued to the interested party if they request it.

Article 570.

Where the search is carried out in the domicile of a private individual and the day is over before it is finished, the person making the search will request the interested party, or their representative, if present, for permission to continue into the night. If they refuse, the measure will be suspended, except for the provisions of articles 546 and 550, with the premises or the furniture where the search must continue being closed and sealed, if this precaution is considered necessary to prevent a person escaping or theft of the things being searched for.

The person carrying out the search will also warn those to be found in the building or place of the search that they must not remove seals, or break the locks, or let other persons do so, under the liability provided for in the Criminal Code.

Article 571.

The search will only be suspended for such time as it is not possible to continue and, during the suspension, the surveillance measures referred to in article 567 will be adopted.

Article 572.

The record of the entry and search of an enclosed space will set out the names of the Judge, or their delegate, carrying it out and all other persons intervening, the incidents occurred, the time at which the measure commenced and concluded and the description of the search in the order in which it was done, along with the results obtained.

CHAPTER II
On searching books and papers

Article 573.

A search warrant for the accounting books and papers of the accused, or other person, will only be issued where there is serious prima facie evidence that the measure will result in the discovery or verification of any fact or circumstance which is significant to the case.

Article 574.

The Judge will order seizure of the instruments and effects of the crime and also books, papers and any other things which may be found, if this is necessary to the result of the pre-trial proceedings.

The books and papers seized will the numbered, sealed and initialled on all their pages by the Court Clerk, at their own liability.

Article 575.

Everyone is under the obligation to exhibit objects and papers which are suspected to relate to the case.

Anyone holding them who refuses to show them will be penalised with a fine of 125 to 500 pesetas; and if they insist in their refusal, if the object or paper is important and the nature of the case advises it, they will be prosecuted as perpetrator of the crime of disobedience of Authority, unless they can be legally classified as an accessory or middleman.

Article 576.

The provisions of articles 552 and 569 will be applicable to searches of papers.

Article 577.

If an expert examination is needed to assess the need to seize the things found in the search, this will immediately be ordered by the Judge, in the manner provided for in chapter VII of title V.

Article 578.

If the book subject to the search is the document register of a Notary, the procedure will be in accordance with the provisions of the Notaries Act.

If it is a Land Registry book, the provisions of the Mortgage Act will apply.

If it is a Civil or Companies Register book the provisions of the Law and Regulations relating to these services will apply.

CHAPTER III

On seizure and opening written and telegraphic correspondence

Article 579. *On written or telegraphic correspondence.*

1. The judge may order seizure, opening or examination of postal and telegraphic private correspondence, including faxes, certified faxes and money orders, that the accused sends or receives, if there are indications that discovery or verification of some fact or circumstance relevant to the case will be obtained by these means, as long as the subject of the investigation is one of the following crimes:

1. Intentional crimes punished with a maximum sentence of, at least, three years imprisonment.

2. Crimes committed as a member of a criminal group or organisation.

3. Crimes of terrorism.

2. The judge may order, in a grounded decision, observation of the accused's postal and telegraphic communications, and communications used to carry out their criminal activities, for a period of up to three months, which may be extended by the same, or shorter, period up to a maximum of eighteen months.

3. In the event of urgency, where investigations are carried out to prove crimes related to the operation of armed gangs or terrorist elements and there are grounded reasons which make the measure provided for in the previous paragraphs of this article essential, the Minister for Internal Affairs may order it or, in default, the Secretary of State for Security. This measure will be notified to the competent judge immediately and, at any event, within a maximum time limit of twenty-four hours, with a record of the reasons justifying adoption of the measure, the action carried out, the manner in which it was effected and its result. The competent judge, also in a reasoned manner, will revoke or confirm such action within a maximum time limit of seventy-two hours after the measure was ordered.

4. No judicial authorisation will be required in the following cases:

a) Postal consignments which, due to their external appearance, are not usually used to contain individual correspondence but instead serve to transport and carry merchandise or whose content is shown on the outside.

b) Such other forms of correspondence sent under the legal format of open communication, where it is compulsory to declare their content on the outside or which include an express indication that their inspection is authorised.

c) Where the inspection is carried out in accordance with customs regulations, or is appropriate in accordance with postal rules regulating a specific type of consignment.

5. The application and later proceedings in relation to the measure sought will be substantiated in a separate, confidential record, without the need for expressly ordering confidentiality in the case.

Article 579 a. *Use of the information obtained in different proceedings and fortuitous discoveries.*

1. The result of seizing and opening written and telegraphic correspondence may be used as a means of investigation or evidence in a different criminal trial.

2. For this purpose, evidence will be taken of the particulars needed to prove the legitimacy of the interception. In all cases, the initial application for adoption of the measure, the judicial decision ordering it and all requests and judicial decisions on extensions from the original proceedings will be included among the essential records.

3. Continuation of this measure to investigate a fortuitously discovered crime will require authorisation from the competent judge, for which purpose they will verify the record of the proceedings, assessing the framework in which the fortuitous find was made and the impossibility of having applied for a measure to include it at the time. Furthermore, they will find out if the measures continue to be declared confidential, for the purpose that such declaration is respected in the other criminal proceedings, and will notify the moment confidentiality is lifted.

Article 580.

The provisions of articles 563 and 564 are applicable to seizure of correspondence.

Execution of this operation may also be entrusted to the Postmaster General or the Head of the office where the correspondence may be found.

Article 581.

The employee making the seizure will immediately send the correspondence seized to the Examining Magistrate for the case.

Article 582.

The Judge may also order that any Telegraph Office provide copies of the telegrams sent by it, if they could contribute to clarifying the facts of the case.

Article 583.

The grounded warrant ordering seizure and search of correspondence or copies of telegrams sent to be handed over, will set out the correspondence which must be seized or searched, or the telegrams whose copies must be handed over, by specifying the persons in whose name they were issued, or other circumstances just as specific.

Article 584.

The interested party will be summoned to the opening and search of postal correspondence.

They, or the person appointed by them, may witness the operation.

Article 585.

If the accused is in default, or if, summoned to the opening, they do not wish to witness it or appoint a person to do so in their name, the Examining Magistrate will, nonetheless, proceed to open such correspondence.

Article 586.

The operation will be carried out by the Judge themselves opening the correspondence and, having read it, will set aside that referring to the facts of the case which they consider necessary to keep.

The envelope and pages of such correspondence, once the Judge has taken the notes needed to carry out such other investigative measures as the correspondence gives reason for, will be initialled by the Court Clerk and sealed with the Court seal. Afterwards it will all be enclosed in another envelope, which will be appropriately marked and kept during the pre-trial proceedings, also at the liability of the Court Clerk.

This document may be opened as many times as the Judge deems fit, having summoned the interested party beforehand.

Article 587.

Correspondence that is not related to the case will immediately be handed over to the accused or their representative.

If the accused is in default, it will be handed over, sealed, to a family member of legal age.

If there is no known family member of the accused, the document will be kept, sealed, at the liability of the Court Clerk, until there is a person to whom it may be handed over, in accordance with the provisions of this article.

Article 588.

Opening the correspondence will be set out in a court record, which will contain all that occurs.

This court record will be signed by the Examining Magistrate, the Clerk and all those present.

CHAPTER IV

Communal provisions for interception of telephone and telematic communications, capture and recording verbal communications with the use of electronic devices, use of technical devices for image surveillance, location and capture, search of mass data storage devices and remote searches of computer equipment

Article 588 a. i. *Guiding principles.*

1. During instruction of the cases any of the investigative measures regulated in this chapter may be ordered, as long as judicial authorisation is issued fully subject to the principles of speciality, adequacy, exceptional nature, necessity and proportionality of the measure.

2. The principle of speciality demands that a measure is related to the investigation of a specific crime. Technological investigation measures for the purpose of preventing or discovering crimes or clearing suspicions without an objective basis may not be adopted.

3. The principle of adequacy serves to define the objective and subjective scope and the duration of the measure depending on its usefulness.

4. Measures may only be ordered in application of the principals of exception nature and necessity where:

a) where the investigation, given its nature, does not have other measures available which are less onerous to the fundamental rights of the accused and equally as useful for clarifying the facts, or

b) where discovery or proof of the act investigated, verification of its perpetrator or perpetrators, ascertaining their whereabouts, or location of the effects of the crime is seriously hampered without recourse to this measure.

5. The investigative measures regulated in this chapter will only be deemed to have been provided where, when all the circumstances of the case have been taken into account, the sacrifice of the rights and interests affected is not greater than the benefit that their adoption provides for public interest and third parties. To weigh up conflicts of interest, assessment of public interest will be based on the severity of the case, its social transcendence or the technological field of production, the strength of existing prima facie evidence and the relevance of the result sought against the restriction of rights.

Article 588 a. ii. *Application for judicial authorisation.*

1. The judge may order the measures regulated in this chapter ex officio, or at the request of the Public Prosecution Service or the Judiciary Police.

2. Where the Public Prosecution Service, or the Judiciary Police, apply to the Examining Magistrate for a technological investigation measure, the application must contain:

1. The description of the event under investigation and the identity of the person under investigation, or any other affected by the measure, as long as this data is known.

2. A detailed description of the grounds justifying the need for the measure in accordance with the guiding principles provided for in article 588 a. i., and the evidence of criminality which was discovered during the investigation prior to the application to authorise the interception.

3. The identification data of the accused and, as appropriate, the means of communication used which allow enforcement of the measure.

4. The extent of the measure and specification of its content.

5. The investigation unit of the Judiciary Police that will be in charge of the intervention.

6. The manner in which the measure will be enforced.

7. The duration of the measure applied for.

8. The person in charge of carrying out the measure, if known.

Article 588 a. iii. *Judicial decision*

1. The examining magistrate will authorise or refuse the measure applied for with a reasoned order, having heard the Public Prosecution Service. This decision will be issued within a maximum of twenty-four hours after the application is made.

2. The judge may, interrupting the time limit referred to in the previous paragraph, request expansion or clarification of the terms of the application, as long as this is necessary to decide on the performance of any of the requirements set out in the previous articles.

3. The judicial decision authorising the measure will, at least, specify the following facts:

a) The punishable act subject to investigation and its judicial classification, with a statement of the prima facie evidence grounding the measure.

b) The identity of those under investigation and any other affected by the measure, if known.

c) The extent of the interception measure, specifying its scope and the grounds in relation to compliance with the guiding principles provided for in article 588 a. i.

d) The investigation unit of the Judiciary Police that will be in charge of the intervention.

e) The duration of the measure.

f) The manner and frequency with which the applicant will report to the judge on the results of the measure.

g) The purpose of the measure.

h) The person in charge who will carry out the measure, if known, with express mention of the duty to collaborate and be sworn to secrecy, as appropriate, with a warning on committing the offence of disobedience.

Article 588 a. iv. *Secrecy.*

The application and later proceedings in relation to the measure sought will be substantiated in a separate, confidential record, without the need for expressly ordering confidentiality in the case.

Article 588 a. v. *Duration.*

1. The measures regulated in this chapter will have the duration specified for each one of them, which may not be longer than absolutely necessary to clarify the facts.

2. The measure may be extended, by reasoned order, by the competent judge, ex officio or after a reasoned request from the applicant, as long as the causes for it subsist.

3. Once the time limit granted for the measure has passed and no extension has been ordered or, as appropriate, this has concluded, it will end for all purposes.

Article 588 a. vi. *Application for extension.*

1. The application for extension will be sent to the competent judge by the Public Prosecution Service, or the Judiciary Police, sufficiently in advance of expiry of the time limit granted. In all cases it must include:

a) A detailed report of the result of the measure.

b) The reasons justifying its continuance.

2. The judge will decide on the end of the measure, or its extension, in a reasoned order within a time limit of two days following submission of the application. Prior to issuing the decision, they may request clarifications or further information.

3. Once the extension is granted, it will commence on the expiry date of the time limit for the measure ordered.

Article 588 a. vii. *Control of the measure.*

The Judiciary Police will inform the examining magistrate about the development and results of the measure, in the manner and with the frequency decided on by the magistrate and, at any event, when, for any reason, the measure ends.

Article 588 a. viii. *Impact on third parties.*

The investigative measures regulated in the following chapters may be ordered even where they affect third parties in the cases and under the conditions regulated in the specific provisions for each one of them.

Article 588 a. ix. *Use of the information obtained in different proceedings and fortuitous discoveries.*

The use of information obtained in different proceedings and fortuitous discoveries will be regulated in accordance with the provisions of article 579 a.

Article 588 a. x. *End of the measure.*

The judge will order the end of the measure when the circumstances justifying its adoption disappear, or it becomes evident that it is not achieving the expected results, and, at any event, when the period of time it was authorised for has expired.

Article 588 a. xi. *Destruction of records.*

1. Once the proceedings conclude with a final judgment, deletion and elimination of the original records which may exist on the electronic and computer systems used to carry out the measure will be ordered. A copy will be kept in the custody of the Court Clerk.

2. Destruction of the copies kept will be ordered five years after sentence was passed, or when the crime or sentence has lapsed, or dismissal has been decreed or a final acquittal of the accused has been ordered, as long as, in the opinion of the Court, it is not necessary to keep them.

3. The courts will pass the relevant orders to the Judiciary Police so that it may carry out the destruction provided for in the previous paragraphs.

CHAPTER V
Interception of telephone and telematic communications

Section 1. General provisions

Article 588 b. i. *Premises.*

Authorisation to intercept telephone and telematic communications may only be granted when the purpose of the investigation is one of the crimes referred to in article 579.1 of this law, or crimes committed using computer equipment or any other information, communication or communication service technology.

Article 588 b. ii. *Scope.*

1. The terminals or means of communication subject to intervention must be those habitually or occasionally used by the person under investigation.

2. Judicially ordered intervention may authorise access to the content of the communications and electronic traffic data or date associated with the communication process, along with those produced whether or not a specific communication is established, in which the individual investigated takes part, whether as sender or receiver, and may affect terminals or means of communication that the person under investigation owns or uses.

The victim's terminals or means of communication may also be intercepted where a serious risk to their life or integrity is foreseeable.

For the purposes provided for in this article, electronic traffic, or associated, data are understood to be all those created as a result of the communication travelling down an electronic communications network, of it being made available to the user, and the provision of a similar information society or telematic communication service.

Article 588 b. iii. *Impact on third parties.*

Judicial intervention may be ordered for communications emitted from terminals or telematic communication media belonging to a third party provided that:

1. there is proof that the individual under investigation uses it to transmit or receive information, or

2. the owner collaborates with the person under investigation in their illicit purposes or benefits from their activity.

Such intervention may also be authorised there the device under investigation is used maliciously by third parties online, without the knowledge of its owner.

Article 588 b. iv. *Application for judicial authorisation.*

1. The application for judicial authorisation must, apart from the requirements mentioned in article 588 a. ii, contain the following:

a) identification of the subscriber's number, the terminal or the technical label,

b) identification of the connection subject to intervention, or

c) the data needed to identify the means of telecommunication in question.

2. To determine the extent of the measure, the application for judicial authorisation may have any of the following ends as its purpose:

a) Registering and recording the content of the communication, with an indication of the manner or type of communications affected.

b) Knowledge of its origin or destination, at the time the communication is made.

c) The geographic location of the origin or destination of the communication.

d) Knowledge about other associated traffic data, non-associated but of added value to the communication. In this case, the application will specify the precise data to be obtained.

3. In the event of urgency, where investigations are carried out to prove crimes related to the operation of armed gangs or terrorist elements and there are grounded reasons which make the measure provided for in the previous paragraphs of this article essential, the Minister for Internal Affairs may order it or, in default, the Secretary of State for Security. This measure will be notified to the competent judge immediately and, at any event, within a maximum time limit of twenty-four hours, with a record of the reasons justifying adoption of the measure, the action carried out, the manner in which it was effected and its result. The competent judge, also in a reasoned manner, will revoke or confirm such action within a maximum time limit of seventy-two hours after the measure was ordered.

Article 588 b. v. *Duty to cooperate.*

1. All providers of telecommunications services, of access to a telecommunications network or information society services, and any person who, in any way, contributes to facilitating communications via the telephone or by any other online, logic or virtual communication media or system, are under the obligation to provide the judge, the Public Prosecution Service and members of the Judiciary Police appointed to carry out the measure, with the assistance and cooperation necessary to facilitate performance of orders for telecommunications' interception.

2. Individuals required to collaborate will be under the obligation to keep the activities requested by the authorities secret.

3. Obligated individuals breaching the above duties may be committing the offence of disobedience.

Article 588 b. vi. *Control of the measure.*

In compliance with the provisions of article 588 a. vii, the Judiciary Police will make transcriptions of the passages they consider to be of interest, and the complete recordings made, available to Judge, with the frequency and on the various digital media determined by the judge. The origin and destination of each one will be indicated and, using an advanced system of electronic signature or seal or a sufficiently reliable verification system, ensure the authenticity or integrity of the information flowing from the mainframe computer to the digital media on which the communications have been recorded.

Article 588 b. vii. *Duration.*

The maximum initial duration of the intervention, which will be calculated from the date of the judicial authorisation, will be three months, extendable for successive periods of the same duration up to a maximum of eighteen months.

Article 588 b. viii. *Application for extension.*

As grounds for the application for extension, the Judiciary Police will provide, as appropriate, the transcription of the passages in the conversations where relevant information can be deduced so that a decision can be made on maintaining the measure.

Prior to issuing the decision, the judge may request clarifications or further information, including the entire content of the conversations intercepted.

Article 588 b. ix. *Access to the recordings by the parties.*

1. Once secrecy has been lifted and the duration of the intervention measure has expired, a copy of the recordings and the transcriptions made will be delivered to the parties. If the recording contains data referring to aspects of the persons' private life, only those parts of the recording and transcription which do not refer to them will be delivered. The non-inclusion of the entire recording in the transcription delivered will be expressly stated.

2. Once the recordings have been examined and within the time limit set by the judge, taking into account the volume of information contained on the media, any of the parties may request inclusion onto the copies of such communications as they deem relevant, and which have been excluded. The examining magistrate, having heard or examined these communications, will decide on their exclusion from, or incorporation into, the case.

3. The examining magistrate will notify the persons intervening in the communications intercepted of the fact that interception is being carried out and will inform them of the specific communications which they took part in that are affected, unless this is impossible, demands disproportionate effort or may prejudice future investigations. If the person notified requests it, a copy of the recording or transcription of such communications will be delivered to them, in as far as this does not affect the privacy of other persons, or is contrary to the purposes of the proceedings within the framework of which the interception measure was adopted.

Section 2. Inclusion of electronic traffic data or similar into the proceedings

Article 588 b. x. *Data held in service providers' computerised files.*

1. Electronic data held by service providers or persons facilitating communication in compliance with the legislation on retention of data relating to electronic communications, or on their own initiative for commercial reasons, or other type, and which are linked to communications processes, may only be assigned for incorporation into the proceedings with judicial authority.

2. Where knowledge of these data is essential to the investigation, the competent judge will be requested for authorisation to gather the information appearing on the computerised files of the service provider, including intelligent data searching or cross-searching, as long as the nature of the data to be discovered and the reasons justifying the assignment are specified.

Section 3. Access to data needed to identify users, terminals and connectivity devices

Article 588 b. xi. *Identification by IP address.*

Where, in their work on prevention and discovery of crimes committed on the internet, members of the Judiciary Police have access to an IP address which is being used to commit a crime and do not have the identification and location of the associated equipment or connectivity device, or personal identification data for the user, they will request the examining magistrate to order the agents subject to the duty to cooperate, according to article 588 b. v., to assign the data permitting identification and location of the terminal or connectivity device and identification of the suspect.

Article 588 b. xii. *Identification of terminals by capturing identification codes for the device or its components.*

1. If, within the framework of an investigation, it is not possible to obtain a specific subscriber number and this is essential for the purposes of the investigation, members of the Judiciary Police may use technical devices which allow them to find out the identification codes, or technical labels, of the telecommunications device, or any of its components, such as IMSI or IMEI numbers and, in general, any other technical means that, in accordance with the latest technology, is suitable to identify the communications equipment used or the card used to access the telecommunications network.

2. Once the codes allowing identification of the device, or any of its components, have been obtained, members of the Judiciary Police may apply to the competent judge to intercept communications under the terms provided for in article 588 b. iv. The application must make the user of the devices referred to in the previous paragraph known to the court.

The court will issue a reasoned decision granting or refusing the application for intervention within the time limit provided for in article 588 a. iii.

Article 588 b. xiii. *Identification of owners or terminals or connectivity devices.*

Where, when carrying out their duties, the Public Prosecution Service, or the Judiciary Police, need to know the owner of a telephone number or any other means of communication, or, conversely, need the telephone number or identity details of any means of communication, they may go directly to the service providers for telecommunications, access to a telecommunications network or information society services, who will be under the obligation to comply with the request, with a warning about committing the offence of disobedience.

CHAPTER VI

Capture and recording of verbal communications using electronic devices

Article 588 c. i. *Recording direct verbal communications.*

1. Authorisation may be given to place and use electronic devices which enable the capture and recording of direct verbal communications by the party under investigation on public roads or other open spaces, in their domicile or in any other enclosed spaces.

Listening and recording devices may be place outside and inside the domicile or enclosed space.

2. In the event that it is necessary to enter the domicile, or any of the spaces used privately, the enabling decision must set out its grounds for proceeding with access to such places.

3. Listening to and recording private conversations may be supplemented by obtaining images where expressly authorised by the judicial decision ordering it.

Article 588 c. ii. *Premises.*

1. The use of the devices referred to in the previous article must be associated with communications which may take place in one or several specific encounters of the party under investigation with other people and which were foreseeable due to evidence arising from the investigation.

2. They may only be authorised where the following requirements are met:

a) That the facts under investigation constitute one of the following crimes:

1. Intentional crimes punished with a maximum sentence of, at least, three years imprisonment.

2. Crimes committed as a member of a criminal group or organisation.

3. Crimes of terrorism.

b) That it can be reasonably foreseen that the use of the devices will provide essential data, with evidentiary relevance for clarification of the events and identification of their perpetrator.

Article 588 c. iii. *Content of the judicial decision.*

The judicial decision authorising the measure must, apart from the requirements regulated in article 588 a.iii, contain a specific reference to the place or premises and the encounters of the party under investigation which are to be subject to surveillance.

Article 588 c. iv. *Control of the measure.*

In compliance with the provisions of article 588 a. vii, the Judiciary Police will make the original device, or true electronic copy, of the recordings and images available to the judicial authority, which must be accompanied by a transcription of the conversations deemed to be of interest.

The report will identify all the agents who took part in carrying out and monitoring the measure.

Article 588 c. v. *Termination.*

If the measure is terminated for any of the reasons provided for in article 588 a. x, recording conversations which may take place in other encounters, or image capture of such moments, will require a new judicial authorisation.

CHAPTER VII

Use of technical devices for image capture, surveillance and localisation

Article 588 d. i. *Image capture in public places or spaces.*

1. The Judiciary Police may obtain and record, by any technical means, images of the person under investigation when they are in a public place or space, if this is necessary to facilitate their identification, locate instruments or effects of the crime, or obtain important data for clarification of the facts.

2. The measure may be carried out even where it affects persons other than the party under investigation if, to do otherwise, would significantly reduce the usefulness of the surveillance, or there is grounded evidence of the relationship of such persons with the party and events under investigation.

Article 588 d. ii. *Use of technical devices or means of tracking and localisation.*

1. Where there are proven reasons of necessity, and the measure is proportionate, the competent judge may authorise the use of technical devices or means of tracking and localisation.

2. The authorisation must specify the technical means to be used.

3. The providers, agents and persons referred to in article 588 b. v. are under the obligation to give the assistance and cooperation needed to the judge, the Public Prosecution Service, and members of the Judiciary Police appointed to carry out the measure, to facilitate compliance with the orders ruling tracking, with a warning about committing the offence of disobedience.

4. Where there are reasons of urgency which make it reasonable to fear that, if the technical device or means for tracking and localisation is not placed immediately, the investigation will be thwarted, the Judiciary Police may proceed to place it, reporting this as soon as possible and, at any event, within a maximum of twenty-four hours, to the judicial authority, who may ratify the measure taken or order its immediate termination within the same time limit. In this last event, the information obtained from the device placed will have no effect in the proceedings.

Article 588 d. iii. *Duration of the measure.*

1. The measure for use of technical devices for tracking and localisation provided for in the previous article will have a maximum duration of three months from the date they were authorised. Exceptionally, the judge may order successive extensions for the same or a shorter period up to a maximum of eighteen months if this is justified in the light of the results obtained by the measure.

2. The Judiciary Police will hand over the original devices, or true electronic copies, containing the information gathered to the judge, when the judge requests this and, at any event, when the investigations conclude.

3. Information obtained using the technical devices for tracking and localisation referred to in the previous articles must be duly guarded to prevent its improper use.

CHAPTER VIII
Searching mass data storage devices

Article 588 e. i. *The need for individual justification.*

1. Where, due to the search of a domicile being made, it is foreseeable that computers, telephone or online communication instruments or mass digital information storage devices or access to online data warehouses will be seized, the Examining Magistrate's decision must extend its grounds to justification, as appropriate, of the reasons legitimising access by the agents empowered to the information contained on such devices.

2. Simple confiscation of any of the devices referred to in the previous paragraph, carried out while the search warrant for the domicile is in progress, does not legitimise access to their content, without prejudice to the fact that such access may be authorised subsequently by the competent judge.

Article 588 e. ii. *Access to the information on electronic devices confiscated outside the domicile of the party under investigation.*

The requirement provided for in paragraph 1 of the previous article will also be applicable to cases where computers, communications instruments or mass data storage devices, or access to online data warehouses, are seized independently of a house search. In these cases, the agents will make the confiscation of such effects known to the judge. If the judge considers access to the information housed in their content is essential, they will grant the relevant authorisation.

Article 588 e. iii. *Judicial authorisation.*

1. The decision of the examining magistrate authorising access to the information contained on the devices referred to in this section will set the terms and scope of the search and may authorise copies to be made of the computer data. It will also set the conditions needed to ensure integrity of the data and safeguards for their preservation so that, as appropriate, an expert opinion may be formed.

2. Except where they constitute the object or instrument of the crime, or there are other reasons to justify it, confiscation of hardware containing computer data or files will be avoided where this may cause serious prejudice to their holder or owner and it is possible to obtain a copy of them under conditions which guarantee the authenticity and integrity of the data.

3. Where whoever carries out a search, or has access to the information system, or a part of it, in accordance with the provisions of this chapter, has grounded reasons to consider that the data being searched for is stored on a different computer system, or

on a part of it, they may widen the search, as long as the data are legally accessible via the initial system or are available to it. This widening of the search must be authorised by the judge, unless already done so in the initial authorisation. In urgent cases, the Judiciary Police or the prosecutor may carry it out, immediately informing the judge and, at any event, within a maximum of twenty-four hours, of the proceedings carried out, the manner in which it was effected and its result. The competent judge, also in a reasoned manner, will revoke or confirm such action within a maximum time limit of seventy-two hours after the interception was ordered.

4. In urgent cases where a legitimate constitutional interest is appreciated which makes the measure provided for in the previous paragraphs of this article essential, the Judiciary Police may carry out a direct examination of the data contained on the confiscated device, notifying the competent judge immediately and, at any event, within a maximum of twenty-four hours, in a reasoned writ, recording the reasons justifying adoption of the measure, the proceedings carried out, the manner in which it was effected and its result. The competent judge, also in a reasoned manner, will revoke or confirm such action within a maximum time limit of 72 hours after the measure was ordered.

5. The authorities and agents in charge of the investigation may order any person who knows about how the computer system works, or the measures used to protect the computer data contained on it, to provide such information as is necessary, as long as this does not cause a disproportionate burden on the affected party, with a warning about committing the offence of disobedience.

This provision will not be applicable to the investigated party or accused, to persons who are exempt from the obligation to testify due to being family members and such others, in accordance with article 416.2, as may not testify due to professional secrecy.

CHAPTER IX

Remote searches of computer equipment

Article 588 f. i. *Premises.*

1. The competent judge may authorise the use of identification data and codes, and software to be installed, which allow remote, online examination, without the knowledge of their owner or content user, of a computer, electronic device, computer system, mass computer data storage device or data base, provided that one of the following crimes is being investigated:

a) Crimes committed by criminal organisations.

b) Crimes of terrorism.

c) Crimes committed against minors or persons who are legally incapacitated.

d) Crimes against the Constitution, treason and those related to national defence.

e) Crimes committed using computer devices or any other information or telecommunications or communications service technology.

2. The judicial decision authorising the search must specify:

a) The computers, electronic devices, information systems, or part of them, computer media for data storage or databases, data or other digital content subject to the measure.

b) The scope of the measure, the manner in which access and seizure of the computer data or files relevant to the case will be made and the software to be used to control the information.

c) The agents authorised to carry out the measure.

d) The authorisation, as appropriate, to make and keep copies of the computer data.

e) The measures needed to preserve the integrity of the data stored, and to deny access to or suppress such data from the computer system that was accessed.

3. Where the agents carrying out the remote search have reasons to believe that the data sought are stored on a different computer system, or on a part of it, they will make this fact known to the judge, who may authorise an extension to the terms of the search.

Article 588 f. ii. *Duty to cooperate.*

1. The service providers and persons indicated in article 588 b. v. and the owners or those responsible for the computer system or database subject to search will be under the obligation to provide the investigating agents with such cooperation as is necessary to carry out the measure and access the system. Furthermore, they are under the obligation to provide the assistance needed so that the data and information gathered may be examined and visualised.

