CRIMINAL PROCEDURE CODE

THE GENERAL PART
TITLE I
Basic rules and actions in the criminal trial
Chapter I
Aim and basic rules of the criminal trial

Art. 1
The aim of the criminal trial is to acknowledge in due time and completely the deeds that represent crimes, so that any person who has committed a crime is punished according to his/her guilt, and no innocent person is held criminally responsible.
*The criminal trial must contribute to the defense of the rule of law, to the defense of the person's rights and liberties, to the prevention of crimes as well as to the citizens education in the spirit of law.

Art.2
The criminal trial takes place both during the criminal investigation and the trial itself, according to the provisions of the law.
The papers necessary for the criminal trial are drawn up ex officio, If the law does not stipulate otherwise.

Art. 3
The criminal trial must lead to the disclosure of the truth regarding the deeds and circumstances of the cause, as well as those regarding the perpetrator.

Art.4
Criminal investigation bodies and courts must take active part in the criminal trial.

Art.5
The person's liberty is guaranteed all throughout the criminal trial.
No person can be retained, arrested or subjected to any form of liberty restraint, except for the cases and circumstances stipulated by the law.
If the person subjected to preventive arrest or liberty restraint considers such measures illegal, he/she has the right, during the trial, to bring the matter to the attention of the competent court, under the law.
Any person illegally subjected to a preventive measure is entitled to damages
During the criminal trial, the defendant who is preventively arrested may require temporary release, under judicial supervision or on bail.

Art. 5(1)
Any person subjected to criminal Investigation or to criminal trail must be treated with respect. Torture and cruel, inhuman or degrading treatment are punished under the law.

Art.6
The right to defense is guaranteed to the defendant and to the other parties all throughout the criminal trial.
During the criminal trial, the judicial bodies must ensure the parties' full exertion of their rights, under the circumstances stipulated by the law and must administrate the evidence necessary for defense.
The judicial bodies must inform the defendant on the deed of which he is held responsable on its judicial status, and exertion of his defence.
Any party is entitled to assistance by defender during the criminal trial.
The judicial bodies must inform the defendant, before his first statement, on his right to be assisted by a defender; this will be noted in the listening official report. Under the circumstances and in the eases stipulated by the law, the judicial bodies must provide judicial assistance for the defendant, if the latter has not chosen a defender.

Art.7
The criminal trial is conducted in Romanian.
In front of the judicial bodies in the counties inhabited by nationalities other than Romanian, the use of the native language of the respective nationality is ensured.
Art.8
The parties who do not speak the language used in the criminal trial are given the possibility to get acquainted with the record, to speak in court and pass conclusions through an interpreter.

CHAPTER II
CRIMINAL ACTION "'
AND CIVIL ACTION AS PART OF THE CRIMINAL TRIAL
SECTION I
CRIMINAL ACTION

Art. 9 .
The object of criminal aGtt9n is to impose criminal responsibility on the persons who have committed crimes.
Criminal action is initiated by the accusation act stipulated by the law.
Criminal action can be exerted all throughout the criminal trial.
Art. 10
Criminal action cannot be initiated, or carried on in case it has already been initiated, in the following cases:
a) the deed does not exist;
b) the deed is not stipulated by the criminal law;
b.1)the deed is not as dangerous socially as a crime;
c) the deed has not been committed by the defendant;
d) the deed facks one of the constitutive elements of a crime;
e) one of the causes that annul the criminal nature of the deed is present;
f) the preliminary complaint of the harmed person, the authorization or announcement of the competent body, or any other condition stipulated by the law, necessary to the criminal action is missing;
g) amnesty, prescription or death of the perpetrator have occurred:
h) the preliminary complaint has been withdrawn or the parties have reconciled, in the case of crimes whose criminal responsibility is annulled by the withdrawal of the complaint or the reconciliation of the parties;
I) replacement of criminal responsibility has been ordered;
j) there is authority of tried matter.
The prevention has consequences even if the finally tried deed were assigned to another judicial category.
In the situation stipulated at letter f), ulterior criminal action may be initiated under the law.
Art. 11
When the existence of one of the cases stipulated in art. 10 is acknowledged:
1. During the criminal investigation, at the proposal of the criminal investigation body or ex officio, the prosecutor orders:
a) closing, when there is no accused;
b) exemption from criminal investigation, in the cases stipulated In art. 10 letters a) - e), when the accused or convict exist;
c) cessation of criminal investigation, in the cases stipulated in art. 10. letters f) - j), when the accused or convict exist;
2. During the trial the court decides:
a) acquittal, in the cases stipulated in art. 10, letters a) - c);

b) cessation of the criminal trial, in the cases stipulated in art. 10 letters f) - j).

Art.12

In the cases mentioned in art. 10 letters b), d) or e), the prosecutor who orders closing or exemption from criminal investigation, or the court that decides the acquittal inform the competent body if they consider that the deed in question may entail other measures or sanctions than those stipulated by the law.

Art. 13

In case of amnesty, prescription or withdrawal of the preliminary complaint, the accused or convicted maz require the resumption of the criminal trial.

If one of the cases stipulated in art. 10 letters a) - e) is acknowledged, the prosecutor orders exemption from criminal investigation, and the court decides the acquittal.

If none of the cases stipulated in art. 10 letters a) - e) is acknowledged, the prosecutor orders the cessation of the criminal investigation, and the court orders the acquittal.

SECTION II
CIVIL ACTION

Art. 14

The object of the civil action is to impose civil responsibility on the defendant and on the party that bears the civil responsibility.

Civil action can be joined with criminal action within the criminal trial, if the harmed person claims for damages as a private individual.

The damages will be paid for according to the provisions of the civil law:

a) by returning the good(s) and by re-establishing the situation before the crime, by partial or total annulment of a document or by any other means of repair;

b) by paying a compensation, in case the repair stipulated at letter a) above is not possible.

Financial compensations are also granted for the use of which the civil party has been deprived. **Art.15**

The victim can sue the defendant and the party that bears civil responsibility for civil injury.

It is possible to claim damages as a private individual during criminal investigation, as well as in court until the summons act is read out.

Being civil party does not impede the person who has suffered harm by crime to participate as harmed party in the same cause.

Civil action is exempted from stamp tax.

Art. 16

The introduction in the criminal trial of the person who bears the civil responsibility may be done upon request or ex officio, either during the criminal investigation or in court, before the summons act is read out.

The person who bears the civil responsibility may intervene in the criminal trial only until the judicial investigation ends in the first court the procedure being assumed in the state in which it is at the moment of intervention.

The party who bears the civil responsibility has, as far as the civil action is concerned, all the rights stipulated by the law for the accused or convicted.

Art. 17

Civil action is also initiated and carried on ex officio, when the harmed person is one of those referred to in art. 145 in the Criminal Code.

For this purpose, the criminal investigation body or the court will ask the harmed institution to present a report on the size of the damage and data on the acts by which the damage has been done. The Institution is obliged to present the required report and data.

In the case described in paragraph 1, the court must resolve ex officio the payment of the damages, even if the harmed institution cannot claim damages as a private individual.

The provisions of paragraphs 1 and 3 are also applicable in case the harmed party lacks or has limited exertion ability .

Art. 18

The prosecutor may support in court the civil action initiated by the harmed person.

When the harmed person is one of those referred to in art. 145 in the Criminal Code or a person lacking or having limited exertion ability, the prosecutor, when taking part in the trial, is obliged to defend his/her civil interests, even if he/she cannot sue for civil injury.

Art. 19

The harmed person who didn't sue for civil injury in the criminal trial may initiate in the civil court action for repairing the damages caused by the crime.

The civil trial is postponed until a final decision IS passed on the criminal cause.

Civil action may also be initiated in civil court by the harmed person who can sue for civil injury or for whom civil action has been initiated within the criminal trial, but the criminal trial has been suspended. In case the criminal trial is resumed, the action initiated in the civil court is suspended.

The harmed person who has initiated action in the civil court may leave this court and go to the criminal investigation body or the court, if the criminal action was initiated afterwards or the criminal trial was resumed after suspension. One cannot leave the civil court if the latter has passed a decision, even if not final.

Art. 20

The harmed person who can sue for civil injury in the criminal trial may initiate action in the civil court if the criminal court, by its final decision, has not resolved the civil action.

In case the civil action has been carried on ex officio, if new evidence shows that the damage has not been entirely repaired; the difference may be claimed by way of an action in the civil court.

Also, the harmed person may initiate action in the civil court for repairing the damages appeared or discovered after the first court has passed the criminal decision.

Art. 21

Civil action remains part of the criminal court competence in case the death of one party occurs, his/her successors being brought to the cause.

If one of the parties is a legal person, in case it is reorganized, the successor institution as far as the rights are concerned is brought to the cause, and in case it is abolished or dissolved, the liquidators are brought to the cause.

Art. 22

The final decision of the criminal court has authority of tried matter in the civil court that tries the civil action, as far as the existence of the deed, of the person who has committed it and his/her guilt are concerned.

The final decision of the civil court that has resolved the civil action does not have authority of tried matter in front of the criminal investigation body and of the criminal court, as far as the existence of the criminal deed, of the person who has committed it and his/her guilt are concerned.

SECTION III
THE PARTIES IN THE CRIMINAL TRIAL

Art. 23

The person against whom criminal action has been initiated is part of the criminal trial and is called defendant.

Art. 24

The person who, as a result of the criminal deed, has suffered a physical, moral or material harm, if he/she takes part in the criminal trial. is called victim.

The harmed person that carries on the civil action within the criminal trial is called plaintiff.

The person called in the criminal trial to answer, according to the civil law, for the damage done as a result of the deed committed by the defendant is called the party who bears the civil responsibility.

TITLE II
COMPETENCE
CHAPTERI
TYPES OF COMPETENCE
Section I

Competence according to matter and the quality of the person

Art. 25
The first instance court (judecatoria) tries as first instance all crimes, except for those tailing under the competence of other instances, under the law.
Art. 26
The military tribunal tries as first instance:
1. crimes committed by officers up to and including the rank of captain, except for those falling under the competence of other instances, under the law:
2. the following crimes committed by civil persons:
a) crimes against the goods are the property of, administrated or used by The Justice -The Penitentiary General Department, The Romanian Information Service, The External Information Service, The Special Telecommunication Service and The Protection and Guarding Service, that, by their nature or aims have a military character or influence the defense or security of the State:
b) crimes stipulated in art. 348-354 in the Criminal Code:
3. work-related crimes, committed by the civil employees of the Ministry of Defense, The Ministry of Internal Affairs, the Ministry of Justice –The Penitentiary General Department, The Romanian Information Service, The External Information Service, The Special Communications Service and The Protection and Guarding Service, except for those falling under the competence of other instances, under the law.
Art. 27
The tribunal:
1 .tries as first instance:
a) crimes stipulated in the Criminal Code in art. 174-177, 179, 189 paragraph 3, art. 190, 197 paragraphs 2 and 3, art. 209 paragraph 3, art. 211 paragraphs 2 and 3, art. 212, 215 paragraph 5, art. 215(1) paragraph 2, art. 218, 219 paragraph 3 if the deed resulted in a disaster, and paragraph 4, art.238, 239 paragraph 3, art. 248(1), 252, 254, 255, 257, 266-270, 273 paragraph 2, art. 274 paragraph 2, art. 275 paragraph 3, art. 276, 279 paragraph 3, art. 279(1),280,280(1),282-285, 298,302(2),312 and 317, as well as the crime of contraband, if its object were weapons, ammunition or explosive or radioactive substances;
b) crimes committed on purpose, which resulted in death of a person;
c) crimes regarding the national security of Romania. stipulated by special laws;
d) the crime of fraudulent passing of the state frontier, when the special minimum of the punishment is 2 years or more;
e) the crime of fraudulent bankruptcy, If the crime regards the banking system;
f) other infractions falling under its competence, under the law:
2. as appeal instance, it tries the appeals against the criminal judgements passedo by judges in first instance, except for those regarding the crimes mentioned in art. 279 paragraph 2 letter a);

3. as recourse Instance, it tries the recourses against criminal judgements passed by first instance courts (judecatoria-s) I for the crimes mentioned in art. 279 paragraph 2 letter a), as well as for other cases stipulated by the law;
4. resolves the competence conflicts that appear between the first instance courts (judecatoria-s) in its territorial area.

Art. 28

The territorial military tribunal:
1. tries as first instance:
a) the crimes committed by senior officers, except for those falling under the competence of other instances, under the law;
b) the crimes mentioned in art 27 1. letters a), b) and c), committed by officers up to and including the rank of captain, or the work-related crimes committed by the civil employees in the Ministry of Defense, the Ministry of Internal Affairs, the Ministry of Justice -the Penitentiary General Department, the Romanian Information Service, the External Information Service, the Special Communications Service and the Protection and Guarding Service;
c) other crimes falling under its competence, under the law:
2. as appeal instance, it tries the appeals against the judgements passed in first instance by the military tribunals, except for the crimes mentioned in art. 279 paragraph 2 letter a) and for the crimes against the military order and discipline, sanctioned with maximum 2 years jail, under the law;
3. as recourse instance, it tries the recourses against the military tribunals for the crimes mentioned in art. 279 paragraph 2 letter a) and for the crimes against the military order and discipline sanctioned with maximum 2 years jail, under the law, as well as for other cases stipulated by the law:
4. resolves the competence conflicts that appear between the military tribunals in its territorial area.

Art. 28(1)

The Court of Appeal:
1. tries in first instance:
a) the crimes stipulated in the Criminal Code In art. 155-173 and 356-361 ;
b) the crimes committed by judges in first instance courts (judecatoria-s) and tribunals, by prosecutors in the prosecution departments affiliated to these instances, as well as by public notaries;
c) the crimes committed by judges, prosecutors and financial controllers in the regional chambers of accounts;
d) other crimes falling under its competence. under the law:
2. as appeal instance, it tries the appeals against the criminal judgements passed in first instance by the tribunals;
3. as recourse instance, it tries the recourses against the criminal judgements passed by the tribunals in appeal. as well as in other cases stipulated by the law;
4. resolves the competence conflicts that appear between tribunals or between tribunals and iirstinstance courts (judecatoria) in its territorial area, or between first instance courts (judecatoria-s) located in the circumscription of different tribunals in the territorial area of the Court.

Art. 28(2)

The Military Court of Appeal:
1. judges in first instance:
a) the crimes stipulated by the Criminal Code in art. 155-173 and art. 356-361, committed by officers or committed. in relation to their work, by the civilemployees of the Ministry of National Defense, the Ministry of Internal Affairs, the Ministry of Justice -the Penitentiary

General Department, the Romanian Information SeNice, The External Information Service, the Special Communications SeNice and the Protection and Guarding Service;
b) crimes committed by the judges in military tribunals and in territorial military tribunals, as well as by the military prosecutors in the military prosecution departments affiliated to these instances;
c) other crimes falling under its competence, under the law;
2. as appeal instance, it tries the appeals against the judgements passed in first instance by the territorial military tribunals;
3. as recourse instance, it tries the recourses against the judgements passed by the territorial military tribunals in appeal. as well as In other cases stipulated by the law;
4. resolves the competence conflicts that appear between the territorial military tribunals, or between the military tribunals and the territorial military tribunals, or between the military tribunals in the competence area of different territorial military tribunals.

Art. 29

The Supreme Court of Justice:
1 .tries in first instance:
a) the crimes committed by senators and deputies;
b) the crimes committed by members of the Government;
c) the crimes committed by judges in the Constitutional Court, members, judges, prosecutors and financial controllers in the Court of Accounts and by the president of the Legislative Council;
d) the crimes committed by marshals, admirals and generals;
e) the crimes committed by the chiefs of religious orders established under the law and by the other members of the High Clergy, who are at least bishops or the equivalent.
f) the crimes committed by judges and assistant magistrates in the Supreme Court of Justice, by the judges in the courts of appeal and in the Military Court of Appeal, as well as by the prosecutors in the prosecution departments affiliated to these instances;
g) other causes falling under its competence, under the law:
2. as recourse instance, it tries:
a) recourses against the criminal judgements passed. in first instance, by the courts of appeal and by the Military Court of Appeal;
b) recourses against the criminal judgements passed, In first instance, by the criminal department and the military department of the Supreme Court of Justice;
3. tries the recourses in the interest of the law;
4. tries the actions for cancellation;
5: resolves:
a) the competence conflicts when the Supreme Court of Justice is the common superior instance
b) the cases in which the course of justice is interrupted;
b) the removal claims.
c)

Section II
Territorial Competence

Art. 30

The competence according to territory IS determlr:ed :Jy.
a) the place where the crime has been committed;
b) the place where the perpetrator has been caught:
c) the place where the perpetrator lives;
d) the place where the victim lives.
The cause is tried by the competent instance under paragraph 1, in whose territorial area the criminal investigation has been performed.

When the criminal investigation is performed by the General Prosecution Department affiliated to the Supreme Court of Justice or by the prosecution departments affiliated to the courts of appeal or to tribunals, or by a central or regional investigation body, the prosecutor settles. by charge/demand, the instance among those stipulated in paragraph 1 who has the competence to try, ensuring the good performance of the criminal trial, according to the circumstances of the cause .
By “the place where the crime was committed” one understands the place where the criminal activity was performed, totally or partially, or the place where the result of the criminal activity was produced.

Art. 31

The crimes committed outside the country are tried, according to the case, by the civil or military instances in whose territorial area the perpetrator lives. If the perpetrator does not live in Romania, and the deed falls under the competence of the first instance court (judecatoria) , it is tried by the First Instance Court (Judecatoria) of sector 2, and in the other cases, by the competent instance according to matter and quality of the person, in Bucharest.
The crime committed on a ship falls under the competence of the instance in whose territorial area the first Romanian port where the ship anchors is located, in case the law does not stipulate otherwise.
The crime committed on a spaceship falls under the competence of the instance in whose territorial area the first landing place on Romanian territory is located.
If the ship does not anchor in a Romanian port or the spaceship does not land on Romanian territory, the competence is the one stipulated by paragraph 1, when the law does not stipulate otherwise.

Section III
Competence in case of indivisibility and connexion

Art. 32

In case of indivisibility or connexion, the trial in first instance is performed by the same Instance if It takes place at the same time for all deeds and all perpetrators.

Art. 33

The following cases are considered indivisibility:
a) when more persons were involved in committing a crime;
b) when two or more crimes were committed by the same act:
c) cases of continued crime or any other cases in which two or more material acts make up one crime:

Art. 34

The following cases are considered connexion:
a) when two or more crimes are committed by different acts, by one or more persons together, at the same time and in the same place;
b) when two or more crimes are committed at different times and in different places, as a result of a prior understanding between the perpetrators:
c) when a crime is committed in order to prepare, facilitate or hide another crime, or in order to facilitate or ensure avoidance of criminal responsibility by the perpetrator of another crime;
d) when there is a connection between two or more crimes and the causes must be joined for abetter justice.

