

If the investigating judge does not agree with the request to conduct additional forensic examination or cross forensic examination, he/she shall make the decision through an order which shall be based on reasons. The decision shall be made within 5 (five) days if the request was made by a prosecutor and within 1 (one) month if the request was made by an accused person or a civil party. The applicant shall be immediately notified of the order.

All applications to conduct additional forensic examination or cross-forensic examination that are submitted after the expiration of the time limit set by the investigating judge shall be put into the dossier.

If the investigating judge who receives an application to conduct forensic examination, additional forensic examination or cross-forensic examination fails to make a decision within the time stated in paragraph 2 of Article 162 (Necessity of Expert Examination) of this Code or in this Article, the applicant can file a petition directly with the Investigation Chamber, who shall make the decision instead of the investigating judge.

Article 171. Costs of forensic examinations

Costs of forensic examination shall be the burden of the applicant.

The cost of forensic examination, additional forensic examination or cross- forensic examination which was requested by an investigating judge, a prosecutor or a judicial police officer shall be the burden of the government.

SECTION 7

Listening to Telephone Conversation

Article 172. Listening to Telephone Conversation Ordered by an Investigating Judge

When it is necessary to reveal the truth, an investigating judge can issue an order authorizing the listening to and recording telephone conversations. The investigating judge can also order the intercept and record of all telecommunications, such as messages through facsimile or Internet.

The investigating judge can request every qualified public institution or specialist civil servant to install technical instruments and make recordings. The investigating judge shall indicate in his/her order the type of communications that are authorized to be monitored and the duration of the mission.

The appointed public institutions or civil servants shall perform their duties according to the order of the investigating judge. During the mission, the appointed public institutions or civil servants shall report to the investigating judge on the progress of the mission, particularly concerning the eventual difficulties. When the mission is completed, the public institutions or civil servants shall transcribe all recorded voices into written transcripts. The transcriptions shall accurately reflect the substance of the recorded communication. The recorded voice shall be given to the investigating judge and sealed.

The investigating judge can have access to the place where the interception or recording is being carried out at any time. The investigating judge may not be prohibited from accessing the place for any reasons, even the place is a military location.

An investigating judge can authorize this assignment by way of a rogatory commission.