2. The authorities and agents in charge of the investigation may order any person who knows how the computer system works, or the measures applied to protect the computer data contained in it, to provide such information as is necessary for the satisfactory outcome of the legal measure.

This provision will not be applicable to the investigated party or accused, to persons who are exempt from the obligation to testify due to being family members and such others, in accordance with article 416.2, as may not testify due to professional secrecy.

3. Individuals required to collaborate will be under the obligation to keep the activities requested by the authorities secret.

4. The individuals mentioned in paragraphs 1 and 2 of this article will be subject to the liability regulated in paragraph 3 of article 588 b. v.

Article 588 f. iii. Duration.

The measure will have a duration of one month, extendable by periods of the same length up to a maximum of three months.

CHAPTER X
Protective measures

Article 588 g. *Data preservation order.*

The Public Prosecution Service, or the Judiciary Police, may require any individual or incorporated entity to preserve and protect specific data or information included on a computer warehousing system which they have access to until the relevant judicial authorisation is obtained for its assignment, in accordance with the provisions of the preceding articles.

The data will be preserved for a maximum of ninety days, which may only be extended once until the assignment is ordered or one hundred and eighty days have passed.

The party requested to do so will be under the obligation to cooperate with, and keep secret, the performance of this legal measure and will be subject to the liability described in paragraph 3 of article 588 b. v.

TITLE IX
On bonds and attachments

Article 589.

Where the pre-trial proceedings provide evidence of criminality against a person, the Judge will order that a bond be provided that is sufficient to ensure the monetary liabilities which, definitively, may be declared appropriate, with the attachment of sufficient assets to cover such liabilities being decreed in the same order, if no bond is provided.

The amount of the bond will be set in the same order and may not be lower than one-third of the probable total monetary liabilities.

Article 590.

All legal measures on bonds and attachments will be ordered in a separate file.

Article 591.

The bond may be personal, collateral or by way of mortgage, or by way of a security which may be consist of cash, by way of a joint and several guarantee of indefinite duration and payable upon first demand, issued by a credit entity or a reciprocal guarantee company, or by any other means that, in the opinion of the Judge or Court, guarantees the immediate availability, as appropriate, of the amount concerned.

Article 592.

A personal guarantor may be any Spanish national of good character living within the Court's territory who is in full enjoyment of their civil and political rights and who has been paying contributions which, in the opinion of the examining magistrate, relate to property ownership or carrying out a trade for the past three years and are sufficient to prove their stability and solvency in order to pay the liabilities which may eventually be demanded of them.

A guarantor who acts, or has acted, as such for another will not be admitted until the first bond is cancelled, unless, in the opinion of the Judge or Court, they have recognised ability to be liable for the two.

When a personal bond is declared to be sufficient, the amount that the guarantor must respond with will be set.

Article 593.

A mortgage bond may be replaced by another in cash, treasury bills or securities and other movable property, as enumerated in article 591, in the following proportion: The

value of the mortgage assets will be double that set for the bond in cash and a treasury bills or securities bond will be a quarter more than the latter, at trading prices. If replacement is made with any other movable property given as collateral, their value must be double that of a cash bond.

Article 594.

The assets for mortgage and collateral bonds will be appraised by two experts appointed by the Examining Magistrate or Court hearing the case and the title deeds relating to properties offered under mortgage will be examined by the Public Prosecution Service. The assets will be declared to be sufficient by the same Judge or Court if appropriate.

Article 595.

A mortgage bond may be granted by public deed or "apud acta", with, in the latter case, the relevant order being issued for its registration at the Land Registry.

Once the order is returned by the Registrar, it will be included on the case file.

The receipt proving the cash deposit, or for the deposit of treasury bills and other securities, in cases where the bond is taken out in this way, will also be included.

Article 596.

An appeal may be lodged against the orders passed by the Judge rating the sufficiency of the bonds.

Article 597.

If, on the day following notification of the order passed in accordance with the provisions of article 589, the bond has not been provided, the accused's assets will be attached and the accused will be summoned to designate those which are sufficient to cover the amount set for monetary liabilities.

Article 598.

If the accused is not to be found, the summons will be service on their wife, children, attorney, servants or persons to be found at their domicile.

If none of them are to be found, or if those found, of the accused or attorney, as appropriate, do not wish to designate the assets, an attachment will be made of those which are reputed to belong to the accused, in the order provided for in article 592 of the Civil Procedure Act, with the prohibition contained in articles 605 and 606 of it, and in accordance with the provisions of article 584 of that Act.

Article 599.

Where assets are designated and the bailiff in charge of making the attachment believes that those designated are not sufficient, they will also attach those that they consider necessary, subject to the provisions of the previous article.

Article 600.

All other proceedings carried out in enforcement of the order referred to in article 589 will be governed by articles 738.2 and 738.3 of the Civil Procedure Act, with the particular provided for in article 597 of this Law with respect to summoning the accused to designate assets.

Articles 601 to 610. *(Without content)*

Article 611.

If, during the course of the trial, sufficient grounds arise to believe that the monetary liabilities which, definitively, may be demanded will exceed the amount pre-set to assure them, an order will be made to increase the bond or attachment.

Article 612.

An order will also be made to reduce the bond or attachment to a lower amount than that pre-set where there are sufficient grounds to believe that the amount ordered to be guaranteed is greater than the monetary liabilities that, definitively, may be imposed on the accused.

Article 613.

When it comes to realising the monetary liabilities referred to in this title, the method provided for in article 536 will be followed.

Article 614.

For anything not provided for in this title, the Judges and Courts will apply the provisions of civil legislation on bonds and attachments.

Article 614 *a*.

Once criminal proceedings have commenced for a crime against the Treasury Department, the criminal judge will decide on the pleas regarding precautionary measures adopted in accordance with article 81 of the General Tax Act.

TITLE X

On the civil liability of third parties

Article 615.

Where, during instruction of the pre-trial proceedings, there appear indications of the existence of civil liability of a third party, in accordance with the respective articles of the Criminal Code, or where any person has profited from the effects of the crime, the Judge, at the request of the civil claimant, will demand a bond from the person against whom liability is found. If this is not provided, the Court Clerk will attach such assets as are necessary, in accordance with the provisions of Title IX of this book.

Article 616.

The person from whom the bond is demanded, or whose assets have been attached, may, during the pre-trial proceedings state, in writing, the reasons why they do not consider themselves to be civilly liable and the evidence they can offer for the same purpose.

Article 617.

The Court Clerk will give sight of the writ to the interested party who will respond within three days, also proposing the evidence that should be taken in support of their claim.

Article 618.

The Judge will immediately order the examination of the proposed evidence and will rule on the claims made, as long as this may be done without delay or prejudice to the main object of the instruction.

Article 619.

A separate file will be opened for all aspects relating to the civil liability of a third party, and the incidents giving rise to the encumbrance and, eventually, restitution of the things owned by them, but without this, for any reason, hindering or suspending the progress of the instruction.

Article 620.

The provisions of the previous articles will also be observed with respect to any claim for the return of any of the effects or instruments of the crime which are held by a third party to their owner.

The return of the instruments and objects of the crime to their owner may not be verified in any case until after the oral hearing has been held, except under the provisions of article 844 of this Law.

Article 621.

The orders issued in these cases will be carried out, without prejudice to the fact that the parties prejudiced may repeat their claims in the oral hearing, or the relevant civil action which they may initiate in another case.

TITLE X A

On the particulars of crimes against the Treasury Department

Article 621 a.

1. In crimes against the Treasury Department, where the Tax Office has issued a settlement order, the existence of the criminal proceedings will not halt the administrative proceedings, and proceedings aimed at receipt of payment may be initiated, unless the Judge, ex officio or at the request of a party, has agreed a stay of the enforcement proceedings in accordance with the provisions of article 305.5 of the Criminal Code.

2. If a stay in the enforcement of the settlement order has been requested, the Judge or Court, having heard the Public Prosecution Services and the Authority prejudiced for ten days, will rule, by order, within a period of ten days, if they agree to the stay requested, in which case the extent of the guarantee to be given and the time limit for giving it must be set, which, in no case, may exceed two months, unless the circumstances provided for in paragraph 6 occur.

3. The guarantee given in this way must sufficiently cover the amount arising from the administrative settlement calculated, the interest on late payment caused by the stay and the surcharges which would be payable if it is called on.

4. The order granting the stay will automatically be annulled, and without the need for a subsequent judicial declaration, if, once the time limit shown in paragraph 2 for formalising the guarantee has passed, this has not taken place.

5. The stay will only affect the proceedings followed against the accused with respect to whom it was ordered and the payment enforcement proceedings with respect to the other accused will not halt until the debt is paid or guaranteed in its entirety by the taxpayer.

6. If it has not been possible to provide guarantees, in full or in part, the judge may exceptionally order the suspension, fully or partially, dispensing with guarantees, if he finds that enforcement could cause irreparable damage or damage only repaired with great difficulty.

7. An appeal, for a single purpose, may be lodged against orders resolving on the application for stay of the settlement order.

Article 621 b.

1. The stay will have effect from when, once the order referred to in the previous article has been issued, the relevant guarantee is duly taken out in accordance with the

provisions of the previous article, in which case its effects will be considered to be retroactive from the moment it was requested, without prejudice to the following paragraphs of this article.

2. If, as a result of the proceedings carried out by the Administration, assets or rights of the accused had been subject to attachment prior to the date of the order imposing the stay, such attachments will continue to be effective during the time limit granted to the accused to take out the guarantee covering the amounts referred to in paragraph 3 of the previous article, or, as appropriate, those that may be demanded from them.

At any event, the Public Prosecution Service, or the Administration prejudiced, may request the Court that, for the purposes of the stay, the attachments already carried out or the rights in rem which may be taken over the assets affected by them may constitute the guarantee, as these assets are considered to be a more suitable guarantee than the guarantees offered by the accused. In particular, such a request may be made when the stay has been requested with a total or partial waiver of guarantees.

In cases where the stay has been ordered with a total or partial waiver of guarantees, payments made which may have decreased the amounts owing will continue to be effective, without being affected by the retroaction referred to in paragraph 1 of this article.

3. The Administration may not dispose of the assets and rights attached in the course of the distraint proceedings until the judgment confirming the whole, or part, of the settlement is final, except in the cases indicated below, in which disposal must be authorised by the Court.

a) Where they are perishable.

b) If they have been abandoned by their owner or, duly summoned regarding the destination of the legal effect, they make no statement whatsoever.

c) Where the costs of conservation and storage are higher than the value of the object itself.

d) Where their conservation may be dangerous to public health or safety.

e) If they depreciate with the passage of time, even where they do not deteriorate.

Effects which are evidence and those which must remain at the expense of the proceedings will not be liable to disposal, except where they are included in cases a) and c) above.

4. Once the stay, with or without guarantee, has been ordered, it may be amended or revoked during the course of the proceedings if the circumstances under which it was adopted have changed.

TITLE XI

On the conclusion of the pre-trial proceedings and dismissal

CHAPTER I

On the conclusion of the pre-trial proceedings

Article 622.

Once the legal measures have been issued ex officio or at the request of a party by the Examining Magistrate, if they consider that the pre-trial proceedings have been concluded they will declare this to be so, ordering the court records and evidence to be referred to the Court that is competent to hear the crime.

Where there is no private plaintiff and the Public Prosecution Service considers that the pre-trial proceedings have brought together sufficient elements to classify the facts and initiate oral trial proceedings, it will make this known to the Examining Magistrate so that, without further delay, the case may be referred to the competent Court.

The conduct of appeals admitted for a single effect will never prevent conclusion of the pre-trial proceedings, once the Examining Magistrate has complied with the provisions of article 227 of this Law, and the once the higher court has received the relevant testimony.

In such cases, when the Court Clerk refers the pre-trial proceedings to the Court, they will ensure that pending appeals with a single effect are expressed. Application of articles 627 et seq will be stayed at the Court until pending appeals have been resolved. If the appeals are dismissed, as soon as the decision ordering this is final, substantiation of the case will continue in accordance with the aforementioned articles. If an appeal is allowed, the Judge's order declaring the pre-trial proceedings to be concluded will be revoked without further ado and the Court Clerk will return it with the order resolving on the appeal, so that the legal measures which are a consequence of such decision may be taken.

Article 623.

In either case, the order for concluding the pre-trial proceedings will be notified to the private claimant, if there is one, even where they are only a civil claimant, the accused and all other persons against whom civil liability has been found, summoning them to appear before the respective Court within a period of ten days, or fifteen if the summons is to the Supreme Court. The Public Prosecutor will also be informed where the case concerns a crime in which, due to their position, they must intervene.

Article 624.

If the Examining Magistrate classifies the event giving rise to the pre-trial proceedings as a misdemeanour, they will order the proceedings to be sent to the Municipal Judge, referring the order agreeing this to the competent higher Court.

Article 625.

When the order is final, as it has been approved by the higher Court, or if it had been dismissed in the appeal that, as appropriate, may have been lodged, the parties will be summoned to appear before the Municipal Judge who must hear the case within a period of five days.

Once the court records are received by the Municipal Judge, the trial will be held in accordance with the provisions of book VI of this Law.

Article 626.

Once the Court has received the records and evidence, the Court Clerk will appoint the Rapporteur Magistrate on duty.

Other than the cases provided for in the two previous articles, and during the time needed for the summons time limit to pass, the Rapporteur Magistrate will open the documents and other closed, sealed objects which may have been sent by the Examining Magistrate.

A court record will be made by the Court Clerk of this opening, which will record the condition in which they are found.

Article 627.

Once that time limit has passed, the Court Clerk will pass the records for instruction within another, which will not be less than three days or more than ten, depending on the size of the proceedings, to the Public Prosecution Service, if the case deals with a crime in which it must intervene, then to the Procurator for the complainant, if present, and, lastly, to the defence for the accused.

If the case exceeds one thousand folios, the Court Clerk may extend the time limit, without the extension ever exceeding the same again.

When returned, it will be accompanied by a writ conforming to the order from the lower court declaring the pre-trial proceedings to be concluded, or requesting new legal measures to be taken.

In the same writ, if the opinion was in agreement with the order concluding pre-trial proceedings, the Public Prosecutor, if appearing, the Procurator for the claimant, if there is one, and the defence for the accused will be asked what they deem appropriate to their rights, with respect to opening the oral trial of dismissal of any kind.

Article 628.

When the case is returned, or collected from the last person to receive it, the Court Clerk will immediately pass it, with the writs submitted, to the reporting judge, for a period of three days.

Article 629.

The Court Clerk, when handing over the case, will take the necessary steps so that the Prosecutor, the claimant and the accused, as appropriate, may examine the correspondence, books, papers and other evidence without risking their condition being altered.

Article 630.

Once the time limit in article 628 has passed, the Court will pass an order, confirming or revoking that of the Examining Magistrate.

Article 631.

If the order is revoked, return of the proceedings to the Judge referring them will be ordered, stating the legal measures that must be taken.

Pieces of evidence that the Court considers are needed to carry out the new legal measures will also be returned.

Article 632.

If the order concluding the pre-trial proceedings is confirmed, the Court will, within three days, make a decision regarding the request for the oral trial or dismissal.

Article 633.

The order issued by the Court agreeing to open the oral trial will provide for the transfer referred to in article 649, without prejudice to the provisions of chapter II of this title.

CHAPTER II
On dismissal

Article 634.

Dismissal may full or provisional, complete or partial.

If the dismissal is partial, an order will be made to open the oral trial with respect to the accused not benefiting from it.

If it is complete, the case and the pieces of evidence that have no known owner will be ordered to be filed, after having taken the necessary legal measures to carry out the order.

Article 635.

The pieces of evidence with a known owner will continue to be held, if requested by a third party, until such civil action as it may be proposed to initiate is resolved.

In this case, if the Court agrees to the retention, it will set the time limit within which it must be proven that the action has been initiated.

Once the time limit set in accordance with the provisions of the previous paragraph has passed without proof of civil action being taken, or if nobody has requested continuing retention of the pieces of evidence, they will be returned to their owners.

The owner will be considered to be the person in possession of the thing at the time the Examining Magistrate seized it.

Notwithstanding the provisions of the previous paragraphs, where the pieces of evidence, due to their nature, involve any risk to social or individual interests, whether to persons or their property, the Courts, in order to prevent this, will order them to be destined as provided for in the Regulations or, as appropriate, they will be disabled after the relevant compensation, if appropriate.

Article 636.

Only an appeal in cassation may be lodged, as appropriate, against writs of dismissal.

The writ of dismissal will be notified to the victims of the crime, at the E-mail address and, in default, by ordinary post to the postal address or domicile given in the application provided for in article 5.1.m) of the Standing of Victims of Crime Act.

In cases of death or disappearance due to a crime, the writ of dismissal will be notified in the same way to the persons referred to in the second sub-paragraph of paragraph 1 of article 109 a, whose identity and E-mail or postal address is known. In these cases, the Judge or Court may agree, with reasons, to dispense with notification to all family members where it has already been successfully addressed to several of them or where such steps as have been taken to locate them have been fruitless.

Exceptionally, in the case of citizens residing outside the European Union, if no E-mail or postal address is available to make the notification, it will be sent to the Spanish diplomatic or consular office in their country of residence for publication.

Once five days have passed after notification, it will be understood to have been validly served and will take full effect, and calculation of the time limit for lodging an appeal will commence. Cases where the victim proves just cause for the impossibility of accessing the content of the notification are excepted from this regime.

Victims may appeal the writ of dismissal within a time limit of twenty days, even if they did not appear as a party to the case.

Article 637.

Full dismissal will apply where:

1. There is no reasonable evidence of having perpetrated the act that gave rise to the case being initiated.
2. The act does not constitute a crime.
3. The accused appear exempt from criminal liability as perpetrators, accomplices or accessories.

Article 638.

In cases 1 and 2 of the previous article, when decreeing dismissal, it may be declared that initiation of the case does not prejudice the reputation of those accused.

At the request of the accused, it may also reserve them the right to prosecute the claimant for slander.

The court may also, ex officio, order proceedings, against the claimant, in accordance with the provisions of the Criminal Code.

Article 639.

In case 2 of article 637, if it turns out that the act constitutes a misdemeanour, an order will be made to refer the case to the competent municipal Judge to hold the relevant trial.

Article 640.

In case 3 of article 637, dismissal will be limited to the perpetrators, accomplices or accessories who are undoubtedly exempt from criminal liability and the case will continue with respect to the others who so not fall within the same case. The provisions of article 638 are applicable to the accused who are declared exempt from liability.

Article 641.

Provisional dismissal will apply where:

1. The perpetration of the crime giving rise to initiation of the case is not duly justified.

2. The pre-trial proceedings show that a crime was committed and there is not sufficient evidence to accuse a specific person, or persons, as perpetrators, accomplices or accessories.

Article 642.

When the Public Prosecution Service request dismissal in accordance with the provisions of article 637 and 641, and no private complainant has appeared who is disposed to sustaining the accusation, the Court may order that the Public Prosecution Service's claim is made known to the parties interested in the criminal proceedings being held, so that, within the prudential time limit given to them, they may defend their action if they consider this to be appropriate.

If they do not appear within the time limit set, the Court will order the dismissal sought by the Public Prosecution Service.

Article 643.

Where, in the case referred to in the previous article, the whereabouts of the parties interested in the criminal proceedings being held is unknown, they will be summoned by public notices which will be published on the doors of the Court itself, in the local newspapers or in those of the capital of the province and may also be published in the Madrid Gazette.

Once the time limit to attend has passed and the interested parties have not appeared, the provisions of the previous article will apply.

Article 644.

Where the Court conceives that the request of the Public Prosecution Service relating to dismissal is inappropriate and there is no private claimant to sustain the action, prior to agreeing to dismissal it may decide whether to refer the case to the Prosecutor

for the relevant Regional Court, if the case is heard before a Criminal Court, or for the Supreme Court, if it is heard before a Regional Court, so that, hearing its result, one or the other may decide whether or not the accusation is appropriate. The Prosecutor consulted will make their decision known to the consulting Court and return the case to them.

Article 645.

If a private claimant appears to uphold the action, or where the Public Prosecution Service is of the opinion that initiation of the oral trial is appropriate, the Court may, nevertheless, order the dismissal referred to in number 2 of article 637, if it considers it to be appropriate.

In any other case, it may not dispense with initiation of the trial.

TITLE XII

General provisions for the previous titles

Article 646.

Apart from the advance transcripts of the cases that the Court Clerk is under the obligation to send to the Prosecutor at the relevant Court, they must also send them special testimony of all appealable court decisions and orders, or which refer to expert opinions or examinations which are of interest to them in order to exercise their rights as prosecutor, where they cannot be notified directly, without this staying such legal measures being carried out, unless the Prosecutor has reserved the right to intervene in them beforehand and no prejudice of suspension is incurred.

Article 647.

The time limit for appeal by the Prosecutor who is not in the same place as the Examining Magistrate will start from the day following that on which testimony of the appealable court decision or order are received. The appeal will be lodged in a writ addressed to the Judge with a respectful notification.

In all cases, receipt of testimonies of this type will be acknowledged on the same day as they are received.

Article 648.

Prosecutors will keep a register and make a note of the parts forming the case received by them, the most noteworthy advance transcripts sent to them by the Court Clerks, particularly those set out in article 646, and the responses which, in turn, they issue, or appeals lodged.

BOOK III
ON THE ORAL TRIAL

TITLE I
On classification of the crime

Article 649.

When the oral trial is ordered to be opened, the Court Clerk will notify case to the Prosecutor, or the private prosecutor if it is for a crime which cannot be prosecuted ex officio, so that, within a time limit of five days, they classify the facts in writing.

Once this decision is issued, all acts in the proceedings will be public.

Article 650.

The bill of particulars will be limited to deciding in precise, numbered conclusions:

1. The punishable acts arising from the pre-trial proceedings.

2. The legal classification of those acts, determining which crime they constitute.

3. The participation that the accused party, or parties, if there are several, may have had in them.

4. The facts arising from the pre-trial proceedings which constitute mitigating or aggravating circumstances of the crime or which exclude criminal liability.

5. The sentences which may be incurred by the accused party, or parties, if there are several, due to their respective participation in the crime.

The private prosecutor, as appropriate, and the Public Prosecution Service, were upholding civil action, will also state:

1. The amount they assess for damages caused by the crime, or the thing which must be reinstated.

2. The person or persons who appear to be liable for the damages or the reinstatement of the thing, and the act by virtue of which they have incurred such liability.

Article 651.

Once the case is returned by the Prosecutor, the Court Clerk will pass it on, for the same length of time and for the same purpose, to the private prosecutor, if there is one, who will submit the bill of particulars, signed by their Lawyer and Procurator in the manner indicated above.

If there is a civil claimant, the case will be passed to them when returned by the Prosecutor, or private prosecutor, so that, in turn, within the same time limit set in the previous articles and in the same manner, they may submit numbered conclusions concerning the two last points of the previous article.

Article 652.

The Court Clerk will immediately notify the case to the accused and the third persons with civil liability, so that, within the same time limit and in order they also declare, in conclusions bearing the same numbers as those referring to them in the classification, whether or not they are in agreement with each one, or, otherwise, state their points of disagreement.

The Court Clerk will deal with the appointment, for this purpose, of a Lawyer and Procurator, if they do not have one.

Article 653.

The parties may, on each one of the points subject to classification, submit two or more alternative conclusions, so that if the first is not appropriate to the trial, any of the others may be admitted in the judgment.

Article 654.

The Court Clerk, when transferring the case to the parties in compliance with the provisions of the previous articles, will do what they consider necessary so that the parties may examine the correspondence, books, papers and other pieces of evidence without risk of alteration to their condition.

Article 655.

If the sentence requested by the prosecuting parties is correctional in nature, when the accused's representative completes transfer of the classification they may state their absolute conformity with the crime that is most seriously classified, if there is more than one, and with the sentence requested. The defence Lawyer will also question whether, notwithstanding this, it is conceived necessary to continue with the trial.

If it is not conceived necessary, the Court, after ratification from the accused, will, without further ado, pass the appropriate sentence according to the mutually accepted classification, but may not impose a heavier sentence than that sought.

If this is not appropriate according to the classification, and a heavier one applies, the Court will order the trial to continue.

The trial will also continue if there are several accused and not all of them state their conformity.

Where the accused party, or parties, solely dissent with respect to civil liability, the trial will be limited to evidence and discussion of the points relating to that liability.

Article 656.

The Public Prosecution Service and the parties, in their respective writs of classification, will state the evidence they wish to avail of, submitting lists of experts and witnesses who must testify at their instigation.

The lists of experts and witnesses will state their names and surnames, nickname, if they are known by one, and their domicile or residence. The party submitting them will also state if the experts and witnesses must be summoned by the court or if they will ensure that they attend.

Article 657.

Each party will submit as many copies of the lists of experts and witnesses as there are parties to the case, and will deliver one of these copies to each one of them on the same day they were submitted.

The original lists will be included on the case file.

The parties may also request that such measures of enquiry which, for whatever reason, there is reason to fear that they may not be carried out in the oral trial, or may cause its suspension, be taken as a matter of course.

Article 658.

Once the writs of classification have been submitted, or the case has been collected from whoever held it once the time limit shown in article 649 has passed, the Court Clerk will issue a certification taking the classification as made, and will order the case to be passed to the reporting judge, for a period of three days, to examine the proposed evidence.

Article 659.

Once the Reporting Judge has returned the case, the Court will examine the proposed evidence and immediately issue an order, admitting that considered relevant and rejecting the rest.

To reject proposals by the private prosecutor, the Public Prosecutor must be heard, if they intervene in the case.

There can be no appeal against the part of the order admitting evidence or ordering measures to be taken as provided for in the third paragraph of article 657.

In its day, an appeal in cassation may be lodged against the evidence rejected or the refusal to carry out further measures for evidence, if this is prepared promptly with the relevant protest.

At sight of this Order, the Court Clerk will sent the day and time on which the oral trial sessions must commence, subject to the provisions of article 182 of the Civil Procedure Act.

The general criteria and specific, particular instructions given by the Presidents of the Chamber or Section, in accordance with which the date will be set, will also take into account:

1. Imprisonment of the accused;
2. Ensuring their presence at the disposal of the court;
3. Other personal precautionary measures adopted;
4. The priority of other cases;
5. The complexity of the evidence proposed or any modifying circumstance, depending on what they determine once the matter has been studied or the case concerned.

At any event, even if they are not a party to the proceedings nor shall they intervene, the Court Clerk must inform the victim in writing of the date and time the trial will be held.

Article 660.

The Court Clerk will issue the requests or orders needed to summons the experts and witnesses designated by the party for that purpose.

The requests or orders will be sent ex officio for their completion, unless the party requests them to be delivered to them.

In this case, the Court Clerk will indicate a time limit within which they must be completed and returned.

Article 661.

The summons to the experts and witnesses will be served in the manner provided for in title VII of book I.

Experts and witnesses summoned who do not appear, without a legitimate cause preventing them from doing so, will incur the fine shown in number 5 of article 175.

If they are summoned again and also do not appear, they will be prosecuted for the crime of obstruction of justice, described in article 463.1 of the Criminal Code.

Article 662.

The parties may challenge any of the experts appearing on the lists for any of the reasons mentioned in article 468.

The challenge must be made within three days following delivery to the challenger of the list containing the name of the person challenged.

Once the challenged has been asserted, the Court Clerk will send the writ to the party attempting to use the challenged expert for the same period of time.

Once this time has passed, and the orders have been returned or collected, evidence will be received for six days, during which each one of the parties may testify as they deem fit.

Once the evidence period has passed, the Court Clerk will indicate a day for the hearing, which the parties and their defence may attend, and the Court will decide on the incident within the legal time limit.

There can be no appeal against this court order.

Article 663.

If an expert is not challenged within the time limit set in the previous article, they may not be challenged subsequently, unless they incur in some cause for challenge later on.

Article 664.

The Court will also order that the accused who are imprisoned are immediately taken to the prison in the district where the case must continue, with the Court Clerk summoning them for that purpose, along with those who are in conditional liberty, so that they appear on the day indicated, and will also notify the guarantors or owners of the assets given in guarantee of the order, issuing such requests and orders as are necessary for these purposes.

An absence of the summons indicated in the previous paragraph will be grounds for cassation, if the party who is not summoned does not appear at the trial.

Article 665.

Where, when the writs of classification have been submitted and the proposed evidence examined, the President of the Court or Criminal Court believes that it is appropriate to constitute a section in a specific location to hold the trial, this will be ordered and made known the Ministry of Justice.

TITLE II

On articles of pre-trial rulings

Article 666.

Only the following matters or exceptions will be subject to pre-trial rulings:

1. Pleas as to jurisdiction.
2. Res judicata.
3. The expiry of the statute of limitations on the crime.
4. Amnesty or pardon.
5. The absence of administrative authorisation to prosecute in the cases where it is necessary, in accordance with the Constitution and particular Laws.

Article 667.

The points set out in the previous article may be raised within a period of three days from delivery of the orders for classification of the acts.

Article 668.

The person making the claim will attach the documents justifying the facts on which it is grounded to the writ and, if they do not have them at their disposal, will clearly and specifically state the archive or office where they are to be found, requesting the Court to claim the originals or certified copies, as appropriate, from the relevant person.

They will also submit as many copies of the writ and the documents as there are representatives of the parties to the proceedings. Such copies will be delivered to them on the day of submission and the Court Clerk will make a record to that effect.

Article 669.