Art. 35

In case of indivisibility or connexion, if the competence regarding the different perpetrators or the different deeds belongs, under the law, to various instances, equal in rank, the competence to try all the deeds and all the perpetrators belongs to the instance first

summoned, and if the competence according to the nature of the deeds or to the quality of the persons belongs to instances different in rank, the competence to try all the Joint causes belongs to the hierarchically superior instance.
If one of the instances is civil and the other is military, the competence belongs to the military instance.
If the civil instance is superior in rank, the competence belongs to the military instance equal in rank with the civil instance.
The competence to try the Joint causes is kept by the instance It has been granted to, even if the closing of the criminal trial or the acquittal have been passed for the deed or the perpetrator who determined the competence of this instance.
Hiding or favoring the perpetrator, or not anncuncing a deed fall under the competence of the instance that tries the crime related to them.

Art. 36

Whether the causes are joined or not is decided by the instance who has trying competence, according to the provisions of art. 35.
In the case stipulated in art. 35 paragraph 3, the joining of the causes is decided by the civil instance who sends the record to the competent military instance.

Art. 37

In the indivisibility cases stipulated In art. 33 letters a) and b), as well as in the connexion cases, the causes are joined if they are before the first instance, even after the dissolution of the judgement sent by the appeal instance or after the cassation sent by the recourse instance.
The cases are also joined at the appeal instances. as well as at the recourse instances; equal in rank, it they are at the same stage in the trial.
In the indivisibility case stipulated in art. 33 letter c) the causes must always be joined.

Art. 38

In the indivisibility case stipulated in art. 33 letter a), as well as in all connexion cases, the instance may order, for the sake of a fair trial, severance of the causes, so that the trial of some perpetrators or crimes is done separately.

Section IV
Common Provisions

Art. 39

The exception of material incompetence or of incompetence according to the quality of the person may be raised all throughout the trial, until the final judgement is passed.
The exception of territorial incompetence may be raised only until the summons act is read out in front of the first instance.
The incompetence exceptions may be raised by the prosecutor, by any of the parties. or be brought to the parties attention and discussed by them ex officio.

Art. 40

When the competence of the instance is determined by the quality of the defendant, the instance keeps its competence to try even if the defendant, after committing the crime, no longer has that quality.
Acquiring a quality after committing a crime does not lead to a change of competence.

Art. 41

The instance summoned to try a crime keeps its competence to try it even if one finds out, as a result of judicial investigations that the crime falls under the competence of a superior instance.
A change in the framing of the crime dictated by a new law during the trial of a cause does not entail the incompetence of the instance if that law does not stipulate otherwise.

Art. 42

The instance who declines its competence sends the record to the instance shown as competent by the declination decision.
If the declination was determined by the material competence or by the competence according to the quality of the person, the instance to whom the cause was sent may use the already drawn papers and may keep the measures ordered by the disseised instance.
In case of declination for territorial incompetence. the papers drawn or the measures ordered are kept.
The competence declination decision is not subject to appeal or recourse.
Art. 43
When two or more instances are admitted to be competent to try the same cause or decline their competence. the positive or negative competence conflict is resolved by the common hierarchically superior instance.
When the competence conflict appears between a civil and a military instance it is resolved by the Supreme Court of Justice .
The common hierarchically superior instance is summoned for positive conflicts.
by the instance who last declared it self competent and, for negative conflicts, by the instance who last declined its competence.
In all cases the instance may also be summoned by the prosecutor or the parties.
The trial is suspended until the positive competence conflict is resolved.
The instance who declined its competence or last declared itself competent takes the measures and carries out the urgent acts.
The common hierarchically superior instance decides on the competence conflict and summons the parties.
When the instance summoned to resolve the competence conflict discovers that the respective cause falls under the competence of an instance different from those in conflict. and with regard to which there is no common superior instance it sends the record to the common superior instance.
The instance to which the cause has been sent by competence decision cannot declare itself incompetent. except for the case in which, as a result of anew situation resulting from a completion of the judicial investigation, one finds out that the deed is a crime that, legally, falls under the competence of another instance.
The instance to which the cause has been sent enforces the provisions of art. 42 paragraph 2 accordingly.
Art. 44
The criminal instance has the competence to try any prior matter on which the resolution of the cause depends. even if, by its nature, that matter falls under the competence of another instance.
The prior matter is tried by the criminal instance according to the rules and probative means regarding the field to which the matter belongs.
The final judgement of the civil instance on a circumstance that represents prior matter in the criminal trial has authority of tried matter in front of the criminal instance.
Art. 45
The provisions of art. 30-36, 38, 40, 42 and 44 are also enforced accordingly during the criminal investigation.
When none of the places specified in art. 30 paragraph 1 is known, the competence belongs to the criminal investigation body first summoned.
In case of simultaneous summons, the priority is settled according to the listing in art. 30 paragraph 1.
If' according to one of the criteria spec:fied in art. 30 paragraph 1, more criminal investigation bodies are competent, the competence belongs to the body first summoned.

The criminal investigation of the crimes committed in the conditions stipulated in art. 31 is performed by the criminal investigation body in the territorial area of the instance competent to try the cause.
The competence conflict between two or more prosecutors is resolved by the common superior prosecutor. When the conflict appears between two or more criminal investigation bodies, the competence is settled by the prosecutor who supervises the criminal investigation activity of these bodies.

CHAPTER II
INCOMPATIBILITY AND REMOVAL
Section I
Incompatibility

Art. 46
The judges who are husband and wife or close relatives cannot be part of the same panel.
Art. 47
The judge who took part in the resolution of a cause cannot take part in the resolution of the same cause in a superior instance, or in the trial of the cause after the dissolution of the judgement sent to appeal or after cassation sent to recourse.
Also, the judge who has previously expressed his opinion regarding the possible solution for a cause cannot take part in the trial of that cause.
Art. 48
The judge is also incompatible to try if, in the respective cause:
a) he has initiated the criminal action, has issued the arrest warrant, has ordered sending to court or has passed conclusions as prosecutor in court;
b) he has been representative or defender of one of the parties:
c) he has been expert or witness;
e) there are circumstances that prove that he, the husband/wife or a close relative are in any way interested.
Art. 49
The provisions of art. 46 are enforced on the prosecutor and the session clerk, when there is an Incompatibility cause between them or between one of them and one of the panel members.
The provisions regarding the incompatibility cases stipulated in art. 48 letters b), c) and d) are enforced on the prosecutor, on the person who performs the criminal investigation and on the session clerk.
The prosecutor who has taken part as judge in the resolution of the cause in first instance cannot pass conclusions when the cause is tried in appeal or recourse.
The person who has performed the criminal investigation is Incompatible for its completion or reconstruction, when the completion and reconstruction is ordered by the instance.
Art. 50
The incompatible person must declare, according to the case: to the president of the instance, the prosecutor who supervises the criminal investigation or the hierarchically superior prosecutor, that he refrains from taking part in the criminal trial, showing the incompatibility case that is the reason for abstention.
The declaration of abstention is made as soon as the person obliged to it has acknowledged the incompatibility case.
Art. 51
In case the incompatible person has not drawn u~ the declaration of abstention, he/she may be challenged both during the criminal investigation and during the trial, by any of the parties, as soon as the party discovers the incompatibility case.

The challenge is formulated orally or in writing, showing the incompatibility case that is the reason for abstention .

Art. 52

Abstention or challenge of the judge, the prosecutor or the session clerk are resolved by another panel, in secret session, without the attendance of the person who declares his/her abstention or who is challenged.

The abstention declaration or of the challenge claim are examined immediately, hearing the prosecutor when he is present in the instance, and, if necessary, the parties, as well as the person who refrains or whose challenge is demanded.

When the abstention or challenge regard the case stipulated In art. 46 and 49 paragraph 1, the instance, approving the challenge, decides which persons among those specified in the mentioned texts will not take part in the trial of the cause.

In case the abstention or challenge are approved, one will decide to what extent to keep the papers drawn up or the measures taken.

The abstention or challenge that regard the whole instance are resolved by the hierarchically superior instance. The latter, when it finds the abstention or the challenge substantiated, appoints an instance equal in rank with the instance in front of which the abstention or challenge have appeared to try the cause.

The closing that approved or rejected the abstention, as well as the closing that approved the challenge, are not subject to any ways of attack.

Art. 53

During the criminal investigation, the prosecutor who supervises the criminal investigation or the hierarchically superior prosecutor decide on the abstention or the challenge.

The challenge claim regarding the person who performs the criminal investigation is addressed either to this person, or to the prosecutor. In case the claim is addressed to the person who performs the criminal investigation, the latter must forward it, together with the necessary clarifications, within 24 hours, to the prosecutor, without interrupting the course of the criminal investigation.

The prosecutor must resolve the claim within maximum 3 days, by ordinance.

The challenge claim regarding the prosecutor is resolved according to the provisions of paragraphs 3 and 4, enforced accordingly.

Art. 54

The provisions of art. 48, 50, 51, 52 and 53 are enforced accordingly on the expert and the interpreter.

The quality of expert is incompatible with that of witness in the same cause. The quality of witness comes first.

Participation as expert or interpreter more than once in the same causes is not a reason for challenge.

Art. 55

The Supreme Court of Justice removes the trial of a cause from the competent instance to another instance equal in rank, when, considering the seriousness of the reasons for removal, it appreciates that the removal would ensure a normal unfolding of the trial.

The removal may be requested by the interested party, by the prosecutor or the minister of justice.

Art. 56

The removal claim is addressed to the Supreme Court of Justice and must be motivated. The writings supporting the claim are attached to it, when the party who requests the removal has them.

The suspension of the trial may be ordered by the president of the Supreme Court of Justice when he receives the claim or by the Supreme Court of Justice after it has been given the appropriate authority .

The claim drawn up by the minister of justice or by the general prosecutor suspends de jure the trial of the cause.

Art. 57

The president of the Supreme Court of Justice requests, in order to clarify certain matters for the instance, information from the president of the instance hierarchically superior to that having the cause whose removal is requested, informing him on the date settled for rying the removal claim.
When the hierarchically superior instance is the Supreme Court of Justice, the information is requested from the Ministry of Justice.
In case a new removal claim is introduced regarding the same cause, the request of information is optional.

Section II
Removal of the criminal cause trial

Art. 55

The Supreme Court of Justice removes the trial of a cause from the competent instance to another instance equal in rank, when, considering the seriousness of the reasons or removal, it appreciates that the removal would ensure a normal unfolding of the trial.

The removal may be requested by the interested party, by the prosecutor or the minister of justice.

Art. 56

The removal claim is addressed to the Supreme Court of Justice and must be motivated. The writings supporting the claim are attached to It. when the party who requests the removal has them.

The suspension of the trial may be ordered by the president of the Supreme Court of Justice when he receives the claim, or by the Supreme Court of Justice after it has been given the appropriate authority.

The claim drawn up by the minister of justice or by the general prosecutor suspends de jure the trial of the cause.

Art. 57

The president of the Supreme Court of Justice requests, in order to clarify 'V certain matters for the instance, information from the president of the instance hierarchically superior to that having the cause whose removal is requested, informing him on the date settled for trying the removal claim.
When the hierarchically superior instance is the Supreme Court of Justice, the information is requested from the Ministry of Justice.
In case a new removal claim is introduced regarding the same cause, the request of information is optional.

Art. 58

The president of the instance hierarchically superior to that who has the cause takes measures for informing the par1ies about the Introduction of the removal claim, the date settled for its resolution, specifying that the par1ies may send memorials and may come at the settled date for the resolution of the claim.

The information sent to the Supreme Court of Justice will include express specifications about informing the interested persons and the corresponding proofs.

When arrested persons are involved in the cause whose removal is requested, the president orders the appointment of an ex officio defender .

Art. 59

The removal claim IS examined in secret session.

When the parties are present, their conclusions are also heard.

Art. 60.

The Supreme Court of Justice orders, without disclosing the reasons. the approval or rejection of the claim.

In case it finds the claim substantiated, it orders the removal of the trial, deciding at the same time the extent to which the acts performed in front of the instance from which the cause has been removed are kept.
This instance will be immediately informed about the approval of the removal claim.
If the instance who has the cause to which the removal claim is asked has in the meantime tried it. the judgement passed is disscluted by the approval of the removal claim.

Art. 61

The removal of the cause cannot be asked again, except when the new claim is based on circumstances unknown to the Supreme Court of Justice at. the resolution of the previous claim or that appeared after that.

TITLE III EVIDENCE AND MEANS OF EVIDENCE
CHAPTER I
GENERAL PROVISIONS

Art. 62

In order to find out the truth, the criminal investigation body and the instance must clarify the cause under all its aspects, on the basis of evidence.

Art. 63

Any fact that leads to the acknowledgement of the existence or non-existence of a crime, to the identification of the person who committed it and to the discovery of the circumstances necessary for the fair resolution of the cause. is considered evidence.
The value of the evidence is not established in advance. The criminal
investigation body and the instance appreciate each piece of evidence according to their own convictions, formed after examining all the evidence administrated, and using their own conscience as guide.

Art.64

The means of evidence that lead to the factual elements that may serve as evidence are: the testimonies of the defendant, the testimonies of the victim, of the civil party or of the party who bears the civil responsibility, the testimonies of the witnesses, the writings, the audio or video recordings, the photos, the probative material means, the technic-scientific findings, the medical-Iegal findings and the expertise.

Art. 65

The task of administrating the evidence during the criminal trial belongs to the u criminal investigation body and to the instance.
At the request of the criminal investigation body or the instance, any person who knows a piece of evidence or holds a means of evidence must reveal or present it.

Art. 66

The defendant is not obliged to prove his/her innocence .
In case there is evidence for his/her guilt, the defendant has the right to prove their inconsistency.

Art. 67

During the criminal trial the parties may propose pieces of evidence and may request their administration.
The request for administration of a piece of evidence cannot be rejected, if the respective piece of evidence is conclusive and useful.
Approval or rejection of requests are motivated.

Art. 68 ..

It is forbidden to use violence, threats or any other constraints, as well as promises, encouragement with the purpose of obtaining evidence.
Also, it is forbidden to force a person to commit or to continue committing a crime with the purpose of obtaining evidence.

CHAPTER III MEANS OF EVIDENCE
Section I
Statements of the defendant

Art. 69

The statements given by the defendant during the criminal trial may lead to the truth only to the extent to which they are supported/completed by facts and circumstances resulted from all the evidence in the cause.

Art. 70

Before being heard. the defendant is asked about his/her name, surname, nickname; date and place of birth, name and surname of parents. citizenship, education, military service, working place, occupation, address, criminal antecedents and other data necessary to determine his/her personal situation.

The defendant is then informed about the deed that makes the object of the cause and is asked to declare everything he knows in connection to the deed and to his/her guilt.

Before hearing the defendant, the criminal investigation body asks him/her to write himself a statement related to the guilt he is made responsible of.

Art. 71

Every defendant is heard separately.

During the criminal investigation, if there are more defendants. each of them is heard without the others attending.

The defendant is first left to declare everything he knows in relation with the cause.

The hearing of the defendant cannot begin by reading or reminding the statements that the latter has previously given in relation with the cause.

The defendant cannot present or read a previously written statement, but he may us notes for details that are hard to remember.

Art. 72

After the defendant has given the statement, he may be asked questions in relation with the deed that constitutes the object of the cause and to his/her guilt. He/she is also asked about the evidence that he/she considers fit to propose.

Art. 73

The statements of the defendant are written down. The written statement is read to the defendant and, if he/she asks, he/she is handed the statement to read it.

When the defendant cannot or refuses to sign the statement, this will be mentioned in the written statement.

When the defendant cannot or refuses to sign the statement this will be mentioned in the written statement.

The written statement is also signed by the criminal investigation body that has heard the defendant or by the president of the panel and the clerk, as well as by the interpreter, when the declaration has been given through an interpreter.

If the defendant changes his mind about one of his statements or wants make completions, corrections or specifications, these are written down and signed :J under the conditions shown in the present article.

Art. 74 Whenever the defendant finds himself in the impossibility to come for a hearing, the criminal investigation body or the instance hear him at the place where he is.

Section II Statements of the victim, the civil party and the party bearing the civil responsibility .

Art. 75

The statements given during the trial by the victim. the civil party and the party bearing the civil responsibility may lead to the truth only to the extent to which they are supported/completed by facts or circumstances resulting from all the evidence in the cause.

Art. 76
The criminal investigation body or the instance must call, in order to be heard, the person harmed by crime, as well as the person bearing the civil responsability.
Before being heard, the harmed person is informed that he/she may take part in the trial as victim, and, in case he/she suffered material damage. that he/she may constitute himself/herself as a civil party. The victim is also informed that the V statement of taking part in the trial or of suing for civil injury can be given all throughout the criminal investigation, until the summons act is read.
An. 77
The hearing of the victim, of the civil party and of the party bearing the civil responsibility is conducted according to the provisions regarding the hearing of the defendant, enforced accordingly .

Section III .
Statements of the witnesses

Art. 78
The person who knows of any fact or circumstance that may lead to the truth in ~ the criminal trial may be heard as witness.
Art. 79
The person obliged to keep a professional secret cannot be heard as witness in relation to facts and circumstances that he/she has learned about while exerting his/her profession, without the approval of the person or institution towards which he/she has the obligation of keeping the secret.
The quaJity of witness comes before that of defender, in relation with the facts and circumstances that a person has learned about before becoming defender or representative of one of the parties.
Art. 80
The defendant's husband/wife and close relatives are not obliged to testify as witnesses.
The judicial bodies will inform the persons mentioned in the above paragraph about this as soon as the provisions of art. 84 paragraph 3 have been satisfied.
Art. 81
A minor can be heard as witness. Up to 14 years old, his/her hearing will be conducted in front of one of his parents or his/her tutor or the person to whom he/she has been given for upbringing and education.
Art. 82
The harmed person may be heard as witness, if he/she does not constitute himself/herself as a civil party and will not take part in the trial as victim.
Art. 83
The person summoned as witness must come in the place and on the day and :: ; hour mentioned in the summons and has the duty to declare everything he/she knows in relation to the deeds of the cause.
Art. 84
The witness is first asked about his name, surname, age, address and occupation.
In case of doubt over the witness' identity, this will be established by any means of evidence.
The witness will then be asked if he/she is husband/wife or relative of one of the parties and about his relations with the latter, as well as whether he/she has suffered any damage as a result of the crime.
Art. 85
Before being heard, the witness will swear the following oath swear to tell the truth and not to hide anything that I know. So help me God!
While swearing, the witness will keep his hand on the cross or on the Bible.

