

## **SECTION 8**

### **Rogatory Commissions**

#### **Article 173. Rogatory Commissions**

Through a rogatory commission, an investigating judge may delegate the power to any judge who works in the same court or in another court, the judicial police officers or the judicial police unit to perform the investigation work.

#### **Article 174. Content of Rogatory Commissions**

A rogatory commission shall specify the nature of work to be done. The work shall relate directly to the offense which has been charged. A rogatory commission cannot be general, it has to be specific.

The investigating judge shall set the time for carrying out the rogatory commission.

The rogatory commission shall be dated and signed by the investigating judge and shall also be sealed.

The investigating judge may withdraw a rogatory commission at any time.

#### **Article 175. Rogatory Commission Issued to Another Judge**

When a rogatory commission is issued to another judge, the assigned judge shall have all powers of the investigating judge.

#### **Article 176. Rogatory Commission Issued to a Judicial Police Officer**

When a rogatory commission is issued to a judicial police officer, that officer shall have the powers stated in Articles 178 (Report on Investigation and Inquiry) to 184 (Record of Judicial Police Officer) of this Code.

Concerning the enforcement of the rogatory commission, judicial police officers shall be under the supervision of the investigating judge and shall only report to this judge.

#### **Article 177. Execution of Rogatory Commission by a Judicial Police Officer**

A judicial police officer shall perform the duties specified in a rogatory commission in their territorial jurisdiction, except as otherwise provided in paragraphs 2 and 3 of Article 68 (Extension of Territorial Authority) of this Code.

#### **Article 178. Report on Investigation and Inquiry**

A judicial police officer shall make a report on his/her investigation and inquiry.

#### **Article 179. Rules for Interview by a Judicial Police Officer**

A judicial police officer can summon and interview witnesses.

Before answering any questions, each witness shall swear according to his/her religion or beliefs that they will speak only the truth, except for the witnesses listed in Article 156 (Authorized Witness without Swearing) who are exempted from taking an oath. To respect the rights to self-defense, the judicial police officer cannot interview as a witness any person with lead of guilt on that person. If the interview of any witness indicates the potential guilt of that witness, the judicial police officer shall stop the interview and shall report it to the investigating judge. A judicial police officer may call on an interpreter who shall swear according to his or her religion or beliefs that he/ she will assist the court by interpreting fairly and accurately.

A person who is called for questioning as a witness shall appear. In case of refusal, the judicial police officer shall report to the investigating judge, who can issue a warrant to the witness to appear in which the identification of the witness shall be specified. This warrant shall be dated, signed by the investigating judge and sealed. The warrant to the witness to appear shall authorize the judicial police officers to use public forces for compulsory appearance to the witness.

The provisions of paragraphs 2 to 5 of Article 93 (Record of Interview) of this Code shall be applied on the record of witness interview.

#### **Article 180. Interview that Cannot be Done by a Judicial Police Officer**

Judicial police officers cannot interview an accused person or listen to the statement of a civil party.

#### **Article 181. Search and Seizure Conducted by a Judicial Police Officer**

Judicial police officers can search and seize objects according to the provisions of Articles 91 (Search) and 92 (Affixation of Stamp on Exhibits) of this Code. However, authorization as stated in the second phrase of paragraph 1 of Article 91 (Search) of this Code shall be provided by the investigating judge.

#### **Article 182. Police Custody under Rogatory Commission**

The provisions of Articles 96 (Police Custody) to 102 (General Report of Police Custody) concerning police custody shall apply in the enforcement of a rogatory commission. However, powers given by these Articles to a prosecutor shall be applied by an investigating judge. For the implementation of Article 103 (Transportation of an Arrested Person) and Article 104 (Duration of Transportation) of this Code, when the period of police custody expires, the detained person shall be brought to appear before the investigating judge.

#### **Article 183. Listening to telephone conversation primarily under Rogatory Commission**

When a rogatory commission allows the listening or recording telephone conversations or monitoring and recording conversations through means of telecommunications such as facsimiles or internet messages, the judicial police officer shall apply the authorities provided to the investigating judge by the second phrase of the paragraph 1, and paragraph 2 of Article 172 (Listening to Telephone Conversations Ordered by an Investigating Judge) of this Code.

#### **Article 184. Records Prepared by Judicial Police Officers**

The record made by a judicial police officer in relation to the enforcement of a rogatory commission shall be under the provisions of Article 108 (Contents of Police Record) of this Code.