The representatives of the parties who have received such copies will respond within three days, also attaching the documents on which they ground their pleas, if they have them in their possession, or designating the archive or office where they are to be found, requesting, in this case, the Court to claim them under the terms set out in the previous article.

Article 670.

Once the three day time limit has passed, the Court will allow or dismiss the claim for documents, depending on whether or not it considers them necessary for the ruling.

If the documents are not submitted, or the place where they are to be found is not designated, the alleged exception will not have suspensory effects.

Article 671.

If the Court allows the claim for documents, it will receive the article on trial for the time needed, which may not exceed eight days.

The Court will, in the same order, order appropriate communications to be sent to the Heads, or those in charge, of the archives or offices where the documents are to be found, stating whether they must send the originals or certified copies.

Article 672.

Where certified copies of the documents are to be sent, the parties will be advised of their right to attend the archive or office for the purpose of indicating the part of the document to be issued as a certified copy, unless it is necessary to copy the entire document, and to witness the comparison of the two.

Witness evidence will not be admitted for pre-trial rulings.

Article 673.

Once the time limit for evidence has passed, the Court Clerk will immediately set a day for the hearing in which the defence counsel for the parties, if requested by them, may set out their position.

Article 674.

On the day following the hearing, the Court will pass an order deciding on the matters raised.

If they include a plea as to jurisdiction, the Court will decide on this prior to any others.

Where this is deemed appropriate, they will order that the records be sent to the Court or Judge considered to be competent and will abstain from deciding on the others.

Article 675.

Where it is declared that there is cause for any of the exceptions included under numbers 2, 3 and 4 of article 666, the case will be dismissed, ordering that the accused party, or parties who are not imprisoned for a different case be released.

Article 676.

If the Court does not uphold the declinatory plea as sufficiently justified, it will declare that it is inappropriate, confirming its competence to hear the crime.

If it deems that any other is unjustified, it will simply declare that its admission is inappropriate, ordering, as a consequence, that the case continues as it was.

An appeal may be lodged against the order deciding on the declinatory plea and against the order admitting exceptions 2, 3 and 4 of article 666. There can be no appeal whatsoever against the order dismissing them except for the appeal allowed against the sentence, without prejudice to the provisions of article 678.

Article 677.

If the Court deems the claim of lack of authorisation to prosecute appropriate, it will order that this defect be rectified immediately and the case will be suspended and will continue from that point once authorisation is granted.

If this is requested but denied, all prior proceedings will be null and void and the case will be dismissed.

There can be no appeal against the order dismissing this exception and the provisions of the second paragraph of the previous article will apply.

Article 678.

The parties may reproduce pre-trial matters which have been dismissed at the oral trial, as a means of defence, with the exception of the declinatory plea.

The foregoing will not be applicable in cases which are the competence of a Jury Court, without prejudice to such allegations as may be made when appealing against the sentence.

Article 679.

Once pre-trial matters have been dismissed, the case will once again be sent to the party alleging them, for a period of three days, for the purpose provided for in article 649.

TITLE III
On holding the oral trial

CHAPTER I
On publicity of the deliberations

Article 680.

The deliberations in the oral trial will be public, on pain of nullity, without prejudice to the provisions of the following article.

Article 681.

1. The Judge or Court may order, ex officio or at the request of any of the parties, having heard them, that all or some of the acts or sessions of the trial are held in closed session, where this is demanded for reasons of safety or public order, or adequate protection of the fundamental rights of those appearing, in particular, the victim's right to privacy and due respect to them or their family, or it is necessary to prevent significant harm to the victims which, otherwise, may arise from the ordinary course of proceedings. Nevertheless, the Judge or President of the Court may authorise the presence of persons proving a special interest in the case. The foregoing restriction, without prejudice to the provisions of article 707, will not apply to the Public Prosecution Service, persons injured by the crime, the accused, the private prosecutor, the civil claimant and the respective defence counsels.

2. Furthermore, adoption of the following measures to protect the victim's privacy, and that of their family, may be ordered:

a) Prohibition on disclosure or publication of information relating to the victim's identity, to data which may provide their identification either directly or indirectly, or to such personal circumstances as may have been assessed to decide on their need for protection.

b) Prohibition on obtaining, disclosing or publishing images of the victim or their family.

3. It is, in all cases, prohibited to disclose or publish information relating to the identity of victims who are minors or victims with disabilities needing special protection, to data which may provide their identification, either directly or indirectly, or to such personal circumstances which have been assessed to decide on their need for protection, as well as obtaining, disclosing or publishing there, or their families, images.

Article 682.

The Judge or Court, having heard the parties, may restrict the presence of audio-visual communications media in the court sessions and prohibit recording of all or some of the hearings, where this is essential to preserve order in the sessions and the fundamental rights of the parties and others appearing, in particular, the victims' right to privacy and due respect to them or their family, or the need to prevent significant harm to the victims which, otherwise, may arise from the ordinary course of proceedings. For these purposes, it may:

a) Prohibit recording of sound or images when specific evidence is being taken, or determine which measures or proceedings may be recorded and broadcast.

b) Prohibit images being taken and broadcast of one or any of the persons intervening.

c) Prohibit the identity of the victims, witnesses or experts or any other person intervening in the trial be made known.

CHAPTER II
On the powers of the President of the Court

Article 683.

The President will direct deliberations taking care to prevent inappropriate discussions which do not lead to clarifying the truth, without restricting the freedom needed by the defence counsel for the defence.

Article 684.

The President will have all the powers needed to preserve or re-establish order in the sessions and maintain due respect for the Court and the other public powers. They may immediately impose a fine of 5,000 to 25,000 pesetas on infringements which do not constitute a crime, or which are not allotted a special penalty under the Law.

The President will call to order all such persons who disrupt it and may make them leave the premises, if they deem this to be appropriate, without prejudice to the fine referred to in the previous article.

They may also order that any person offending during the session be detained immediately and placed at the disposal of the competent Court.

All parties appearing in the oral trial, in whatever capacity, including the military, will be subject to the disciplinary jurisdiction of the President. If order is disturbed by an act constituting a crime, they will be expelled from the premises and handed over to the competent Authority.

Article 685.

All persons questioned or addressing the Court must do so standing up.

The Public Prosecution Service, defence counsel for the parties and persons who the President exempts from this obligation for special reasons are excepted.

Article 686.

Shows of approval or disapproval are prohibited.

Article 687.

Where the accused disrupts order with inappropriate behaviour and persists in doing so in spite of the cautions from the President and the warning that they will be made to leave the premises, the Court may decide to expel them for a certain time, or for the entire duration of the sessions which will continue in their absence.

CHAPTER III

On the manner of taking evidence during the oral trial

Section 1. On confession by the accused and persons with civil liability

Article 688.

On the day given to commence the sessions, the Court Clerk will ensure that the pieces of evidence gathered are on the Court premises and the President, at the appropriate moment, will declare the session to be open.

Where the case to heard is for a crime carrying the punishment of imprisonment, the President will question each one of the accused if they plead guilty of the crime attributed to them in the bill of particulars, and civilly liable for the restitution of the thing or payment of the amount set in that writ for damages.

Article 689.

If in the case, apart from the prosecutor's classification, there is another from a private complainant or various classifications from complainants of this type, the accused will be asked if they plead guilty to the crime, in line with the most serious classification, and civilly liable for the largest amount set.

Article 690.

If there is more than one crime charged to the accused in the bill of particulars, the same questions will be asked in respect of each one.

Article 691.

If there are several accused, each one will be asked about the participation they are accused of.

Article 692.

If any other person is charged in the civil liability classification, they will also appear before the Court and state if they are in agreement with the conclusions of the classification that are of interest to them.

Article 693.

The President will ask the questions mentioned in the previous articles clearly and precisely, demanding a categorical answer.

Article 694.

If there is only one accused in the case and they answer in the affirmative, the President of the Court will ask the defence counsel if they consider it necessary to continue with the oral trial. If they answer in the negative, the Court will proceed to pass sentence in the terms set out in article 655.

Article 695.

If criminal liability is accepted, but not civil, or, accepting the latter, the amount fixed in the classification is not agreed to, the Court will order the trail to continue.

However, in this latter case, deliberations and the production of evidence will be centred on the facts relating to the civil liability that the accused has not admitted, in accordance with the conclusions of the classification.

Once the hearing has concluded, the Court will pass sentence.

Article 696.

If the accused does not plead guilty to the crime they are accused of in the classification, or their defence considers it necessary for the trial to continue, then it will continue.

Article 697.

Where there are several accused in the same case, if all of them plead guilty to the crime or crimes they are accused of in the writs of classification, and they acknowledge the participation attributed to them in the conclusions, the provisions of article 694 will be followed, unless their defence counsel consider it necessary for the trial to continue.

If any of the accused does not plead guilty to the crime they are accused of in the classification, or their defence counsel considers it necessary for the trial to continue, proceedings will continue in accordance with the provisions of the previous article.

If dissent is solely in relation to civil liability, the trial will continue in the manner and for the purposes set out in article 695.

Article 698.

The trial will also continue where the accused party, or parties do not wish to answer the questions they are asked by the President.

Article 699.

The procedure will be the same if, in the pre-trial proceedings, it was not possible to record the existence of the corpus delicti, where the crime was committed and therefore it should have existed, even though the accused party or parties and their defence counsel are in agreement.

Article 700.

Where the accused party or parties have confessed their liability in accordance with the conclusions of the classification, and their defence counsel do not consider it necessary for the trial to continue, but the person solely charged with civil liability has not appeared before the Court, or did not agree with the conclusions on liability in the bill of particulars, the procedure will be in accordance with the provisions of article 695.

If, having appeared, they refuse to answer the President's questions, they will be warned that they will be declared guilty.

If they persist in their refusal, they will be declared guilty and the case will be judged in accordance with the provisions of article 694.

The same will occur where the accused, having confessed to criminal liability, refuses to answer regarding civil liability.

Section 2. On cross-examination of the witnesses

Article 701.

When the trial must continue, whether due to lack of agreement by the accused with the charge, or due to it dealing with a crime where a prison sentence has been requested as punishment, it will continue as follows:

Account will be given of the facts grounding initiation of the pre-trial proceedings, and the day on which investigation commenced, and also whether the accused is in prison or conditional liberty, with or without bail.

The writs of classification and the lists of experts and witnesses appearing in due time will be read out, describing the evidence put forward and admitted.

Following on, measures of enquiry shall be taken and the witnesses cross-examined, beginning with that offered by the Public Prosecution Service, followed by the other claimants and, finally, by the accused.

The evidence from each party will be taken in the order they were proposed in the relevant writ. The witnesses will also be cross-examined in the order in which their names appear on the lists.

The President, nevertheless, may change this order at the request of a party, and even ex officio, when they consider it appropriate for greater clarification of the facts or for more certain discovery of the truth.

Article 702.

All those who, in accordance with the provisions of articles 410 to 412, inclusive, are under the obligation to testify will do so by appearing before the Court, with the only exception being the persons mentioned in paragraph 1 of article 412, who may do so in writing.

Article 703.

Notwithstanding the provisions of the previous article, if the persons mentioned in paragraph 2 of article 412 had, due to their positions, knowledge of the facts in question, they may provide this in a written report which will be read immediately prior to continuing with cross-examination of the other witnesses.

Notwithstanding the foregoing, in the cases provided for in paragraphs 3 and 5 of article 412, summoning the persons referred to therein as witnesses will be done in such a way as does not disrupt the proper performance of their duties.

Article 704.

Witnesses who must testify in the oral trial will, until they are called to give testimony, remain in premises for that purpose, and will not communicate with those who have already testified or with any other person.

Article 705.

The President will call them to testify one by one in the order stated in article 701.

Article 706.

When the witness, who is over fourteen years of age, appears before the court, the President will receive their oath in the manner set out in article 434.

Article 707.

All witnesses are under the obligation to testify everything they know about what they are asked, with the exception of the persons set out in articles 416, 417 and 418, in their respective cases.

Testimony by witnesses who are minors or disabled needing special protection, will be taken, where necessary to prevent or reduce such harm as may arise for them in the performance of the proceedings or evidence taking, avoiding their visual confrontation with the accused. For this purpose, any technical means may be used which makes it possible to take the evidence, including the possibility that the witnesses may be heard without being present in the Chamber by using communications technologies.

These measures are also applicable to the victims' testimony where the need for these protection measures arises from their initial or later assessment.

Article 708.

The President will ask the witness about the circumstances set out in the first paragraph of article 436, after which the party calling them may ask them such questions as they deem fit. The other parties may also ask such questions as they deem fit and which are appropriate in the light of their answers.

The President, themselves or triggered by any of the members of the Court, may ask the witnesses such questions as they deem appropriate to clarify the facts on which they are testifying.

Article 709.

The President will not allow a witness to answer questions or cross-examinations which are loaded, leading or irrelevant.

The President may adopt measures to prevent the victim being asked unnecessary questions about their private life which are not relevant to the criminal act under trial, unless the Judge or Court, exceptionally, consider that they must be answered for adequate assessment of the facts or the credibility of the victim's testimony. If these questions are asked, the President will not allow them to be answered.

An appeal in cassation may subsequently be lodged against the decision on this point, if the relevant protest is made immediately.

In this case, the question or cross-examination that the President prohibited answering will be set down in the court record.

Article 710.

Witnesses will give grounds for what they say and, if making a reference, will specify the origin of the information, designating the person that notified them, their name and surname, or the signs of identity that they are known by.

Article 711.

Deaf and dumb witnesses, or who do not know the Spanish language, will be cross-examined in the manner provided for in article 440, the first paragraph of 441 and article 442.

Article 712.

The parties may request that the witness identifies the instruments or effects of the crime or any other piece of evidence.

Article 713.

In confrontations of the witness with the accused, or the witnesses amongst themselves, the President will not permit insults or threats to be made, with the measure being limited directing the charges at those in confrontation and making such observations as are appropriate to reaching agreement and discovering the truth.

Confrontations will not be held with witnesses who are minors, unless the Judge of Court considers this to be essential and not adverse to the interests of such witnesses, having received an expert report beforehand.

Article 714.

Where the testimony of the witness in the oral hearing does not substantially match that given in the pre-trial proceedings, any of the parties may request that the latter be read.

Once read, the president will invite the witness to explain the difference or contradiction observed between their testimonies.

Article 715.

As long as witnesses testifying in the pre-trial proceedings also appear to testify on the same facts in the oral trial, they may only be proceeded against as alleged perpetrators of the crime of false testimony where this is given at that trial.

Outside the case provided for in the previous paragraph, in other cases witnesses may be found to have liability, in accordance with the provisions of the Criminal Code.

Article 716.

A witness who refuses to testify will incur a fine of 200 to 5,000 Euros, which will be imposed immediately.

If, in spite of this, they persist in their refusal, they will be charged as perpetrators of the crime of serious disobedience to the Authority.

Article 717.

The statements of the Authorities and members of the Judiciary Police will have the value of witness statements, and be appreciable as such according to the rules of reasonable criteria.

Article 718.

Where the witness has not appeared due to the impossibility of doing so, and the Court considers that their testimony is significant to the success of the trial, the President will appoint one of the court's number so that, by going to the witness' residence, if they live in the locality of the trial, the parties may ask such questions as they deem appropriate.

The Court Clerk will draw up a record, noting the questions and cross-examinations put to the witness, their answers and such incidents as may have occurred in the act.

Article 719.

If the witness who cannot attend the session does not reside in the place where this is held, the Court Clerk will issue a writ or order for them to be cross-examined by the relevant Judge, subject to the provisions contained in this section.

Where the party or parties prefer that the writ or order contains the questions or cross-examinations in writing, the President will agree to them as long as they are not loaded, leading or irrelevant.

Article 720.

The provisions of the preceding articles will also be applicable in the case that the Court orders the witness to testify or carry out some examination in a specific place which is outside that where the hearing is being held.

Article 721.

Where any question is dismissed as being loaded, leading or irrelevant in the three cases above, an appeal in cassation may be prepared in the manner provided for in article 709.

Article 722.

Witnesses appearing to testify before the Court will have the right to compensation, if they claim it.

The Court Clerk will set this by order, solely taking into account travel expenses and the amount of working days lost by the witness due to appearing to testify.

Section 3. On the expert report

Article 723.

Experts may be challenged for the reasons and in the manner provided for in articles 468, 469 and 470.

Substantiation of the challenges will take place precisely during the time between the admissions of the evidence given by the parties until the sessions are opened.

Article 724.

Experts who have not been challenged will be cross-examined together, when they must testify on the same facts, and will answer such questions and cross-examinations as the parties direct to them.

Article 725.

If, in order to answer them, it is considered necessary to carry out an examination, they will do so, immediately, on the premises of the hearing itself, if possible.

Otherwise, the session will be suspended for the time needed, unless other evidence can be taken while the experts verify the examination.

Section 4. On documentary evidence and visual inspection

Article 726.

The Court will itself examine the books, documents, papers and other pieces of evidence which may contribute to clarifying the facts or more certain investigation of the truth.

Article 727.

For visual inspection evidence which was not taken prior to the sessions opening, if the place where it must be inspected is in the capital, the Court will go there with the parties and the Court Clerk will draw up a record expressing the place or thing inspected, recording the observations of the parties and any other incidents occurring.

If the place is outside the capital, the parties will go there with a member of the Court appointed by the President, with the investigation being carried out in the manner set out in the previous paragraph.

For everything else, in as far as necessary, the provisions of title V of chapter I of book II will apply.

Section 5. On provisions common to the four preceding sections

Article 728.

No other measures of enquiry may be carried out than those proposed by the parties, nor may witnesses other than those included in the lists submitted be cross-examined.

Article 729.

The following are excepted from the provisions of the previous article:

1. Confrontations of witnesses amongst themselves or with the accused or amongst the accused, agreed to by the President ex officio or at the request of any of the parties.

2. Measures of enquiry not proposed by any of the parties which the Court considers necessary to corroborate any of the facts which were the subject of the writs of classification.

3. Measures of enquiry of any type offered by the parties in the act to accredit any circumstance which may influence the probative value of the testimony of a witness, if the Court considers them admissible.

Article 730.

Evidence taken in the pre-trial proceedings may also be read or reproduced, at the request of any of the parties, which, for reasons out of their control, cannot be reproduced at the oral trial, as may the statements received in accordance with the provisions of article 448 during the investigation phase from underage victims and disable victims needing special protection.

Article 731.

The Court will adopt the measures necessary to prevent the accused who are in conditional liberty absenting themselves or stop appearing at the sessions, from when they commence until judgment is passed.

Article 731 *a.*

The Court, ex officio or at the request of a party, for reasons of practicality, security or public order, and in such cases where the appearance of whoever must intervene in any kind of criminal proceedings as the accused, witness, expert, or in any other capacity, is particularly onerous or prejudicial, and, particularly, where a minor is concerned, may agree that the appearance is made via video conference or other similar systems allowing two-way, simultaneous communication of sound and vision, in accordance with the provisions of paragraph 3 of article 229 of the Judiciary Act.

CHAPTER IV
On the prosecution, the defence and the sentence

Article 732.

Once the measures of enquiry have been carried out, the parties may amend the conclusions in the writs of classification.

In this case, they will come to new conclusions in writing and deliver them to the President of the Court.

The conclusions may be drawn in an alternative manner in accordance with the provisions of article 653.

Article 733.

If, judging from the result of the evidence, the Court perceives that the triable offence has manifestly been classified in error, the President may use the following form:

"Without being seen to prejudge the definitive ruling on the conclusions of the prosecution and the defence, the Court would like the Prosecutor and the defence counsel for the accused (or counsels to the parties if there are several of them) to illustrate to it whether the act at trial constitutes the crime of... or if there exists the exemption from liability referred to in number ... of article ... of the Criminal Code."

This exceptional power, which the Court will use in moderation, does not extend to cases for crimes which may only be prosecuted at the request of a party, nor does it apply to the errors which may have been committed in the writs of classification, but to appreciation of attenuating and aggravating circumstances and regarding the participation of each one of the accused in carrying out the public crime which is under trial.

If the Prosecutor, or any of the defence counsel for the parties, indicate that they are not sufficiently prepared to deliberate on the question posed by the President, the session will be suspended until the following day.

Article 734.

When the time comes to report, the President will call on the Prosecutor, if they are a party to the case, to speak, and, afterwards, the defence counsel for the accused, if there is one.

In their briefs they will put forward the facts which they consider proven in the trial, their legal classification, the participation of the accused in them and the civil liability incurred by them or other persons, along with the things subject to it, or the amount in which they must be regulated when the informants or their representatives also take civil action.

Article 735.

The President will then call the defence counsel for the civil claimant, if there is one, to speak and they will limit their brief to the points relating to civil liability.

Article 736.

Immediately afterwards the defence counsel for the accused will be called to speak and, after them, the defence for the persons who are civilly liable, if they are all defended by a single counsel.

Article 737.

The briefs of the defence counsel for the parties will contain the conclusions which have been definitively reached and, as appropriate, that proposed by the President of the Court in accordance with the provisions of article 733.

Article 738.

After these briefs, the parties will only be allowed to rectify facts and concepts.

Article 739.

Once the prosecution and defence have concluded, the President will ask the accused if they have anything to declare to the Court.

If they answer in the affirmative, they will be called to speak.

The President will ensure that the accused, when speaking, do not offend good morals or show a lack of due respect to the Court or the consideration due to all persons, and that they adhere to what is relevant, ordering them to stand down if necessary.

Article 740.

After the defence counsel for the parties and the accused, as appropriate, have spoken the President will declare the trial concluded for sentencing.

Article 741.

The Court, appraising the evidence given during the trial in good conscience, the reasons put forward for the prosecution and defence and the statements by the accused themselves, will pass sentence within the time limit set in this Law.

Whenever the Court uses the freedom of decision granted to it by the Criminal Code to classify the crime or imposed sentence, it must record whether it has taken the elements of the case into consideration which it obliged to take into account under the applicable precept of the Code.

Article 742.

The judgment will decide on all the matters which have been the subject of the trial, convicting or acquitting the accused, not only for the main and related crimes, but also for incidental misdemeanours which may have been heard in the trial, but the Court may not at this stage use the form for dismissal with respect to the accused who it believes should not be convicted.

The judgment will also decide on all matters relating to the civil liability which was the subject of the trial.

The provisions of the fifth paragraph of article 635 on the destination of pieces of evidence which involve, due to their nature, serious danger to the interests expressed within it, will be applicable to acquittals.

The Court Clerk will notify the judgment in writing to those aggrieved or harmed by the crime, even if they were not a party to the case.

Article 743.

1. The proceedings in the oral trial sessions will be recorded on media suitable for recording and reproduction of sound and vision. The safekeeping of the electronic document serving as a medium for the recording shall be the Court Clerk's responsibility. The parties may request copies of the original recordings at their own expense.

2. As long as the necessary technical means are available, the Court Clerk shall ensure the authenticity and integrity of whatever may have been recorded or reproduced through the use of recognised electronic signatures or any other security system offering such guarantees under the law. In such a case, the holding of a hearing shall not require the Court Clerk's presence in the chamber, unless the parties have requested it at least two days before the hearing is to be held or, exceptionally, should the Court Clerk deem it necessary due to the complexity of the matter, the amount and nature of the evidence to be taken, the number of people involved, the possibility of any incidents that cannot be recorded coming about or the existence of any other equally exceptional circumstances that may justify it, in which case the Court Clerk will draw up summary minutes under the terms provided for in the following paragraph.

3. Should it be impossible to use the guarantee mechanisms provided for in the preceding paragraph, the Court Clerk shall state, at least, the following details in the record: proceedings number and type; place and date it was held; duration, those present at the hearing; pleas and proposals by the parties; in the case of evidence being offered, statement of relevance and order in taking it; decisions reached by the Judge or Court; and the circumstances and incidences which it was not possible to record on the media.

4. Where the means of recording provided for in this article cannot be used for any reason, the Court Clerk will draw up minutes of each session, including, with the necessary extent and detail, the essential content of the evidence taken, the incidences and claims made and the decisions adopted.

5. The minutes provided for in paragraphs 3 and 4 of this article will be drawn up using computerised procedures and may not be hand written, with the exception of occasions on which the chamber where the proceedings are held does not have computer resources. In these cases, when the session ends, the Court Clerk will read the minutes, making such rectifications to it as the parties call for, if they consider these to be appropriate. The minutes will be signed by the President and members of the Court, the Prosecutor and the defence counsel for the parties.

CHAPTER V
On suspension of the oral trial

Article 744.

Once the oral trial is open, it will continue for as many consecutive sessions as are needed up to its conclusion.

Article 745.

Notwithstanding the provisions of the previous article, the President of the Court may suspend opening the sessions when the parties, for reasons outside their control, do not have the evidence offered in their respective writs ready.

Article 746.

Suspension of the oral trial will also be appropriate in the following cases:

1. When, during deliberations, the Court has to resolve on any incidental matter which, due to reasoned grounds, cannot be decided on at the hearing.

2. When, in accordance with this Code, the Court, or any of its members, must carry out any enquiry outside the place where the sessions are held which cannot be verified in the time between one session and the other.

3. When the witnesses for the prosecution and defence put forward by the parties do not appear and the Court considers that it is necessary for them to testify.

Nevertheless, the Court may, in this case, order the trial to continue and other evidence to be taken, and once this has been done suspend the trial until the absent witnesses appear.

If the non-appearance of the witness is due to the reason set out in article 718, the procedure will be as provided for in that, and the two following articles.

4. When any member of the Court, or the defence counsel for any of the parties, suddenly becomes ill to the point that they cannot continue to take part in the trial, and the latter cannot be replaced without serious disadvantage to the defence of the interested party.

The provisions of this sub-paragraph with respect to the parties' defence counsel is also applicable to the Prosecutor.

5. When any of the accused falls under the case in the previous number, in as much as they cannot be present at the trial.

Suspension will only be ordered for this reason after having heard the practitioners appointed ex officio to examine the patient.

6. When unexpected revelations or retractions cause substantial alteration to the trial, making new evidence or a supplementary instruction for enquiries necessary.

The trial will not be suspended due to the illness or non-appearance of any of the accused summoned personally, as long as the Court deems, having heard the parties and placing the reasons for the decision on the trial record, that there exist sufficient elements to be able to try them separately.

Where the accused is an incorporated entity, the provisions of article 786 a. of this Law will apply.

Article 747.

In cases 1, 2, 4 and 5 of the previous article, the Court may order suspension ex officio. In all other cases it will order it is appropriate, at the request of a party.

Article 748.

The writs of stay issued will set the time for the suspension, if possible, and will determine what is appropriate for the trial to continue.

There can be no appeal against these writs.

Article 749.

Where, due to the cases provided for in numbers 4 and 5 of article 746, the trial must be suspended indefinitely, or for an unduly long time, the part of the trial held will be declared to be void.

The Court may also order this in the case of number 6, if preparation of the evidence of the supplementary instruction for enquiry requires some time.

On both cases, the Court Clerk will set a day for the new trial when the causes of the stay disappear, or the persons to be replaced can be replaced.

BOOK IV
ON THE SPECIAL PROCEEDINGS

TITLE I
On the procedure where a Senator or Member of Parliament is prosecuted

Article 750.

The Judge or Court finding motives to prosecute a Senator or Member of Parliament for a crime will abstain from conducting proceedings against them if Parliament is open, until the relevant authorisation is obtained from the Colegislative Body they belong to.

Article 751.

Where the Senator or Member of Parliament is an offender in flagrante, they may be arrested and prosecuted without the authorisation referred to in the previous article. However, the arrest or prosecution must be made known to the relevant Colegislative body within the following twenty-four hours.

The relevant Colegislative Body will also be informed about such case as is pending contrary to which, being prosecuted, the Senator or Member of Parliament may have been elected.

Article 752.

If a Senator or Member of Parliament is prosecuted during a parliamentary recess, the Judge or Court hearing the case must make it known to the relevant Colegislative Body immediately.

The same will be observed where an elected Senator or Member of Parliament is prosecuted prior to joining them.

Article 753.

At any event, the Court Clerk will stay proceedings from the day on which Parliament is informed, whether or not it is open, with the case remaining at the stage in which it is to be found, until the relevant Colegislative Body decides what it deems to be appropriate.

Article 754.

If the Senate or Congress refuse to give the authorisation requested, the case against the Senator or Member of Parliament will be dismissed, but the case will continue against the other accused.

Article 755.

The authorisation will be applied for in the form of a request, sending with it, and being confidential, the evidence of the charges against the Senator or Member of Parliament, including the opinion of the Prosecutor and the individual petitions requesting the authorisation.

Article 756.

The request will be sent via the Ministry of Justice.

TITLE II
On fast-track proceedings

CHAPTER I
General provisions

Article 757.

Without prejudice to the provision for special procedures, the proceedings regulated in this Title will be applicable to trials for crimes punished with imprisonment of not more than nine years, or any other different punishments which are unique, joint or alternative, whatever their amount or duration may be.

Article 758.

Prosecution of the crimes listed in the previous article will follow the common rules in this Law, with the amendments included under this Title.

Article 759.

In the cases included under this Title, conflicts of jurisdiction advocated between Courts and Tribunals with ordinary jurisdiction will be substantiated in accordance with the following rules:

1. Where the Court or Tribunal challenges the hearing of a case or claims a case which another is hearing, and there is doubt about which of them is has jurisdiction, if there is no agreement on the first communication sent for that reason, they will, without delay, make the matter known to their hierarchical superior in a reasoned statement, so that such superior, having heard the Prosecutor and the parties to the proceedings at a hearing which will be held within the following twenty-four hours, immediately decides as they deem appropriate, and there can be no later appeal.