The reference to divinity in the oath is changed according to the religious creed of the witness.
The provisions of paragraph 2 cannot be enforced on the witness who is not a Christian. The witness without any religious creed will swear the following oath: "I oblige myself to tell the truth and not to hide anything that I know."
The situations mentioned in paragraphs 3, 4 and 5 are acknowledged by the judicial body on the basis of the statements given by the witness.
After swearing the oath or saying the formula stipulated in paragraph 5, the witness will be informed that, by not telling the truth, he commits the crime of false testimony.
All these will be mentioned in the written statement.
The minor under 14 years does not swear; he is told to tell the truth.

Art. 86

The witness is informed about the object of the cause and the deeds and circumstances for whose proof he/she has been proposed as witness, being asked it declare everything he knows in relation to them.
After the witness has given his statement, he may be asked questions connected to the deeds and circumstances that need to be acknowledged in the cause, to the parties' person, as well as to the way in which he learned about the things declared.
The provisions of art. 71-74 are enforced accordingly to the witness' hearing.

Section IV
CONFRONTATION

Art. 87

When there are contradictions between the declarations of the persons heard in II the same cause, the respective persons are confronted, if this is necessary for the clarification of the cause.

Art. 88

The persons confronted are heard on the deeds and circumstances in relation to which the previous declarations contradict each other.
The criminal investigation body or the instance may approve that the confronted persons ask each other questions.
The declarations made by the confronted persons are written down in an official report.

Section V
WRITINGS

Art. 89

The writings may see as means of evidence if triel show deeds or circumstances that may contribute to revealing the truth.

Art. 90

The official reports drawn up by the criminal investigation body or the instance are means of evidence.
The official reports and acknowledgment papers drawn up by other bodies are also means of evidence, if the law stipulates so.

Art. 91

The official report must include:

a) the date and the place where it is drawn up;
b) the name, surname and position of the person who draws it up:
c) the names, surnames, occupations and addresses of the assistant witnesses, when they exist;
d) a detailed description of the things found out, as well as of the measures taken

e) the names, surnames occupations and addresses of the persons referred to in the official .report, their objections and explanations;
f) the specifications stipulated by the law for special cases.

The official report must be signed on every page and at the end by the person who draws it up, as well as by the persons mentioned at letters c) and e). If one of these persons cannot or refuses to sign, this will be mentioned in the official report.

Section V(1)

AUDIO AND VIDEO RECORDINGS

Art. 91 (1)

Recordings of talks justifiably authorized by the prosecutor appointed by the prime-prosecutor in the prosecution department affiliated to the Court of Appeal, in the cases and under the conditions stipulated by the law, if they represent substantial data or signs regarding the preparation or commitment of a crime that is investigated ex officio, and the interception is useful for revealing the truth, may serve as means of evidence, if their content reveals deeds or circumstances that may contribute to the truth.

The prosecutor authorizes the time necessary for recording, up to maximum 30 days, if the law does not stipulate otherwise. The authorization may be extended under the same conditions, for fully justified reasons, each extension being of maximum 30 days.

The recordings stipulated in paragraph 1 may also be done at the justified request of the victim, regarding the communications addressed to him/her , having the authorization of the prosecutor especially appointed by the general prosecutor .

Art. 91 (2)

An official report is drawn up by the criminal investigation body on the recordings mentioned in art. 91 (1). This report will include: the authorization given by the prosecutor for the interception, the phone number(s) involved, the names of the persons having the conversation, if known, the data and time of each conversation and the number of the reel or tape on which it is recorded. The recorded conversations are wholly transcribed, are attached to the official report and certified for authenticity by the criminal investigation body, checked and countersigned by the prosecutor who performs or supervises the respective criminal investigation.

The tape or reel containing the recorded conversation, in the original, sealed with the seal of the criminal investigation body is also attached to the official report.

Art. 91 (3)

The means and conditions of recording shown in art. 91 (1) and 91 (2) are enforced in the case of any conversation recordings on magnetic tape, authorized under the law.

Art. 91 (4)

The provisions of art. 91 (1) are also enforceable in the case of image recording, and the certification procedure is the one stipulated in art. 91 (2), except for the transcription, according to the case.

Art. 91 (5)

The means of evidence stipulated in the present section may be technically examined at the request of the prosecutor, of the parties or ex officio.

The recordings stipulated in the present section, presented by the parties, may serve as

Section VI
Assistant witnesses

Art. 92

When the law stipulates that assistant witnesses should be present when performing a procedural act, the number of the assistant witnesses is of at least two.

Minors under 14, persons Interested in the cause and persons In the same institution with the body that performs the procedural act cannot be assistant witnesses.

Art. 93

The body that performs a procedural act in the presence of assistant witnesses must acknowledge and write down in the official report data regarding the identity of the assistant witnesses and to mention the observations that the latter were invited make in connection with the things acknowledged and to the operations that they assist.

Section VII
Material probative evidence

Art. 94

The objects that contain or bear a trace of the deed committed, as well as any other objects that may serve to reveal the truth may serve as material means of evidence.

Art. 95

The objects that have been used or destined to be used for committing a crime, as well as objects that are the result of a crime are also material means of evidence.

Section VII
Confiscation of objects and writings.
Performance of searches.

Art. 96

The criminal investigation body or the instance must take away the objects or writings that may serve as means of evidence in the criminal trial.

Art. 97

Any institution among those referred to in article 145 in the Criminal Code, or any person who has an object or a piece of writing that may serve as means of evidence must hand it, and take a proof for this, to the criminal Investigation body or to the instance, at their request.

If the criminal investigation body or the Instance consider they need a copy of a writing as means of evidence, they keep only the copy.

If the object or the writing is secret, the presentation or the delivery are done in circumstances that would ensure their secret nature.

Art. 98

The criminal investigation body, with the prosecutor's approval, or the court, if requested by the interest of the criminal investigation or the trial, may order that any post or transport office retain and deliver the letters, telegrams or any other correspondence, or the objects sent by the defendant, or addressed to him either directly or indirectly.

Retained correspondence and objects that have nothing to do with the cause are returned to the addressee.

Art. 99

If the object or writing required is not delivered voluntarily, the criminal investigation body or the court order confiscation by force.

During the trial, the order of confiscation by force of objects or writings is communicated to the prosecutor, who takes enforcement measures through the criminal investigation body.

Art. 1 00
When the person asked to deliver one of the objects or writings mentioned in art. 98 denies their existence or possession, as well as whenever it is necessary in order to discover and gather evidence, the criminal investigation body or the instance may order a search.
The search may be domiciliary or corporal.
Art. 101
The criminal investigation body may perform domiciliary searches with the prosecutor's authorization.
Domiciliary search may be performed without the prosecutor's authorization if the person whose domicile is to be searched gives his/her written consent.
In case of flagrant crime, the domiciliary search is performed\without the prosecutor's authorization.
Art. 102
The instance may perform a search on the occasion of a local investigation.
In the other cases, the instance's order to perform a search is communicated to the prosecutor, in order to proceed with the search.
Ari. 103
Confiscation of objects and writings, as well as domiciliary search may be performed by the criminal investigation body between 6 a.m. -8 p.m., and at other times only in case of flagrant crime, or when the search is to be performed in a public place. The search begun between 6 a.m. -8 p.m. may continue during the night. Confiscation of objects and writings, as well as domiciliary search may be performed by the prosecutor during the night.
Art. 104
The judicial body that will perform the search must prove its identity and, in the cases stipulated by the law, present the authorization given by the prosecutor.
Confiscation of objects and writings, as well as domiciliary search are performed in the presence of the person from whom the objects or the writings are taken away, or to whom the search is performed and, when this person is missing, in the presence of a representative, of a member of the family or a neighbor, having exertion ability.
These operations are performed by the criminal investigation body in the presence of assistant witnesses.
When the person to whom the search is performed is held or arrested, he/she will be brought to the search. In case he/she cannot be brought, the confiscation of objects and writings, as well as domiciliary search are performed in the presence of a representative or a member of the family, and when they are missing, in the presence of a neighbor having exertion ability.
Art. 105
The judicial body that performs the search has the right to open the rooms where the objects or the writings wanted may be found, if the person entitled to open them refuses to.
The judicial body limit itself to confiscation of objects and writings connected to the deed committed; objects and writings whose circulation and possession are forbidden are always taken away.
The judicial body must take measures so that acts and circumstances in the personal life of the person to whom the search is performed and that are not connected with the cause are not made public.
Art. 106
Corporal search is performed by the judicial body that ordered It. following the provisions of art. 104 paragraph 1, or by the person appointed by this body.
Corporal search is performed by a person of the same sex with the person being searched.
Art. 107
Objects and writings are shown to the person from whom they are taken away and to those who assist, to be recognized and signed by them in order not to be changed, after which they are labeled and sealed.
The objects that cannot be signed, labeled or sealed are wrapped up or closed together

after which they are sealed.
The objects that cannot be taken away are distrained and left for keeping with the person there or to a custodian.
Tests for analysis are taken at least twice and are sealed. One test is left with the person from whom one takes away, or. if he IS missing, to one of the persons mentioned in art. 108, final paragraph.
Art. 108
An official report is drawn up mentioning the performance of the search and confiscation of objects and writings.
The official report must include, besides the specifications stipulated in art. 91, the following: place, date and circumstances in which the writings and the objects have been found and taken away, a list and detailed description of these, in order to be recognized.
The objects that have not been taken away, as well as those left for keeping are also mentioned in the official report.
A copy of the official report is left with the person to whom the search has been performed or from whom the objects or writings have been taken away, with the representative, a member of the family, the persons he lives with or a neighbor and, if such is the case, with the custodian.
Art. 109
The criminal investigation body or the instance order that the objects or writings taken away, that represent means of evidence, be, according to case attached to the record or kept in another way.
The taken away objects and writings that are not attached to the file may be photographed. In this case. the photos are acknowledged and attached to the record.
Until the cause is finally resolved. material means of evidence are kept by the criminal investigation body or the instance where the record is.
Objects and writings delivered or taken away during the search. which are not connected with the cause, are returned to the person to which they belong. Confiscated objects are not returned.
The objects that serve as means of evidence, if they are not confiscated, may be returned to the person to whom they belong. even before the trial is finally resolved. except for the case when this return may impede the revealing of the truth. The criminal investigation body or the instance informs the person to whom V they were returned that he/she must keep them until the cause is finally resolved.
Art. 110
The objects that serve as means of evidence, if they are among those mentioned in art. 165 paragraph 2 and if they are not returned are kept or used according to the provisions of that article.
Art. 111
The provisions in the present sections are also enforced accordingly when the procedural acts are performed at an institution among those referred to in art. 145 in the Criminal Code, provisions completed as follows:

a) the judicial body proves its identity. and, according to the case. shows the representative of the institution the authorization given by the prosecutor;
b) b) taking away of objects and writings. as well as the search are performed in the ~ presence of the representative of the institution;
c) when the presence of assistant witnesses is obligatory, they may be part of the institution staff;
d) a copy of the official report is left with the representative of \ the institute.

Section IX
Technico-scientific and legal-medical acknowledgments

Art. 112

When there is the danger that some means of evidence might disappear or some states of facts might change, and the immediate clarification of deeds and circumstances related to the cause is necessary .the criminal Investigation body may resort to the knowledge of a specialist and a technician. and order. ex officio or upon request a technico-scientific acknowledgment.
The technico-scientific acknowledgment is usually performed by specialists or technicians working for or affiliated to the institution to which the criminal investigation body belongs. It may also be performed by specialists or technicians working for other bodies.
Art. 113
The criminal investigation body that orders the technico-scientific acknowledgment decides upon its object. formulates the questions that must be answered and settles the deadline.
The technico-scientific acknowledgment is performed in connection with the materials and data provided or indicated by the criminal investigation body. The person who performs the acknowledgment cannot be granted and cannot, assume for himself attributions belonging to a criminal investigation body or control body.
The specialist or technician who performs the acknowledgment. if he/she considers the materials provided or data indicated insufficient. communicates this to the criminal investigation body, for completion.
Art. 114
In case of violent death. of death by unknown or suspect cause. or when a corporal examination of the defendant or the harmed person is needed in order
, to see the traces of the crime on their bodies. the criminal investigation body orders a medical-Iegal acknowledgment and asks the medical-Iegal body who has the appropriate competence under the law to perform this acknowledgment.
Unburial in order to find out the causes of the death is done only with the prosecutor's approval.
Art. 11 5
The operations and conclusions of the technico-scientific and medical-Iegal acknowledgment are written down in an official report.
The criminal investigation body or the instance, ex officio or at the request of any 1 of the parties, if they consider that the technico-scientific or medical-Iegal report ! IS not complete or that its conclusions are not accurate, has .It redone or orders an expertise.
When redoing or completion of the technico-scientific or medical-Iegal acknowledgment is ordered by the instance, the report is sent to the prosecutor in order for the latter to take measures for its completion or redoing.

Section X
Expertise

Art. 116
When, for clarification of some deeds and circumstances of the cause, in order to find out the truth, the knowledge of an expert is necessary, the criminal investigation body or the instance order, ex officio or upon request, an expertise.
Art. 117
An psychiatric expertise is obligatory in case of the crime of extremely serious V murder, as well as when the criminal investigation body or the instance has doubts about the defendant's mental health.
In such cases, the expertise is performed in specialized sanitary institutions. In order with the approval of the prosecutor or the instance, orders hospitalization of the defendant for the necessary period. This measure is executory and is enforced, in case of opposition, by the police bodies.
Also, an expertise is obligatory in order to clarify the causes of the death, if a medical-Iegal report has not been drawn up.

Art. 118

The expertise is performed in accordance with the provisions of the present code, if the law does not stipulate otherwise. The provisions of art. 113 are - enforced accordingly.

The expert is appointed by the criminal investigation body or by the court, except for the expertise stipulated in art. 119 paragraph 2.

Each party is entitled to request that an expert recommended by it take part in -- the expertise.

Art. 119

If there are medical-legal experts or official experts in the respective specialty, another person cannot be appointed expert. except when special circumstances would demand it.

When the expertise is to be performed by a medical-legal service, by a criminalistics expertise laboratory or by any specialized institute. the criminal investigation body or the instance ask them to perform the expertise.

When the medical-legal service, the criminalistics expertise laboratory or the specialized institute consider necessary that specialists from other institutions should take part or pass their opinion on the expertise, it may use their assistance or their advice.

Art.120;

The criminal investigation body or the court, when they order an expertise, settle a date when the parties, as well as the expert are summoned, if the latter has been appointed by the criminal investigation body or the instance.

At the settled date, the object of the expertise and the questions that the expert has to answer are communicated to the parties and to the expert: they are also informed that they have the- right to make observations regarding these questions and that they may require their modification and completion.

The parties are also informed that they have the right to ask the appointment of an expert recommended by each of them, who will take pari in the expertise.

After the examination of objections and claims of the parties and the expert, the criminal investigation body or the court informs the expert on the deadline of the expertise, as well as on the fact that the parties will attend the expertise.

The provisions of paragraphs 3 and 4 are not enforced in the case of the expertise stipulated in art. 119 paragraph 2.

Art. 121

The expert is entitled to familiarize himself with the material of the record necessary for the expertise. During the criminal investigation, the record is consulted with the approval of the investigation body.

The expert may require clarifications from the criminal investigation body or the instance regarding certain deeds or circumstances of the cause.

The parties, with the approval and in the conditions settled by the criminal investigation body or the instance, may offer the expert the necessary clarifications.

An. 122

After the expenise, the expen draws up a written repon.

When there are more experts, one expenise report is drawn up. If there are different opinions. they are mentioned in the report or in an annex.

The expenise repon is submitted to the criminal investigation bcdy or the instance that ordered the expertise.

An. 123

The expenise repon includes;

a) the introduction, which states the criminal investigation body or the coun that ! ordered the expertise, the date when it was ordered, the name and surname of the expert, the date and place of expenise, the date when the repon was drawn up, its object and the questions that the expen had to answer, the material on which the expertise was based and whether the attending panies offered , explanations during the expenise;

b) a detailed description of the expertise operations, the objections and explanations given by the parties, as well as the analysis of these objections or explanations based on the facts discovered by the expert;

c) the conclusions, including the answers to the questions and the expert's opinion on the object of the expertise.

Art:124

When the criminal investigation body or the instance discover, ex officio or upon request, that the expertise is not complete, it orders an expenise supplement , either to the same expert or to another .

Also, when it is considered necessary, the expert is asked for supplementary written explanations or he is called to give verbal explanations in relation with the expenise report. In this case, the his hearing is conducted according to the provisions regarding the witnesses' hearing. Supplementary written clarifications may also be requested from the medical-legal service, to the criminalistics expenise laboratory or the specialized institute that completed the expertise.

Art. 125

If the criminal investigation body or the court have doubts about the accuracy of the expertise report conclusions, they order anew expenise.

Art. 1 26

In cases of coin or other values forgery, the criminal investigation body or the instance may require clarifications from the issuing institute"

Art. 127

In relation with crimes of false in writings, the criminal Investigation body or the instance may require that scripts of comparison be presented.

If the scripts are found in public deposits, the lawful authorities must provide them.

If the scripts are found at a private person who is neither spouse nor close
relative of the defendant, the criminal investigation body or the instance informs him/her that he/she must provide them.

The scripts of comparison must be acknowledged by the criminal investigation body or the President of the panel, and signed by the person who provides them.

The criminal investigation body or the instance may order that the defendant provide something handwritten by himself/herself or write by dictation. If the defendant refuses, this will be mentioned in the official report.

Section XI
The use of interpreters

Art. 128

When one of the parties or other person that IS- to be heard cannot understand or speak Romanian, and the criminal investigation body or the instance cannot communicate with him/her, they provide an interpreter. During the trial, the parties may also be assisted by an interpreter of their choice.

The provisions of the previous paragraph are also enforced accordingly in case some of the writings in the cause record or presented In court are In another “language than Romanian.

The provisions of art. 83, 84 and 85 are enforced accordingly on the interpreter "

Section XII
Field investigation and reconstruction

Art. 129

Field investigation is done when it is necessary to establish the situation of the place where the crime was committed. to find out and settle the traces of the crime, to establish the position and condition of the material means of evidence, and the circumstances of the crime.

The criminal investigation body performs the above mentioned investigation in the presence of assistant witnesses, except for the case when this is impossible. The

investigation is performed in the presence of the parties, when this is necessary. The parties' failure to come after having been informed does not impede the investigation.
The defendant who is held or arrested, if he cannot be brought to the investigation place, is informed by the criminal investigation body that he has the right to be represented and is ensured if he requests it, representation.
The instance performs the field investigation after summoning the parties and in the presence of the prosecutor, when the latter's attendance in the trial is obligatory.
The criminal investigation body or the court may forbid the persons who are or come to the place of investigation to communicate between them or with other persons, or to leave before the investigation is over.
Art. 130
The criminal investigation body or the instance, if they find it necessary for checking on and clarification of some data, may perform a total or partial field reconstruction of the way and conditions in which the deed has been committed.
The reconstruction is done in the presence of the defendant. The provisions of art. 1 29 paragraph 2 are enforced accordingly.
Art. 131
An official report is drawn up on the field investigation. It will include, besides the specifications shown in art. 91, a detailed description of the situation of the place, of the traces found, of the objects examined or taken away, of the position and condition of the other material means of evidence, so that these are rendered accurately and, as much as possible, with the respective dimensions.
In case of reconstruction of the way in which the deed was committed, a detailed description of it is also included.
In all cases, sketches, drawings, photos or other such things may be done; they will be acknowledged and placed as annexes in the official report.

Section XIII
Rogatory commission and delegation

Art. 132

When a criminal investigation body or the instance cannot hear a witness,

perform a field investigation, take away objects or perform any other procedural act, they may ask another criminal investigation body or another instance, who have the possibility to perform them.

Initiating the criminal action, taking preventive measures, approving the evidence gathering procedure, as well as ordering the other procedural acts or measures are not the object of the rogatory commission.

The rogatory commission may only ask a body or an instance that are equal in rank.

Art. 133

The cancellation or closing by which the rogatory commission was instituted must include all clarifications on the performance of the act that makes its object, and in case a person is to be heard, the questions that he/she will be asked are also included.

The criminal investigation body or the instance that form the rogatory commission may ask other questions too, If they are felt as needed during the hearing.

Art. 1 34

When the rogatory commission has been ordered by the instance, the parties may ask questions that will be communicated to the instance who is to form the rogatory commission.
At the same time, any of the parties may ask to be summoned when the rogatory commission is formed.
When the defendant is under arrest. the instance that will form the rogatory commission appoints an ex officio defender who will represent the defendant.
Art. 135

The criminal investigation body or the instance may order, under the conditions mentioned in art.132 the performance of a procedural act by delegation. Only a hierarchically inferior body or Instance may be delegated.
The decisions regarding the rogatory commission are enforced accordingly In the case of delegation.

TITLE IV
PREVENTIVE MEASURES AND OTHER PROCEDURAL MEASURES
CHAPTER I
PREVENTIVE MEASURES
Section I
General provisions

In causes related to crimes punished by jail, in order to ensure a successful C unfolding of the criminal trial or to prevent elusion of the defendant from criminal investigation, trial or punishment enforcement, one of the following preventive measures may be taken:
a) hold;
b) obligation not to leave town;
c) preventive arrest
The measure under a) may be taken by the criminal investigation body, and the measures under b) and c) may only be taken by the prosecutor or the instance.
The choice of the measure to be taken is made taking into account its aim, the degree of social danger of the crime, the health age, antecedents and other situations related to the person against whom the measure is taken.
Art.137
The papers by which the preventive measure is taken must show the deed that is the object of the blame or accusation, the corresponding law, the punishment stipulated by the law for the crime committed and the concrete reasons that led to the respective preventive measure.
Art.137(1)
The person held or arrested is immediately informed of the reasons why he/she is held or arrested. The person arrested is informed of his/her blame as soon as possible, in the presence of a lawyer.
When preventive arrest of the defendant is ordered, the prosecutor or the instance communicates it, within 24 hours, to a member of his/her family or to other person appointed by the defendant, which will be mentioned In an official report.
Art. 138
When the criminal investigation body thinks it appropriate to take one of the measures stipulated in art. 136 paragraph 1 letters b) and c), it draws a Justified report that it submits to the prosecutor who takes a decision after he has also examined the record of the cause.
In the case of the measure stipulated in art. 136 paragraph 1 letter b) the prosecutor must take a decision within 24 hours.
Art. 139.
The preventive measure taken is replaced with another preventive measure when the reasons that determined the first measure have changed.
When there is no longer a reason to justify the maintenance of the preventive measure, it must be revoked ex officio or upon request.
In case the preventive measure was taken by the prosecutor, the criminal investigation body must inform him of the change or cessation of the reasons motivating the respective measure.
The provision of the previous paragraphs are enforced even if the judicial body is to decline its competence.
Art. 140
The preventive measures lawfully stop in the following cases:
a) expiration of the deadlines stipulated by the law or settled by the judicial bodies;

b) exemption from investigation, cessation of criminal investigation. closing of the criminal trial or acquittal.
The preventive arrest measure lawfully ceases when, before passing a conviction decision in first instance, the duration of the arrest has reached half of the maximum punishment stipulated by the law for the respective crime, as well as in the other cases especially stipulated by the law.
In the cases shown at paragraph 1 letter b) and paragraph 2, the prosecutor, during the criminal investigation, ex officio or as a result of informing the investigation body or the instance, must order the immediate release of the person held or arrested, sending the administration of the detention place a copy of the ordinance or disposition, or an extract including the following specifications: the data necessary to identify the defendant, the number of the arrest warrant, the number and date of the ordinance or the decision by which the release was ordered, as well as the legal justification for release.
Art.140(1)
Complaints against the ordinance of preventive arrest or of interdiction to leave town may be filed to the instance that would have the competence to try the cause.
The complaint and the record of the cause will be sent to the instance stipulated in paragraph 1, within 24 hours, and the arrested defendant will be brought to court and will be assisted by a defender.
In case the defendant is hospitalized and the state of his health does not allow him to appear in court, or in other cases when he cannot come, the complaint will be examined in his absence, but only in the presence of the defender who is allowed to pass conclusions.
The complaint will be examined in the council room.
The instance takes its decision on the same day, by closing, on the legal nature of the measure, after hearing the defendant.
The closing is subject to recourse. The recourse interval is of 3 days, calculated from decision passing for those present and from decision communication for when the instance considers it necessary .
The prosecutor's attendance is obligatory.
When it considers the preventive measure taken illegal, the instance orders the revocation of the arrest and the release of the defendant or, if such is the case, the revocation of the interdiction to leave town.
Art. 141
The closing in first instance, by which taking, revocation, replacement or cessation of a preventive measure is ordered, may be attacked separately by recourse, by the prosecutor or the defendant. The recourse period is of 3 days and is calculated from decision passing for those present and from decision communication for those absent.
The execution of a recourse declared against closing by which taking a preventive measure was ordered cannot be suspended.
Art. 142
During hold or arrest, the minors are placed separately from adults, and women separately from men.

Section II
Hold

Art. 143
The hold measure may be taken by the criminal investigation body against the defendant if there are pieces of evidence or strong signs that he has committed a deed stipulated by the criminal law.
The hold measure is taken in the cases stipulated by art. 148, regardless of the limits of .the jail punishment stipulated by the law for the deed committed.
Existence of strong signs means that the data on the cause lead to the presupposition that the person criminally investigated has committed the deed.
Art. 144

The hold measure may only be enforced for maximum 24 hours.
The ordinance that enforced the hold measure must mention the day and time when the hold started, and the release ordinance, the day and time when the
hold ceased.
When the criminal investigation body considers it necessary to enforce the measure of preventive arrest, it submits to the prosecutor within the interval; stipulated in paragraph 1, a justified report.

Section III
Interdiction to leave town

Art. 145
The interdiction to leave town consists in the obligation Imposed to the defendant by the prosecutor or the instance not to leave the town where he gives without the approval of the body who enforced this measure. The prosecutor may take this measure by ordinance and only if the conditions stipulated in art. 143 paragraph 1 are met.
During the criminal investigation. the duration of the measure stipulated in the previous paragraph cannot exceed 30 days.
In case the enforced measure is violated, one of the other preventive measures may be taken against the defendant, if the conditions stipulated by the law for enforcing those measures are met.

Section IV
Preventive arrest

Art. 146
The prosecutor ex officio or solicited by the criminal investigation body, when the conditions stipulated in art. 143 are met and there exists one of the cases stipulated in art. 148, if he considers the defendant's privation of freedom to be in the interest of the criminal investigation, orders by justified ordinance the latter's arrest, specifying the reasons that justify the measure and settling the duration of the arrest, which may not exceed 5 days.
At the same time, the prosecutor issues an arrest warrant for the defendant. The warrant includes the corresponding specifications mentioned in art. 151 letters V a) - c), e) and J), as well as the defendant's name and surname and the duration of the arrest.
Art. 147
The instance, in the situations shown in the special part, title 11, may order the arrest of the defendant in the cases and conditions stipulated in art 146. When the arrest has been ordered, the President of the panel issues the arrest warrant for the defendant. The arrested defendant is immediately to the prosecutor together with the arrest warrant.
Art. 148
The arrest measure may be take against the defendant if the conditions stipulated in art. 143 are met and only in one of the following cases:

a) the defendant's identity or domicile cannot be clarified without the necessary data;
b) the crime is flagrant, and jail punishment stipulated by the law is longer than 3 months;
c) the defendant has run away or hidden himself with the purpose of escaping the investigation or the trial, or has made preparations to do so, as well as if during the trial, there are signs that the defendant wants to escape the punishment
d) there are sufficient data that the defendant has tried to impede the revealing of the truth, by influencing a witness or an expert, by destroying or altering the material means of evidence or by other such acts;
e) the defendant has committed a new crime or there are data that justify the fear that he may commit other crimes;
f) the defendant is recidivist;
g) there exists one of the extenuating circumstances

h) the defendant has committed a crime for which the law stipulates a jail punishment of more than 2 years and the release would be too great a danger for the public order .

In the cases stipulated at letters c)-g), the arrest measure may be taken against the defendant only if the jail punishment stipulated by the law is longer than 1 year.

Art. 149

The duration of the defendant's arrest may not exceed 30 days, except for the case when it is extended under the law. The deadline is calculated from the date when the warrant was issued when the arrest was ordered after hearing the defendaJ1t, and in case the arrest was ordered in the defendant's absence, the deadline is calculated from the latter's presentation to the judicial body that issued the warrant.

When a cause is moved in the course of criminal investigation from one investigation body to another, the arrest warrant previously issued remains valid. The duration of the arrest is calculated according to the provisions of the previous paragraph.

The defendant's arrest during the trial is valid until the final settlement of the cause, except for the case when the instance orders its revocation.

Art. 150

The arrest measure may be taken against the defendant only after the prosecutor or the instance have heard him, except for the case when the defendant has disappeared. is abroad or escapes from investigation or trial.

In the case stipulated in the previous paragraph. when the warrant has been issued without hearing the defendant, the latter will be heard as soon as he is caught or comes.

Art. 151

Immediately after drawing up the ordinance or the decision ordering the defendant's arrest, the prosecutor or the president of the panel issues an arrest warrant.

If the same ordinance or decision orders the arrest of more defendants, separates arrest warrants are issued for each of them.

The arrest warrant should mention:

a) the prosecution department or instance that has ordered the arrest measure against the defendant.
b) the date and place of issue;
c) the name, surname and position of the person who issued the arrest warrant;
d) the data regarding the defendant, stipulated in art. 70;
e) the deed that makes the object of the accusation and the name of the crime;
f) the legal framing of the deed and the punishment stipulated by the law;
g) the concrete reasons leading to the arrest;
h) the arrest order;
i) the place where the person to be arrested will be kept;
j) the signature of the prosecutor and of the President of the panel.

Art. 152

When the arrest warrant was issued after hearing the defendant, the prosecutor or the President of the panel who issued the warrant hands a copy of the warrant to the arrested person, and sends another copy to the police body, in order to be left at the detention place with the arrested person.

When the arrest measure was ordered in the absence of the defendant V according to art. 150, the warrant issued is submitted in 2 copies to the police body for enforcement.

The police body arrests the person designated in the warrant, to whom it gives a copy of the warrant, and brings her before the judicial body that issued the warrant.

If the arrest warrant was issued by the prosecutor, he specifies in the warrant the date of the defendant's arrival, and hears him immediately, after which it decides by resolution on the matter of the defendant's arrest. If in the meantime the cause has reached the instance, the prosecutor will send the defendant to the instance.

The President of the instance hears the defendant, and if the latter has objections that need urgent clarifications, he settles a trial date.

Art.153 If the arrested person has objections against the enforcement of the warrant only as far as the identity is concerned, he is brought before the prosecutor of the place where he was found. When it is necessary, the prosecutor asks the judicial body that issued the warrant for information.
Until the objections are clarified, the prosecutor, if he consider there is no danger of disappearance, orders the release of the person against whom the warrant has been enforced.
If the prosecutor discovers that the person brought is not the one specified in the warrant, he releases her immediately, and if he discovers that the objections are not justified, he orders the enforcement of the warrant, according to the provisions of art. 152 paragraphs 3 and 4.
About all these, the prosecutor draws up an official report that will be sent to the judicial body that issued the warrant.
Art. 1 54
When the person stipulated in the warrant has not been found, the enforcing body draws up an official report by which it acknowledges this and informs the judicial issued that issued the warrant, as well as the competent bodies for searching.
Art. 155;
The duration of the defendant's arrest may be extended in case of necessity and only for justified reasons.
The extension of the defendant's arrest may be ordered by the instance who would have the competence to try the cause or the corresponding instance in whose territorial area the detention place is located.
Art. 156
The extension of the arrest is ordered on the basis of the justified proposal of the body that performs the criminal investigation. The proposal of the criminal investigation body is acknowledged by the supervising prosecutor.
The proposal is forwarded to the Head of the prosecution department where the person who made or acknowledged the proposal belongs, or if such is the case, to the department chief prosecutor in the General Prosecution Department, at least 8 days before the end of the arrest time. The latter, if he considers that the defendant should not be released, informs, at least 5 days before the end of the arrest time, the competent instance.
If the arrest was ordered by the prosecutor in the prosecution department hierarchically inferior to the one corresponding to the instance who has the competence to allow the extension, the proposal is forwarded to the prosecutor in the hierarchically superior prosecution department, who, if he finds it justified informs the instance according to paragraph 2.
The proposal is included as annex to the paper informing the instance. The paper may also include other reasons justifying the extension of the arrest than those included in the proposal.
Art. 157 -Abrogated.
Art. 158- Abrogated.
Art. 159
The panel will be presided by the President of the Instance or by a judge appointed by him, and the participation of the prosecutor is obligatory.
The record of the cause will be brought by the prosecutor at least 2 days before the deadline and the defender will be able to consult it upon request.
The defendant is brought before the instance and will be assisted by the defender .
In case the arrested defendant is hospitalized, and, because of the state of his health, cannot be brought before the instance, or in other cases when he cannot come, the preventive arrest extension proposal will be examined in the absence of the defendant, but only in the presence of the defender, who is allowed to pass conclusions.
In case the instance approves the extension, this cannot exceed 30 days.

The instance takes a decision with regard to the preventive arrest extension before the warrant expires, and returns the record to the prosecutor within 24 hours from announcing the decision.
The closing by which the arrest extension was decided may be attacked by recourse by the prosecutor or the defender. The recourse tome is
is calculated from decision passing for those present and from decision communication for those absent. The enforcement of the recourse declared against the closing by which the preventive arrest extension was decided cannot be suspended, and the enforcement of the recourse declared against the rejection of the preventive arrest extension cannot be suspended.
The defendant is brought at recourse trial only when the instance considers it necessary.
The measure decided on by the instance is communicated to the administration ~ of the detention place, who must inform the defendant about it.
The instance may also approve other extensions, each of less than 30 days. The provisions of the previous paragraphs are enforced accordingly.
Art.160 , When there are more arrested defendants in the same cause and the duration of the arrest extension is different for each, the prime-prosecutor in the prosecution department or, if such is the case, the department chief prosecutor in the General Prosecution Department, who informs the instance under art. 156 for one of the defendants, will inform the instance for all the defendants.

Section V
Temporary release under judicial control and temporary release on bail

Art.160(1)
All throughout the criminal trial, the defendant under preventive arrest may ask for temporary release, under judicial control or on ball.

& 1. Temporary release under judicial control

Art. 160(2)
Temporary release under judicial control may be approved in the case of crimes from negligence, as well as intentional crimes for which the Jail punishment stipulated by the law does not exceed 7 years.
Temporary release under judicial control is not approved in case the defendant ""-' is recidivist or there are data justifying the fear that he might commit another crime or will try to impede the revealing of the truth, by influencing witnesses or experts, altering or destroying means of evidence or by other such acts.
The judicial body orders that, during the temporary release, one or more of the following obligations should be followed:
a) not to trespass the territorial limit agreed upon, except under the conditions settled by the judicial body;
b) inform the judicial body of any change of domicile or residence: c) not to go to places previously agreed upon;
d) to come to criminal investigation body or, if such is the case, to the instance whenever he is called;
e) not to get in touch with certain persons: f) not to drive cars, or certain cars:
g) not to exert a profession of a nature similar to the one used for committing the crime.
Art. 160(3)
The judicial control instituted by the prosecutor or the instance may be suspended anytime, partially or totally, for justified reasons.

& 2. Temporary release on bail

Art. 160(4)

Temporary release on bail may be approved. upon request. when the repair of the damage caused by the crime is ensured and the bail settled by the competent judicial body has been paid.
During the temporary release. the defendant must come wenever the judicial bodies call him and inform them of any change of domicile or residence.
Temporary release on bail is not approved in the case of intentional crimes for which the jail punishment stipulated by the law is of more than 7 years. or when the defendant is recidivist, or there are data that justify the fear that the defendant might commit another crime or might try to impede the revealing of the truth by influencing witnesses or experts, altering or destroying material means of evidence. or by other such acts.
Art. 160(5) V The bail guarantees the compliance by the defendant with the obligations imposed on him during the temporary release.
The bail amounts to at least 2000000 lei. "
The baills registered on the defendant's name and at the order of the body that settled its value.
The bail is returned when:

a) the temporary release is revoked in the case stipulated in art.160(10) paragraph 1 letter a);
b) the prosecutor or the instance acknowledge. by ordinance or, respectively. by closing, that the reasons that have justified the preventive arrest no ionger exist:
c) exemption from criminal investigation, cessation of criminal investigation acquittal or cessation of criminal trial are ordered:
d) d) the fine or tail punishments with conditional suspension of enforcement or with suspension of enforcement under supervision or with execution at the working place, are ordered;
e) tail conviction is ordered.