   Where the matter arises in the instruction phase, each one of the courts will continue to carry out, in all cases, until the conflict is definitively settled, the relevant legal measures leading to verification of the crime, ascertaining and identifying the possible guilty parties and protecting those aggrieved or harmed by it, and both courts must reciprocally send testimony of their actions and notify each other of all measures carried out.

2. No Examining Magistrate or Criminal Court or Central Magistrate's or Criminal Court Judge may advocate conflicts of jurisdiction to the respective Higher Courts without, having heard the Public Prosecutor for one day, stating the reasons that they have to believe that they should hear the matter.

The Court Clerk will give sight of the statement and background to the Public Prosecution Service and the parties to the proceedings for a period of two days and, having heard them all, the Court, without further ado, will rule as it deems appropriate within the third day, notifying the decision to the Judge presenting it for enforcement.

3. Where any Examining Magistrate, Criminal Judge or Central Examining Magistrate or Criminal Judge is hearing a case is allotted to the jurisdiction of the respective Higher Courts the latter will, having heard the Public Prosecution Service and the parties to the proceedings for two days, limit themselves to ordering them to abstain from the case and refer the proceedings to them.

Article 760.

Once proceedings commence in accordance with the rules under this Title, as soon as it appears that the act is not included in any of the cases in article 757, they will continue in accordance with the general provisions of this Law, without retrograding proceedings further than is necessary to take evidence or carry out procedures in accordance with such legal precepts. Otherwise, once the proceedings have commenced in accordance with the common rules under this Act, they will be continue in accordance with this Title in as far as the act under trial is included in any of the cases in article 757. The change of proceedings will not involve the change of the examiner in either case.

Once proceedings have commenced in accordance with the rules of this Law, where there is an act which may constitute a crime which must be prosecuted by a Jury Court, the provisions of article 309 a. will apply.

Once the Judge or Court have agreed the procedure to be followed, the Court Clerk will immediately make this known to the Public Prosecution Service, the accused and the parties to the proceedings.

1. Criminal action, or civil action arising from it, taken by individuals, whether or not they are aggrieved by the crime, must be carried out in the manner and with the requirements provided for in Title II of Book II, stating the action being taken.

2. Without prejudice to the provisions of the previous paragraph, the Court Clerk will instruct the party aggrieved or harmed by the crime of their rights in accordance with the provisions of articles 109 and 110 and other provisions, that they may be a party to the case without the need to make a claim. The Clerk will also inform them about the possibility of, and the procedure for, applying for such aid as they are entitled to in accordance with current legislation.

Article 762.

In processing the cases referred to in this Title, Judges and Courts will observe the following rules:

1. The Judge or Court ordering any legal measure to be carried out will work directly with the Judge, Court, authority or civil servant in charge of carrying them out even though the latter are not immediate subordinates or immediately superior to the former.

2. Despatches issued will always send by the swiftest means, with applications for help being accredited by certificate where they were not requested in writing.

3. If the person being summoned has no known domicile or is not found by the Judiciary Police within the time limit set, the Judge or Court will order publication of the relevant summons by the means that it deems most suitable to reach the cognisance of the interested party, and it will only be broadcast over social communication media where this is considered to be absolutely essential.

4. The search warrants that must be issued will be placed on the computerised files of the Security Forces and, where considered appropriate, in written communications media.

5. All writs and documents submitted in the case will be accompanied by as many true copies of them, taken by any means of reproduction, as there are other parties and the Prosecutor, who will be handed them when they are notified of the decision made in the respective writ.

Omission of the copies will only give rise to them being taken by the Court Clerk, at the cost of the omitting party, if they do not submit them during a hearing.

6. To try the associated crimes included under this Title, where there are elements to prosecute them separately, and to judge each one of the accused, where there are several, the Judge may order such separate files as may be appropriate to be opened to simplify and move the procedure forwards.

7. The statements will cite the national identity document of the persons testifying, unless agents of the authority are concerned, in which case citing their professional card number will be sufficient. Where, due to any circumstance or reason there is no doubt as to the identity of the accused and it is known that they are over eighteen years old, it will not be necessary to add their birth certificate to the case. Otherwise, this certificate will be added to the file along with the relevant fingerprint record. Conclusion of the instruction will not be delayed by the lack of a birth certificate, without prejudice to the fact that when it is received it will be added to the proceedings.

8. Where the accused or witnesses do not speak or understand Spanish, the provisions of articles 398, 440 and 441 will be followed, without it being necessary for the interpreter appointed to hold an official qualification.

9. The information provided for in article 364 will only be verified where, in the opinion of the examining magistrate, there is doubt about the pre-existence of the thing subject to theft or fraud.

10. The reports and statements referred to in articles 377 and 378 will only be requested and received where the Judge considers them to be essential.

11. Where the case prosecuted arises from the use and traffic of motor vehicles, the first statement given by the drivers will also cite their driving licences, the vehicle registration document and the compulsory insurance certificate along with the document proving they are current. The compulsory insurance certificate and document proving it is current will also be cited in such other cases as the activity is covered by the same type of insurance.

Article 763.

The Judge or Court may order the arrest, or any other custodial measures, or restriction of rights, in the cases where this is appropriate in accordance with the general rules of this Law. The proceedings grounding the application of these measures will be contained in a separate file.

Article 764.

1. Furthermore, the Judge or Tribunal may take precautionary measures to secure monetary liabilities, including costs. Such measures will be agreed in a court order and will be formalised in a separate file.

2. For these purposes, the rules on content, costing and replacement securities for precautionary measures provided for in the Civil Procedure Act will apply. The securities ordered will be provided in the manner provided for in the Civil Procedure Act and may be issued by the company with which the person against whom the measure is directed is insured for civil liability.

3. In cases where civil liability is totally or partially covered by a compulsory civil liability insurance, the insurance company, or the Insurance Compensation Consortium, as appropriate, will be ordered to cover it, up to the limit of the compulsory insurance. If the guarantee demanded is higher than that limit, the person with direct or subsidiary liability will be under the obligation to provide a guarantee or bond for the difference, otherwise their assets will be attached.

The company responsible for the compulsory insurance may not, as such, be a party to the proceedings, without prejudice to their right to a defence in relation to the obligation to insure, for which purposes such writ as they may submit will be admitted and a decision made on their claim in the relevant file.

4. Immediate intervention on the vehicle and retention of its vehicle registration document may be ordered, for the time required, where this is needed to carry out an investigation on it or to secure monetary liabilities if there is no proof as to the solvency of the person investigated, or accused, or the civilly liable third party.

It may also be ordered that the driving licence be held and that the person under investigation or accused refrain from driving motor vehicles, for as long as the measure subsists, with a warning about the provisions of article 556 of the Criminal Code.

The foregoing measures, once taken, will involve withdrawal of the respective documents and their notification to the relevant administrative organisations.

Article 765.

1. In proceedings relating to acts arising from the use and traffic of motor vehicles, the Judge or Court may indicate and order the payment of such interim allowance as, depending on the circumstances, they deem necessary, in both amount and duration, to care for the victims and such persons as are in their charge. The payment of the allowance will be made in advance on the dates indicated in a discretionary manner by the Judge or Court, charged to the insurer, if there is one, and up to the limit of the compulsory insurance, or charged against the bond, or to the Insurance Compensation

Consortium, in the cases where it is civilly liable, in accordance with the provisions relating to it. The same measure may be ordered where civil liability for an act is covered by any compulsory insurance. Everything in relation to this measure will be carried out in a separate file. Lodging an appeal will not stay the obligation to pay the allowance.

2. In proceedings relating to acts arising from the use and traffic of motor vehicles, the Judge or Tribunal may, having heard the Prosecutor, authorise the accused who are not in preventive custody and who are domiciled or habitually reside abroad to leave Spanish territory. For this purpose, it will be essential that they leave sufficient guarantees for monetary liabilities of all types arising from the punishable act, appoint a person with a fixed domicile in Spain to receive such notifications, summons and orders to attend as must be served on them, with the warning contained in article 775 as to the possibility of holding the trial in their absence, and that they give a personal security, where no bond of the same type has been agreed, to cover conditional liberty and their attendance on the date or within the time limit given to them. The Judge or Court which must hear the case will make an identical allocation and under the same terms. If the accused does not appear, the amount of the security will be awarded to the State and they will be declared to be in default, applying the provisions of article 843, unless the legal requirements to hold the trial in their absence are met.

Article 766.

1. A recourse for reversal and an appeal may be lodged against the orders of the Examining Magistrate and the Criminal Judge which are not exempt from appeal. Unless the Law provides otherwise, the recourse for reversal and appeal will not stay the course of the proceedings.

2. No other appeal may be lodged as a subsidiary to that for reversal, or separately. It will never be necessary, in any case, to have lodged a recourse for reversal prior to the appeal.

3. The recourse to appeal will be submitted with the five days following notification of the order appealed, or of the decision on the recourse for reversal, by a writ putting forward the reasons for the appeal, indicating the particulars to be testified to and accompanied, as appropriate, by documents justifying the claims made. Once the Judge gives the appeal leave to proceed, the Court Clerk will pass it on to the other parties to the proceedings for a communal period of five days so that they may allege as they deem fit in writing, indicate other particulars to be testified and submit documents justifying their claims. Within the two days following the end of the time limit, testimony of the particulars given will be referred to the respective higher Court which, without further ado, will issue a decision within the following five days. Exceptionally, the higher Court may require that the proceedings are sent to it for consultation, as long as this is does not obstruct their processing. In these cases, the proceedings must be returned to the Judge within a maximum of three days.

4. If the recourse to appeal was lodged as a subsidiary to that for reversal, if the latter is completely or partially dismissed, prior to transferring it to the other parties to the

proceedings, the Court Clerk will give the appellant five days in which to make pleas and be able to submit, as necessary, documents justifying their claims.

5. If the order under appeal ordered detention of any of the parties under investigation or accused, the appellant may seek, in the writ lodging the appeal, that a hearing be held, which will be ordered by the respective higher Court. Where the court order being appealed contains other rulings on precautionary measures, the higher Court may order a hearing to be held, if they deem it to be appropriate. The Court Clerk will set the hearing for within the ten days following receipt of the case at that Court.

Article 767.

After arrest, or when there arises the charge of a crime against a specific person in the proceedings, the assistance of a lawyer will be necessary. The Judiciary Police, the Public Prosecution Service or the judicial authority will immediately request the Lawyers' Association to appoint a lawyer ex officio, if the interested party has not already appointed one.

Article 768.

The lawyer appointed for the defence will also be legally empowered to represent the defendant and it will not be necessary for a procurator to intervene until the procedure opening the oral trial. Up until then, the lawyer will fulfil the duty to indicate a domicile for the purposes of notifications and transfers of documents.

CHAPTER II

On procedures for the Judiciary Police and the Public Prosecution Service

Article 769.

Without prejudice to the provisions of Title III of Book II of this Law, as soon as it becomes aware of an act which appears to be a crime, the Judiciary Police will observe the rules provided for in this chapter.

Article 770.

The Judiciary Police will immediately go to the scene of events and will carry out the following legal measures:

1. It will request the attendance of any practitioner or health care personnel who are available to provide, if necessary, the relevant assistance to the aggrieved. The person called on, even if this was only verbally, who does not heed the request, without just cause, will be penalised by a fine of 500 to 5,000 Euros, without prejudice to any criminal liability they may incur.

2. The official record will be accompanied by photographs, or any other image reproduction or magnetic media, where this is appropriate for clarification of the punishable act and there is a risk that the sources of evidence may disappear.

3. It will, in all cases, collect the effects, instruments or evidence of the crime where there is a risk that they may disappear and hold them in safekeeping at the disposal of the judicial authority.

4. If the death of a person has occurred and the body is on the public road, the railway line or other transit areas, it will be moved to the nearest place which is most suitable, given the circumstances, the interrupted service will be resumed and immediate account will be given to the judicial authority. In exceptional circumstances, where such emergency measure must be taken, the position of the deceased will be noted, taking photographs and indicating the exact position in which they were found at the scene.

5. The personal details and addresses of the persons to be found at the scene where the act was committed will be taken, along with any other data which helps to identify and locate them, such as their usual workplace, land or mobile telephone numbers, fax number or E-mail address.

6. It will take the vehicle, if appropriate, and retain its vehicle registration document and the driving licence of the person charged with the act.

Article 771.

For as long as required and, at any event, for the duration of the detention, if any, the Judiciary Police will carry out the following legal measures:

1. It will comply with the duty of information to the victims provided for in current legislation. In particular, it will inform the parties aggrieved and injured by the crime, in writing, of their rights in accordance with the provisions of articles 109 and 110. The aggrieved party will be instructed on their right to become a party to the case without the need to make a complaint and, both the aggrieved party and the injured party, of their right to appoint a Lawyer or request appointment of a Lawyer ex officio, in the event that they hold the right to free legal aid, of their right, once a party to the proceedings, to acquaint themselves with the proceedings, without prejudice to the provisions of articles 301 and 302, and initiate whatever is in their best interests. Furthermore, they will be informed that if they do not appear in the case and they do not waive or reserve civil actions, the Public Prosecution service will take them, if appropriate.

Information on rights given to the aggrieved or injured party regulated in this article, where crimes against intellectual or industrial property are concerned and, as appropriate, being summoned or ordered to attend in the various steps of the proceedings, will be made to those persons, bodies or organisations legal representing the holders of such rights.

2. It will inform the accused who is not arrested, in the clearest possible manner, which acts they are charged with and what rights they have. In particular, they will be instructed on the rights recognised in paragraphs a), b), c) and e) of article 520.2.

Article 772.

1. The members of the Judiciary Police will request help from other members of the Security Forces when this is necessary to perform the duties entrusted to them under this Law.

2. The Police will draw up the official statement in accordance with the general rules of the Law and will deliver it to the competent Judge, place the detainees at their disposal and send a copy to the Public Prosecution Service.

Article 773.

1. The Prosecutor will appear in the proceedings to take criminal and civil actions in accordance with the Law. They will ensure respect for the procedural safeguards for the accused and for the protection of the rights of the victim and those harmed by the crime.

In this procedure, the Public Prosecution Service is responsible, in particular, for driving and simplifying proceedings without diluting the parties' right to a defence or the nature of examination and cross-examination, giving the Judiciary Police general or particular instructions for the most efficient performance of their duties, intervening in the proceedings, providing means of evidence available or requesting the Examining Magistrate to take evidence, and request the latter to adopt or lift precautionary measures and conclude the investigation as soon as it is deemed that the necessary proceedings have been carried out to rule on the criminal proceedings.

The Chief Public Prosecutor will give such orders and instructions as they deem appropriate with respect to the actions of the Prosecutor in this procedure and, in particular, with respect to the provisions of paragraph 1 of article 780.

As soon as the Judge Orders initiation of the trial proceedings before a Jury Court, the Court Clerk will make this known to the Public Prosecutor who will appear and intervene in as many acts as are carried out before it.

2. When the Public Prosecution Service receives notice of an apparently criminal act, either straightaway or when a claim or police statement is submitted to it, it will inform the victim of the rights included in current legislation; make a provision assessment and decision on the need of the victim in accordance with the provisions of current legislation and will itself or order the Judiciary Police to carry out such legal measures as it deems appropriate to prove the crime or the liability of those taking part in it. The Prosecutor will order proceedings to be filed away when the act does not constitute a crime, notifying whoever alleged being harmed or aggrieved, with a statement of this circumstance, so that they may repeat their claim before the Examining Magistrate. Otherwise, the Examining Magistrate will be requested to initiate the proceedings which are relevant when referring to the actions taken, placing the detainee, if there is one, and the effects of the crime at their disposal.

The Public Prosecution Service may make any person appear before them in the terms provided for in the law for court summons, for the purpose of taking their statement, in which the same safeguards will be observed as indicated in this Law for that given before the Judge or Court.

The Prosecutor will cease their legal measures as soon as they become aware of the existence of legal proceedings on the same facts.

CHAPTER III
On pre-trial proceedings

Article 774.

All court proceedings relating to the crimes included under this Title will be recorded as pre-trial proceedings and the provisions of articles 301 and 302 will be applicable to them.

Article 775.

1. At their first appearance, the Judge will inform the accused, in the most easily understandable manner, of the acts they are accused of. The Court Clerk will inform them of their rights beforehand, in particular those listed in paragraph 1 of article 118, and will request them to designate a domicile in Spain for the purpose of notifications, or a person to receive them in their name, with the warning that a summons served at such domicile, or to the person appointed, will allow the trial to be held in their absence in the cases provided for in article 786.

Before and after making their statement they will be allowed to meet their Lawyer confidentially, without prejudice to the provisions of letter c) of article 527.

2. Where, as a result of the proceedings, any significant change occurs to the subject of the investigation and the grounds on which the accusation was based, the Judge will notify the accused promptly.

This information may be provided by a succinct statement which is sufficient to allow exercise of the right to a defence, notified in writing to the defence Lawyer for the accused.

Article 776.

1. The Court Clerk will notify the aggrieved and injured parties of their rights, under the terms provided for in articles 109 and 110, if the Judiciary Police has not done so beforehand. In particular, instructions will be given on the victim support measures provided for by current legislation and the rights mentioned in rule 1 of article 771.

2. The impossibility of imparting this information, by the Judiciary Police or the Court Clerk on appearance, will not prevent continuation of the proceedings, without prejudice to the fact that it would be carried out by the fastest possible means.

3. Those who do appear may, from then on, acquaint themselves with all the proceedings to date and request legal measures to be taken and whatever is in their best interests, with the Judge ordering as appropriate with regard to these measures being taken.

Article 777.

1. The Judge will order the Judiciary Police, if they do not do so themselves, to make the necessary enquiries aimed at determining the nature and circumstances of the crime, the persons who may have taken part in it and the competent body to try it, giving account of its initiation and of the facts determining it to the Public Prosecution Service.

This will be done using the common and ordinary means provided for in this Law, with the amendments provided for in this Title.

2. Where, due to the place of residence of a witness or victim, or for any other reason, it is reasonable to fear that evidence may not be taken at the oral trial, or may cause its stay, the Examining Magistrate will take it immediately, ensuring, in all cases, the possibility of cross-examination.

This measure will be documented on media suitable for recording and reproducing sound and images or by a certificate authorised by the Court Clerk, stating the parties appearing.

For the purposes of assessing it as evidence for the judgment, the interested party must, in the oral trial, request playback of the recording or verbatim reading of the measure, under the terms of article 730.

Article 778.

1. The expert's report may only be provided by an expert when the Judge considers it to be sufficient.

2. In cases of injury, it will not be necessary to wait for the injured party to return to health where filing the case away or acquittal are appropriate. In any other case, the proceedings may be prosecuted without such a return to health, if it is possible to enter a statement of case.

3. The Judge may, where they deem it to be necessary, order that the forensic doctor, or other expert, obtain samples or traces whose analysis may facilitate greater qualification of the act, with an entry being made on the records accrediting their remittance to the relevant laboratory, which will sent the results within the time limit set.

4. The Judge may order that no autopsy is carried out where the forensic doctor, or whoever stands in for them, fully declare the cause and relevant circumstances of the death without the need for one.

5. The Judge may order that due care is given to the injured, infirm or any other person who, due to, or on occasion of, the events needs medical care, with a record being made, as appropriate, of the place where they are treated, interned or hospitalised.

6. The Judge may authorise the forensic doctor to attend the removal of the body in their place, and, in this case, a report will be attached to the proceedings which includes a detailed description of its condition, identity and circumstances, particularly those related to the punishable act.

Article 779.

1. Once the relevant evidence has been taken without delay, the Judge will issue an order containing one of the following decisions:

1. If they consider that the act does not constitute a criminal offence or its perpetration is not sufficiently proven, they will order the relevant dismissal. If, although it is considered that the act may constitute a crime, there is no known perpetrator, they will order provisional dismissal and file the case.

The writ of dismissal will be notified to the victims of the crime, at the E-mail address and, in default, to the postal address or domicile given in the application provided for in article 5.1.m) of the Standing of Victims of Crime Act.

In cases of death or disappearance due to a crime, the writ of dismissal will be notified in the same way to the persons referred to in the second sub-paragraph of paragraph 1 of article 109 a, whose identity and E-mail or postal address is known. In these cases, the Judge or Court may agree, with reasons, to dispense with notification to all family members where it has already been successfully addressed to several of them or where such steps as have been taken to locate them have been fruitless.

Exceptionally, in the case of citizens residing outside the European Union, if no E-mail or postal address is available to make the notification, it will be sent to the Spanish diplomatic or consular office in their country of residence for publication.

Five days after the notification, it will be understood to have been validly served and be effective for all purposes. Cases where the victim proves just cause for the impossibility of accessing the content of the notification are excepted from this regime.

Victims may appeal the writ of dismissal within a time limit of twenty days, even if they did not appear as a party to the case.

2. If the act which gave rise to the enquiries is classified as a misdemeanour, the Judge, if not competent to hear the proceedings, will order them to be sent to the competent Judge.

3. If the act comes under military jurisdiction, jurisdiction will be declined in favour of the competent body. If all of the accused are under the age for criminal prosecution, the proceedings will be sent to the Prosecutor for Minors so that they initiate the proceedings in the Criminal Liability of Minors Act.

4. If the act constitutes a crime included under article 757, the procedure ordered in the following chapter will be followed. This decision, which will contain a determination of the punishable acts and identification of the person accused of them, may not be passed without having taken a statement from the latter under the terms provided for in article 775.

5. If, at any moment beforehand, the accused, assisted by their lawyer, has admitted the facts in judicial presence and these constitute a crime punished by a sentence included within the limits provided for in article 801, an order will be made to call the Public Prosecution Service and the parties to the proceedings immediately so that they may state if they enter a statement of case with the agreement of the accused. If affirmative, urgent legal measures will be initiated and the continuation of the proceedings under the procedures provided for in articles 800 and 801 will be ordered.

2. In the first three cases, if there is no member of the Public Prosecution Service at the Court, and the parties have not lodged an appeal, the proceedings will be sent to the Prosecutor at the higher Court who, within the three days following receipt, will return them to the Court with the writ lodging the appeal or with the wording "approved", in which case the decision will be executed immediately.

CHAPTER IV
On preparation of the oral trial

Article 780.

1. If the Examining Magistrate orders that the procedure provided for in this chapter must be followed, the same decision will order that either originals or photocopies of the preliminary enquiries be sent to the Public Prosecution Services and to the prosecutors appearing so that, within a common time limit of ten days, they may request the opening of the oral trial by submitting a statement of case or writ for dismissal of the case or, exceptionally, request that further evidence be taken, in the case of the following paragraph.

2. Where the Public Prosecution Service declares that is impossible to prepare a statement of case due to the lack of elements which are essential to classify the acts, as a preliminary, it may be requested that such evidence is taken as is essential to prepare a statement of case, in which case the Judge will order as requested.

The Judge will order as they deem appropriate when such a request is made by the private prosecutor or prosecutors.

In all cases, the Public Prosecution Service, the parties to the proceedings and, always, the accused will be summoned to testify, with the proceedings later being transferred back.

Article 781.

1. The statement of case will, apart from the request for the oral trial to be opened before the body it deems competent and identification of the person or persons against whom the statement of case is made, contain the details referred to in article 650. The statement of case will extend to misdemeanours chargeable to the accused and to other persons, where the commission of the misdemeanour or evidence of it is related to the crime. It will also state the amount of compensation, or bases will be set for its calculation and the persons with civil liability, and any other pronouncements on hand over and destination of things and effects and awards as to court costs.

The same writ will propose the evidence which is of interest to be taken in the oral trial, stating whether the claim for documents or summoning experts and witnesses must be done through the court office.

The statement of case may request that such evidence as may not be taken during the oral trial sessions be taken beforehand, and also the adoption, amendment or stay of the measures referred to in articles 763, 764 and 765, or any others which may be

appropriate or have been adopted, along with the cancellation of those taken from persons who the statement of case is not directed at.

2. The Public Prosecutor, having informed their hierarchical superior and the private prosecutors appearing, may request, with grounds, an extension to the time limit set in the previous article. The Examining Magistrate, taking account of the circumstances, may grant an extension to the time limit for a maximum of a further ten days.

3. If the Public Prosecutor does not submit its statement of case within the time limit set in the previous article, the Examining Magistrate will summon the hierarchical superior of the acting Prosecutor so that, within ten days, they submit the appropriate writ, giving grounds for their reasons for non-submission within the time limit.

Article 782.

1. If the Public Prosecutor and the private prosecutor request dismissal of the case for any of the grounds provided for in articles 637 and 641, the Judge will order it, except for the cases in numbers 1, 2, 3, 5 and 6 of article 20 of the Criminal Code, where the proceedings will be returned to the prosecutors for classification, with the trial continuing until judgment, for the purposes of imposing security measures and trying the civil action in the cases provided for in the Criminal Code.

In agreeing dismissal, the Examining Magistrate will annul imprisonment and any other precautionary measures ordered.

2. If the Public Prosecution Service requests dismissal of the case, and the private prosecutor has not appeared in it to sustain the prosecution, prior to ordering dismissal the Examining Magistrate may:

a) Order that the Public Prosecution Service make its intentions known towards those known to be directly aggrieved or harmed, who were not a party to the proceedings, so that within a maximum of fifteen days they appear to defend their action, if they consider this to be appropriate. If they do not do so within the time limit set, the dismissal requested by the Public Prosecutor will be ordered, without prejudice to the provisions of the following paragraph.

b) Refer the case to the Public Prosecutor's hierarchical superior so that they may decide whether or not to sustain the statement of case, and they will notify their decision to the Examining Magistrate within ten days.

Article 783.

1. When a request is made by the Public Prosecution Service or the private prosecutor to open the oral trial, the Examining Magistrate will order it, unless they deem that it falls within the case in number 2 of article 637, or that there are no reasonable indications of criminality against the accused, in which case they will order the relevant dismissal in accordance with articles 637 and 641.

When the Examining Magistrate orders the oral trial to be opened solely at the request of the Public Prosecution Service, or the private prosecutor, the Court Clerk will again refer the case to whoever requested dismissal for a period of three days so that they may draw up a statement of case, unless they have waived this.

2. When ordering the oral trial to be opened, the Examining Magistrate will decide on the adoption, suspension or revocation of the measures of interest to the Public Prosecutor, or the private prosecutor, both in relation to the accused and with respect to those civilly liable from whom, as appropriate, a bond will be demanded, if this is not given by the accused within the given time limit, and on lifting the measures taken against those who have not been accused.

The Examining Magistrate will indicate, in the same order, the competent body to hear and rule on the case.

3. There can be no appeal whatsoever against the order for the oral trial to be opened, except in relation to personal situations, and the accused may repeat pleas not dealt with to the trial court.

Article 784.

1. Once the oral trial is open, the Court Clerk will summon the accused, with delivery of a copy of the statement of case, to appear in the case, within three days, with their defence Lawyer and the Procurator representing them. If they do not exercise their right to appoint a Procurator, or request one ex officio, the Court Clerk, in all cases will make the appointment. Once this procedure is fulfilled, the Court Clerk will transfer the original proceedings, or a photocopy, to those designated as the accused and third parties liable in the statement of case, so that within a common time limit of ten days they present a statement of defence against the accusations made.

If the defence does not submit the writ within the time limit given, it will be understood that it opposes the accusations and the proceedings will continue, without prejudice to the liability which may be incurred in accordance with the provisions of Title V of Book V of the Judiciary Act.

Once the procedure for submitting the writ has terminated, the defence may only put forward the evidence that it provides during the oral trial so that it may be taken, without prejudice to the fact that, in addition, it may be of interest that the necessary communications are issued beforehand, as long as this is done sufficiently in advance of the date set for the trial and the provisions of the second sub-paragraph of paragraph 1 of article 785. This is all understood to be without prejudice to the fact that if the affected parties consider there to be a lack of a proper defence, they may argue this in accordance with paragraph 2 of article 786.

2. The statement of defence may request the judicial body that it seeks the remission of documents or summons experts or witnesses for the purposes of taking the relevant evidence in the oral trial or, as appropriate, taking preliminary evidence.

3. In the writ, which will also be signed by the accused, the defence may declare their conformity with the accusation under the terms provided for in article 787.

Such conformity may also be given with the new bill of particulars, which will be jointly signed by the prosecuting parties and the accused along with their Lawyer, at any time prior to the oral trial sessions being held, without prejudice to the provisions of article 787.1.

4. If, when the oral trial is open, the accused's whereabouts is unknown and they had not designated a domicile, as referred to in article 775, and, at any event, if the punishment requested exceeds the limits set out in the second sub-paragraph of paragraph 1 of article 786, the Judge will order an arrest warrant to be issued, declaring them to be in default, if they do not appear or are not found, with the effects provided for in this Law.

5. Once the defence has submitted its writ, or the time limit to do so has expired, the Court Clerk will order the proceedings to be sent to the competent body for trial, notifying this to the parties, except where trial corresponds to the Criminal Judge and they go to the headquarters of the Examining Magistrate frequently to hold the trials coming from it, in which case the proceedings will remain in the Court Office at the disposal of the Criminal Judge.

CHAPTER V
On the oral trial and on judgment

Article 785.

1. As soon as the proceedings are at the disposal of the body competent to try them, the Judge or Court will examine the evidence put forward and will immediately pass an order admitting that which is considered to be relevant and rejecting the remainder, and prepare as necessary for preliminary taking of evidence.

There can be no appeal whatsoever against the order admitting or rejecting evidence, without prejudice to the party rejected reproducing their plea at the commencement of the oral trial sessions, up to which time such reports, certifications and other documents as the Public Prosecution Service and the parties deem appropriate, and the Judge or Tribunal admit, may be included.