The bail is not returned in the case stipulated at letter e), when the temporary release has been revoked under the provisions of art.160(10) paragraph 1 letter b). The bail represents income for the state budget. once the conviction decision is final.
In the cases stipulated at letters b) - e), the cessation of temporary release is ordered.
Art. 160(6)
The temporary release claim may be made during the criminal Investigation, as well as during the trial, until the end of the criminal investigation in first instance, by the defendant. the defendant's spouse or close relatives.
The claim may also be made in case re-trial of the cause has been decided by the recourse instance for administration of new evidence, or when re-trial of the cause has been ordered by the instance whose decision has been subject to cassation.
The claim must include the name, surname, domicile and position of the person who makes it, as well the specification that the respective person is aware of the legal provisions regarding revocation in case of temporary release.
In case of temporary release on bail, the claim must also include the obligation to pay the bail and must specify the awareness of the legal provisions regarding the cases when the bail is not returned.
The competence to solve the claim belongs, during the criminal investigation, according to case, to the prosecutor who conducts the criminal investigation or to the prosecutor who supervises it, and, during the criminal trial, to the instance summoned the cause.
The claim submitted to the criminal investigation body or to the administration of the detention place is forwarded, within 24 hours, to the competent prosecutor or instance, as the cause is in the criminal investigation or in the trial stage.
Art. 160(7)
The prosecutor or the instance check if the temporary release claim includes the specification is stipulated in art. 160(6) paragraphs 3 and 4, and. if such is the case, takes

measures for its completion. When the claim is submitted to the instance before the trial date, these obligations belong to the President of the instance who also informs the petitioner of the claim trial date .
When the claim is made by another person than the defendant, according to art. 160(6) paragraph 11 the body that has the competence to solve it asks the defendant if he acknowledges the claim, and his declaration is written in the claim.
Art. 160(8)
The prosecutor or the instance immediately examine the claim, checking if the conditions stipulated by the law for its admissibility are met.
In case of release on bail claim, if the prosecutor or the Instance see that the conditions stipulated by the law are met, settle the bail value and informs the person who has made the claim of it, After the proof of ball acknowledgment has been submitted the prosecutor solves the claim and the instance settles the trial date.
The claim is solved by a prosecutor, after hearing the defendant assisted by the defender, and by the instance, after hearing the defendant and the defender's, as well as the prosecutor's conclusions.
In case the conditions stipulated by the law are met and the claim is justified, the prosecutor or the instance approves the claim and orders the temporary release of the defendant.
The claim is solved by a prosecutor, through ordinance, and by the instance, by closing.
The closing by the instance is subject to recourse. The recourse time is of 3 days and is calculated from decision taking, for those present. and from decision communication for those absent.
The defender is brought to recourse trial only when the instance considers it necessary.
The obligations that will be followed by the defendant will also be settled by the prosecutor's ordinance or the instance's closing, in case the temporary release under judicial control claim is approved.
A copy of the ordinance or of the closing order, or an extract. is sent to the administration of the detention place, as well as to the police body in whose territorial area the defendant lives. The interested persons are informed.
The administration of the detention place must take measures for the immediate, release of the defendant.
Art. 160(9)
In case the provisions stipulated by the law are not met, when the claim is not justified or was made by another person and has not been acknowledged by the defendant. the prosecutor or the instance reject the claim.
A complaint against the prosecutor's ordinance may be file to the instance who would have the competence to try the cause. The closing by which the instance solves the cause, as well as closing by which the temporary release claim is rejected are subject to recourse.
The provisions of art. 160(8} are enforced accordingly.
Art. 160(10}
The temporary release may be revoked if:
a} facts or circumstances unknown at the time when the temporary release claim was approved revealed, justifying the defendant's arrest:
b} the defendant does not fulfill, on purpose, the obligation due to him under art. 160(2} paragraph 3 and art. 160(4} paragraph 2, or tries to impede the revealing of the truth or Intentionally commits a crime for which he is investigated or tried.
Revocation of the temporary release is ordered by the prosecutor through ordinance, and by the instance through closing, after having heard the defendant assisted: by the defender. Revocation is also ordered in the absence of the defendant, when the latter, having no justified reasons, does not respond to the summons.

In case the temporary release is revoked, the prosecutor or the instance order '-' the preventive arrest of the defendant and issues a new arrest warrant.
The provisions of art. 160(9} paragraphs 2 and 3 are enforceable.

Section I
Protection and safety measures

Art. 161
When the hold or preventive arrest measure has been taken against a defendant who takes care of a minor, of a person under interdiction, of a person for whom a guardianship has been established. or of a person who needs help because of age, disease or other cause, the competent authority must be Informed in order
v to take protection measures. The judicial body who has taken the hold or preventive arrest measure has the obligation to inform .
Art. 162
All throughout the criminal trial, if the prosecutor or the instance find that the defendant is inone of the situations shown in art. 113 or 114 in the Criminal Code, he orders temporary enforcement of the corresponding safety measure.
The prosecutor or the instance take measures for temporary hospitalization and, at the same time, inform the medical commission that has the competence to approve the hospitalization of mentally ill persons and dangerous drug addicts.
The temporary hospitalization measure holds until its acknowledgment by the instance.
The acknowledgment is done on the basis of the medical commission approval.
In case hospitalization has been ordered. the measures stipulated in art. 161 will be enforced.
The decision by which the instance acknowledges the hospitalization measure may be attacked separately through recourse. The recourse does not suspend the execution.

Section II
Assurance measures, return of objects and rehabilitation of the situation anterior to crime

Art. 163
The assurance measures are taken during the criminal trial by the criminal investigation body or by the instance, and consist in non-availability by instituting a distraint of movables and seizure of real estate, in order to repair the damage caused by the crime, as well as in order to make sure the fine punishment will be executed.
The assurance measures in order to repair the damage may be taken with regard to the goods of the-defendant and of the person who bears the civil responsibility., until the estimated value of the damage is reached.
The assurance measures taken as guarantee for the fine punishment execution are only taken with regard to the goods of the defendant.
One cannot distrain the goods that belong to one of the institutions referred to in art. 145 in the Criminal Code. as well as those excepted by the law.
The assurance measures for repair of the damage may be taken at the request
of the civil party or ex officio.
The enforcement of the assurance measures is obligatory when:
a) the crime caused damages to the property of one of the institution is referred to in art. 145 in the Criminal Code, regardless if it is constituted as civil party or not; b) the victim is person who lacks or has limited exertion ability.
Art. 164

The assurance measure ordinance is enforced by the criminal investigation body who has take the measure.
The closing by which the instance ordered the assurance measure is enforced by the judicial executor.
The assurance measures ordered by the crtminal investigatidn body or the instance may also be enforced by the execution bodies of the harmed institution, in case this institution is one of those referred to in art. 145 In the Criminal Code .
In case the criminal Investigation is performed by the prosecutor, the latter may order that the assurance measure taken be enforced by the secretary of the prosecution department.
Art. 165
The body that enforces the distraint must identify and evaiuate the goods in question he may, if he needs it, appeal to experts.
Perishable goods, objects made of precious metals or stones, foreign payment means, domestic value titles, museum and art objects, valuable collections, as well as sums of money that are subject to distraint will obligatorily taken away.
Perishable goods are delivered to commercial institutions where the State is the major shareholder, according to the activity profile. who must accept and use them immediately.
The precious metals or stones, or the objects made of them, and the foreign banking institution.
Domestic value titles, art or museum objects and valuable collections are given for keeping to the specialized institutions.
The objects stipulated in paragraphs 4 and 5 are delivered within 48 hours from taking. If the objects are strictly necessary to the criminal investigation, they are delivered afterwards, but not later than 48 hours after the prosecutor resolves the cause, after the criminal investigation has been completed.
The distrained objects are kept until the suspension of the distraint. The foreign means of payment can be immediately used by the competent banking institution, if the latter finds it necessary .
The sums resulted from the use under paragraphs 3 and 71 as well as the sums taken under paragraph 2 are acknowledged, according to case, under the name of the defendant or of the person bearing the civil responsibility, following the order of the body that ordered the institution of the distraint, to whom the written acknowledgment of receipt of the sum is given, within maximum 3 days from the date when the money was taken or the goods have been used.
If there is the danger of estrangement. the other movables distrained will be sealed or taken away, and a custodian can be appointed.
Art. 166
The body that enforces the distraint draws up an official report on all acts performed under art. 165, including a detailed description cf the goods distrained and specifying their value. The goods exempted from investigation under the law, found at the person to whom distraint was enforced are also mentioned in the official report. Objections of the parties or other interested persons are included as well.
A copy of the official report is left with the person to whom the distraint has been enforced, and if he/she is missing, to the persons he/she lives with, the administrator, the janitor or his replacement, or to a neighbor. In case part of or all the. goods have been delivered to a custodian, a copy of the official report is left with him. A copy is forwarded to the body that ordered the assurance measure, within 24 hours from the conclusion of the official report.
For the real estate seized, the body that ordered the institution of the seizure V asks the competent body to take a mortgage inscription of all seized real estate, including as annexes copies of the act by which the seizure was ordered and a copy of the seizure official report.

The sums owed under any title to the defendant or to the person bearing the civil responsibility by a third party or by the harmed person, are distraihed in their hands and within the limits stipulated by the law, since receiving the papers by which the distraint is instituted. These sums will be acknowledged by debtors,
according to case, and put at the disposal of the body that ordered the ! attachment or the executing body, within 5 days from the settling day; the j receipts will be delivered to the same body within 24 hours from this.
Art. 168
Against the assurance measure taken and of its enforcement means, the defendant. the party bearing the civil responsibility, as well as any other interested person may complain to the criminal investigation body who ordered the measure or to the prosecutor who supervises the criminal investigation, before summoning the court, after which the complaint is addressed to the respective court.
The decision of the instance may be attacked separately by recourse. The recourse does not suspend the execution.
After the final settlement of the criminal trial, if no complaint has been filed against the enforcement of the assurance measure, contestation can be made under the civil law.
Art. 169
If the criminal investigation body or the court find that the things taken away from the defendant, or from any other person who received them for keeping, are the property of the victim or have been wrongly taken away from him/her, it orders the return of the respective things to the victim. Any other person who claims a right over the things taken away may ask, under an. 168 enforcement of this right and return of the things.
The things taken away are returned only if this does not impede the revealing of the truth and the just settlement of the cause, and imposing upon the person to
whom they are returned the obligation to keep them until the decision is declared final.
Art. 170
The criminal investigation body, with the approval of the prosecutor or the instance, may take measures for the rehabilitation of the situation prior to the crime, when the change of that situation was clearly the result of the crime, and the rehabilitation is possible.

TITLE V
TRIAL-RELATED AND PROCEDURAL COMMON ACTS
CHAPTER I
JUDICIAL ASSISTANCE AND REPRESENTATION

Art. 171
The defendant has the right to be assisted by a defender all throughout the criminal investigation and the trial, and the Judicial bodies must inform him of this right.
Judicial assistance is obligatory when the defendant is a minor, military in service, military with reduced service, concentrated in reserve, student of a military educational institute, held in a medical-educational center or arrested, even if in another cause.
During the trial, judicial assistance is obligatory. If the defendant has not chosen a defender, measures are taken for appointing one ex officio.
The delegation of the ex officio defender ceases once the chosen defender comes.
If the defender is absent from the trial and cannot be replaced, the cause is postponed.
Art. 172
During the criminal investigation, the defendant's defender has the right to assist in the performance of every criminal investigation act and may draw up claims
and memos. The absence of the defender does not impede the performance of the criminal investigation act. if there is proof that the defender has been informed on the date and time of act performance.

When judicial assistance is obligatory, the criminal investigation body will ensure the presence of the defender at the defendant's hearing. *J'*
In case the defendant's defendant is present at the performance of a criminal investigation act. this will be mentioned and the act is also signed by the defendant.
The arrested defendant has the right to get in touch with the defendant.
Exceptionally, when it is in the interest of the investigation. the prosecutor, ex officio or at the proposal of the criminal investigation body, may order, by justified ordinance, that the arrested defendant should not get in touch with the defender, once, for maximum 5 days.
Getting in touch with the defendant cannot be forbidden at the extension of the f arrest by the instance, and at the presentation of the criminal Investigation I material, it is obligatory.
The defender has the right to complain, under art. 275, if his claims have not been approved; in the situations stipulated In paragraphs 2. 4 and 5, the prosecutor must solve the complaint In maximum 48 hours.
During the trial. the defender has the right to assist the defendant to exert the trial-related rights of the latter, and in case the defendant IS arrested, to get in touch with him.
The defender chosen or appointed ex officio must ensure the judicial assistance of the defendant. In case of non-compliance with this obligation, the criminal investigation body or the instance may inform managing board of the bar, in order to take measures.
Art. 173
The defender of the victim, of the civil party and of the party bearing the civil responsibility has the right to draw up claims and memos. The defender has the right to assist in the performance of the following criminal Investigation acts: the hearing of the defended party, field investigations, searches and autopsies, the extension of the arrest, and at other investigation acts he may assist with the approval of the criminal investigation body.
~ During the trial, the defender exerts the rights of the party that he assists.
When the instance considers that, for some reasons, the victim, the civil party or the party bearing the civil responsibility cannot handle her own defense, it orders, ex officio or upon request, enforcement of the measures for appointing a " defendant.
Art. 174
During the trial, the defendant may be represented:
a) at the trial of the cause in first instance or its re-trial after the dissolution of the decision in appeal or after cassation by the recourse instance only if the punishment stipulated by the law for the tried deed is either fine or jail for maximum 1 year;
b) at the trial of the cause In ways of attack:
In all the cases when the law allows the representation of the defendant, the instance has the right, when it considers the presence of the representative necessary, to order his presentation.
The other parties may always be represented.

CHAPTER II
SUMMONS COMMUNICA TION OF PROCEDURAL ACTS, ORDER TO APPEAR

Art. 175
A person is called in front of the criminal investigation body or the Instance by written summons. The summons may also be done by phone or telegraph.
The summons are handed by agents especially appointed to exert this attribution or by mail.
Art. 176.
The summons is individual and must include the following specifications:
a) the name of the criminal investigation body or the instance who issues the summons, its headquarters, the date of issue and the number of the file;

b) the name, surname of the person summoned. ~he quality in which he/she is v summoned and the object of the cause;
c) the address of the person summoned, which. in the case of towns and municipalities must include: the town/municipality, county, street, number of street and apartment, and, for communes: county. commune and village.
When such is the case other data necessary for establishing the address of the person summoned is included in the summons:
d) the time, month and year, place of appearance. as well as the invitation for the person summoned to appear at the specified time and place mentioning the consequences in case of failure to appear.
Art. 177
The defendant is summoned at the address where he lives, and if this is not known, at the address of his work place. through the human resources department at the institution where he works.
If, by a statement made during the criminal trial. the defendant has indicated another place where he can be summoned, he is summoned at the specified place.
In case the address specified in the defendant's statement is changed, the latter is summoned at his new address, only if he has notified the criminal investigation body or the instance of the change, or if the judicial body considers, on the basis of the data obtained according to art. 180, that the address has changed.
If the defendant's address or his work place are not known, the summons is
posted at the headquarters of the local council in whose territorial area the crime has been committed. When the criminal activity has been performed in more
than one place. the summons is posted at the head quaners of the local council in whose territorial area the body that conducts the criminal investigation is located.
The ill persons in hospitals or sanatoriums are summoned through the administration of these institutions.
The militaries are summoned at the unit where they belong. through their commander.
If the defendant lives abroad. he IS summoned by registered letter, if the law does no stipulate otherwise. The delivery receipt replaces the proof of summons performance .
Other persons than the defendant are summoned according to the provisions of the present article. The institution referred to in art. 145 in the Criminal Code are summoned at their headquarters.
Art. 178
The summons is handed personally to the person summoned. who will sign the proof of receiving.
If the person summoned refuses to receive the summons. art after receiving it refuses to or is unable to sign the proof of receiving, the agent leaves the summons with the person summoned or, in case of refusal, posts it on his/her door, drawing up an official repon on this.
When the summons is made according to art. 177 paragraph 1 final part,
paragraphs St 6 and 71 the institutions referred to must immediately hand the summons to the summoned person and take proof for this, certifying his/her
signature or; specifying the reason why the signature could not be obtained. The proof is handed to the procedural agent, and he forwards it to the criminal investigation body or the instance that issued the summons.
The summons destined to one of the institutions referred to in an. 145 in the
Criminal Code is delivered to the registry office or to the clerk who receives the correspondence. The provisions of paragraph 2 are enforced accordingly.
Art. 179
If the person summoned is not at home. the agent hands the summons to the spouse, to a relative or to any person living with him/her or who usually receives his/her

correspondence. The summons cannot be handed to a minor under 14 or to an irrational person.
If the person summoned lives in a block of flats or in a hotel. in the absence of the persons shown in paragraph 1, the summons is handed to the administrator, the janitor or the person who usually replaces him .
The person who receives the summons signs for receiving, and the agent certifies his identity and signature and draws up an official report. If the person refuses to or is unable to sign the proof of receiving, the agent posts the summons on his/her door and draws up an official report.
In the absence of the persons referred to in paragraphs 1 and 2 the agent must find out when he can find the summoned person to hand him{her the summons. When he cannot hand the summons this way either, the agent posts the
summons on the door of the person summoned and draws up an official report.
In case the person summoned lives in a block of flats or in a hotel, if the summons does not specify the apartment or the room he/she lives in, the agent must try to find them out. If he does not succeed, the agent posts the summons on the main door of the building and draws up an official report specifying the circumstances that made it impossible to hand the summons.
Art, 1 80
If the person summoned has changed his/her address, the agent posts the summons on the door of the place shown in the summons and tries to find out the new address, specifying the results of the investigation is the official report.
Art. 181
The proof of receiving the summons must include the number of the file, the name of the criminal investigation body or the instance that issued the summons, the name, surname and quality of the person summoned as well as the date when he/she is summoned to appear. Also, it must include the date when the summons is handed, the quality and signature of the person who hands the
summons, certification by the latter of the identity and signature of the person to whom the summons has been handed. as well as his/her quality.
Whenever on the occasion of delivering or posting a summons. an official report '-'" is drawn up this will correspondingly include the specifications shown in the previous paragraph.
Art. 182
Communication of the other procedural papers is done according to the provisions in the present chapter.
Art. 183
A person may be brought before the criminal investigation body or the instance on the basis of an order to appear, drawn up according to the provisions of art-176, being previously summoned, he/she has not appeared, and his/her hearing or presence are necessary .
The defendant may be brought on the basis of an appearance order even before being summoned, if the criminal investigation body or the Instance justifiably thinks that this measure is necessary for the settlement of the cause.
Art. 184
The order of appearance IS enforced trough the police bodies.
If the person specified in the order cannot be brougnt because of an illness or for any other reason, the person appointed to enforce the order acknowledges this situation in an official report. which is immediately handed to the criminal investigation body or the instance.
If the person appointed to enforce the order of appearance does not find the person specified in the order at the specified address, he makes investigations and, if he does not succeed. he draws up an official report including mentions of the investigations made.

Enforcement of the orders of appearance regarding the militaries is done through the commander of the military unit or the garrison.

CHAPTER III
DEADLINES

Art. 185
When the law stipulates a certain deadline for the exertion of a trial-related right, non-compliance with it entails inability to exert the respective right and nullity of the act performed after the deadline.
When a trial-related measure can only be enforced in a limited period, the expiration of the deadline entails the cessation of the effect of the measure.
For the other procedural deadlines, the provisions regarding nullities are I enforced in case of non-compliance.
Art. 1 86
When procedural deadlines are calculated, the starting point is the time, day, month or year mentioned in the act that has caused the deadline, if the law does *not* stipulate otherwise.
When the deadlines are calculated by times or days, the time or day when the interval begins or ends are not taken into account.
The deadlines calculated by months or years expire. according to case, the last corresponding day of the last month, or the last day of the last corresponding month of the last year. If this day is in a month that does not have a corresponding day. the deadline is the last day of that month.
When the interval ends on a holiday. the deadline IS the next working day.
The paper submitted before the deadline stipulated by the law at the
administration of the detention place. the military unit or post office by registered letter. is considered to be done in time. Registration or certification of the submitted paper or the post office receipt by the administration of the detention place or by the military unit serve as proof of the date of submission.
Except for the ways of attack, the paper drawn up by the prosecutor is considered as done in time. if the date when it has been registered in the issue .- register of the prosecution department is anterior to the deadline stipulated by the law for the respective paper .
Art. 188
When the deadlines regarding the enforcement, maintenance or revocation of the preventive measures are calculated, the time and day when the interval begins or ends are considered s part of it.

CHAPTER IV
JUDICIAL EXPENSES

Art. 189
The expenses necessary for the performance of the procedural acts, administration of evidence, maintenance of material means of evidence defenders. remuneration, as well as any other expenses related to the criminal trial are covered from the sums forwarded by the state or paid by the parties.
Art. 190
The witness, expert and interpreter called by the criminal investigation body or *1 the instance are entitled to reimbursement of expenses related to transport, maintenance, accommodation and other related necessary expenses.*
The witness expert and interpreter employees of one of the institutions referred to in art. 145 in .the Criminal Code are also entitled to the income due to them at their work place

for the period when they are absent as a result of being called by the criminal investigation body or the instance.
The witness who is not employed by one of the institutions stipulated in the previous paragraph. but who has an income, is also entitled to a compensation.
The expert and the interpreter are entitled to a remuneration for accomplishing the task given to them in the cases and under the circumstances stipulated by legal provisions.
The sums given according to paragraphs 1, 3 and 4 are paid on the basis of decisions made by the body that ordered the calling and in front of which the witness, expert or interpreter appeared, out of the allotted judicial expenses
fund. These sums are paid to the witness immediately after appearance, and to the expert and interpreter after they have completed their tasks.
The sum representing the income mentioned in paragraph 2 is paid by the institution where the witness, expert or interpreter is employed.
Art.191.
In case of conviction, the defendant must cover the judicial expenses forwarded by the state.
When more defendants are convicted, the instance decides on the part of the judicial expenses that each of them will pay. When making this decision, one will take into account the extent to which each defendant has caused judicial expenses.
The party bearing the civil responsibility, to the extent to which it must pay for damages along with the defendant, must also cover the judicial expenses forwarded by the state,. along with the defendant.
Art. 192
in case of acquittal or cessation of the criminal trial in court, the judicial expenses forwarded by the state are paid for as follows:
1. In case of acquittal, by:
a) the victim, to the extent to which they were caused by him/her;
b) the civil party whose civil claims were totally rejected, to the extent to which the expenses were caused by this party;
c) the defendant, when, even if acquitted, he was still obliged to pay for damages.
2. In case of cessation of the criminal trial, by:
a) the defendant. if the replacement of crimina1 responsibility has been ordered: b) both parties, in case of reconciliation;
c) the victim, in case the complaint has been withdrawn.
3. In case of amnesty, prescription or withdrawal of the complaint, if the
defendant asks for continuation of the criminal trial, the judicial expenses are covered by:
a) the victim, when art. 13 paragraph 2 is enforced:
b) the defendant, when art. 13 paragraph 3 is enforced.
In case of appeal, recourse or submission of any other claim. the judicial expenses are covered by the person to whom the appeal. recourse or submission were refused, or who withdrew them.
In all other cases, the judicial expenses forwarded by the state are the state's concern.
In case more parties are obliged to cover the judicial expenses, the instance decides on the part of the judicial expenses owed by each party.
The provisions stipulated at 1 letter a), as well as at 2 and 3. are also enforced
accordingly in case of closing, exemption from criminal investigation or cessation of criminal investigation.
Art. 1 93
The defendant must pay to the victim, in case he is convicted, as well as to the civil party whose civil action has been approved, their judicial expenses.
When the civil action is only partially approved, the instance may oblige the defendant to pay for the whole or part of the judicial expenses.

In case the civil action is given up, the instance decides on the expenses at the request of the parties.
In the situations stipulated in paragraphs 1 and 2, when there are more than one convict, or if there is a party who bears the civil responsibility the provisions of art. 191 paragraphs 2 and 3 are enforced accordingly.
In case of acquittal, the victim must pay to the defendant and to the party bearing the civil responsibility their judicial expenses, to the extent to which these expenses were caused by the victim.
In the other cases related to the reimbursement of judicial expenses caused by the parties during the criminal trial, the instance decides on the reimbursement obligation according to the civil law.

CHAPTER V
MODIFICATION OF PROCEDURAL PAPERS, CORRECTION OF MATERIAL ERRORS AND CORRECTION OF OBVIOUS OMISSIONS

Art. 194
Any completion, correction or elimination done in a procedural paper is taken
into account only if these modifications are acknowledged in writing, In the paper or at the end of it by those who have signed it.
Non-acknowledged modifications that do not change the meaning of the phrase are valid.
Blanks in a statement must be crossed, so that completions cannot be made.
Art. 195
The obvious material errors in a procedural paper are corrected by criminal investigation body or the instance that has drawn up the act. at the request of the person interested or ex officio.
For the correction of the error, the parties may be called to offer clarifications.
The criminal investigation body or the instance, according to case, draw up an official report or a closing on the correction made. mentioning this at the end of the corrected paper.
Art. 196
The provisions of art. 195 are also enforced in case the criminal investigation body or the instance, as a result of an obvious omission. has not decided on the sums claimed by witnesses, experts, interpreters, defenders, according to art- 189 or 190, as well as on the return or things or suspension of assurance measures.

CHAPTER VI
NULLITIES

Art. 197
Violations of legal provisions that regulate the unfolding of the criminal trial entail the nullity of the act, only when the harm done can only be removed by abatement of the respective act.
The provisions regarding the competence according to matter or quality of the person, appealing to court, its composition and the publicity of the session are stipulated under the sanction of nullity. So are the provisions regarding the prosecutor's participation, the defendant's presence and his being assisted by the defender, when they are obligatory under the law, as well as those regarding the performance of the social inquiry when minor perpetrators are involved.
The nullity stipulated in paragraph 2 cannot be suspended in any way. It may be claimed at any stage in the trial and IS even considered ex officio.

Violation of any legal provision, other than those stipulated in paragraph 2 entails the nullity of the act under paragraph 1, only is the nullity was claimed during the performance of the act, when the party was present, or at the first trial date with complete procedure, when the party was absent from the performance of the act. The instance takes into consideration ex officio the violations, at any stage in the trial, if the abatement of the act is necessary for revealing the truth and finding a just settlement for the cause.

CHAPTER VII
JUDICIAL FINE

Art. 198
The following violations done during the criminal trial are sanctioned by judicial fine between 20 000 lei -100 000 lei:

a) failure to accomplish, mis-accomplishment or late accomplishment of activities related to summons communication of procedural papers; sending the files, as well as any other activities if they led to delays in the unfolding of the criminal trial;
b) failure to accomplish or mis-accomplishment of the duties regarding handing or communicating the summons or the other procedural papers, as well as failure to enforce the orders of appearance:
c) unjustified absence of the witness. expert or interpreter legally summoned;
d) tergiversation by the expert or by the interpreter of accomplishment of the tasks assigned to them;
e) failure of any person to comply with the duty to bring, at the request of the criminal investigation body or instance, the objects or writings requested by the latter, as well as failure to comply with the same duty of the commander of the unit or the person whose task is to accomplish this duty;
f) failure to comply with the keeping duty stipulated in art. 109 final paragraph;
g) failure of the commander of the unit where an expertise is to be conducted, to I take Into consideration the measures necessary fcr performing the expertise;
h) failure of any party or person who attends the session to comply with the measures decided on by the president of the panel according to art. 298. I

Unjustified absence of the defender, chosen or apprinted ex officio, when the judicial assistance of the defendant is obligatory under the law. IS sanctioned by judicial fine between 100 000 lei -500000 lei.
The enforcement of the judicial fine does not remove the criminal responsibility, when the deed committed is a crime.
Art. 199
The fine: is enforced by the criminal investigation body by ordinance, and by the instance by closing.
The person upon whom the fine is enforced may ask for exemption from or reduction of the fine. The exemption or reduction claim may be submitted within 10 days from the communication of the fine ordinance or closing.
If the person upon whom the fine is enforced justifies why he/she was unable to comply with his/her obligation, the criminal investigation body or the instance consider his/her reasons and orders exemption from or reduction of the fine.

SPECIAL PART
TITLE I CRIMINAL INVES1IGATION
CHAPTER I
GENERAL PROVIS10NS

Art. 200

The aims of the criminal investigation are the gathering of necessary evidence regarding the existence of crimes, identification of the perpetrators and establishing their responsibility I in order to see whether they should be sent to court or not.

Art. 201

The criminal investigation is performed by prosecutors and the criminal investigation bodies.

The criminal investigation bodies are the following:

a) the police investigation bodies;

b) the special investigation bodies.

Operative employees of the Ministry of Internal Affairs, especially appointed, activate as police investigation bodies.

Art. 202

The criminal investigation body must gather the necessary evidence for revealing the truth and for clarification of the cause under all its aspects for its just settlement. the criminal investigation body gathers evidence both in favor and in the detriment of the defendant.

The duties stipulated in the previous paragraph are accomplished even if the defendant admits his/her crime.

The criminal investigation body is obliged to explain to the defendant, as well as to the other parties, their trial-related rights.

The criminal investigation body is also obliged to gather data regarding the circumstances that led to, facilitated or favored the crime, as well as any other data that may see to settle the cause.

Art. 203

During the criminal investigation, the criminal investigation body has the power of decision over the acts and trial-'related measures by ordinance, when stipulated by the law, or, in the other cases, by justified cancellation.

The ordinance must be justified and must include the date and place where it was drawn up, name, surname and position of the person who draws it up, the cause it refers to, the object of the act or of the trial-related measure, its legal justification and the signature of the person who drew it up. The ordinance will also include the special mentions stipulated by the law for certain acts or measures.

When the criminal investigation body thinks it is necessary to enforce certain measures, it makes justified proposals.

Art. 204

.Any criminal investigation act within one of the institutions referred to in art. 145 in the Criminal Code may be performed only with the approval of the managing board of that institution or with the authorization of the prosecutor.

In case of flagrant crimes, the approval or the authorization are not necessary.

Art. 205

When the law stipulates that an act or a trial-related measure must be approved. authorized or confirmed by the prosecutor, a copy of the ordinance or of the trial- related act is given to the prosecutor .

CHAPTER II
COMPETENCE OF CRIMINAL INVESTIGATION BODIES

Art. 206 -Abrogated.

Art. 207

The criminal Investigation is performed by the police investigation bodies for any crime that does not obligatorily tall under the competence of other investigation bodies. .

Art. 208

The criminal investigation is also performed by the following special bodies:

a) officers especially appointed by commanders of military units, for the
subordinated militaries, as well as for crimes committed in relation with the civil employees service of these units. The investigation may also be performed personally by the commander.
b}Officers especially appointed by the garrison commanders, for crimes committed by militaries outside the military units. the investigation may also be performed personally by the garrison commanders.
c) officers especially appointed by the commanders of military centers, for crimes falling under the competence of military instances, committed by civil persons in relation with their military duties. The investigation may also be personally performed by the commanders of the military centers.
At the request of the commander of the military center, the police body performs some investigation acts, after which it leaves the activity to the commander of the military center;
d) frontier guard officers, as well as officers especially appointed by the Ministry of Internal Affairs for frontier crimes;
e) port captains, for crimes against security of water navigation and against order and discipline on board, as well as for work or work-related crimes stipulated in the Criminal Code, committed by the navigating staff in the civil marine, if the crime has could have endangered the security of the ship or the navigation.
In the cases stipulated at letters a), b) and c), the criminal investigation is obligatorily performed by the special bodies mentioned there .
Art. 209
The prosecutor supervises the criminal investigation acts; while exerting this attribution, the prosecutors conduct and control the criminal Investigation performed by the police and other bodies.
The prosecutor may perform any criminal investigation acts In the causes that he supervises.
The criminal investigation is performed obligatorily by the prosecutor for the
crimes stipulated in art. 155-173, 174-177, 179, 189 paragraph 3, art. 190, 191, 211 paragraph 3, art. 212, 236, 236(1), 238, 239, 239(1), 250, 252, 254, 255, 257, 2E)5, 266, 267, 267(1), 268, 273-276, 279(1), 280, 280(1), 302(2),317 and 356-361 in the Criminal Code for the crimes specified in art. 26 point 21 letter a), art. 27 point 1 letters b) and c), art. 28(1) point 1 letters b) and c), art. 28(2) point 1 letter b) and art. 29 point 1 in this Code. as well as for crimes against work protection. The competence to perform the criminal investigation, in the cases stipulated in the previous paragraph, and to supervise the criminal investigation the prosecutor in the prosecution department corresponding to the instance that, under the law, tries the cause in first instance.
When the criminal investigation is performed by the prosecutor, the ordinance by which the preventive arrest and the public prosecutor's charge have been ordered is submitted for acknowledgment to the prime-prosecutor in the prosecution department, and when the investigation is performed by the letter, the acknowledgment is done by the hierarchically superior prosecutor.
Art. 210
The criminal investigation body solicited according to art. 221 must verify its competence. If the criminal investigation body finds that it is not competent to perform the investigation, it immediately sends the cause to the supervising prosecutor so that he may send it to the competent body.
Art. 211
When certain criminal investigation acts must be performed outside the territorial area where the investigation is conducted, the criminal investigation body may perform them itself or order their performance by rogatory commission or delegation.

In case the criminal investigation body decides to perform the acts itself, it informs first the corresponding body in the territorial area where it will perform the respective acts.
The criminal investigation body performs all the investigation acts in the same town, even if some of them must be performed outside its territorial area, complying with the provision in the previous paragraph.
Art. 212 -Abrogated.
Art. 213
The criminal investigation body must perform the investigation acts that cannot be postponed, even if they are related to a cause that is not of its competence. Activities performed in such cases are immediately transmitted, through the prosecutor supervising the body who performed the respective activities, to the competent prosecutor .
Art. 214
The following bodies are obliged to take statements from the perpetrator and eye-witnesses, and to draw up an official report on the concrete circumstances of the crime:
a) the state inspections bodies, other state bodies, as well as the institutions referred to in art. 145 in the Criminal Code, for crimes that constitute violations of the provisions and obligations whose enforcement they control under the law:
~ b) the control and managing bodies of the public administration and of other institutions referred to in art. 145 in the Criminal Code, for crimes work-related crimes committed by those subordinated to them or under their control.
The above mentioned bodies have the right to hold the material evidence
(corpus delicti), to begin the evaluation of damages, and to perform any other acts, if the law stipulates so.
The acts concluded are forwarded to the prosecutor within maximum 3 days, from the discovery of the deed that constitutes crime, if the law does not stipulate otherwise.
In case of flagrant crimes, the same bodies must immediately bring to the prosecutor the perpetrator, together with the results of the activities performed and with the material means of evidence.
The official reports drawn up by these bodies are means of evidence.
Art. 215
The rights and obligations stipulated in art. 214 paragraphs 1 and 2 also apply to the following bodies;
a) the commanders of ships and spaceships for crimes committed on board, when the ships and spaceships are outside ports and airports:
b) sub-officers in the frontier troops, for frontier crimes.
The above mentioned bodies may perform corporal searches on the perpetrator and may verify the things that the latter has with him.
Also, the above mentioned bodies may catch the perpetrator, and in this case they will bring him to the prosecutor or the criminal investigation body, together with results of the activities performed and the material means of evidence.
In the other cases, the results of the activities performed are handed to the competent investigation body within at most 5 days from the first acknowledgment, together with the material means of evidence.
When the crime has been committed on a ship or a spaceship, the above mentioned intervals begin when the ship anchors or the spaceship lands on Romanian territory.
The official report drawn up by these bodies are means of evidence.

CHAPTER III
SUPERVISION BY THE PROSECUTOR DURING THE CRIMINAL INVESTIGATION

Art. 216
The prosecutor, while supervising the compliance with the law in the criminal investigation, makes sure that every crime is discovered, every perpetrator is held responsible for his crimes and no person is criminally investigated unless there is strong evidence that she committed a deed stipulated by the criminal law.
Also, the prosecutor makes sure that no person is held or arrested, except in the cases and under the conditions stipulated by the law. During supervision, the prosecutor takes the necessary measures or orders that the criminal investigation bodies should take such measures.
The prosecutor takes measures and gives orders in writing and justifiably.
Art.217
The prosecutor may order, according to necessity, that a cause that should be criminally investigated by a certain investigated body, is to be investigated by a certain investigated body, is to be investigated by another such body.
Taking of a cause by a hierarchically superior investigation body is ordered by the prosecutor in the prosecution department supervising it, on the basis of the justified proposal of the criminal investigation body that takes the cause and after notifying the prosecutor who supervises it.
The causes taken by a central criminal investigation body are supervised by a prosecutor in the General Prosecution Department affiliated to the Supreme Court of Justice.
For the causes criminally investigated by the prosecutor, the latter may order that certain criminal investigation acts should be performed by the police bodies.
Art. 218
The prosecutor conducts and checks the criminal investigation performed by the , police or other bodies, and makes sure that the criminal investigation acts are performed in compliance with the legal provisions.
The criminal investigation bodies are obliged to inform immediately the prosecutor of the crimes they found out about.
The prosecutor may assist in the performance of any criminal investigation act or to perform it himself. The prosecutor may ask for verification any file from the criminal investigation body, who is obliged to send it, accompanied by all the acts, materials and data that make up the object of investigation.
Art.219
The prosecutor may give orders regarding the performace of any criminal investigation act. The orders given by the prosecutor are compulsory for the criminal investigation body. If this body has objections, it may inform the prime-prosecutor in the prosecution department or, when the orders were given by the latter, the hierarchically superior prosecutor, without interrupting the execution of the orders thin 3 days from notification, the prime-prosecutor or the hierarchically superior prosecutor is obliged to make a decision.
Art. 220
When the prosecutor sees that a trial-related act or measure taken by the criminal investigation body does not comply with the legal provisions, he justifiably rejects it.