2. At sight of this Order, the Court Clerk will sent the day and time on which the oral trial sessions must commence, subject to the provisions of article 182 of the Civil Procedure Act.

The general criteria and specific, particular instructions given by the Presidents of the Chamber or Section, in accordance with which the date will be set, will also take into account:

1. Imprisonment of the accused;
2. Ensuring their presence at the disposal of the court;
3. Other personal precautionary measures adopted;
4. The priority of other cases;
5. The complexity of the evidence proposed or any modifying circumstance, depending on what they determine once the matter has been studied or the case concerned.

3. When requested by the victim, even if they are not a party to the proceedings and do not have to appear, the Court Clerk will inform them in writing, and without undue

delay, of the date, time and place of the trial, along with the content of the statement of case against the offender.

Article 786.

1. Attendance by the accused and the defence lawyer is compulsory at the oral trial. Nevertheless, if there are several accused and one of them does not appear without, in the opinion of the Judge or Court, a legitimate reason, the latter may, having heard the parties, order the trial to continue against the others.

The unjustified absence of the accused who had been summoned personally, or at the domicile or to the person referred to in article 775, will not be a cause to stay the oral trial if the Judge or Court, at the request of the Public Prosecutor, or the prosecuting party, and having heard the defence, considers that there is sufficient evidence for the proceedings, where the punishment requested does not exceed two years imprisonment or, if of a different type, where it does not last more than six years.

The unjustified absence of a third party with civil liability, summoned in due form, will not, in itself, be a reason to stay the trial.

2. The oral trial will commence with the statement of case and the statement of defence being read. Thereafter, at the request of a party, the Judge or Court will open turns on the stand so that the parties may put forward whatever they deem fit regarding the jurisdiction of the judicial body, violation of any fundamental right, existence of peremptory pleas, grounds for the oral trial to be stayed, nullity of proceedings, and also regarding the content and purpose of the evidence put forward or that is proposed to be put forward in the proceedings. The Judge or Court will immediately make the appropriate decision on the matters raised. There can be no appeal against the decision taken, without prejudice to the appropriate protest and to the matter being reiterated, as appropriate, in an appeal against the judgment.

Article 786 a.

1. Where the accused is an incorporated entity, for better exercise of the right to a defence it may be represented by a person particularly appointed for that purpose, who must occupy the place reserved for the accused in the Chamber. Such a person may testify in the name of the incorporated entity if this evidence has been proposed and admitted, without prejudice to the right to remain silent, not to self-incriminate and not to confess to being guilty, along with the right to have the last word when the trial proceedings close.

For these purposes, a witness who has to testify at the trial may not be appointed.

2. Notwithstanding the foregoing, non-appearance by the person particularly appointed by the incorporated entity to represent it will not prevent, in any case whatsoever, the hearing from being held, which will be carried out in the presence of its Lawyer and Procurator.

Article 787.

1. Prior to commencing the taking of evidence, the defence, with the conformity of the accused present, may request the Judge or Tribunal to pass sentence in accordance

with the statement of case containing the most serious punishment, or with that submitted in the proceedings, which may not refer to a different offence, or contain a more serious classification than that of the previous statement of case. If the punishment does not exceed six years in prison, the Judge or Court will pass sentence in accordance with the statements of the defence, if the requirements provided for in the following paragraphs are met.

2. If, from the description of the facts accepted by all the parties, the Judge or Court understands that the classification accepted is correct and the punishment is appropriate according to that classification, it will pass sentence accordingly. The Judge or Court will, in any case, have heard the accused with regard to whether their conformity was freely given and with knowledge of the consequences.

3. In the case that the Judge or Court considers the classification made to be incorrect, or deems that the punishment requested is not legally appropriate, it will summon the party which submitted the most serious statement of case to declare whether or not they ratify it. The Judge or Court may only pass sentence in conformity where the party summoned amends their statement of case in such terms so that the classification is correct and the punishment requested is appropriate and the accused, once again, is in conformity. Otherwise, the trial will be ordered to continue.

4. Once the defence declares its conformity, the Judge or President of the Court will inform the accused of its consequences and afterwards will request that they declare for the purpose of giving their conformity. Where the Judge or Court harbour doubts about if the accused has given their conformity freely, the trial will be ordered to continue.

The trial may also be ordered to continue where, notwithstanding the conformity of the accused, their defence considers it necessary and the Judge or Court deems that their request is grounded.

5. Conformities on the adoption of protection measures in cases of limitation of criminal liability are not binding on the Judge or Court.

6. The sentence in conformity will be passed verbally and will be documented in accordance with the provisions of paragraph 2 of article 789, without prejudice to its later drafting. If the prosecutor and the parties, when the ruling is made known, express their decision not to appeal, the judge will verbally declare the sentence to be final straightaway, and, having heard the parties, will pronounce on the suspension or substitution of the punishment imposed.

7. Judgments in conformity will only be appealable when they have not respected the requirements or terms of the conformity, and the accused may not contest their freely given conformity on substantive grounds.

8. Where the accused is an incorporated entity, conformity must be given by their particularly appointed representative, as long as they have a special power of attorney. Such conformity, which will be subject to the requirements detailed in the previous paragraphs, may be given regardless of the position taken by the other accused, and its content will not be binding in the trial held in relation to the latter.

Article 788.

1. Evidence will be taken in a concentrated manner, in such consecutive sessions as may be necessary.

Exceptionally, the Judge or Court may agree to stay or postpone the session, for up to a maximum of thirty days, in the cases included in article 746, with the proceedings carried out retaining their validity, unless substitution of the Judge or a member of the court occurs in the case of number 4 of that article. In these cases, as long as setting a date for resumption can be done at the same time as the stay is ordered, this will be done by the Judge or President, who will take into account the needs of the programme for setting dates and other circumstances contained in articles 182.4 of the Civil Procedure Act and 785.2 of this Law.

The same procedure will be followed in cases where an oral trial which has already initiated is interrupted or stayed and the new hearing date can be set at the same time as the interruption or stay is ordered.

In all other cases, the Court Clerk will set the date for the new oral trial, for the soonest possible date, in accordance with the provisions of article 785.2 of this Law.

The lack of accreditation of health, appraisal of damages, or the verification of any other circumstance of a similar nature, will not be a cause for the trial to be stayed, unless they are an essential requirement to classify the acts. In such a case, the quantitative calculation of civil liability will be deferred until the enforcement proceedings, with the bases for it being set in the judgment.

2. The expert report may only be provided by an expert.

Within the scope of this procedure, reports issued by official laboratories on the nature, amount and purity of narcotic substances will be considered to be documentary evidence where it is recorded in them that they were carried out following scientific protocols approved by the relevant regulations.

3. Once the taking of evidence has concluded, the Judge or President of the Court will summon the prosecution and the defence to state whether they ratify or modify the conclusions in the writs initially submitted and to make verbal statements, where they deem it appropriate, on the assessment of the evidence and the legal classification of the acts.

The summons may extend requesting the Public Prosecutor and the lawyers for greater clarification of the specific facts in the evidence and the legal evaluation of the facts, with one or several questions on specific points being submitted for deliberation.

4. Where, in their definitive conclusions, the prosecution changes the criminal classification of the events or considers there to be a greater degree of participation or execution, or circumstances increasing the sentence, the Judge or Court may consider adjournment of the session, for a maximum of ten days, at the request of the defence, so that the latter may adequately prepare their pleas and, as appropriate, provide such elements of evidence and defence as they deem fit. After such new evidence being

taken as the defence may request, the prosecuting parties may, in turn, amend their definitive conclusions.

5. Where all the statements of case classify the offences as crimes punished by a sentence which exceeds the jurisdiction of the Criminal Court, it will be declared incompetent to pass judgment, the case will be closed and the Court Clerk will refer the proceedings to the competent higher Court. Other than in the previous case, the Criminal Judge will decide as they deem fit regarding the continuation or conclusion of the trial, but in no case may they impose a sentence greater than that within their powers.

6. The provisions contained in article 743 of this Act will be applicable to recording the oral trial sessions and their documentation.

Article 789.

1. The judgment shall be passed within five days following the end of the oral trial.

2. The Criminal Judge may pass judgment verbally in the trial itself, being documented on the records expressing the ruling and a summary of the reasons, without prejudice to it being drawn up formally later. If the prosecutor and the parties, when the ruling is made known, express their decision not to appeal, the judge will declare the sentence to be final straightaway, and, having heard the parties, will pronounce on the suspension or substitution of the punishment imposed.

3. The sentence may not impose a punishment which is more serious than that requested in the statements of case, or convict a different crime where this involves a diversity of a legally protected right or substantial mutation of the crime tried, unless any of the statements of case included the approach previously stated by the Judge or Court within the proceedings provided for in the second paragraph of article 788.3.

4. The Court Clerk will notify the judgment in writing to those aggrieved or harmed by the crime, even if they were not a party to the case.

5. Where the instruction of the case fell to a Domestic Violence Court, the Court Clerk will send testimony of the sentence to it immediately. They will also send the declaration of finality and the judgment in the second instance, where this revoked, in whole or in part, the judgment passed previously.

CHAPTER VI
On contesting the judgment

Article 790.

1. The judgment passed by the Criminal Judge may be appealed before the relevant Provincial Court, and that of the Central Criminal Court before the Criminal Chamber of the High Court. The appeal may be lodged by any of the parties, within the ten days following that on which they were notified of the judgment. During this period the proceedings will be found in the Court Office, at the disposal of the parties, who, within the three days following notification of the judgment may request a copy of the media on which the sessions were recorded, with a stay in the time limit for lodging the

appeal. Calculation of the time limit will restart once the copies requested have been handed over.

Any party not appealing within the time limit may be joined to the appeal in the process of allegations provided for in paragraph 5, making the claims and alleging the reasons that are in their best interests. At any event, this appeal will be conditional on the appellant holds their own.

The other parties may contest the joinder, within a period of two days, once the transfer provided for in paragraph 6 has been conferred.

2. The writ lodging the appeal will be submitted to the body which passed the ruling being contested and will state, in an ordered manner, the allegations on breaches of procedural rules and safeguards, error in assessment of the evidence or infringement of legal system rules on which the challenge is based. The appellant must also set an address for notifications in the place where the higher Court has its premises.

If the appeal requests nullity of the judgment due to infringement of procedural rules and safeguards which cause the lack of a proper defence for the appellant, in such terms that it cannot be rectified in the second instance, the legal or constitutional rules which are considered to be infringed will be cited and reasons stated for the inability to provide a proper defence. Furthermore, it must be proven that rectification of the error or infringement was requested in the first instance, except in the case that it was committed at a time when it was then impossible to claim.

Where the allegation pleads an error in the assessment of evidence to request nullity of the acquittal or an increase in the conviction, it will be necessary to justify the insufficiency or lack of rationality in the factual reasoning, manifest departure from the maxims of experience or the omission of all reasoning on one or several of the pieces of evidence which may be of relevance or whose nullity may have been inappropriately declared.

3. In the same writ, the appellant may request evidence to be taken which they could not propose in the first instance and proposals which were unduly denied, as long as, at the time, the appropriate protest was made, and those admitted which were not taken for reasons which are not attributable to them.

4. The Judge, having received the formal writ, if it contains the requirements demanded, will admit the appeal. If they appreciate the occurrence of a rectifiable defect, they will give the appellant a period of not more than three days to rectify it.

5. Once the appeal is admitted, the Court Clerk will send the formal writ to the other parties for a common time limit of ten days. The other parties must submit their written allegations, in which they may request evidence to be taken under the terms provided for in paragraph 3 and in which they will set an address for notifications, within this time limit.

6. Once the written statements have been submitted, or the time limit to do so has expired, the Court Clerk, within the following two days, will send each one of them to the other parties and send the original records with all the statements submitted up to the higher Court.

Article 791.

1. If the formal writ or statements contain a proposal for evidence or playback of that recorded, the Court will decide on admission of the evidence within three days and will, as appropriate, order the Court Clerk to set a day for the hearing. A hearing may also be held when, ex officio or at the request of a party, the Court deems it necessary for the correct formation of a grounded conviction.

2. The Court Clerk will set the hearing for within the following fifteen days and all the parties shall be summoned to it. Where the victim has requested it, they will be informed by the Court Clerk, even if they are not a party to the proceedings and their intervention is not necessary.

The hearing will held commencing, as appropriate, with the taking of evidence and playback of the recordings, if necessary. Following this, the parties will verbally summarise its result and the grounds for their pleas.

3. As regards recording and documenting the hearing, the provisions of article 743 shall apply.

Article 792.

1. The decision on the appeal will be passed within the five days following the oral hearing, or within ten days following receipt of the proceedings by the higher Court where it was not appropriate to hold a hearing.

2. The decision on the appeal may not convict the accused who was acquitted in the first instance, or increase the court sentence imposed on them due to an error in appreciation of the evidence in the terms provided for in the third paragraph of article 790.2.

Nevertheless, the sentence, whether it was an acquittal or a conviction, may be annulled and, in this case, the proceedings will be returned to the body that passed the appealed judgment. The decision on the appeal will specify if nullity must extend to the oral hearing and if the principle of impartiality demands the new composition of the body of first instance for the new trial of the case.

3. Where the judgment under appeal is annulled due to breach of an essential procedural form, the court, without going into the content of the judgment, will order that the proceedings be reinstated to the moment in which the error was committed, without prejudice to all such acts whose content remains identical, notwithstanding the error committed, retaining their validity.

4. Only an appeal in cassation may be made against the decision passed in appeal, in the cases provided for in article 847, without prejudice to the provisions regarding review of final decisions, or the following article for contesting final judgments passed in the absence of the accused. Where no appeal is lodged against the decision passed in the appeal, the records will be returned to the court for enforcement of the ruling.

5. The judgment will be notified to those aggrieved or harmed by the crime, even if they were not a party to the case.

Article 793.

1. At the time when the person appears or is found, who has been convicted in absentia in accordance with the provisions of the second sub-paragraph of paragraph 1 of article 786, they will be notified of the judgment passed in the first instance, or in appeal, for the purposes of completing the sentence which has still not prescribed. When notified of the judgment, they will be informed of their right to lodge the appeal referred to in the following paragraph, indicating the time limit to do so and the competent body.

2. Judgment passed in absentia, whether or not it has been appealed, may be subject to an action for annulment by the convicted person within the same time limit and with the same requirements and effects as those provided for the recourse to appeal. The time limit will begin from the moment in which it can be proven that the convicted person was aware of the judgment.

CHAPTER VII
On enforcement of judgments

Article 794.

As soon as the judgment is final, it will be enforced by the Judge or the Court passing it, in accordance with the general provisions of the Law, observing the following rules:

1. If an amount for compensation was not set in the ruling, any of the parties may, during enforcement of the judgment, request such evidence be taken as they deem fit for its precise calculation. The Court Clerk will make this claim known to the other parties so that, within a common time limit of ten days, they may request whatever is in their best interests in writing. The Judge or Court will reject the taking of evidence which does not refer to the bases set in the judgment.

   When evidence has been taken, and all the parties heard within a common time limit of five days, the amount for the civil liability will be set, by order, within the following five days. The order passed by the Criminal Judge may be appealed before the respective higher Court.

2. In cases where the punishment imposed was disqualification of the right to drive motor vehicles and motorcycles, the Court Clerk will immediately withdraw the qualifying licence and permit, if this measure had not already been ordered, attaching the document to the records and sending an order to the Central Traffic Authority to annul it and not to issue a new one until the sentence has ended.

TITLE III

On the procedure for fast-track proceedings for certain crimes

CHAPTER I

Scope of application

Article 795.

1. Without prejudice to the provisions for other special proceedings, the procedure regulated in this Title will apply to the instruction and trial of crimes punished with a prison sentence which does not exceed five years, or any other sentences, whether they are sole, joint or alternative, whose duration does not exceed ten years, whatever their amount, as long as the criminal proceedings are initiated by a police statement and the Judiciary Police has arrested a person and placed them at the disposal of the duty Court or, without arresting them, they have summoned them to appear before the duty Court as they have been reported in the police statement and, in addition, any of the following circumstances occur:

1. That in flagrante delicto is concerned. For these purposes, in flagrante delicto is considered to be where the person committing, or who has just committed, the crime is caught in the act. Caught in the act will be understood to be not just the offender who is arrested at the time of committing the crime, but also the person arrested or sought immediately after committing it, if the chase lasts or is not suspended while the offender is not within the immediate reach of those pursuing them. An offender in flagrante will also be considered to be the person caught immediately after committing a crime with effects, instruments or traces which allow for assumption of their participation in it.

2. That any of the following crimes are concerned:

a) Crimes of injury, coercion, threats or physical or habitual psychological violence, committed against the persons referred to in article 173.2 of the Criminal Code.

b) Crimes of theft.

c) Crimes of robbery.

d) Crimes of theft and robbery of vehicles.

e) Crimes against traffic safety.

f) Crimes of the damages referred to in article 263 of the Criminal Code.

g) Crimes against public health provided for in article 368, second paragraph, of the Criminal Code.

f) Flagrante delicto relating to intellectual and industrial property provided for in articles 270, 273, 274 and 275 of the Criminal Code.

3. That it is a punishable act whose instruction is presumed to be simple.

2. The procedure regulated under this Title will not be applicable to the investigation and trial of crimes which are associated with another or other crimes not included in the previous paragraph.

3. This procedure will not be applied in cases where it is appropriate to order secrecy of the proceedings in accordance with the provisions of article 302.

4. For everything not expressly provided for in this Title, the rules of Title II of this Book, relating to fast-track proceedings, will be additionally applicable.

CHAPTER II

On the proceedings of the Judiciary Police

Article 796.

1. Without prejudice to the provisions of Title III of Book II and the provisions of chapter II of Title II of this Book, the Judiciary Police must, for as long as is necessary and, at any event, for the duration of the arrest, carry out the following measures:

1. Without prejudice to the care referred to in paragraph 1 of article 770, it will request a copy of the report relating to the care given from the practitioner or health worker and attach it to the police statement. Furthermore, it will request the presence of the forensic doctor where the person to be examined cannot be moved to the duty Court within the time limit provided for in article 799.

2. It will inform the person accused of the crime, even where arrest is not appropriate, of their right to appear before the duty Court assisted by a lawyer.

If the interested party does not expressly declare their wish to appear assisted by a lawyer, the Judiciary Police will request the Lawyers' Association to appoint a lawyer ex officio.

3. Where an arrest was not made, it will summon the person reported in the police statement to appear in the duty Court on the day and at the time shown. The person summoned will be warned of the consequences of not appearing at the police summons to the duty Court.

4. The witnesses will also be summoned to appear at the duty court on the day and time given to them, warning them of the consequences of not appearing at the police summons to the duty court. It will not be necessary to summons the members of the Security Forces who may have intervened in the statement where their declaration is recorded within it.

5. The bodies referred to in article 117 of the Criminal Code, in the event that their identity is known, will be summoned for the same day and time.

6. The substances seized, whose analysis is relevant, will be sent to the Toxicology Institute, the Institute of Legal Medicine or the relevant laboratory. These bodies will, immediately, carry out the analysis requested and will send the results to the

duty Court by the quickest means and, at any event, prior to the day and time on which the persons indicated in the previous rules have been summoned. If it is not possible to send the analysis within that time limit, the Judiciary Police may carry out the analysis itself, without prejudice to its due judicial review.

7. Breathalyser tests will be carried out in accordance with the provisions of road safety legislation.

Tests to detect the presence of toxic drugs, narcotics and psychotropic substances in motor vehicle and motorcycle drivers will be carried out by members of the traffic judiciary police who have specific training and, in addition, subject to the provisions of road safety regulations. Where the saliva test, which it is compulsory for the driver to take, gives a positive result or the driver shows signs of having consumed the aforementioned substances, they will be under the obligation to provide a sufficient quantity of saliva, which will be analysed in approved laboratories, guaranteeing the chain of custody.

All drivers may request a comparative test consisting of a blood, urine, or other similar test. Where these tests are carried out, the health workers carrying them out will be requested to send the results to the duty Court by the quickest means and, at any event, prior to the day and time of the summons referred to in the foregoing rules.

8. If it is not possible to send the duty Court any object which should be appraised, the presence of the expert, or relevant service, will immediately be requested so that they may examine it and issue an expert report. This report may be given verbally to the duty Court.

2. To carry out the summons referred to in the previous paragraph, the Judiciary Police will set the day and time for the appearance in coordination with the duty Court. For these purposes, the General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will issued the relevant Regulations for organising the duty services at the Magistrate's Courts in relation to serving these summons, in coordination with the Judiciary Police.

3. If urgency requires it, the summons may be served by any means of communication, including verbally, without prejudice to making a record of their content in the relevant certificate.

4. For the purposes of applying the procedure regulated under this title, where the Judiciary Police becomes aware of the commission of a crime falling within one of the circumstances provided for in paragraph 1 of article 795, in respect of which, not having arrested or located the presumed culprit, it is, nonetheless, foreseeable that they will be rapidly identified and located, the investigations initiated will continue and will be recorded in a single statement, which will be sent to the duty court as soon as the presumed culprit is arrested or summoned in accordance with the provisions of the foregoing paragraphs and, at any event, within the following five days. In these cases, instruction of the case will be the exclusive responsibility of the duty court receiving the police statement.

The provisions of this paragraph are understood to be without prejudice to making the commission of the crime and the continuing investigations known to the duty judge and the Public Prosecution Service immediately, so that they are duly recorded.

CHAPTER III

On urgent legal measures before the Duty Court

Article 797.

1. The duty court, having received the police statement, along with the objects, instruments and evidence which, as appropriate, accompany it, will institute urgent legal measures, if appropriate. There can be no appeals against this court order. Without prejudice to the other duties entrusted to it, it will, where necessary, take the following legal measures, in the order that it considers most appropriate, or advisable under the circumstances, with the active participation of the Public Prosecution Service:

1. It will obtain, by the fastest means possible, the criminal record of the detainee or person under investigation.

2. If necessary, for legal classification of the charges:

a) If they have not been received, it will obtain the expert reports requested by the Judiciary Police.

b) Where appropriate and proportionate, it will order the forensic doctor, if they had not already done so beforehand, to examine the persons appearing before the court and to issue the relevant expert report.

c) It will order an expert to appraise the assets or objects seized or examined and placed at the court's disposal, if this has not already been done beforehand.

3. It will take a statement from the detainee brought before the court, or the person who, under the terms of the police statement, is being investigated and who has appeared on being summoned by the police, under the terms provided for in article 775. If the person being investigated, having been summoned by the police, fails to appear before the Duty Court, the latter may apply the provisions of article 487.

4. It will take statements from the witnesses summoned by the Judiciary Police who have appeared. If any witness, having been summoned by the police, fails to appear before the Duty Court, the latter may apply the provisions of article 420.

5. It will, as appropriate, give the information provided for in article 776.

6. The person under investigation will take part in an identity parade, if appropriate and if the witness appears.

7. If it considers it to be necessary, it will order a confrontation between witnesses, between witnesses and the persons under investigation, or the persons under investigation amongst themselves.

8. It will order the summons, including verbally, of the persons it considers should appear before it. For these purposes, it will not be necessary to summon members of the Security Forces who may have intervened in the police statement whose declaration is contained within it unless, exceptionally and in a reasoned decision, it is considered essential that they make a new statement prior to adopting any of the decisions provided for in the following article.

9. It will order any relevant legal measure to be taken that may be carried out immediately or within the time limit set in article 799.

2. Where, due to the place of residence of a witness or victim, or for any other reason, it is reasonable to fear that evidence may not be taken at the oral trial, or may cause its stay, the Duty Judge will take it immediately, ensuring, in all cases, the possibility of cross-examination.

This measure will be documented on media suitable for recording and reproducing sound and images or by a certificate authorised by the Court Clerk, stating the parties appearing.

For the purposes of assessing it as evidence for the judgment, the interested party must, in the oral trial, request playback of the recording or verbatim reading of the measure, under the terms of article 730.

3. The Lawyer appointed for the defence will also be legally empowered to represent the defendant in all proceedings which are verified before the Duty Judge.

To ensure exercise of the right to a defence, the Judge, once urgent legal measures have been initiated, will order that a copy of the police statement and of such proceedings as have been carried out, or are being carried out, in the Duty Court be sent to them.

Article 797 *a*.

1. In the case where jurisdiction lies with the Domestic Violence court, the legal measures and decisions shown in the foregoing articles must be taken and adopted during the hours of court hearings.

2. The Judiciary Police must serve the summons referred to in article 796, at the Domestic Violence Court, on the next working day according to those set as such in the regulations.

Nevertheless, the detainee, if there is one, must be brought before the Duty Magistrate's Court, for the sole purpose of regularising their personal situation, where it is not possible for them to be brought before the competent Domestic Violence Court.

3. To carry out the aforementioned summons, the Judiciary Police will set the day and time for the appearance in coordination with the Domestic Violence Court. For these purposes, the General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will pass the appropriate regulations to ensure this coordination.

Article 798.

1. The Judge will then hear the parties to the proceedings and the Public Prosecutor on which of the decisions provided for in the following paragraph it is appropriate to adopt. Furthermore, the prosecuting parties and the Public Prosecutor may request any precautionary measures be taken against the accused or, as appropriate, with regard to civil liability, without prejudice to those that may have been taken previously.

2. The Duty Judge will pass a decision with some of the following content:

1. In the event that the legal measures carried out are considered to be sufficient, a verbal order will be passed, which shall be documented and may not be subject to appeal, ordering the procedure in the following chapter to be followed, unless any of the decisions provided for in rules 1 and 3 of paragraph 1 of article 779 are considered appropriate, in which case the relevant order will be passed. If the duty judge finds the act giving rise to initiation of the proceedings to be a misdemeanour, it will go to trial immediately in accordance with the provisions of article 963.

2. In the event that the legal measures carried out are considered to be insufficient, the proceedings will be ordered to continue as preliminary enquiries for fast-track proceedings. The Judge must indicate, with grounds, which legal measures are necessary to conclude instruction of the case, or the circumstances which make this impossible.

3. When the Duty Judge passes the order agreeing to one of the pre-trial decisions in the first three numbers of paragraph 1 of article 779, it will order as appropriate on the adoption of precautionary measures against the accused and, as appropriate, in respect of civil liability. The appeals provided for in article 766 may be lodged against the pronouncement of the Judge on precautionary measures. Where the duty Judge passes a verbal order ordering the continuation of the proceedings, the provisions of paragraph 1 of article 800 will be applicable to the adoption of precautionary measures.

4. Furthermore, they will order the return of the objects seized, is appropriate.

Article 799.

1. The legal measures and decisions shown in the foregoing articles must be taken and adopted during the Magistrate's Court duty service.

2. Notwithstanding these provisions, in court districts where the duty service is not permanent and it lasts for more than twenty-four hours, the time limit provided for in the previous paragraph may be extended by the Judge for an additional period of seventy-two hours in proceedings where the police statement was received within forty-eight hours prior to the end of the duty service.

CHAPTER IV
On preparation of the oral trial

Article 800.

1. Where the Duty Judge orders the proceedings to continue, the Public Prosecutor and the parties to the proceedings will immediately be heard so that they may pronounce on whether opening the oral trial or dismissal is appropriate and so that, as appropriate, they request, or ratify that requested, with respect to the adoption of precautionary measures. In all cases, if the Public Prosecutor and the private prosecutor, if there is one, request dismissal, the Judge will proceed in accordance with the provisions of article 782. Where the Public Prosecutor, or the private prosecutor, request the oral trial to be opened, the duty Judge will proceed in accordance with the provisions of paragraph 1 of article 783, deciding as appropriate in a court order. Where opening of the oral trial is ordered, a verbal, grounded order will be issued, which shall be documented and may not be subject to any appeal whatsoever.

2. Once the oral trial has been opened, if there is no private prosecutor, the Public Prosecutor will immediately submit their statement of case in writing, or submit it verbally. The accused, in the light of the statement of case, may, immediately, give their conformity in accordance with the provisions of the following article. Otherwise, they will immediately submit their statement of defence or submit it verbally, after which the Duty Court Clerk, without further ado, will summon the parties for the oral trial to be held.

If the accused requests concession of a period of time to submit the statement of defence, the Judge will set this prudently within the following five days, taking into account the circumstances of the crime charged and such other information as came to light during the investigation, and the Court Clerk shall immediately issue the summons to the parties to attend the oral trial and the order to attend to the accused and, if appropriate, to the person who is civilly liable, so that they may submit their writs to the body with jurisdiction for the trial.

3. The Duty Court Clerk will set the date for the oral trial to be held on the soonest possible date and, at any event, within the following fifteen days, on the days and times predetermined for that purpose in the judicial bodies hearing the trial and in line with the provisions of article 785.2 of this Law. For these purposes, the General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will issued the relevant Regulations for organising setting dates for oral trials carried out by the Duty Courts to the Criminal Courts, in coordination with the Public Prosecution Service.

The summons proposed by the Public Prosecution Services will also be ordered to be served, with the Court Clerk immediately carrying out those which are possible, without prejudice to the decision of the trial body on the admission of evidence.

4. If there is a private prosecutor appearing who has requested the oral trial to be opened and this is ordered by the Duty Judge, the latter will summon them, and the Public Prosecutor, to submit their writs within a non-extendable time limit of not more

than two days. Once these writs have been submitted to the same Court, it will immediately proceed in accordance with the provisions of paragraph 2.

5. If the Public Prosecutor does not submit their statement of case at the time set in paragraph 2 or within the time limit set in paragraph 4, respectively, the Judge, without prejudice to summoning, at any event, those known to be directly aggrieved or harmed, under the terms provided for in paragraph 2 of article 782, will immediately send a request to the Prosecutor's hierarchical superior so that, within a time limit of 2 days, the appropriate writ is submitted. If the hierarchical superior does not submit such a writ within the time limit, it will be understood that they are not requesting that the oral trial be opened and that it dismissal is considered appropriate.

6. Once the statement of case has been received, or the time limit for its submission has expired, the trial court will proceed in accordance with the provisions of paragraph 1 of article 785, with the exception of the provisions on date setting and the summons which may have already been carried out.

7. In all cases, the parties may request the Duty Court, who will pass an order that effect, to summon such witnesses or experts as they intend to put forward at the trial, without prejudice to the decision of the trial court on admission of evidence.

Article 801.

1. Without prejudice to the application of article 787 in this procedure, the accused may give their conformity to the duty court, which may pass a judgment of conformity, where the following requirements exist:

1. Where the private prosecutor did not appear and the Public Prosecutor requested the oral trial to be opened and, once ordered by the duty court, the former submitted a statement of case at once.

2. Where the crime subject to prosecution has been classified as a crime punished by up to three years in prison, by a fine, whatever its amount may be, or with any other different type of punishment which does not exceed 10 years in duration.

3. Where, with respect to a term of imprisonment, the punishment requested, or the total punishments requested, do not, when reduced by one-third, exceed two years in prison.

2. Within the scope defined in the previous paragraph, the duty judge will carry out the control over the conformity given in the terms provided for in article 787 and, as appropriate, will pass a judgment of conformity, which will be documented in accordance with the provisions of paragraph 2 of article 789, in which the punishment requested will be imposed, reduced by one-third, even where this involves imposing a sentence which is less than the minimum limit provided for in the Criminal Code. If the prosecutor and the parties to the proceedings express their decision not to appeal, the judge will verbally declare the sentence to be final straightaway, and, if the sentence imposed is imprisonment, will pronounce on its suspension or substitution, if appropriate.

3. To order the sentence to imprisonment to be suspended, if appropriate, it will be sufficient, for the purposes of the provisions of article 81.3. of the Criminal Code, for

the accused to give their undertaking to pay such civil liabilities as may have arisen, within the prudential time limit set by the duty court. Furthermore, in cases where, in accordance with article 87.1.1. of the Criminal Code, adequate certification is necessary from a duly accredited or approved public, or private, centre or service that the accused is detoxified, or undergoing treatment for that purpose, it will be sufficient, to accept conformity and order a suspended prison sentence, for the accused to undertake to obtain such certification within the prudential time limit set by the duty court.

4. Once the judgment of conformity has been passed and the procedures referred to in paragraph 2 carried out, the Duty Judge will order as appropriate on the release or imprisonment of the convict and will carry out the requirements arising from them, and the Court Clerk will send the proceedings and the written sentence to the relevant Criminal Court immediately, so that if may continue with enforcement.

5. If there is a private prosecutor to the case, the accused may, in their statement of defence, give their conformity to the most serious of the charges, in accordance with the provisions of the foregoing paragraphs.

CHAPTER V
On the oral trial and on judgment

Article 802.

1. The oral trial will be conducted under the terms provided for in articles 786 to 788.

2. In the event that, for just cause in the opinion of the Judge, the oral trial cannot be held on the day set, or cannot be concluded in a single session, a date will be set for it to be held or continued on the earliest possible day and, at any event, within the following fifteen days, taking into account the needs of the timetable for setting dates and other circumstances contained in article 182.4 of the Civil Procedure Act and article 785 of this Act, which will be made known to the interested parties.

3. Judgment will be passed within the three days following conclusion of the hearing, under the terms provided for in article 789.

CHAPTER VI
On contesting the judgment

Article 803.

1. An appeal may be lodged against the judgment passed by the Criminal Court, which will be supported in accordance with the provisions of articles 790 to 792, with the following particulars:

1. The time limit for presenting the formal statement will be five days.
2. The time limit for the other parties to submit pleadings will be five days.
3. The decision on the appeal shall be passed within the three days following the hearing, or within five days following receipt of the proceedings, if no hearing was held.
4. These appeals will be processed and decided on a preferential basis.

2. The provisions of article 793 will apply to judgments passed in the absence of the accused.

3. As soon as the judgment is final it will be enforced, in accordance with the general rules and the special rules in article 794.

TITLE III A

Procedure for fast-track sentencing

Article 803 a. i. *Requirements for the procedure for fast-track sentencing*

At any time after the investigations are commenced by the public prosecutor, or legal proceedings have commenced, and up to the conclusion of the instruction phase, even if the accused has not been called to testify, the procedure for fast-track sentencing may be followed where, cumulatively, the following requirements are met:

1. The crime is punished with a fine, or with community service, or a term in prison not exceeding one year, which may be suspended in accordance with the provisions of article 80 of the Criminal Code, with or without disqualification from driving motor vehicles and motorcycles.

2. The Public Prosecutor understands that the specific applicable punishment is a fine, or community service and, as appropriate, the penalty of a disqualification from driving motor vehicles and motorcycles.

3. That there is no private prosecutor appearing in the case.

Article 803 a. ii. *Purpose.*

1. The purpose of the fast-track sentencing process, issued by the Public Prosecutor, is criminal proceedings taken to impose a fine, or community service and, as appropriate, disqualification from driving motor vehicles and motorcycles.

2. It may also have the purpose of a civil action directed at obtaining restitution of the thing and compensation for damages.

Article 803 a. iii. *Content of the order proposing sentencing.*

The order proposing sentencing issued by the Public Prosecutor will contain the following:

1. Identification of the accused.

2. Description of the punishable act.

3. Indication of the crime committed and summary of the existing evidence.

4. Short statement of the grounds on which it understands, as appropriate, the prison sentence must be substituted.

5. Proposed sentence. For the purposes of this procedure, the Public Prosecutor may propose a fine, or community service, and, as appropriate, disqualification from driving motor vehicles or motorcycles, reduced by one-third with respect to that legally provided for, even where this involves imposing a sentence that is lower than the minimum limit provided for in the Criminal Code.

6. Requests for restitution and compensation, as appropriate.

Article 803 a. iv. *Referral to the Magistrate's Court.*

The order proposing sentencing issued by the Public Prosecutor will be referred to the Magistrate's Court for its authorisation and notification to the accused.

Article 803 a. v. *Authorisation.*

1. The Magistrate's Court will authorise the order proposing sentencing when it complies with the requirements set out in article 803 a. i.

2. If the Magistrate's Court does not authorise the order, it will be null and void.

Article 803 a. vi. *Notification of the order and summons to appear.*

1. When the court order authorising the order has been passed by the Magistrate's Court, it will be notified, together with the order, to the accused, who will be summoned to appear in court on the date and time set.

2. The notification of the order will inform the accused of the purpose of the appearance, of the compulsory attendance of a lawyer for it to be held and the effects of their non-appearance or, in the event that they do appear, of their right to accept or reject the proposal contained in the order. They will also be informed that, in the event that they are not defended by a lawyer in the case, they must be advised by a trusted lawyer or request a duty lawyer prior to the term provided for in the following article.

Article 803 a. vii. *Request for assistance from a lawyer.*

If the accused does not have a lawyer, a duty lawyer will be appointed to advise and assist them.

In order for the appearance to be held, the application for the appointment of a duty lawyer must be made within a term of five working days prior to the date for which it is set.

Article 803 a. viii. *Appearance.*

1. In order to accept the proposed sentence, the accused must appear at the Magistrate's Court assisted by a lawyer.

2. If the accused does not appear, or rejects the Public Prosecutor's proposal, in whole or in part, with regard to the sentence or restitution or compensation, it will be null and void. If the accused appears without a lawyer, the judge will stay the appearance in accordance with the provisions of article 746 and set a new date for it to be held.

3. At the appearance, the judge, in the presence of the lawyer, will ensure that the accused understands the meaning of the order proposing sentencing and the effects of accepting it.

4. The appearance will be recorded in its entirety on audio-visual media, being documented in accordance with the general rules where this is physically impossible.

Article 803 a. ix. *Conversion of the order into a court conviction.*

If, in the appearance, the accused accepts the proposed sentence in all of its terms, the Magistrate's Court will classify it as a final judicial decision which, within a period of three days, will be documented in the form, and for all the effects, of a court conviction, which will may not be subject to any appeal whatsoever.

Article 803 a. x. Ineffectiveness of the order proposing sentencing.

If the order proposing sentencing is ineffective as it was not authorised by the Magistrate's Court, or due to non-appearance of, or lack of acceptance by the accused, the Public Prosecutor will not be bound by its content and will prosecute the case through the relevant channel.

TITLE III B

On the intervention of third parties affected by confiscation and the procedure for separate confiscation.

CHAPTER I

On the intervention in the criminal proceedings of third parties who may be affected by confiscation

Article 803 b. i. *Judicial decision on summons to the proceedings.*

1. The judge or court will order, ex officio or at the request of a party, the intervention in the criminal proceedings of such persons as may be affected by confiscation where there is a record of facts from which the following could reasonably ensue:

a) that the asset whose confiscation is sought belongs to a third party other than the accused, or

b) that there are third party holders of rights over the asset whose confiscation is sought who may be affected by it.

2. Intervention of the affected third parties may be foregone in the proceedings where:

a) it has not been possible to identify or locate the possible holder of the rights over the asset whose confiscation is sought, or

b) there are facts from which it may arise that the information grounding the claim to intervention in the proceedings is not true, or the alleged owners of the assets whose confiscation is sought are intermediaries linked to the accused or who acted in collusion with them.

3. An appeal may be lodged against the decision in which the judge declares the intervention of the third party in the proceedings to be inappropriate.

4. If the party affected by the confiscation declared to the judge or court that they did not oppose the confiscation, their appearance in the proceedings will not be ordered, or the appearance ordered will end.

5. In the event that it is agreed to receive a statement from the party affected by the confiscation, they will be informed of the content of article 416.

Article 803 b. ii. *Particulars on the intervention and summons to court of the affected third party.*

1. The person who may be affected by the confiscation may take part in the criminal proceedings once their intervention is ordered, although this intervention will be limited

to such aspects as directly affect their assets, rights or legal position and may not be extended to matters relating to the criminal liability of the accused.

2. In order for the third party affected by the confiscation to intervene, assistance from a lawyer will be compulsory.

3. The person affected by the confiscation will be summoned to court in accordance with the provisions of this Act. The summons will indicate that the trial may be held in their absence and that it may, at any event, decide on the confiscation sought.

The person affected by the confiscation may act through their legal representative at the trial, without it being necessary for them to be physically present at it.

4. Non-appearance of the person affected by the confiscation will not prevent the trial from continuing.

Article 803 b. iii. *Notification and challenge of the judgment.*

The judgment ordering the confiscation will be notified to the person affected by it, even though they did not appear in the proceedings, without prejudice to the provisions of paragraph 2 of article 803 b. i. The person affected may lodge the appeals provided for in the law against the judgment, although such appeal must be restricted to the rulings directly affecting their assets, rights or legal position, and may not extend to matters related to the criminal liability of the accused.

Article 803 b. iv. *Non-appearance of the third party affected by the confiscation.*

1. Non-appearance of the third party affected by the confiscation who was summoned in accordance with the provisions of this law will have the effect of them being declared in default. The default of the third party affected will be governed by the rules set out in the Civil Procedure Act regarding a defendant in default, including those provided for notifications, appeals against the judgment and rescission of the final judgment at the request of the person in default, although, in the case of rescission of the judgment, this will be limited to the rulings on assets, rights or legal position which directly affect the third party. In this case, a certification will be sent to the court that passed judgment in the first instance, if a different court passed the rescission of the judgment and, thereafter, the following rules will be adhered to:

a) The third party will be granted a period of ten days to submit a statement of defence against the claim for confiscation, proposing evidence, in relation to the relevant facts for the pronouncement affecting them.

b) Once the statement has been submitted within the time limit, the court will decide on the admissibility of the evidence in a court order and, in accordance with the general rules, will set a date for the hearing, the purpose of which will be limited to hearing the civil action proposed against the third party or the effect on their assets, rights or legal position caused by the criminal proceedings.

c) The appeals provided for in this law may be lodged against the judgment.

If a statement of defence against the claim is not submitted within the time limit or the third party does not appear, duly represented, at the hearing, judgment will be passed, without further ado, reverting to that rescinded in the affected rulings.

2. The same rights as provided for in the previous paragraph are granted to the third party affected who may not have had the opportunity to oppose the confiscation as they were unaware of its existence.

CHAPTER II

Procedure for separate confiscation

Article 803 b. v. *Subject.*

1. The action by which confiscation of assets, effects or gains, or their equivalent value may be the subject of the separate confiscation proceedings regulated in this Title, where they have not already been taken, with the exception of the provisions of article 803 b. xvi.

2. In particular, this procedure will be applicable in the following cases:

a) Where the prosecutor has limited their statement of case to requesting confiscation of assets, expressly reserving their determination for this procedure.

b) Where requested as a result of the commission of a punishable act whose culprit has died, or cannot be tried as they are in default or unable to appear at the trial.

3. In the event that the prosecutor reserves the action, separate confiscation proceedings may only be initiated when the proceedings ruling on the criminal liability of the accused have concluded with a final judgment.

Article 803 b. vi. *Jurisdiction.*

The following will have jurisdiction to hear the separate confiscation proceedings:

a) the judge or court that passed the final judgment,

b) the judge or court which may have been hearing a stayed criminal case, or

c) the judge or court with jurisdiction to hear the trial where this has not opened, under the circumstances provided for in article 803 b. v.

Article 803 b. vii. *Proceedings.*

The rules regulating oral trials in Title III of Book II of the Civil Procedure Act, in as far as they are not contradictory to those provided for in this chapter, will be applicable to separate confiscation proceedings.

Article 803 b. viii. *Public Prosecutor's exclusivity in bringing the action.*

The confiscation action in the separate confiscation proceedings will be exclusively brought by the Public Prosecutor.

Article 803 b. ix. *Assistance of a lawyer.*

The rules regulating the accused's right to the assistance of a lawyer, provided for in this Act, will be applicable to all persons whose assets or rights may be affected by confiscation.

Article 803 b. x. *Eligibility and summons to the trial.*

1. The individuals against whom the action is directed due to their connection to the assets to be confiscated will be summoned to court as defendants.

2. The accused in default will be summoned by a notification addressed to their court representative in the stayed proceedings and by placing an edict on the court bulletin board.

3. The third party affected by the confiscation will be summoned in accordance with the provisions of paragraph 3 of article 803 b. ii.

Article 803 b. xi. *Appearance of the accused in default or with modified legal capacity.*

1. If the defendant declared in default in stayed proceedings does not appear in the separate confiscation proceedings, a procurator and lawyer will be appointed ex officio and will represent and defend them.

2. The appearance of the accused with modified legal capacity to appear in the stayed criminal proceedings in the separate confiscation proceedings will be governed by the rules in the Civil Procedure Act.

Article 803 b. xii. *Claim in application for separate confiscation.*

1. The claim for separate confiscation will be submitted in writing and will set out the following in separate, numbered paragraphs:

a) The persons the application is directed against and their addresses.

b) The asset or assets intended to be confiscated.

c) The crime and its connection to the asset or assets.

d) The criminal classification of the offence.

e) The position of the person against whom the application in connection with the asset is directed.

f) The legal grounds for confiscation.

g) Proposal of evidence.

h) The application for precautionary measures, justifying the suitability of their adoption to ensure effective confiscation, as appropriate.

2. Once the claim is admitted, the competent body will pass the following decisions:

1. It will order or refuse the precautionary measures sought.

2. It will notify the claim for confiscation to the eligible parties, who will be granted a time limit of twenty days to appear in the proceedings and submit a statement of defence to the claim for confiscation.

3. Once precautionary measures have been adopted, objection to them, or their amendment or lifting, and putting a replacement caution in place will be carried out in accordance with the provisions of Title VI of Book III of the Civil Procedure Act, in as far as it does not contradict the rules provided for in this chapter.

Article 803 b. xiii. *Statement of defence against the claim for confiscation.*

1. The statement of defence against the claim for confiscation will contain the pleas of the defendant, in the same numerical order as those in the statement of claim.

2. If the defendant does not lodge their statement of defence within the time limit granted, of if they withdraw from it, definitive confiscation of the assets, effects or gains, or for a value equivalent to them, will be ordered.

Article 803 b. xiv. *Decision on evidence and hearing.*

The competent body will decide on the evidence put forward by court order, which will set the date and time for the hearing in accordance with the general rules. This decision is not appealable, although the request for evidence may be repeated at the trial.

Article 803 b. xv. *Trial and judgment.*

1. The trial will be carried out in accordance with the provisions of article 433 of the Civil Procedure Act and the judge or court will pass judgment within 20 days of its conclusion, with one of the following rulings:

1. Uphold the claim for confiscation and order definitive confiscation of the assets.

2. Partially uphold the claim for confiscation and order definitive confiscation for the relevant amount. In this case, such precautionary measures as may have been ordered with respect to the remainder of the assets will become null and void.

3. Dismiss the claim for confiscation and declare that it is inappropriate as one of the grounds for objection occurs. In this case, all the precautionary measures which may have been ordered will become null and void.

2. Where the judgment upholds the claim for confiscation, in whole or in part, it will identify those suffering damages and set the appropriate compensation.

3. The award as to costs will be governed by the general rules provided for in this act.

Article 803 b. xvi. *Effects of the confiscation judgment.*

1. The judgment will set out the material effects of res judicata in relation to the persons against whom the action was taken and the case made, consisting of the relevant facts for approving confiscation, those relating to the crime and the situation against the assets of the defendant.

2. Other than the material effect of res judicata provided for in the previous paragraph, the content of the judgment in the separate confiscation proceedings will not be binding on the later trial of the accused, if any.

In the later criminal proceedings against the accused, if any, the confiscation of assets ruled on with the effect of res judicata in the separate confiscation proceedings will not be requested to be or be subject to the trial.

3. The confiscated assets will be destined as provided for in this act and in the Criminal Code.

4. Where confiscation was ordered for a specific value, the person in relation to whom this was ordered will be required to pay the relevant amount within the time limit set; or, otherwise, that they assign assets for a sufficient value over which the confiscation order may be made effective.

If the request is not heeded, the confiscation order will be enforced in the manner provided for in the following article.

Article 803 b. xvii. *Investigation by the Public Prosecution Service.*

1. The Public Prosecution Service may, on its own, via the Asset Recovery and Management Office, or other authorities, or the members of the Judiciary Police, carry out the investigative measures needed to locate the assets or rights owned by the person in relation to whom the confiscation had been ordered.

The authorities and civil servants whose collaboration is requested by the Public Prosecution Service are under the obligation to provide it, with the warning of committing a crime of disobedience, unless the rules regulating their activity provide otherwise, or set limits or restrictions which must be adhered to, in which case they will send the prosecutor the grounds for their decision.

2. Where the prosecutor considers it necessary to carry out any investigative measures which must be authorised by the court, they will present a request to the judge or court that heard the confiscation proceedings.

3. Furthermore, the Public Prosecution Service may address financial institutions, public organisations and registries and individuals or incorporated entities so that they provide, within the framework of their specific regulations, a list of the assets of the enforcement debtor that they are aware of.

Article 803 b. xviii. *Appeals and review of the final judgment.*

1. The rules regulating appeals applicable in fast-track criminal proceedings are applicable to separate confiscation proceedings.

2. The rules regulating review of final judgments are applicable to separate confiscation proceedings.

Article 803 b. xix. *Non-appearance by the accused in default and the affected third party.*

Non-appearance of the accused in default and the affected third party in the separate confiscation proceedings will be governed by the provisions of article 803 b. iv.

Article 803 b. xx. *Joinder of the application for confiscation against the accused in default or person who is legally incapacitated in the case being brought against a different accused.*

In the event that the case brought against the accused in default or person who is legally incapacitated continues for the trial of one or more accused, the separate confiscation action against the former may be joindered to the same case.

Article 803 b. xxi. *Submission of a new application for confiscation.*

The Public Prosecutor may request the judge or court to issue a new confiscation order where:

a) if the existence of assets, effects or gains is discovered, which should be covered by the confiscation but the existence or ownership of which was unknown when confiscation proceedings commenced, and

b) there was no previous decision on the suitability of confiscating them.

TITLE IV

On the procedure for crimes of defamation against individuals

Article 804.

Claims for inferred defamation against individuals will not be admitted unless a certification is submitted that the claimant has held conciliation proceedings with the defendant, or has attempted them to no avail.

Article 805.

If the claim is for defamation expressed in court, it will also be necessary to accredit the authorisation of the Judge or Court before whom they were inferred.

This authorisation will not be considered to be sufficient evidence for the accusation.

Article 806.

If the defamation was inferred in writing, the document containing it will be submitted, if possible.

Article 807.

Where defamation inferred in writing is concerned, if the person legally liable has admitted to it, and it has been checked whether or not the publicity referred to in the relevant article of the Criminal Code existed, the pre-trial proceedings will be concluded prior to prosecution of the defendant.

Article 808.

If defamation inferred verbally is concerned, when the claim is submitted, the Examining Magistrate will order the claimant, defendant and the witnesses who can testify to the facts to be summoned to an oral trial, and the Court Clerk will set a day and time for the trial to be held.

Article 809.

The trial must be held within the three days following submission of the claim before the Examining Magistrate with competence to hear it.

If there is just cause and this is recorded in a certificate by the Court Clerk, the time limit for holding the oral trial may be extended by up to eight days.

Article 810.

Exceptions to the rules provided for in the three previous articles are slander against civil servants on facts regarding the exercise of their duties, and libel, where the

accused state that they wish to prove, prior to the oral trial, the truth of the libellous accusation or the criminal act as charged.

In both cases, the pre-trial proceedings may not conclude until the claimant determines, clearly and precisely, the facts and the circumstances of the accusation so that the accused may prepare their evidence and submit it in the oral trial. If this is not done within the time limit set by the Judge, the pre-trial proceedings will conclude, taking into account its absence or omission so that no prejudice is caused to the accused.

Article 811.

The person filing the claim for defamation must provide a copy of the complaint which will be given to the defendant at the same time as they are summoned to the trial.

Article 812.

Once the trial has been held on the day set and the claimant has submitted evidence of the facts constituting verbal defamation, the Judge will order as appropriate with respect to prosecution of the defendant, and the pre-trial proceedings will immediately conclude.

Article 813.

Hearsay witnesses will not be admitted in cases of verbal defamation.

Article 814.

The absence of the defendant will not stay the trial being held or a decision being passed, as long as they were summoned in due form.

Article 815.

The trial sessions will be documented in a court record in accordance with the provisions of article 743 of this Act.

TITLE V

On the procedure for crimes committed in print, etching or other mechanical means of publication

Article 816.

As soon as proceedings open for a crime committed by means of print, etching or other mechanical means of publication, the Judge or Court will order seizure of the copies of the publication or print wherever they may be and the die for the latter.

It will also immediately be ascertained who is the actual author of the writings or print whose publication caused the crime to be committed.

Article 817.

If the writing or print was published in a newspaper, either within its text or on a separate sheet, statements will be taken from the Director or its editors and the Head or Manager of the type setting establishment where it was printed or engraved in order to ascertain who the author was.

The original will be claimed from any of the persons in possession of it, who, if they do not make it available to the Judge, will state the person to whom it was delivered.

Article 818.

If the crime was committed by means of a one-off paper or print, the statement cited in the previous article will be taken from the Head and employees of the establishment where it was printed or engraved.

Article 819.

Where the actual author of the paper or print cannot be ascertained, or where they are domiciled abroad or for any of the other reasons specified in the Criminal Code they cannot be prosecuted, the proceedings will be directed against the persons with subsidiary liability, in the order set out in the relevant article of that Code.

Article 820.

The confession of the alleged author will not be sufficient to take them as such or so that the proceedings are not directed against other persons, if the circumstances of the former, or those of the crime, show sufficient evidence to believe that the self-confessed author was not the true author of the writing or print published.

However, once final judgment has been passed against those with subsidiary liability, new proceedings may not be opened against the principal perpetrator, if they become known.

Article 821.

If, during the course of the case, any person appears who, in the order set out in the relevant article of the Criminal Code, are criminally liable for the crime prior to the accused, the case will be dismissed against the latter and the proceedings will be directed against the former.

Article 822.

Only copies of the printed writings or prints, and their dies, will be considered to be instruments or effects of the crime.

Article 823.

Once the printed writing, etching or other mechanical means of publication which served to commit the crime has been joined to the case, and the author or person with subsidiary liability identified, the pre-trial proceedings will be concluded.

Article 823 *a*.

The rules in this title will also be applicable to the trial of crimes committed using sound or photographic media, broadcast in writing, on the radio, television, in the cinema or similar.

The Judges, when initiating proceedings, may order, depending on the case, the seizure of the publication or prohibition on broadcasting or projecting the media with which the criminal activity was produced. An appeal may be lodged directly against this decision, which must be resolved within a time limit of five days.

TITLE VI

On extradition proceedings

Article 824.

The Prosecutors at the higher Courts and the Supreme Court, each one as appropriate and in their place, will request that the Judge or Court proposes to the Government that it requests extradition of those accused or convicted in final judgement, where this is appropriate in accordance with law.

Article 825.

In order for extradition to be proposed or requested, it will be a necessary requirement to have passed a reasoned order for imprisonment or made a final judgment against the accused referred to.

Article 826.

Extradition may only be proposed or requested for:

1. Spanish nationals who, having offended in Spain, have taken refuge in a foreign country.

2. Spanish nationals who, having attacked State external security from abroad, have taken refuge in a country other than the one they offended in.

3. Foreigners who should be tried in Spain and have taken refuge in a country that is not their own.

Article 827.

A request for extradition will be appropriate:

1. In the cases determined by current Treaties with the power in whose territory the individual claimed is to be found.

2. In default of a Treaty, in the cases where extradition is appropriate according to current written or common law in the territory of the nation where extradition is requested from.

3. In default of the two previous cases, where the extradition is appropriate in accordance with the principle of reciprocity.

Article 828.

The Judge or Court hearing the case prosecuting the accused who is absent in foreign territory will be the one competent to request their extradition.

Article 829.

The Judge or Court hearing the case will order, ex officio or at the request of a party, in a grounded decision, the request for extradition from the moment when, due to the stage of the proceedings and for its outcome, this is appropriate in accordance with any of the numbers in articles 826 and 827.

Article 830.

An appeal may be lodged against the order agreeing or refusing to request extradition, if this was passed by an Examining Magistrate.

Article 831.

The request for extradition will be made in the form of a request addressed to the Ministry of Justice.

An exception to this is the case where, due to a current Treaty with the country in whose territory the accused is to be found, the Judge or Court hearing the case may request extradition directly.

Article 832.

The request or communication which must be issued, in accordance with the previous article, will be sent with testimony into which the extradition order is inserted verbatim, and which sets out the claim or prosecutor's charges in which it was requested and all the legal measures in the case needed to justify the extradition as being appropriate, in accordance with the corresponding number of article 826 on which it is founded.

Article 833.

Where extradition must be requested via the Ministry of Justice, the request and testimony will be sent through the President of the relevant higher Court.

If the Court hearing the case is the Supreme Court or its Second Chamber, the aforementioned documents will be sent through the President of that Court.

TITLE VII

On the procedure against absent defendants

Article 834.

The accused who does not appear within the time limit set in the warrants, or who is not found and brought before the Judge or Court hearing the case will be declared to be in default.

Article 835.

An arrest warrant will be issued for:

1. The accused who, when a notification is to be made of any judicial decision, cannot be found at their domicile as they are absent, if their whereabouts is unknown and has no known domicile. The person carrying out the legal measure will question the person who must be served with such measure, in accordance with the provisions of article 172 of this Act, on the point of where the accused may be found.

2. The person escaping from the institution where they were on remand or imprisoned.

3. The person who, being in conditional liberty, does not appear in the court's presence on the date set or when summoned.

Article 836.

As soon as the accused comes under any of the cases in the previous article, the Judge or Court hearing the case will order an arrest warrant to the issued.

Article 837.

The arrest warrant will set out all the circumstances mentioned in article 513, apart from the last one, where imprisonment or remand of the accused was not ordered, and, in addition, the following:

1. The number in article 835 which gives rise to the issue of the arrest warrant.

2. The time limit within which the absent accused must appear, with a warning that otherwise they will be declared in default and will incur such punishment as arises in accordance with the Law.

Article 838.

The arrest warrant will be sent to the Judges, published in the newspapers and fixed in the public places set out in article 512, with the original and one copy of each newspaper in which it was published being attached to the court records.

Article 839.

Once the time limit on the warrant has expired and the absentee has not appeared or been brought before the court, they will be declared in default.

Article 839 a.

1. An accused incorporated entity will only be summoned via warrant where it has not been possible to summon it for the first appearance due to a lack of known registered office.

2. The warrant for an incorporated entity will record the entity's identifying details, the crime it is charged with and its obligation to appear within the time limit set, with a Lawyer and Procurator, before the Judge hearing the case.

3. The warrant for the incorporated entity will be published in the Official State Gazette or, as appropriate, the Official Companies Registry Gazette, or in any other newspaper or official daily publication related to the nature, company object or activities of the entity charged.

4. Once the time limit has expired without the incorporated entity having appeared, it will be declared in default and the procedural steps will continue until they are concluded.

Article 840.