CHAPTER IV
PERFORMANCE OF CRIMINAL INVESTIGATION
SECTION INFORMING THE CRIMINAL INVESTIGATION BODIES

Art. 221
The criminal investigation body is informed by complaint or denunciation, or ex officio, when it discovers the perpetration of a crime in any other way.

When, according to the law, the initiation of criminal investigation can only be done after the prior complaint of, notification by or authorization of the body stipulated by the law, the criminal investigation cannot begin in their absence.
Also, the criminal investigation cannot begin unless the foreign government has expressed its wish, for the crime stipulated in art. 171 in the Criminal Code.
When, by the perpetration of a crime, damage has been caused to one of the institutions referred to in art. 145 in the Criminal Code, the respective institution is obliged to inform immediately the criminal investigation body and to give
explanations regarding the size of the damage as well as the deeds that caused the damage, and to constitute itself as civil party.
Art. 222
The complaint is the informing by a person or an institution among those referred to in art. 145 in the Criminal Code, who has suffered damage as a result of a crime.
The complaint must include: name, surname; position and domicile of the petitioner, description of the deed that makes the object of the complaint, specification of the perpetrator, if known, and of the probative means.
The complaint may be filed personally or by mandatory .The mandate must be special and the procuration remains attached to the complaint.
The oral complaint is written in an official report by the body who receives it.
The complaint may also be filed by one spouse for the other, or by the major child for his parents. The victim may declare non-appropriation of the complaint.
For the person lacking the exertion capacity, the complaint is filed by his legal representative. The person with limited exertion capacity may file a complaint upon approval of the persons stipulated by the civil law.
Art. 223
The denunciation is the notification made by a person or by an institution among those referred to in art. 145 in the Criminal Code on the perpetration of a crime.
The denunciation must include the same data as the complaint.
The written denunciation must be signed by the person who makes it, while the
oral denunciation is written in an official report by the body in front of whom it was made.
Art.224
In order to initiate the criminal investigation, the criminal investigation body may perform preliminary acts.
Also, in order to gather evidence necessary to the criminal investigation bodies for the initiation of criminal investigation, the operative employees of the Ministry - of Internal Affairs, as well as of the other state bodies having attributions related to national security, especially appointed for this, may perform preliminary acts in connection with the deeds that constitute, according to the law, threats to the c national security .
The official report that acknowledges the performance of preliminary acts may constitute means of evidence.
Art. 225
When the law stipulates that the criminal investigation cannot begin in the absence of a special notification, this must be made in writing and signed by the competent body. The notification act must specify at the data stipulated in art. 222 paragraph 2.
Art. 226
For the crimes stipulated in the Criminal Code in art. 331-336, 348, 353 and 354, the criminal investigation may begin only when the commander is informed.
For the other crimes committed by militaries, the criminal investigation body acts according to the usual rules, informing the commander as soon as the criminal investigation is initiated.
Art. 227 .

Any person in a managing position in one of the institutions referred to in art. 145 in the Criminal Code or having control attributions, who has found out the perpetration of a crime in the respective institution, is obliged to inform immediately the prosecutor or the criminal investigation and to take measures so that the traces of the crime, the corpus delicti and any other means of evidence would not disappear .
The obligations stipulated in the previous paragraph apply to any employee who has found out about the perpetration of a crime related to the service where he accomplishes his tasks.

SECTION II
THE UNFOLDING OF THE CRIMINAL INVESTIGATION

Art. 228
The criminal investigation bodies informed in one of the ways stipulated in art. 221 orders by resolution the initiation of the criminal investigation, when the informing act or one of the preliminary acts performed do not lead to one of the cases that impede the criminal action stipulated in art. 10, except for that at letter b1.
In the case shown in art. 10 letter b1, the criminal investigation body submits the file to the prosecutor, with the proposal of exemption from the criminal investigation.
When the criminal investigation bodies is informed ex officio, it draws up an official report that constitutes the act of initiation of the criminal investigation.
If the informing act or the preliminary acts performed after receiving the complaint or the denunciation lead to one of the cases that impede the initiation of the criminal investigation stipulated in art. 10, except for the one at letter b1, the criminal investigation body submits to the prosecutor the acts drawn up with the proposal not to initiate the criminal investigation.
If the prosecutor finds that the conditions shown in the previous paragraph are not met, he returns the acts to the criminal investigation body for initiation of criminal investigation.
In case the prosecutor agrees with the proposal, he confirms it by justified resolution and informs the person who made the notification of all these.
If one finds afterwards that the circumstance supporting the proposal not to initiate the criminal investigation did not exist or disappeared, the prosecutor rejects the resolution and returns the acts to the criminal investigation body, ordering .the initiation of the criminal investigation.
Art. 229
The person criminally investigated is called defendant as long as criminal action has not been initiated against him.
Art. 230
The prosecutor, informed according to art. 228 paragraph 2, orders by ordinance the exemption from criminal investigation and inform of this, when necessary, the person who made the notification.
Art.231
If the prosecutor, informed according to the provisions of art. 228 paragraph 2, finds that the exemption from criminal investigation is not appropriate, he returns the file to the criminal investigation body for the initiation of criminal investigation.
Art. 232
If the prosecutor returned, on the basis of art. 228 paragraph 5 or art. 231, the acts to the criminal investigation body, the latter initiates or, if such is the case, continues the criminal investigation, according to the law and taking into account the special circumstances of each cause.
Art. 233

During the criminal investigation, if the criminal investigation considers that the conditions stipulated by the law for taking the preventive arrest measure against the defendant are met, submits proposals in this sense to the prosecutor to decide.
If the prosecutor, having examined the file of the cause, finds it appropriate to enforce the preventive arrest measure on the defendant, he acts according to art. 146.

Art. 234

If the criminal investigation body thinks there are reasons for initiating the criminal investigation, it makes proposals In this sense and submits them to the prosecutor .
The criminal investigation body, if it thinks that the condition stipulated by the law for enforcing the preventive arrest measure are also met, also makes proposals in this sense.

Art. 235

The prosecutor makes a decision regarding the initiation of criminal investigation after having examined the file.
If the prosecutor agrees with the proposal, he initiates the criminal investigation by ordinance.
The ordinance of criminal investigation initiation must include, besides the specifications shown in art. 203, data on the defendant, the deed of which he is blamed and its judicial framing.

Art. 236

The prosecutor informed according to art. 234, if he initiates the criminal
investigation and sees that the conditions stipulated by the law for enforcing the preventive arrest measure on the defendant, acts according to art. 150 and the following.
If the defendant is arrested according to art. 223, he will be heard by the prosecutor before the defendant's arrest period is over.

Art. 237

After having accomplished the provisions of art. 233-236, the prosecutor, if such is the case, orders the continuation of the criminal investigation. The criminal investigation body continues the performance of investigation acts, being also obliged to comply with the prosecutor's orders.
If the prosecutor initiated the criminal investigation, the investigation body calls v the defendant, informs him of the deed for which he is blamed and offers him explanations regarding his rights and obligations.
The criminal investigation body informs the free defendant that he is obliged to show up at every call that he receives during the criminal trial and that he has the duty to inform the authorities- of any change of address.
The criminal investigation body will continue the investigation without hearing the defendant, in case of disappearance, elusion from investigation or in case he lives abroad.

Art. 238

The criminal investigation body, if it finds out new deeds related to the defendant or new circumstances that may change the judicial framing of the deed for which the criminal investigation has been initiated or data on another person having
taken part in its perpetration, makes proposals in this sense and submits them to the prosecutor, so that the later can decide on the extension of the criminal investigation or the change of judicial framing.

SECTION III
SUSPENSION OF CRIMINAL INVESTIGATION

Art. 239 .

In case a medical expertise shows that the defendant is suffering from a serious illness that impedes him from taking part in the criminal trial, the criminal investigation body submits its proposals to the prosecutor, along with the file in order for the prosecutor to order the suspension or the criminal investigation.

The prosecutor decides on the suspension of the criminal investigation by ordinance.
Art. 240
The ordinance must include, besides the specifications shown in art. 203, the data on the defendant, the deed of which he is blamed, the causes that led to the suspension and the measures taken for the recovery of the defendant.
The suspension measure is communicated to the civil party. After this, the file is returned to the criminal investigation body.
Art. 241
During the suspension period, the criminal investigation body continues to I perform all acts whose performance is not impeded by the situation of the defendant.
The criminal investigation is obliged to inquire periodically if the cause that led to the suspension still exists.

SECTION IV
CESSATION OF CRIMINAL INVESTIGATION

Art. 242
The criminal investigation may be terminated if one of the cases stipulated in art. 10 letters f)-h) and j) occurs and there is defendant In the cause.
If there are more defendants in the same cause or if more deeds make the object of the same cause, the criminal investigation is terminated only in connection with the defendants or deeds to which the case for criminal investigation cessation applies.
Art. 243
The criminal investigation body, when it acknowledges the existence of one of the cases stipulated in art. 10 letters f)-h) and j), submits the file and the proposals of investigation cessation to the prosecutor.
The prosecutor makes a decision regarding the cessation of criminal investigation by ordinance, according to art. 11 letter c). In case the criminal action has not been initiated, the cessation of the investigation is decided by justified resolution.
When the investigation cessation regards an arrested defendant, the prosecutor must decide on the cessation of the investigation within 24 hours after receiving the file.
Art. 244
The ordinance of investigation cessation must include, besides the specifications shown in art. 203, data on the defendant and the deed to which the cessation refers, as well as the reasons on the basis of which the cessation is ordered.
Art. 245
'-' The ordinance of investigation cessation also settles the following:
a) revocation of the preventive measure, as well as of the assurance measures taken for the enforcement of the fine;
b) confiscation of things that are, according to art. 118 in the Criminal Code, subject to special confiscation, and return of the others.
If the property over corpus delicti and the other objects served as material means of evidence is contested, they are kept by the criminal investigation body until the civil instance makes a decision;
c) the assurance measures regarding the civil repairs and rehabilitation of the situation prior to the perpetration of the crime.
In case the maintenance of the assurance measures regarding the civil repairs has been ordered, these measures will be considered dissoluted, if the victim
does not initiate action in the instance within 30 days from the communication of criminal investigation cessation;
d) judicial expenses, settling their value, who must cover them and ordering their payment;
e) return of the bail in the cases stipulated by the law.

If, during the criminal investigation, one of the assurance measures shown in art 162 has been enforced, this will be specified.

Art. 240

The prosecutor informs the interested persons of the cessation of the criminal investigation.

When the defendant is preventively arrested, the prosecutor informs in writing the administration at the detention place, ordering the immediate release of the defendant.

Art. 247 -abrogated.

Art 248

The prosecutor I if he does not think it appropriate to order the cessation or if he has partially ordered the cessation, returns the file to the criminal investigation body, ordering the continuation of the investigation.

SECTION V
EXEMPTION FROM CRIMINAL INVESTIGATION

Art. 249

The exemption from criminal investigation takes place when 'one of the cases stipulated in art. 10 letters a)-e) occurs and there is a defendant in the cause.

The provisions of art. 242-246 and 248 are also enforced accordingly in the exemption procedure.

In the case stipulated in art. 10 letter b1) the prosecutor decides by ordinance.

Art. 249(1)

In case the exemption from criminal investigation has been ordered according to the art. 10 letter b 1), the enforcement of the reproof or of the reproof with warning, stipulated in art. 91 in the Criminal Code, enforced by the prosecutor, is done according to art. 487, which is enforced accordingly.

The execution of the administrative sanction fine is done according to the art. 442 and 443.

A complaint may be filed against the ordinance on exemption from criminal investigation according to art. 10 letter b1) within 5 days from the notification stipulated in art. 246.

'The execution of the ordinance by which the administrative sanction fine has been enforced is done after the period stipulated in paragraph 3 is over. and if a complaint has been filed and rejected, after its rejection.

SECTION VI
THE PROCEDURE OF PRESENTATION OF THE CRIMINAL INVESTIGATION MATERIAL

Art. 250

After the initiation of the criminal action, if all necessary investigation acts have been performed, the criminal investigation body calls the defendant and:

a) informs him on the right to familiarize himself with the criminal investigation material, also showing him the judicial framing of the deed committed;

'-' b) offers him the possibility to immediately familiarize himself with the material. If the defendant cannot read, the criminal investigation body reads the material for him;

c) asks him, after he has familiarized himself with the criminal investigation material, if he wants to make new claims or supplementary statements.

Art. 251

The criminal investigation body draws up an official report on the enforcement of the provisions stipulated in art. 250, also noting the statements, claims and answers of the defendant.

Art. 252

If the defendant has made new claims regarding the criminal investigation, the
criminal investigation body examines them immediately and orders by ordinance the approval or rejection.
The investigation body orders by the same ordinance the completion of the criminal investigation, when the defendant's supplementary statements or
Answers lead to the necessity of completion.
Art. 253
The criminal investigation body is obliged to present the material again, if it has performed new criminal investigation acts or sees that the judicial framing of the deed must be changed.
Art. 254
When the presentation of the material was not possible because of the defendant's disappearance, elusion from the body's call or because of him living abroad, the concrete circumstances that lead to the cause of the impediment are mentioned in the report drawn up according to art. 259.
If the defendant shows up, is caught or brought before the file is submitted, the presentation of the criminal investigation material begins.

SECTION IV
TERMINATION OF THE CRIMINAL INVESTIGATION
Investigation without initiating criminal action II

Art. 255
In the causes for which criminal action has not been initiated, the criminal investigation body, after performing the criminal investigation acts according to ar1. 232, if there is defendant in the cause and considers that there is efficient evidence against him, organizes a new hearing of the defendant, informing him of the blame and asking him if he has new means of defense.
If the defendant has not brought new evidence or his proposal has not been found substantial or if the investigation has been completed according to the proposals made, the investigation is considered terminated.
Art. 256
As soon as the criminal investigation is terminated, the criminal Investigation body submits to the prosecutor the file accompanied by a report, where it mentions the result of the investigation, In order to decide according to art. 262. The report will accordingly include the specifications stipulated in art. 259-260.
Art. 257
After receiving the file, the prosecutor, If he finds it necessary, calls the defendant and shows him the criminal investigation material according to the provisions of art. 250 and the following, which are enforced accordingly.

Investigation with criminal action initiated

Art. 258
In the causes for which criminal action has been initiated, after completing the investigation and complying, if such is the case, with the provisions regarding the presentation of the criminal investigation material, the criminal investigation is considered terminated. The criminal investigation body immediately submits to the prosecutor the file of the cause accompanied by a report.
Art. 259
The report drawn up by the criminal investigation body must be limited to the deed that was the object of the criminal action, to the defendant and the last.

The report must include the deed for which the defendant was held responsible, the evidence administrated and the judicial framing.
When the criminal investigation regards more deeds or more defendants, the report must include the specifications shown in the previous paragraph in connection with all the deeds and all the defendants and, if such is the case, must specify for what deeds or perpetrators the investigation has ceased, exemption from criminal investigation has been ordered or criminal investigation suspended.
Art. 260
The report must include supplementary data on:
a) the material means of evidence and related measures taken during the criminal investigation, as well as the place where they are;
b) the assurance measures regarding the civil damages or the execution of the fine sanction, enforced during the criminal investigation;
d) the judicial expenses.

CHAPTER V
SENDING TO COURT

Art. 261
The prosecutor must, within maximum 15 days after receiving the file sent by the criminal investigation body according to art. 256 or 258, to check the criminal investigation works and to pass an opinion on them.
The prosecutor presents the criminal investigation material in the situations stipulated in art. 254 paragraph 1 if the defendant comes, is caught or brought after the file has been sent to the prosecution department.
The causes in which arrested are implied are solved urgently and have priority.
Art. 262
If the prosecutor sees that the legal provisions that ensure the revealing of the truth have been followed, that the criminal investigation is complete and
necessary evidence exists and has been legally administrated, he acts as follows, according to case:
1. when the criminal investigation material proves the existence of the deed and its perpetration by the defendant and the latter is criminally responsible:
a) if the criminal action has not been initiated during the criminal investigation, he organizes a demand by which he initiates criminal action and sends it court;
b) if the criminal action has been initiated during the criminal investigation, he organizes a demand by which he sends it to court;
2. issues an ordinance by which:
a) he disposes of definitely, exempts from or ceases the criminal investigation according to the provisions of art. 11.
If the prosecutor orders the exemption from criminal investigation on the basis of art: 10 letter b 1) he enforces art. 18 (1) paragraph 3 in the Criminal Code;
b) suspends the criminal investigation, when he finds out about the existence of a cause for suspension of the investigation.
Art. 263
The demand must be limited to the deed or the person criminally Investigated and must include, besides the specifications stipulated in art. 203, data on the defendant, the deed of which he is made responsible, its judicial framing, the evidence on which the blame is made, the preventive measure enforced and its duration, as well as the order of sending to court.
The demand also includes the name and surname of the person that must be summoned to court, and their position in the trial and the place where they are to be summoned.

When the criminal investigation is performed by the prosecutor, the demand must also include the supplementary data stipulated in art. 260.
The prosecutor draws up one single demand, even if the criminal Investigation ~ works regard more deeds or more defendants, and even if they are issued different solutions according to art. 262.

Art. 264

The demand represents the act of informing the instance.
The demand given by a prosecutor in a prosecution department hierarchically Inferior to the .one-corresponding to the instance competent to try the cause is subject to confirmation by the prosecutor in the prosecution department corresponding to this instance.
The instance is informed by prosecutor who has issued or, according to case, confirmed the demand according to the previous paragraph.
Within 24 hours from the issue or, according to case, confirmation of the demand, the prosecutor submits to the competent instance the file accompanied by the necessary number of demand copies, in order for it to be communicated to '-" the held defendants.