If the case is in pre-trial proceedings, they will continue until declared concluded by the competent Judge or Court, with their progress being stayed and the records and such pieces of evidence as may be conserved, and do not belong to an unaccountable third party, being filed.

Article 841.

If, when declared in default, the accused was awaited in the oral trial, it will be stayed and the records filed.

Article 842.

If there are two or more accused and not all of them are declared in default, the progress in the case against the defaulters will be stayed until they are found and will continue with respect to the others.

Article 843.

In any of the cases in the three previous articles, the writ of stay will reserve the action corresponding to the party injured by the crime relating to restitution of the thing and repair and compensation for damages, so that they may exercise it, independently from the case, by the civil route against those who are liable, for which purpose the attachments made will not be lifted and the bonds provided will not be cancelled.

Article 844.

Where the case is archived as all the accused are in default, the return of the effects or instruments of the crime or other pieces of evidence which may have been collected

during the case to such owners as are not civilly or criminally liable for the crime will be ordered. However, before return, the Court Clerk will draw up a record with a meticulous description of everything being returned.

The expert examination which should have been carried out if the case continued its ordinary progress will also be verified.

The provisions of articles 634 and 635 will be observed when returning effects and pieces of evidence to an unaccountable third party.

Article 845.

If the convicted person has escaped or hidden after notification of the judgment and an appeal is pending, this will be substantiated until it is definitive, with the Court Clerk ensuring that a Lawyer and Procurator are appointed ex officio for the person in default.

The judgment passed will be final.

The same will occur where, if the convicted person has absented themselves or hidden after being notified of the judgment, an appeal is lodged by their representatives or the Public Prosecutor, after their absence or concealment.

Article 846.

Where the person declared to be in default in the cases in articles 840 and 841 appears or is found, the Judge of Court will once again open the case to continue from the stage it was at.

BOOK V
ON THE RECOURSES TO APPEAL, CASSATION AND REVIEW

TITLE I
On the recourse to appeal against judgments and certain orders

Article 846 a. i).

Judgments passed within the scope of the Provincial Court and, in the first instance, by the Senior Judge-President of the Jury Court, may be appealed before the Civil and Criminal Bench of the High Court of Justice in the relevant Autonomous Region.

Orders passed by the Senior Judge-President of the Jury Court, which are passed in resolution of the matters referred to in article 36 of the Jury Court Act and in the cases set out in article 676 of this Act may also be appealed.

The Civil and Criminal Bench will consist of three Magistrates to hear this appeal.

Article 846 a. ii).

The appeal may be lodged by the Public Prosecutor or the convicted person or the other parties, within the ten days following the last notification of the judgment.

An appeal may also be lodged by the person declared to be exempt from criminal liability if security measures are imposed or they are declared to have civil liability in accordance with the provisions of the Criminal Code.

A party who has not appealed within the time limit shown may make an appeal in the rebuttal stage, but this appeal will be conditional on the main appellant holding their own.

Article 846 a. iii).

The recourse to appeal must be grounded on one of the following reasons:

a) That the proceedings or the judgment were in breach of procedural rules and safeguards, which caused a lack of proper defence, if the appropriate claim for rectification was made. This claim will not be necessary of the breach reported involved violation of a constitutionally guaranteed fundamental right.

For these purposes, without prejudice to others, the following claims may be made: those set out in articles 850 and 851, with the references to the Magistrates in numbers 5 and 6 of the latter also being understood to refer to the members of the jury; the existence of defects in the verdict, whether due to partiality in the instructions given to the Jury or a defect in the proposition of the purpose of the former, as long as this arises in a lack of a proper defence, or because there were grounds which should have been returned to the Jury and this was not ordered.

b) That the judgment breached a constitutional or legal precept in the legal classification of the offences or in determining the sentence, or the security measures or civil liability.

c) That dissolution of the Jury was requested due to non-existence of evidence for the prosecution and such request was unduly dismissed.

d) That dissolution of the Jury was ordered but was not appropriate.

e) That the right to the presumption of innocence was breached because, given the evidence taken at the trial, there was a total lack of a reasonable basis to the sentence imposed.

In the cases of letters a), c) and d), in order for the appeal to be admitted to proceedings, the appropriate protest must have been made at the time when the breach reported occurred.

Article 846 a. iv).

The Court Clerk will transfer the writ lodging the appeal, once the time limit for appealing has expired, to the other parties who, within five days, may challenge the appeal or lodge a subordinate appeal. If this is lodged, it will be sent to the other parties.

After the five day time limit, if there is no challenge and no subsidiary appeal is lodged or, as appropriate, having been sent to the other parties, the Court Clerk will summon all of them to appear within ten days before the Civil and Criminal Bench of the High Court of Justice.

If the main appellant does not appear or waives their appeal, the Court Clerk will return the records to the Provincial Court, which will pronounce the judgment to be final and proceed with its enforcement.

Article 846 a. v).

When the appellant appears, the Court Clerk will set a date for the appeal hearing summoning the parties to the proceedings and, in all cases, the convicted person and the third party with civil responsibility.

The hearing will be held as a public hearing, commencing with the appellant taking the stand followed by the Public Prosecutor, if they are not the one appealing, and the other appellees.

If a subsidiary appeal has been lodged, this party will intervene after the main appellant who, if they do not waiver, may reply to them.

Article 846 a. vi).

Within five days following the hearing, judgment must be passed which, if the appeal is upheld for any of the reasons referred to in letters a) and d) of article 846 a. iii), will order the case to be returned to the higher Court for a new trial to be held.

In all other cases, the appropriate decision will be passed.

Article 846 b.

1. Orders involving conclusion of the proceedings due to lack of jurisdiction or dismissal and judgments passed by the Provincial Courts or the Criminal Bench at the National High Court in the first instance may be appealed before the Civil and Criminal Benches of the High Courts of Justice in their region and before the Appeals Chamber of the National High Court, respectively, which will pass judgment on the appeals.

2. The Civil and Criminal Bench of the High Courts of Justice and the Appeals Chamber at the National High Court will be made up of three magistrates to hear the appeals provided for in the previous paragraph.

3. Appeals against the decisions provided for in paragraph 1 of this article will be governed by the provisions of articles 790, 791 and 792 of this act, although the references made to the Criminal Courts will be understood to be made to the body that passed the decision under appeal and the references to the higher Courts to that which is competent to hear the appeal.

TITLE II

On the appeal in cassation

CHAPTER I

On appeals in cassation due to infringement of the Law and breach of form

Section 1. On the propriety of the appeal

Article 847.

1. An appeal in cassation is appropriate:

a) Due to infringement of the law and breach of form against:

1. Judgments passed in a single instance or in appeal by the Civil and Criminal Benches of the High Courts of Justice.

2. Judgments passed by the Appeals Chamber of the National High Court.

b) Due to infringement of the law for the reason provided for in number 1 of article 849 against judgments passed in appeal by the Provincial Courts and the Criminal Bench of the National High Court.

2. Those limited to declaring nullity of judgments passed in the first instance are excepted.

Article 848.

Appeals in cassation may be lodged, solely for infringement of law, against such orders where this appeal is expressly authorised by law and definitive orders issued in the first instance and in appeal by the Provincial Court or the Criminal Bench of the National High Court, where they involve the conclusion of proceedings due to a lack of jurisdiction or a dismissal and the case was made against the accused by a judicial decision which involved a grounded charge.

Article 849.

It will be understood that the Law has been infringed for the purposes of lodging an appeal in cassation where:

1. Given the facts declared to be proven in the decisions included in the two previous articles, a criminal precept of a substantive nature, or other legal rule of the same nature which must be observed in application of criminal law, has been infringed.

2. There is an error in assessing the evidence, based on the documents on the records, which show the error of the judge without being contradicted by other elements of evidence.

Article 850.

The appeal in cassation may be lodged for breach of form where:

1. Any measure of enquiry, proposed in due time and form by the parties, which is considered appropriate was rejected.

2. Where the summons of the accused, the person with subsidiary civil liability, the prosecutor or the civil claimant to appear in the oral trial was omitted, unless they appeared on time, assuming themselves to be summoned.

3. Where the President of the Court refuses to allow a witness, whether in a public hearing or in any legal measure taken outside it, to answer the question or questions asked of them which are relevant and have manifest influence on the case.

4. Where any question is dismissed as being loaded, leading or irrelevant, where it is not so in reality, as long as it was truly important to the outcome of the trial.

5. Where the Court had decided not to stay the trial for the accused present, in the case where one of the accused did not appear, as long as there was a grounded case for not trying them separately and there was not declaration of default.

Article 851.

An appeal in cassation may also be lodge for the same reasons where:

1. The judgment does not expressly clearly and categorically which are the facts considered to be proven, or there is a manifest contradiction amongst them, or concepts which, due to their legal nature, involve predetermination of the ruling are recorded as proven facts.

2. The judgment only expresses that the alleged facts for the prosecution are not proven, without expressly listing those which are proven.

3. The judgment does not rule on all the points which have been the subject of the prosecution and defence.

4. A crime which is more serious than that subject to prosecution is punished, if the Court had not previously proceeded in accordance with article 733.

5. The judgment was passed by a lesser number of Magistrates than that indicated in the Law or without the number of votes in favour demanded by it.

6. Any Magistrate has participated in passing judgment whose challenge, attempted in due time and form and founded on legal grounds, was rejected.

Article 852.

In all cases, the appeal in cassation may be lodged on the grounds of an infringement of a constitutional precept.

Article 853. *(Repealed)*

Article 854.

The following may intervene in an appeal in cassation: The Public Prosecutor, those who were a party to the criminal proceedings, those who, without having been such, were convicted in the judgment and the heirs of one or the other.

Civil claimants may not lodge the appeal unless it may affect the restitutions, repairs and compensation claimed.

Section 2. On the preparation of the appeal

Article 855.

The person proposing to lodge an appeal in cassation will request the Court that passed the final decision for a testimony of it and will state the type or types of appeal they intend to use.

Where the appellant proposes to ground the appeal in number 2 of article 849, they must designate, without giving reasons, the particulars of the document showing the error in assessing the evidence.

If they propose to use that for breach of form, they will also designate, without giving reasons, the error or errors allegedly committed and, as appropriate, the claim made to rectify them and its date.

Article 856.

The request expressed in the previous article will be made in a writ authorised by the Lawyer and Procurator, within the five days following the last notification of the judgment or order against which it is intended to lodge the appeal.

Article 857.

This writ will contain the solemn promise to make the deposit provided for in article 875 of this Act.

If the party preparing the appeal has been declared totally or partially bankrupt, or they have been given the right to free legal aid, they will request the Court that this circumstance is expressly recorded on the certification of the judgment to be issued, and they will also undertake, if their financial situation improves, to make payment of the amount of the deposit which, depending on the case, must be made.

Article 858.

The Court, within the following three days and without having heard the parties, will have the appeal prepared, if the judgment appealed is in cassation and all the requirements demanded in the previous articles have been complied with, or, otherwise, it will deny it in a reasoned order, a certified copy of which will be given to the appellant when notification is made.

Article 859.

In the same decision taking the appeal as being prepared, the Court Clerk will be ordered to issue, within a period of three days, testimony of the judgment, including the

dissenting votes, if any, and, once issued, the Court Clerk will summon the parties to appear before the Second Chamber of the Supreme Court, within a non-extendable time limit of 15 days, if referring to judgments passed by Courts sitting in the Peninsula; 20 days, if they sit in the Autonomous Region of the Balearic Islands, and 30, if they sit in the Autonomous Region of the Canary Islands or the autonomous cities of Ceuta or Melilla.

Article 860.

The appellant who, for their defence, has been given the right to free legal aid, or has been declared totally or partially bankrupt, may request the sentencing Court to send the necessary testimony to lodge the appeal directly to the Second Chamber of the Supreme Court, or, as appropriate, certification of the order dismissing it.

The Chamber will order that the Court Clerk see to the appointment of Lawyer and Procurator who may lodge the relevant appeal, if the appellant has not already appointed them. In either case, the Chamber will set the time limit within which it must be lodged.

Article 861.

The sentencing Court, on the same day that it delivers or sends the testimony of the judgment or order, will send the Second Chamber of the Supreme Court certification of the abstaining votes, if any, or dissenting, as appropriate, and will order that, in addition to the appellant, the parties to the case are notified of the delivery or remittance of the testimony, summoning them so that they may appear before the aforementioned Chamber within the time limits set in article 859.

At the same time as the aforementioned certification, the Court Clerk will send another which succinctly states the case, the names of the parties, the crime, the date the testimony was delivered to the appellant and, if the accused is held on remand, the date on which such situation concludes, in addition to the date the parties are ordered to attend.

The case, or the part of it in which the alleged error was committed, or which contains the authentic document, will also be sent where the appeal has been prepared due to breach of form or in accordance with number 2 of article 849.

The party who did not prepare the appeal may be joined to it, within the time limit of the summons or when instructed of the appeal lodged by the other party, putting forward such grounds as are appropriate.

Article 861 a. i).

Judgments against which an appeal in cassation may be lodged will not be enforced until the time limit set for its preparation has expired.

If, within such time limit, an appeal is prepared, the Court will, when sending the case or part of it, order that a record of the testimony of the decision appealed be made, which will be held with the separate parts of the case for its enforcement, as appropriate.

The same decision will order that the situation of the convicted person or persons will continue or be changed and order as appropriate regarding monetary liabilities, and will, at the same time, adopt such agreements as are appropriate during the appeal proceedings to ensure, in all cases, enforcement of the judgment passed.

If the judgment appealed was an acquittal and the accused was imprisoned, they will be released.

Article 861 a. ii).

Where the appeal was lodge by one of the accused, the sentence may be enforced definitively against the others, without prejudice to the provisions of article 903.

Article 861 a. iii).

The appeal may be abandoned at any stage of the proceedings, after ratification by the interested party, or their Procurator if they submit a power of attorney which is sufficient to do so. If the parties are summoned to the judgment on the appeal, the individual withdrawing will lose half of their deposit and will pay the court costs which may have been incurred through their fault.

Section 3. On the appeal of complaint due to refusal of the testimony requested to lodge an appeal in cassation.

Article 862.

If the appellant believes themselves to be aggrieved by the order denying the appeal set out in article 858, they may lodge a complaint at the Second Chamber of the Supreme Court, making it known to the sentencing court, within the two days following notification of such order, for the purposes of the provisions of article 863.

Article 863.

The Court will order that a certified copy of the order denying the appeal be sent to the Second Chamber of the Supreme Court and will order that the parties be summoned to appear before the latter under the terms provided for in article 859, depending on the respective cases.

Article 864.

In the certified copies of the orders denying the appeal provided for in the previous articles, the Court Clerk will also record the financial position of those attempting the complaint under the terms provided for in article 858.

Article 865. *(Repealed)*

Article 866.

If the time limit in the summons expires and the appellant in complaint has not appeared, the Court Clerk will pass an order declaring the recourse to be abandoned and the award as to costs, and will notify this to the sentencing court for the appropriate purposes, and the order denying the appeal will be final and consensual. A direct appeal for judicial review may be lodged against this order.

Article 867.

If the appellant appears on time, on verifying this they will draw up, in a writ signed by the Lawyer and Procurator, as clearly and concisely as possible, the grounds for the complaint.

This writ and the order denying the appeal will be accompanied by as many certified copies as there are parties to the proceedings in the case; one of the copies will be delivered to the Public Prosecution Service and, after three days, during which the latter must put forward as appropriate to the Chamber on the appropriateness or impropriety of the complaint, will pass the case to the Rapporteur Magistrate.

Article 867 a.

Where any of the parties summoned appears in legal form, within the time limit of the summons, they will give a copy of the writ of appeal and the order denying the appeal so that, if appropriate, they may challenge it within the same three day time limit granted to the Public Prosecutor.

Article 868.

If the appellant is totally or partially bankrupt, or where they have the right to free legal aid, and during the time limit for the summons appears before the Second Chamber of the Supreme Court in the manner provided for in article 874, the chamber will order the Court Clerk that they see to the appointment of a duty Lawyer and Procurator for their defence, and that the latter be given a certified copy of the order denying the appeal so that, within three days, they may lodge the appeal of complaint, if they consider it to be appropriate, or the Lawyer excuses themselves in the event that they find no merit in it.

Article 869.

The Second Chamber of the Supreme Court, having been informed by the Rapporteur Magistrate, and without further ado, will, in the light of the writs submitted, pass the appropriate decision.

Article 870.

If the Chamber upholds the complaint as being grounded, it will revoke the order denying the appeal and will order the sentencing court to issue the certification of the decision claimed against and carry out all the other provisions of articles 858 and 861.

Where the complaint is not appropriate, in the opinion of the Chamber, it will dismiss it, with an award as to costs, and will notify the sentencing court for the appropriate purposes.

Where the facts alleged as grounds for the complaint turn out to be false, the chamber may impose a fine on the individual appellant, with grounds, which may oscillate between 180 and 6,000 Euros, respecting, in all cases, the principle of proportionality and taking into account the circumstances of the case in hand, as well as the damages which may have been caused to the proceedings or to the other litigants.

Given falsehoods in the facts alleged in the complaint and without prejudice to the provisions of the previous paragraph, the Court will agree to transfer the action against

the rules of procedural good faith to the competent professional associations, in case it is appropriate to impose any type of disciplinary sanction.

Article 871.

There can be no appeal against the decision of the Second Chamber of the Supreme Court resolving the complaint.

Article 872. *(Repealed)*

Section 4. On lodging the appeal

Article 873.

The appeal in cassation will be lodged before the Second Chamber of the Supreme Court within the time limits set in article 859. If these time limits expire without it being lodged, or, as appropriate, the limit granted by the Chamber, in accordance with the provisions of article 860, the Court Clerk will issue an order declaring the appeal to be abandoned and the decision will be final and consensual. A direct appeal for judicial review may be lodged against this order.

Within the same time limits, the other parties may join the appeal, in accordance with the provisions of article 861.

Article 874.

The appeal will be lodged in a writ, signed by the Lawyer and Procurator who hold sufficient power of attorney, without, in any case, the protest to submit it being admitted. This writ will include the following, in numbered paragraphs, as clearly and concisely as possible:

1. The doctrinal and legal basis or grounds given as reasons for cassation due to breach of form, infringement of law or for both causes, headed by a brief summary of their content.
2. The article of this Act authorising each reason for cassation.
3. The claim or claims made to rectify the breach of form which has allegedly been committed and their date, if the error was one of those demanding this requirement.

The testimony referred to in article 859 will be submitted with this writ, if it has been delivered to the appellant, and a verbatim copy of it and the appeal, authorised by their representatives, for each one of the other parties ordered to attend.

Non-submission of the copies will cause dismissal of the writ and, as appropriate, it will be considered to be included under number 4 of article 884.

Joinder to the appeal will be lodged in the manner set out in the previous paragraphs of this article.

Article 875.

Where the appellant is the private prosecutor and the crime is one which can be prosecuted ex officio, their Procurator will, with the writ lodging the appeal, submit the document which proves having deposited 12,000 pesetas at the public institution

designated for that purpose, and as many deposits must be paid as there are appellant prosecutors, unless all of them appear with the same representation.

Where the crime was one which may only be prosecuted at the request of a party, the deposit will be 6,000 pesetas.

There the appellant is the civil claimant, the deposit will be 7,500 pesetas.

Where the appeal is lodged on the last day, the requirement for the deposit will be considered to have been fulfilled if the writ is accompanied by the relevant amount of money in legal tender, and, within the following forty-eight hours, this is replaced by the slip proving having made the deposit in the institution designated for that purpose.

If the appellant has the right to free legal aid, or has been declared totally or partially bankrupt, if their financial situation improves they will be under the obligation to pay the amount referred to in the manner provided for in article 857.

Article 876.

Where, within the order to attend or on the day following appointment the Procurator for the appellant declares their intention to lodge the appeal, or the Public Prosecutor requests it, the Chamber will order the file containing the certification of abstaining votes to be opened and notify it, with the records, to the parties. Otherwise it will not be opened until the appeal is lodged and, from the day that the date is set for the hearing up to the time it is held, it may be examined by the parties at the Court Office.

Article 877.

The appeals will be consecutively numbered in the order of their submission and a certification of the number relating to each one will be given to the party requesting it.

Apart from the general numbering, separate numbering will be set up for the appeals lodged against decisions on cases where the convicted persons are in prison.

Article 878.

Once the time limit for the summons has expired and the appellant has not appeared in the manner, depending on the case, provided for by this Act, the Court Clerk will, without further ado, issue an order declaring the appeal to be abandoned with an order as to costs against the individual appellant, with notification to that effect to the Court of instance for the appropriate purposes. A direct appeal for judicial review may be lodged against this order.

Article 879.

The Public Prosecutor, when preparing and lodging the appeal, will follow the time limits and forms prescribed in articles 855, 873 and 874, in as far as they are applicable.

Section 5. On carrying out the appeal

Article 880.

Once the appeal has been lodged and the time limit for the summons expired, the Court Clerk will appoint the Rapporteur Magistrate whose duty it is and will draw up a

certified memorandum of the appeal within ten days. This memorandum will contain a verbatim copy of the substantive part of the decision appealed, its grounds in fact and the summary of the reasons for cassation provided for in number one of article 874, and in relation to the background to the case and any other particular that they deem necessary for the decision on the appeal.

The Court Clerk will deliver the copies of the appeal to the respective parties.

Article 881.

Furthermore, the Court Clerk will deal with the appointment of a Lawyer and Procurator for the defence of the person accused, convicted or acquitted by the judgment, where they are not the appellant and have not appeared.

The Lawyer appointed in this way may not excuse themselves from accepting the defence of the accused, unless this is due to some conflict, in which case a different Lawyer will be appointed.

Article 882.

Within the time limit set for drawing up the memorandum in article 880, the Prosecutor and the parties will take instructions and may challenge admission of the appeal or joinder to it.

If they challenge it, they will accompany the writ of challenge with as many copies of it as there are parties, to whom the Court Clerk will immediately deliver them so that, within a time limit of three days, they may state as they deem appropriate.

Article 882 a.

The appellant, in their writ lodging the appeal, may request a hearing to be held. The same request may be made by the other parties when the appeal is instructed.

Article 883.

Once the memorandum is drawn up, it will be place with the case and the records will be passed to the Rapporteur Magistrate for instruction, for a period of ten days.

After the Rapporteur's report, the Chamber will pass the appropriate decision on the admission or rejection of the appeal.

Article 884.

The appeal will be inadmissible where:

1. It is lodged for reasons other than those stated in articles 849 and 851.
2. It is lodged against decisions other than those included in articles 847 and 848.
3. The facts that the judgment states to be proven are not respected or legal allegations are made in patent contradiction of, or inconsistency with them, with the exception of the provisions of number 2 of article 849.
4. The requirements demanded by the Law for its preparation or lodging have not been observed.

5. In the cases under article 850, where the party attempting to lodge it had not claimed rectification of the error using the appropriate recourses or by the opportune protest.

6. In the case under number 2 of article 849, where the document or documents were not a part of the proceedings, or the statements of those opposing those in the decision appealed are not specifically designated.

Article 885.

The appeal may also be inadmissible where:

1. It manifestly lacks grounds.

2. The Supreme Court has already dismissed, ultimately, other substantially similar appeals.

The inadmission of the appeal may affect all the grounds given or solely refer to one or some of them.

Article 886. *(Repealed)*

Article 887.

The decision will be made in one of the two following ways:

1. Admitted and concluded for hearing or ruling.

2. Rejected and notified to the sentencing court for the appropriate purposes.

Article 888.

The decision rejecting admission of the appeal will take the form of an order and will be published in the "Legislation Collection", stating the name of the Rapporteur. The decision admitting the appeal will not be published.

The background in fact and the grounds in law for the decisions will be limited to points relating to the matter decided on.

Where the same decision rejects admission of the appeal on one or some of its grounds but admits it in respect to others, or where the appeal lodged by one interested party is admitted but rejected with respect to another, this must be grounded with respect to the part in rejection and published in the "Legislative Collection".

Article 889.

The decision rejecting admission of the appeal must be adopted unanimously.

The inadmission to proceedings of the appeal in cassation in the case provided for in article 847.1.b) may be issued in a succinctly grounded procedural court order as long as there is unanimity on the lack of interest to set aside.

Article 890.

Where the Chamber rejects admission of the appeal and appellant had paid the deposit, they will be condemned to lose it and it will be used exclusively by the

Governance Chamber to use its total to pay contingent needs of the Justice Administration, for personnel and materials.

If the appellant had not paid the deposit due to poverty or total or partial bankruptcy, the same decision will be passed for when their financial situation improves.

Article 891. *(Repealed)*

Article 892.

There can be no appeal against the decision of the Chamber admitting or rejecting the admission of the appeal and joinder.

Article 893.

If, in the opinion of the Chamber, the appeal is admissible and, as appropriate, the joinder to it, it will immediately agree to it in a procedural court order. The procedural court order agreeing to admission of the appeal will also order that the Court Clerk set a date for the hearing, as appropriate. If a hearing is not to be held, the chamber will set a date for the ruling.

If it is decided to hold a hearing, the Court Clerk will set the date.

Section 6. On the decision on the appeal

Article 893 *a. i).*

The Chamber may decide on the merits of the appeal, without holding a hearing, setting a date for the ruling, except where the parties request it to be held and the duration of the sentence imposed, or which may be imposed, is over six years or where the Court, de officio or at the request of a party, deems the hearing necessary.

The Court will, at any event, order the hearing where the concurring circumstances or the significance of the matter make it advisable that deliberations are public or where, whatever the sentence may be, crimes included under titles I, II, IV or VII of book II of the Criminal Code are concerned.

Article 893 *a. ii).*

If the Chamber uses the power granted to it in the previous article, it will pass judgment under the terms provided for in articles 899 and 900.

Article 894.

Once the appeal is admitted and the date set for the hearing by the Court Clerk, it will be heard in a public hearing, attended by the Public Prosecutor and the defence counsel for the parties.

Unjustified non-appearance by the latter will not, however, be grounds for staying the hearing if the chamber deems this appropriate.

The Chamber may impose such disciplinary actions as it deems necessary on the lawyers who do not appear, depending on the seriousness and importance of the matter. In all cases, the Chamber will order the Court Clerk to notify such non-

attendance to the relevant Lawyer's Association for the purposes of the such disciplinary action which, as appropriate, may be taken.

Article 895.

The Chamber will order the appeals to be brought before it in the order they were admitted, establishing special, preferential places for those included in article 877.

If, for any reason, the hearing cannot take place on the day set, the Court Clerk will set another one as soon as possible, taking care, as far as possible, not to alter the order established.

Article 896.

The hearing will commence with the Court Clerk informing on the matter concerned.

The Lawyer for the appellant will speak first; next, the lawyer for the party who has joined the appeal, and, finally, the lawyer for the appellee challenging. If the Public Prosecutor is the appellant, they will speak first, and if supporting the appeal, will report on who lodged it.

Article 897.

The Public Prosecutor and the Lawyers may rectify briefly, in the same order in which they took the stand.

The President, on their own initiative or at the request of any of the Magistrates, may request the Public Prosecutor and the Lawyers for greater clarification of the matter deliberated on, specifically wording the thesis which the Court is in doubt about.

The President will not permit any discussion about the existence of the facts recorded in the decision under appeal, except where the appeal was lodged for the reason in paragraph 2 of article 849, and will call to order anyone attempting to discuss them and may order them to stand down.

Article 898.

The Chamber will consist of three Magistrates, except where the sentence imposed, or which may be imposed if the grounds articulated by the prosecution are successful, exceeds twelve years, in which case it will consist of five.

Article 899.

When the public hearing has concluded, the Chamber will decide on the appeal within the following ten days.

Prior to passing judgment, if the Chamber considers it necessary for greater understanding of the facts related in the decision under appeal, it may request the sentencing court to remit the records, and the aforementioned time limit will be stayed.

The Rapporteur Magistrate, when instructing the appeal, may propose to the Chamber that the case is requested as a matter of course.

Article 900.

Decisions will be drawn up in the following manner:

1. Heading. This will set out the date, the crime subject to the case, the names of the appellants, accused and private prosecutors who have intervened in it; the Court it came from, other general circumstances which serve to determine the matter subject to appeal and the name of the Rapporteur Magistrate.

2. Background in fact. The facts declared proven in the judgment or order appealed will be literally transcribed, separately, except for those which are manifestly irrelevant, along with the substantive part of the same decision.

3. Grounds for cassation. The grounds for cassation alleged by the respective parties will be set out.

4. Grounds in law. The grounds in law for the decision will be included separately.

5. The ruling.

Article 901.

Where the Chamber upholds any of the grounds alleged for cassation, it will declare the appeal to be allowed and will cassate and annul the judgment in question, ordering the deposit paid to be repaid and making an award as to costs ex officio.

If it dismisses it, it will declare that the appeal is disallowed and award costs against the appellant and the loss of the deposit in payment for the items set out in article 890, or, if they have the right to free legal aid, an equivalent amount when their financial situation improves.

The Public Prosecutor is excepted from an award as to costs.

Article 901 a. i).

Where the Chamber upholds that the breach of form which grounded the appeal was committed, they will declare it to be allowed and order the case to be returned to the Court that it came from so that, reinstating it to the state it was in when the error was committed, it substantiates it and concludes it in accordance with law.

Article 901 a. ii).

If the Chamber upholds that the breach of form alleged was not committed, it will declare it to be dismissed and will proceed, in the same decision, to resolve on the grounds for cassation due to infringement of the law.

In all cases, it will order the case to be returned to the sentencing court.

Article 902.

If the Chamber cassates the decision subject to appeal by virtue of any reason grounded on infringement of the law, it will then, but separately, pass the appropriate sentence in accordance with law, with no more limitation than that of not imposing a greater sentence than that indicated in the judgment cassated or that which is appropriate in accordance with the pleas of the appellant, in the event that a higher sentence is requested.

Where the Chamber believes it is appropriate to propose a pardon, this will be duly reasoned in the decision.

Article 903.

Where the appellant is one of the accused, the new sentence will take in those for the others in as far as they were favourable, as long as they were in the same position as the appellant and the grounds given on which cassation of the sentence is declared are applicable to them. They will never be prejudiced by anything adverse to them.

Article 904.

There can be no appeal against the sentence in cassation and that passed by virtue of it.

Article 905.

The decisions passed in which the appeal in cassation is declared to be upheld or dismissed will be published in the "Legislative Collection".

Article 906.

If the decisions concerned in the previous article are made in cases dealing with any of the crimes against sexual freedom and identity or against honour or special circumstances exist, in the opinion of the Chamber, they will be published deleting the names of the persons, of the places and the circumstances which may make the plaintiffs and accused and the Courts ruling on the proceedings known.

If the Chamber deems that publication of the decision affects the honour, personal or family privacy, or the personal image of the victim, or public security, it may order in the decision itself that it is not published, either in whole or in part.

Articles 907 *to* 909. *(Repealed)*

CHAPTER II

On appeals in cassation due to breach of form

Articles 910 *to* 933. *(Repealed)*

CHAPTER III

On lodging, substantiation and deciding on the appeal in cassation due to infringement of the law and breach of form

Articles 934 *to* 946. *(Repealed)*

CHAPTER IV

On the appeal in cassation in cases of death

Articles 947 *to* 953. *(Without content)*

TITLE III

On the appeal for judicial review

Article 954.

1. Judicial review of final judgments may be applied for in the following cases:

a) Where a person has been convicted by a final prison sentence which gave value to a document or testimony as evidence which was later declared to be false, the forced confession of the accused by violence or coercion, or any other punishable act carried out by a third party, as long as these events are declared in a final decision in the criminal proceedings held for that purpose. The court conviction will not be demanded where the criminal proceedings initiated for that purpose are filed away due to the statute of limitations, default, and death of the accused or other reason not involving assessment of the background.

b) Where a final criminal conviction sentencing one of the intervening magistrates or judges for the offence of malfeasance by virtue of a decision passed in the proceedings where the judgment was made whose review is claimed, without the ruling having been different.

c) Where two final judgments have been passed on the same crime and accused.

d) Where, after judgment, facts or evidence become known which, if they had been provided, would have determined acquittal or a less severe sentence.

e) Where, a pre-trial matter having been resolved by the criminal court, a final judgment is later passed by the non-criminal court competent to decide on the matter which is contradictory to the criminal judgment.

2. A final decision on confiscation will be grounds for judicial review where there is a contradiction between the facts declared as proven in it and those declared as proven in the final criminal judgment passed, as appropriate.

3. Judicial review of a final judicial decision may be applied for where the European Court of Human Rights has declared that the decision was issued in violation of any of the rights recognised by the European Convention for the Protection of Human Rights and Fundamental Freedoms and its Protocols, as long as the violation, due to its nature and severity, entails effects which persist and may not cease in any other way than by such judicial review.

In this case, the review may only be applied for by whoever, being authorised to lodge this appeal, was the plaintiff before the European Court of Human Rights. The application must be made within a period of one year from when the judgment of that Court becomes final.

Article 955.

The convicted person and, if they are deceased, their spouse, or whoever lived together with them as such, and ascendants and descendants are authorised to advocate and lodge, as appropriate, an appeal for judicial review for the purpose of reinstating the good name of the deceased and that, as appropriate, the true culprit be punished.

Article 956.

The Ministry of Justice, having opened proceedings, may order the Supreme Court Prosecutor to lodge the appeal where, in its opinion, there are sufficient grounds to do so.

Article 957.

The Chamber, having heard the Public Prosecutor, will admit or reject lodging the appeal. Prior to passing the decision, the Chamber may, if it understands it to be appropriate and given reasonable doubts arising in the case, order such legal measures to be carried out as it considers fit, for which purpose it may request the necessary judicial cooperation. The orders agreeing authorisation or rejection of the appeal being lodged may not be subject to any appeal whatsoever. Once the appeal is authorised, the appellant will have fifteen days to lodge it.

Article 958.

In the case of number 1 of article 954, the Chamber will declare the contradiction between the judgments, if, in effect, it exists, annulling both of them and ordering the case to be instructed once again to the Court responsible for hearing the crime.

In the case of number 2 of the same article, the Chamber, having verified the identity of the person whose death was punishable, will annul the final judgment.

In the case of number 3 of the same article, the Chamber will issue the same decision, having seen the ruling declaring the falsehood of the document and will order the Court responsible for hearing the case to instruct the case once more.

In the case of number 4 of that article, the Chamber will give instructions for supplemental information, which they will give sight of to the Prosecutor, and if, within it, the innocence of the convicted person is proven, the sentence will be annulled and, as appropriate, an order will be made to whoever should hear the crime to instruct the case once again.

Article 959.

The appeal for judicial review will be substantiated by hearing the Prosecutor just once in writing and the convicted persons once, who must be summoned if they had not appeared before. Where a request is made to join the background to the records, the Chamber will decide as it considers most appropriate on this particular. Afterwards the appeal will follow the procedures set out for the appeal in cassation due to an infringement of the law and the Chamber, with a verbal report, or without one, depending on what is agreed in the light of the circumstances of the case, will pass judgment, which will be irrevocable.

Article 960.

Where, as a result of an annulled final judgment, the convicted person suffered corporal punishment, if the new sentence imposes another, the entire time previously suffered and its gravity will be taken into account when carrying it out.

Where, as a result of the appeal for judicial review, an acquittal is issued, the interested parties, or their heirs, will have the right to such civil compensation as arises in accordance with common law, which will be paid by the State, without prejudice to the right of the latter to reprise against the Judge or sentencing court incurring in liability or against the person directly declared liable, or their heirs.

Article 961.

The Chief Public Prosecutor may also lodge the appeal as long as they are aware of a case in which it is appropriate and that, in their opinion, has sufficient grounds to do so, in accordance with the investigations they may have carried out.

BOOK VI
ON THE PROCEDURE FOR THE TRIAL OF MISDEMEANOURS

Article 962.

1. Where the Judiciary Police receives notice of an act which shows signs of being a misdemeanour of injury or assault, theft in flagrante, threats, coercion or defamation, whose trial is the responsibility of the Magistrate's Court before which the accused must be brought, or another in the same judicial district, the aggrieved and injured parties, the accused and the witnesses who may be able to testify to the facts will immediately be summoned before the Duty Court. When serving the summons, the summoned persons will be warned of the respective consequences of not appearing before the Duty Court. Furthermore, they will be warned that the trial may be held immediately in the Duty Court, even if they do not appear, and that they must appear with the evidence which they intend to present. The complainant and the aggrieved or injured parties will be informed of their rights in the terms provided for in articles 109, 110 and 967.

At the time of the summons they will be requested, if they have them, to designate an E-mail address and a telephone number where such communications and notifications as must be made will be sent. If they cannot provide them, or if they expressly request it, notifications will be sent by ordinary post to the address they designate.

2. The person reported will be succinctly informed of the facts in the report and their right to appear with the assistance of a lawyer. This information will, in all cases, be provided in writing.

3. In these cases, the Judiciary Police will deliver the police statement, which will record the legal measures and summons carried out and, as appropriate, the accusation of the aggrieved party, to the Duty Court.

4. To carry out the summons referred to in this article, the Judiciary Police will set the day and time for the appearance in coordination with the duty Court. For these purposes, the General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will issued the relevant Regulations for organising the duty services at the Magistrate's Courts in relation to serving these summons, in coordination with the Judiciary Police.

5. In the event that the jurisdiction to hear the case lies with the Domestic Violence Court, the Judiciary Police must serve the summons referred to in this article before the Court on the next working day. To carry out the aforementioned summons, the Judiciary Police will set the day and time for the appearance in coordination with the Domestic Violence Court.

For these purposes, the General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will pass the appropriate regulations to ensure this coordination.

Article 963.

1. Once the police statement has been received in accordance with the provisions of the previous article, if the judge deems it appropriate to initiate the trial, they will adopt one of the following decisions:

1. Order dismissal of the proceedings and archiving of the legal measures where requested by the Public Prosecutor in the light of the following circumstances:

a) The misdemeanour reported is minor given the nature of the offence, its and the perpetrator's personal circumstances, and

b) There is no relevant public interest in the prosecution of the offence. In misdemeanours against property, it will be understood that there is no relevant public interest in prosecution where the damage has been repaired and there is no complaint from the aggrieved party.

In this case, the stay of the trial will immediately be notified to all those summoned in accordance with paragraph 1 of the previous article.

The dismissal of the proceedings will be notified to those aggrieved by the offence.

2. Order the trial to be held immediately, in the case that the persons summoned have appeared or, even if any of them have not appeared, the court deems their presence to be unnecessary. Furthermore, when ordering the trial to be held immediately, the Duty Court will take into account whether it may be impossible to take any means of evidence which is considered to be essential.

2. To order the trial to be held immediately, it will be necessary for the matter to correspond to the Duty Court by virtue of the rules on jurisdiction and division.

Article 964.

1. In the cases not included in article 962, where the Judiciary Police receives notice of an act which shows signs of being a misdemeanour, it will immediately draw up the relevant police statement which it will remit, without delay, to the Duty Court, apart from in the cases excepted in article 284 of this Act. This police statement will include the legal measures carried out and the offer to the offended or aggrieved party to take legal action, carried out in accordance with articles 109, 110 and 967, and, if they have them, the designation of an E-mail address and telephone number to which the communications and notifications which must be carried out will be sent. If they cannot provide them, or if they expressly request it, notifications will be sent by ordinary post to the address they designate.

2. Once the police statement has been received in accordance with the provisions of the previous paragraph, and in all cases where the proceedings were initiated by virtue of a claim submitted directly to the judicial body by the aggrieved party, the judge may pass one of the following decisions:

a) Order dismissal of the proceedings and archiving of the legal measures where this is appropriate in accordance with the provisions of number 1 of paragraph 1 of the previous article.

The decision on dismissal will be notified to the parties aggrieved by the offence.

b) Order that the trial be held immediately, as the accused has been identified and it is possible to summon all the persons who must be called to appear while the duty service lasts and the remaining requirements demanded by article 963 are in place.

3. The summons will be served on the Public Prosecutor, unless the misdemeanour is one which may only be prosecuted at the request of a party, the plaintiff or complainant, if there is one, the accused and the witnesses and experts who can testify to the facts. When the summons are served, the persons summoned will be warned of the respective consequences of not appearing before the Duty Court, they will be informed that the trial may be held even if they do not attend, and they will be advised that they must appear with the means of evidence they intend to put forward. Furthermore, the proceedings indicated in paragraph 2 of article 962 will be carried out with the accused.

Article 965.

1. If it is not possible to hold the trial during the duty service, the following rules will be followed:

1. If the judge deems that jurisdiction for the trial corresponds to the magistrate's court itself and that dismissal in accordance with the provisions of number 1 of paragraph 1 of article 963 is not appropriate, the Court Clerk will, in all cases, proceed to set a date for the trial to be held and issue the appropriate summons for the next possible working day within those determined to be such, and, in any case, within a time limit of not more than seven days.

2. If the judge deems that jurisdiction for the trial corresponds to a different court, the court clerk will refer the proceedings so that a date may be set for the trial and the summons served in accordance with the provisions of the previous rule.

2. The General Council of the Judiciary, in accordance with the provisions of article 110 of the Judiciary Act, will issue the appropriate rules for setting dates for misdemeanour trials, in coordination with the Public Prosecutor.

Article 966.

The summons for the trial to held provided for in the previous article will be served on the Public Prosecutor, the plaintiff or complainant, if there is one, the accused and the witnesses and experts who can testify to the facts.

For this purpose, each one of them, on their first appearance before the Judiciary Police or the Examining Magistrate, will be requested, if they have them, to designate an E-mail address and a telephone number to which the communications and notifications which must be made will be sent. If they cannot provide them, or if they expressly request it, notifications will be sent by ordinary post to the address they designate.

Article 967.

1. The summons served on the complainant, the aggrieved or injured party and the accused for the trial to be held will inform them that they may be assisted by a lawyer, if they so wish, and that they must attend the trial with the means of evidence that they intend to put forward. The summons served on the accused will be accompanied by a copy of the complaint or claim submitted.

Without prejudice to the provisions of the previous paragraph, the general rules on defence and representation will apply to the trial of misdemeanours which carry punishment of a fine with a maximum limit of six months.

2. Where those summoned as parties, witnesses and experts do not appear, or plead a just cause for not doing so, they may be penalised with a fine of 200 to 2,000 Euros.

Article 968.

In the event that, for just cause, the oral trial cannot be held on the day set, or cannot be concluded in a single session, the Court Clerk will set the next possible day for it to be held or continued and, in any case, within the next seven days, and will make this known to the interested parties.

Article 969.

1. The trial will be public, beginning with the complaint or claim being read, if there is one, followed by examination of the witnesses called and taking such other evidence as proposed by the plaintiff, complainant and the Prosecutor, if in attendance, as long as the Judge considers it to be admissible. The claim must meet the requirements of article 277, except that the signature of a lawyer or a procurator will not be necessary. Following on, the accused will be heard, the witnesses they present in their defence will be examined and such other evidence as is offered and is relevant will be taken, observing the provisions of this Act where they are applicable. Continuing, the parties will verbally put forward as they deem appropriate in support of their respective claims, with the Prosecutor, if in attendance, speaking first, then the private plaintiff or claimant and, lastly, the accused.

2. The Prosecutor will attend misdemeanour trials whenever summoned to do so. Nevertheless, the Chief Public Prosecutor will give instructions on the cases where, in the public interest, the prosecutors may stop attending the trial and issuing the reports referred to in articles 963.1 and 964.2, where prosecution of the misdemeanour demands a claim from the aggrieved or injured party. In these cases, the statement of the claimant at the trial confirming the acts reported will have the value of a charge, even if they are not classified and a punishment is not indicated.

Article 970.

If the accused lives outside the Court's demarcation, they will not be under the obligation to attend the trial and may address a writ to the Judge pleading as appropriate in their defence, and grant power of attorney to a lawyer or procurator to submit such pleas and evidence for the defence as they have at the trial.

Article 971.

Unjustified absence of the accused will not stay the trial being held or the decision, as long as there is a record that they were summoned with the formalities provided for in this Act, unless the Judge, ex officio or at the request of a party, believes that it is necessary that they declare.

Article 972.

As regards recording and documenting the hearing, the provisions of article 743 shall apply.

Article 973.

1. The Judge, in the act of concluding the trial, or, or not possible, within the following three days, will pass judgment, assessing, in good conscience, the evidence given, the grounds put forward by the Prosecutor and by the other parties or their defence counsel and the statements of the accused themselves, and always using the freedom of choice granted to them for the classification of the misdemeanour, or to impose the sentence, by the Criminal Code, and must express if they have taken into consideration the elements of the trial that the law applicable to it obliges them to take into account.

2. The judgment will be notified to those aggrieved or harmed by the misdemeanour, even if they were not a party to the proceedings. The notification will set out the appropriate appeals against the decision notified, along with the time limit for their submission and the judicial body before which they should be lodged.

Article 974.

1. The judgment will take effect immediately after the time limit set in the third paragraph of article 212, if none of the parties have appealed and the time limit for contesting for the aggrieved and injured parties not appearing in the trial has expired.

2. If the judgment has sentenced payment for civil liability, without setting its amount as a monetary amount, the provisions of article 984 will apply.

Article 975.

If the parties, when the ruling is known, state their decision not to appeal, the Judge will immediately declare the judgment to be final.

Article 976.

1. The sentence may be appealed within a time limit of the five days following its notification. During this period the proceedings may be found in the Court Clerk's office at the disposal of the parties.

2. The appeal will be formalised and processed in accordance with the provisions of articles 790 to 792.

3. The judgment on the appeal will be notified to those aggrieved or harmed by the misdemeanour, even if they were not a party to the proceedings.

Article 977.

There can be no appeal whatsoever against a judgment passed in the second instance. The body passing it will order the original records to be returned to the Judge, with certification of the judgment passed, so that they may proceed to enforce it.

Articles 978 *to 982.* *(Repealed)*

BOOK VII
ON ENFORCEMENT OF JUDGMENTS

Article 983.

All accused parties who are acquitted by the judgment will be released immediately, unless an appeal is made which produces suspensory effects or there exist other legal reasons which make it necessary to delay the release, which will be ordered in a reasoned court order.

Article 984.

Enforcement of the judgment in trials for misdemeanours is the responsibility of the body that heard the trial. Where it cannot, on its own, carry out all the necessary legal measures, it will address the judicial body in the constituency where they must take effect, so that it carries them out.

The Examining Magistrate who heard an appeal on a misdemeanour trial will order the original records to be sent, accompanied by certification of the final decision, to the Judge who heard the trial in the first instance, for the purposes of the previous paragraph.

To enforce the judgment, in as far as it refers to the repair of damage caused and compensation for damages, the provisions set out in the Civil Procedure Act will be applicable, although, at any event, it will be advocated ex officio by the Judge that passed it.

Article 985.

Enforcement of the judgments in criminal cases is the responsibility of the Court passing the final judgment.

Enforcement of judgments passed in the proceedings for acceptance of an order, where a misdemeanour is concerned, is the responsibility of the court passing it.

Article 986.

Notwithstanding the provisions of the previous article, the judgment passed after the decision in cassation by the Second Chamber of the Supreme Court will be enforced by the Court that pronounced the cassated judgment, in the light of the certification referred to it by that Chamber for that purpose.

Article 987.

Where the Court responsible for enforcement of the judgment cannot carry all the necessary legal measures out on its own, it will address the competent judicial body in the district or demarcation in which those carried out must have effect.

Article 988.

When a judgment is final, in accordance with the provisions of article 141 of this Act, it will be declared as such by the Judge or Court that passed it.

Once this declaration is made, the judgment will be enforced even if the convicted person is subject to another case, in which case they will be taken, where necessary, from the penal institution where they are serving their sentence to the place where the pending case is being instructed.

Where the perpetrator of several criminal offences has been convicted in different proceedings for crimes which could have been the subject of just one, in accordance with the provisions of article 17 of this Act, the Judge or Court which passed the last judgment, ex officio, at the request of the Public Prosecutor or the convicted person, will set the limit for completion of the punishments imposed in accordance with the provisions of article 76 of the Criminal Code. For this purpose, the Court Clerk will request the criminal record sheet from the Central Register of Convicted Offenders and Fugitives and testimony of court convictions and, after an opinion from the Public Prosecutor, where the latter is not the applicant, the Judge or Court will pass a court order listing all the punishments imposed on the convicted person, setting the maximum for completion of them. The Public Prosecutor and the convicted person may lodge an appeal in cassation for infringement of the Law against this order.

Article 989.

1. Rulings on civil liability will be subject to provisional enforcement in accordance with the provisions of the Civil Procedure Act.

2. For the purposes of enforcing civil liability arising from the crime or misdemeanour and without prejudice to application of the provisions in the Civil Procedure Act, the Court Clerk assign such property investigation proceedings to the Inland Revenue or, as appropriate the regional internal revenue services, as are needed to show the present and future income and assets of the convicted person until the civil liability determined in the judgment is paid in full.

When these institutions plead legal reasons or the respect for fundamental rights to avoid complying with the submittal or do not cooperate as requested by the Court Clerk, the latter shall inform the court so that it may decide as appropriate.

Article 990.

The punishments will be enforced in the manner and time provided for in the Criminal Code and in the regulations.

The Judge or Court on which this Code imposes the duty to see the judgment is enforced is responsible for taking, without delay, such measures as are necessary so

that the convict enters the penal institution designated for that purpose, and for which purpose assistance will be required from the Administrative authorities, who must provide it with no excuses or pretexts.

The jurisdiction of the Judge or Court to ensure the judgment is carried out excludes that of any Government Authority until the convicted person enters the penal institution or is transferred to the place where they must serve their sentence.

In cases of crimes against the Treasury Department, smuggling and against Social Security, the revenue collection bodies of the Tax Office or, as appropriate, Social Security, these will have jurisdiction, supervised by the judicial authority, to investigate such assets as may be allotted to the payment of civil liabilities arising from the crime, exercise the powers provided for in tax or Social Security legislation, send reports on asset status, and make the Judge or Court aware of possible changes in circumstances which they may become aware of, and which are relevant, so that the Judge or Court may decide on the enforcement of the sentence, its suspension or revocation.

The Courts will also exercise the powers of inspection given to them by the Laws and Regulations on the manner of enforcing sentences.

The Court Clerk is responsible for running the enforcement proceedings for the judgment, passing the necessary legal measures for that purpose, without prejudice to the jurisdiction of the Judge or Court to enforce the sentence.

The Court Clerk will inform those directly aggrieved and injured by the crime and, as appropriate, the witnesses, of all decisions in relation to the convicted person which may affect their safety.

Article 991.

Those confined who are assumed to be in a state of insanity will be put under observation, with an information file being opened by the Governor of the prison where they are held on the facts and grounds giving rise to insanity being suspected, which will contain the first opinion or, at least, certification by the practitioners who have examined and observed them.

Article 992.

Once the gravity of the suspicion has been recorded, the Governor of the prison will give immediate account to the President of the sentencing court where those confined came from, with a verbatim copy of the file opened, without prejudice to making it known to the Directorate General of Penal Institutions.

Article 993.

The President will pass the file referred to in the previous article to the Sentencing court which, preferentially, will hear the Prosecutor and the private prosecutor in the case, if there is one, and calling and hearing the convicted person's defence counsel, or appointing one ex officio for this case, if they do not have one, and will order the widest, formal instruction on the facts and the physical and moral status of the patients, using the same legal means of evidence which would have been used if the incident

had occurred while the case was being heard, commissioning, for that purpose, the Examining Magistrate for the district in which those confined are to be found.

Article 994.

Once the incident referred to in the previous articles has been substantiated in adversarial proceedings, if there is objection, and in ordinary form if there is none, and having heard the sworn affidavits of the experts in the art of healing and, as appropriate, the Academy of Medicine and Surgery, the appropriate ruling will be passed. The ruling will be notified to the Governor of the prison who, if insanity is declared, will transfer the insane convict to the appropriate institution, without prejudice to complying with the provisions of the Criminal Code with respect to the insane person recovering their sanity.

Article 995. *(Abolished)*

Article 996.

Third-party claims to ownership, or superior rights, which may be deduced will be substantiated and decided subject to the provisions set out in the Civil Procedure Act.

Article 997.

The Examining Magistrate entrusted with carrying out legal measures for enforcement of the judgment will immediately account for their completion to the Sentencing Court, with testimony relating to those carried out in the attempt, which will be added to the case.

Article 998.

Such legal measures will be archived by the Court Clerk who intervened in them.

Article 999.

1. In enforcement of judgments for crimes against the Treasury Department, the disagreement of the person under the obligation to pay with such changes, in accordance with the provisions of the General Tax Act, as are made by the Public Administration, will be declared to the competent Court for enforcement, within a time limit of 30 days from its notification, which, having heard the enforcing Administration and the Public Prosecutor for the same period, will decide in a court order if the change made is in accordance with that stated in the judgment, or if there is a deviation from it, in which case it will clearly indicate the time limits within which the settlement must be amended.

2. There is recourse to appeal for a single purpose against the court order deciding on this incident or, as appropriate, an appeal for reversal.

First additional provision.

In the cases of threats or coercion provided for in article 572.1.3. of the Criminal Code, the judge or court will, when making preliminary enquiries, take the necessary measures to ensure confidentiality of the data appearing in the various public registries affecting the victim of the threats or coercion, in such a way that such data cannot serve as information to commit crimes of terrorism against such persons.

Second additional provision.

The precautionary measures of remand, its maximum duration and its termination, along with all other precautionary measures taken in the course of criminal proceedings, will be annotated on a central register, with national scope, which will be held at the Ministry of Justice.

The Government, at the proposal of the Ministry of Justice, having heard the General Council of the Judiciary and the Data Protection Agency, will pass the appropriate regulatory provisions in relation to the organisation and competences of such central register, setting the time for its entry into use and the regime for registration and cancellation of its entries and access to the information contained on it, ensuring, in all cases, its confidentiality.

Third additional provision.

The Government, on a joint proposal from the Ministries of Justice and Internal Affairs, and after the legally appropriate reports, will regulate, by Royal Decree, the structure, composition, organisation and functioning of the National Committee on the forensic use of DNA, which will be responsible for accreditation of the laboratories entitled to compare genetic profiles in the investigation and prosecution of crimes and the identification of bodies, setting up criteria for coordination between them, drawing up official technical protocols on obtaining, conserving and analysis of samples, determining the conditions for their secure custody and setting up all such measures as ensure the strict confidentiality and reserve of the samples and analyses and the data obtained from them, in accordance with the provisions of law.

Fourth additional provision.

1. The references made to the Examining Magistrate and the Judge in the First Instance in paragraphs 1 and 7 of article 544 b. of this Act, in the wording given by Law 27/2003, of 31 July, regulating the Protection Order for Victims of Domestic Violence are understood to be made, as appropriate, to the Domestic Violence Judge.

2. The references made to the Duty Judge in title III of book IV, and in articles 962 to 971 of this Act are understood to be made, as appropriate, to the Domestic Violence Judge.

Fifth additional provision. *Notification of proceedings to the National Social Security Institute, the Navy Social Institute, the General Directorate of Personnel and State Pension Costs at the Ministry of Finance and the General Directorate of Personnel at the Ministry of Defence.*

The court clerks of the courts and tribunals will notify the National Social Security Institute, the Navy Social Institute and the General Directorate of Personnel and State Pension Costs at the Ministry of Finance and Public Administrations of any judicial decision from which reasonable indications of criminality due to the commission of an intentional crime of homicide, in any of its forms, arise, where the victim was the ascendant, descendant, brother or sister, spouse or ex-spouse of the accused, or was or had been linked to them by an emotional relationship similar to marriage. These official organisations will also be notified of final court rulings putting an end to criminal proceedings. Such notifications will be made for the purposes provided for in articles 179 b, 179 c, 179 d and 179 e of the combined text of the General Social Security Act, passed by Royal Legislative Decree 1/1994, of 20 June, and article 37 a and 37 b of the combined text of the Law on State Pensioners, passed by Royal Legislative Decree 670/1987, of 30 April.

Sixth Additional Provision. *Asset Recovery and Management Office.*

1. The Asset Recovery and Management Office is the administrative body responsible for the duties of locating, recovering, conserving, managing and realising effects arising from criminal activities under the terms provided for in criminal and procedural legislation.

Where necessary for the performance of its duties and carrying out its purpose, the Asset Recovery and Management Office may seek the collaboration of any public and private bodies, which will be under the obligation to provide it in accordance with their specific regulations.

2. The resources entrusted to the Asset Recovery and Management Office prior to a final judicial decision being passed on confiscation may be managed via the judicial Deposits and Consignments Account where these entail money from an attachment or the early realisation of effects. For the remaining assets, depending on the circumstances, the Office may manage them in any of the ways provided for in legislation applicable to Public Authorities. Interest on the money and returns and earnings on assets will be used to pay for the costs of management, including those relating to the Office. The remaining amount will be kept awaiting the results of the provisions of the final judicial decision on confiscation.

When the final judicial decision on confiscation is passed, the resources obtained will be subject to realisation and the amount obtained will be applied in the manner provided for in article 367 d. of the Criminal Procedure Act. The remaining amount, and the earnings obtained from managing the assets during the proceedings, will be transferred to Treasury by way of revenue as of public right, from which, once the Asset Recovery and Management Office's costs for operating and management have been deducted, as given in the Ministry of Justice's Budget, up to 50% will be attached to pay for the elements shown in the following paragraph. This income will generate credit in the Ministry of Justice's budget, in accordance with the provisions of the General Budget Act.

The costs of management and the expenses provided for in the previous paragraphs may be calculated in the manner determined in the regulations.

3. The purposes of the resources obtained by the Asset Recovery and Management Office as a result of court rulings on confiscation are as follows:

a) support for Victim support programmes, including promotion and funding of Victim Support Offices,

b) support for social programmes aimed at crime prevention and treatment of offenders,

c) intensification and improvement to proceedings for crime prevention, investigation, prosecution and repression.

d) international cooperation in the fight against serious forms of criminality,

e) and those that may be determined by the regulations.

4. In the State General Budget Act each year the percentage subject to attachment for the purposes of this provision will be determined. The criteria for distribution of the resources attached will be fixed annually in a Government Cabinet agreement.

Seventh additional provision. *Proceedings.*

Without prejudice to the provisions for special proceedings, crimes which alternatively or jointly are punished with light sentence or other which is less serious, will be substantiated in summary proceedings or, as appropriate, the fast-track proceedings for specific crimes or by the process of acceptance of an order.

Final provision.

All previous Laws. Royal Decrees, Regulations, Orders and Charters, in as far as they contain rules on criminal procedure for Judges and Courts with common jurisdiction, are repealed.

The Royal Decree of 20 June 1852 and other current provisions on the procedure for crimes of smuggling and fraud are excepted from the provisions in the previous paragraph.


GOBIERNO
DE ESPAÑA
MINISTERIO
DE JUSTICIA