Art. 265

When the prosecutor finds that the criminal investigation is not complete, or that the legal provisions that guarantee the revealing of the truth have not been followed, he returns the cause to the body who has performed the criminal
investigation, or according to the provisions of art. 217, he sends the cause to another investigation body, in order for the criminal investigation to be redone or completed.
When the completion or redoing of the criminal investigation is necessary only as far as certain facts or defendants are concerned, and severance of causes is not possible, the prosecutor orders the return or sending of the whole cause.

Art. 266

The ordinance of return or sending includes, besides the specifications shown in art. 203, the specification of the criminal investigation acts that must be
performed or re-performed, of the deeds or circumstances that are to be acknowledged and of the means of evidence that are to be used.

Art. 267

In all the cases, the prosecutor must pronounce himself as to keeping or revoking the preventive, insurance or assurance measures, enforced during the criminal investigation or, if such is the case, enforce such measures.

An. **268**

When the prosecutor finds that for one of the crimes or perpetrators mentioned in art. 207, 208 and 209 paragraphs 3 and 4 the criminal investigation has been performed by another body than the one stipulated in the texts mentioned, enforces measures for the investigation to be performed by the competent body.
In the case stipulated in the previous paragraph, the assurance measures enforced, the trial-related acts or measures confirmed or approved by the prosecutor, as well as the trial-related acts that cannot be redone remain valid.

Art. 269

The criminal investigation body informed by sending the cause according to art. 268 hears the defendant and, taking into account the provisions of art. 268 paragraph 2, orders the extent to which the other trial related acts must be redone and what other acts need to be performed to complete the criminal investigation.

CHAPTER VI
RESUMPTION OF CRIMINAL INVESTIGATION

Art. 270

The criminal investigation is resumed in case of:
a) cessation of the suspension cause;
b) return of the cause by the instance for redoing or completion of the
investigation, or as a result of extending the criminal action or the criminal trial;
c) re-opening of the criminal investigation.
The resumption of the criminal investigation can only take place if one finds out that in the meantime one of the cases stipulated in an 10 has occurred.
Art. 271
The resumption of criminal investigation after suspension takes place only when the cause of suspension has disappeared. The criminal investigation body that acknowledges this submits the file to the prosecutor in order for the latter to decide on the resumption. The resumption is ordered on ordinance.
Art. 272
When the instance has ordered the return of the cause in order for the criminal investigation to be redone or completed, or in case of extension of the criminal action or of the criminal trial, the investigation is resumed on the basis of the decision by which the instance has ordered the return.
Art. 273
The re-opening of the criminal investigation in case the cessation of or exemption from criminal investigation have been ordered, occurs only if one finds that the
~ case that determined the enforcement of these measures did not actually exist or the circumstance on which the cessation or exemption were based has disappeared.
Re-opening of criminal investigation is ordered by the prosecutor through , ordinance.
Art. 274
In the cases of resumption of criminal investigation stipulated in an. 270 letter a) and c), the 30 days period connected with the arrest measure enforced upon the defendant is calculated from the enforcement of this measure, and when the file is returned by the instance and the defendant is arrested, the period is calculated from the date when the prosecutor receives the file.
The duration of the defendant's arrest may be extended according to an. 155, 159 and 160.

CHAPTER VII
COMPLAINT AGAINST THE CRIMINAL INVESTIGATION ACTS AND MEASURES

Art. 275
Any person may file a complaint against the criminal investigation acts and measures if they harmed his/her legitimate interests.
A complaint may also be filed in the conditions stipulated in the previous paragraph against the resolution given according to art. 228 paragraph 6.
The complaint is addressed to the prosecutor who supervises the activity of the criminal investigation body and is submitted either directly to him or to the criminal investigation body.
The submission of the complaint does not suspend the enforcement of the measure or of the act that is the object of the complaint.
Art. 276
When the complaint has been submitted to the criminal investigation body, the latter must, within 48 hours from receiving it, submit it to the prosecutor, together with its explanations, when these are necessary.
Art. 277

The prosecutor must settle the complaint within maximum 20 days from receiving it and communicate immediately to the person who filed it the way in which it was settled.
Art. 278
The complaint against the measures or acts enforced by the prosecutor or following the latter's orders are settled by the prime-prosecutor in the respective prosecution department. When the measures or acts are enforced by the prime- prosecutor or follow his orders, the complaint is settled by the hierarchically superior prosecutor. The provisions of art. 275-277 are enforced accordingly.

CHAPTER VIII
PRIOR COMPLAINT PROCEDURE

Art. 279
Criminal action is initiated only at the prior complaint of the victim, in case of crimes for which the law stipulates that such a complaint is necessary.
The prior complaint is addressed to:
a) the instance, in the case of crimes stipulated in the Criminal Code in art. 180, 184 paragraph 1. 193, 205, 206, 210' 213 and 220, if the perpetrator is known.
When the perpetrator is not known, the victim may go to the criminal investigation body in order to identify him.
These provisions are also enforced for the crimes stipulated in art. 193, 205 and 206 in the Criminal Code, committed through the press or other mass media;
b) the criminal investigation body or the prosecutor, for other crimes than those specified at letter a);
c) the body that has the competence to perform the criminal investigation, when the prior complaint IS against a judge, a prosecutor, a public notary, a military, financial judge or controller in the regional court of accounts, or against one of the persons mentioned in art. 29(1).
Art. 280
In case of flagrant crime, the criminal investigation body must acknowledge its perpetration even in the absence of the prior complaint.
If the crime is one of those mentioned in art. 279 paragraph 2 letter a), the acknowldgments will be sent, at its request, to the instance informed through the complaint.
If the crime is one of those shown in art. 279 letters b) and c), the criminal investigation body calls the victim and if the latter declares that he/she files a
v prior complaint, continues the criminal investigation or sends the cause to the competent body, according to case.
Art. 281
In case of connexion or indivisibility between the crimes mentioned in art. 279 letter a)-c), if the severance is not possible, the procedure shown in art. 35 is enforced.
The same procedure is enforced when the connexion or indivisibility are related to crime for which the criminal action is initiated at prior complaint and another crime for which prior complaint is not required if severance is not possible.
Art. 282- abrogated.
Art. 283
The complaint must include the description of the deed, the specification of the perpetrator, of the means of evidence, of the parties' and witnesses' addresses, the specification whether the victim constitutes herself as civil party and, when such is the case, the specification of the person bearing the civil responsibility.
Art. 284

In the case of crimes for which the law stipulates that a prior complaint is necessary I the latter must be submitted within 2 months from the day on which the victim knew who the perpetrator was.
When the victim is a minor or an incapable, the 2 month period is calculated from the date when the person entitled to file the complaint knew who the perpetrator was.
Art. 284(1)
In the case of crimes mentioned in art. 279 paragraph 2 letter a), the unjustified absence of the victim at two consecutive dates in front of the first instance is taken as withdrawal of the prior complaint.
Art. 285
The prior complaint wrongly submitted to the criminal investigation body or the instance is sent to the competent body. In these cases, the complaint is considered valid, if it has been submitted in due time to the incompetent body.
Art. 286
If, in relation with a cause for which criminal investigation acts have been performed, one finds out that the deed is to be given a judicial frame in which a prior complaint is necessary, the criminal investigation body calls the victim and ~ asks if he/she wants to file a complaint. If so, the criminal investigation body according to case, continues the investigation or sends the file to the competent instance. If not, the papers are sent to the prosecutor in order to cease the criminal investigation.
When the change of the judicial frame is done in front of the instance, the latter calls the victim and asks her if she wants to file a complaint against the respective crime and, according to case, continues or ceases the criminal trial.

TİTLE II
GENERAL PROVISIONS

Art. 287
The instance exerts its attributions actively, in order to find out the truth and to accomplish the educational role of the trial.
The instance bases its conviction on the evidence administrated in the cause.
Art. 288
The trial takes place at the headquarters of the instance. On substantial grounds,
the instance may order that the trial should take place somewhere else.
Art. 289
The trial of the cause is done in front of the Instance constituted under the law and takes place as session, orally, in an unmediated and conuadictory way.
Art. 290
The trial session is public. Minors under 16 cannot attend the session.
If the trial in public session may harm interests related to the state, morality dignity or personal life of a person, the instance, at the request of the prosecutor, the parties or ex officio, may declare secret session for the entire or a certain part of the trial.
The secret session is declared in public session, after hearing the parties present and the prosecutor, when he participates in the trial.
During the secret session, only parties, their representatives, the defenders and the other persons called by the instance in the interest of the cause are admitted in the session room.
Art. 291
The trial may only take place is the parties are legally summoned and the procedure is carried out.

The summoned parties' failure to appear does not impede the trial of the cause. When the instance considers that the presence of one of the absent parties is necessary, it may take measures for its appearance, postponing the trial for this.
The party present at a date is not summoned at the ulterior dates, even if it were missing from one of these dates.
When the trial is postponed, the witnesses, experts and interpreters present are informed of the new trial date.
At the request of the persons informed of the date, the instance hands them ~ written summons to serve as justifications at their working places, in order to appear at the second date .
When the trial is continued, the parties and the other persons taking part in the trial are not summoned again.
The militaries are summoned for every date.
The convicts are also summoned for every date.

Art. 292

The instance tries as panel whose componence is the one stipulated by the law.
The panel must stay the same all throughout the trial. When this is not possible, the panel may change until the beginning of the debates.
After the beginning of the debates, any change in the componence of the panel entails the re-start of the debates from the beginning.

Art. 293

The trial of the causes that involve preventively arrested defendants is done urgently and has priority. The trial also has priority when some of the defendants are convicts in another cause. When the instance finds it necessary and it is
possible, it enforces the provisions related to severance in the respective cause.

Art. 294

In the causes where the appointment of a defender ex officio is obligatory, the president of the instance, at the same time with the settlement of the trial date, takes measures for the appointment of the defender,
The defendant, the other parties and the defenders are entitled to be familiar with the file all throughout the trial.
When the defendant is held, the president of the instance takes measures so that the defendant may exert the right stipulated in the previous paragraph and be able to meet his defender .

Art. 295

The president of the panel has the duty to take, in due time, at the necessary measures so that the trial for which a date has been settled is not postponed.
Also, he takes care that the list of causes settled for trial is drawn up and posted at the instance in order to be seen, 24 hours before the trial date.
The list is drawn up taking into account the dates when the causes were submitted to the instance, giving priority to the causes involving convicts and to those for which the law stipulates that the trial is done urgently.

Art. 296

The president conducts the session, accomplishes all the duties that he has under the law and decides on the requests of the parties, if their settlement is not due to the panel.
During the trial, the questions are asked through the mediation of the president. The latter may approve that the questions should be addressed directly,

Art. 297

The president announces, according to the session agenda, the cause whose
turn it is, ordering the calling of the parties and the other persons summoned and acknowledging how many have appeared.

The parties may appear and take part in the trial even If they have not been summoned or did not receive the summons, the president being obliged to clarify their identity .

Art. 298

The president sees that the order and solemnity of the session are preserved, being entitled to enforce the necessary measures for this.

The president may limit the access of the public in the trial session, taking into account the size of the session room.

The parties and persons attending the trial session *are* obliged to preserve the discipline of the session.

When a party or any other person disturbs the session or disregards the measures enforced, the president warns him to be disciplined, and in case the violation is repeated or in case of serious violations, orders his/her removal from the room.

The party removed is called in the room before the beginning of the debates. The president informs him/her of the essential acts performed in his/her absence and reads for him/her the statements of those heard.

Art. 299

If, during the session, a deed stipulated by the criminal law is committed, the president acknowledges the respective deed and identifies the perpetrator. The official report drawn up is sent to the prosecutor .

The instance, if such is the case, may order the preventive arrest of the defendant, and the president issues an arrest warrant for the latter. The enforcement of this measure is mentioned in the session closing. The defendant is immediately sent to the prosecutor, together with the official report and the arrest warrant.

Art. 300

The instance has the duty to verify ex officio, at the first appearance, the legal character of the summons act.

In case it finds out that the summons is not made according to the law, and the fault cannot be removed at once or by settling a deadline for it. the file is returned to the body that issued the summons act for redoing It.

In the causes where the defendant is arrested. the instance legally summoned is also obliged to verify ex officio. at the first appearance, the legal character of the enforcement of this measure.

Art. 301

During the trial, the prosecutor and any of the parties may formulate requests, raise exceptions and pass conclusions.

The victim may formulate requests, raise exceptions and pass conclusions on the penal side of the cause. In case of crimes contest or connexion, the right of the victim is limited to the deed that caused the harm.

The civil party may formulate requests, raise exceptions and pass conclusions to the extent to which they are related to her civil claims.

Art. 302

The instance is obliged to debate the requests and exceptions mentioned in art. 301 or the exceptions raised ex officio and to settle them by justified closing.

The instance also passes decisions by justified closing on all the measures enforced during the trial.

When a medical expertise reveals that the defendant suffers from a serious illness that impedes him to take part in the trial, the instance orders by closing the suspension of the criminal trial until the defendant's health will allow his participation in the trial.

If there are more defendants and the reason for suspension is related only to one of them and severance is not possible, the whole cause is suspended.

The closing In first Instance by which the suspension of the cause was ordered may be attacked separately in recourse. The recourse does not suspend the execution.

The criminal trial starts again ex officio as soon as the defendant is able to take part in the trial.
The instance is obliged to check periodically if the cause that led to the suspension of the criminal trial still stands.
Art. 304
During the trial session the cour1 clerk takes notes regarding the unfolding of the trial. The prosecutor and the parties may require the notes to be read and acknowledged by the president.
Art. 305
The unfolding of the trial during the session is mentioned in a closing that includes:
a) the day, month, year and name of the instance;
b) the specification whether the session was public or not;
c) the name and surname of the judges, prosecutor and clerk;
I d) the name and surname of the parties, defenders and the other persons who
take part in the trial and who attended the trial, as well as of those who were absent, specifying their trial-related position and whether the procedure was
carried out;
e) the specification of the deed for which the defendant was sent to trial and the texts in the law corresponding to the deed;
f) the writings-read in the session;
g) the requests of any kind formulated by the prosecutor I the par1ies and the other participants in the trial;
h) the conclusions of the prosecutor and the parties; I) the measures enforced during the session.
The closing is drawn up by the clerk within 24 hours from the end of the session and is signed by the president of the panel and the clerk.
When the decision is passed on the day when the trial took place a separate t closing is not drawn up.
Art. 306
The deliberation of judges and the passing of the decision are done immediately after the end of the debates. On justified grounds, they can be postponed for maximum 15 days.
Art. 307
Only the members of the panel before which the debate took place participate in the deliberation.
The panel deliberates in secret.
Art. 308
The decision must be the result of the agreement between the members of the panel on the solutions found for the issues that are the object of the deliberation.
When unanimity cannot be achieved, the decision is taken by majority.
If the deliberation leads to more that two opinions, the judge who sustains the most severe solution must join the one that is closest to it.
Justification of separate opinion is obligatory.
If the panel is made up of two judges and unanimity cannot be achieved, the cause is re-tried with divergence panel.
Art. 309
The result of the deliberation is written down in a minute that has to include all the data stipulated for the enacting-terms of the decision. The minute is signed by the members of the panel.
Art. 310
The decision is pronounced in public session by the president of the panel assisted by the clerk.

The parties are not summoned when the decision is pronounced. The decision is written down within maximum 20 days after it has been pronounced.

Art. 311

The decision by which the cause is settled by the first instance or by which the latter declines its competence is called sentence.

The decision by which the instance settles the appeal, the recourse, the action for cancellation, the recourse in the interest of the law, as well as the decision pronounced by the recourse instance when re-trying the cause is called decree.

All the other decisions pronounced by instances during the trial are called closings.

Art. 312

The sentence or decree are drawn up by one of the judges who participated in the settlement of the cause and are signed by all the members of the panel and by the clerk.

In case one of the members of the panel is impeded to sign, the decision is signed for him by the president of the panel. If the president of the panel is impeded to sign too, the decision is signed by the president of the instance.

When the clerk is impeded to sign, the chief clerk signs for him. In all the cases the decision will specify the cause that led to the impediment.

CHAPTER II
TRIAL IN FIRST INSTANCE
SECTION I
SEQUENCE OF CAUSES TRIAL

Art. 313

The president of the instance, receiving the file of the cause, settles immediately a trial date and orders the summons of the persons who must be called to the trial.

The summons must be handed to the defendant at least three days before the settled date. Along with the summons, the held defendant is also handed the copy of the act informing the instance.

Art.314

The trial can only take place in the presence of the defendant, when the latter is held.

The arrested defendant is obligatorily brought to trial.

Art. 315

The prosecutor is obliged to take part in the trial sessions of the judges, in the causes of which the instance was informed by demand, in the causes for which the law stipulates for the respective crime a punishment of 2 years jailor more, in the causes where one of the defendants is held or is a minor, as well as when the fine punishment is replaced with the jail punishment. The prosecutor attends the trial sessions regarding other crimes only when he considers it necessary .

The prosecutor is obliged to attend the trial sessions of the other instances in all cases.

Art. 316

The prosecutor performs an active role in the judicial investigation and debates, in order to reveal the truth and to ensure compliance with the legal provisions. The prosecutor is free to present the conclusions he considers justified, under the law, taking into account the evidence administrated.

The prosecutor's requests and conclusions must be justified.

When the judicial investigation does not involve the blame or when one of the causes of cessation of the criminal trial stipulated in art. 10 letters f) and h) has occurred, the prosecutor passes, according to case, conclusions of acquittal of the defendant or cessation of the criminal trial.

Art. 317

The trial is limited to the deed and the person mentioned in the act informing the instance, and in case of extension of the criminal trial, also to the deed and person referred to in the extension.

Art. 318

At the trial date, after the calling of the cause and of the parties, the president verifies the identity of the defendant. In case the defendant is held, the president makes sure that he received within the period specified in art. 313 paragraph 2 the copy of the act informing the instance. When the act has not been sent, if the defendant requires, the trial is postponed and the president hands him a copy of the act informing the instance, mentioning this in the session closing.

Also, the trial is postponed at the request of the defendant, when the act has been sent less than three days before the trial date.

Art.319

After calling the witnesses, the experts and the interpreters, the president asks the present witnesses not to leave the room and warns them not to go too far without his approval.

The experts stay in the session room, unless the instance decides otherwise.

The witnesses, experts and interpreters present may be heard, even if they have not been summoned or have not received a summons, but only after their identity has been clarified.

Art. 320

The president explains to the victim that she may constitute herself as civil party or may participate as harmed party in the trial.

The president asks the prosecutor and the parties if they want to formulate exceptions. requests or suggest the investigation of new evidence.

In case new evidence is suggested, one must specify the deeds and circumstances to be proved, the means by which the new evidence can be administered, the place where these means exist. and as far as the witnesses and the experts are concerned, their identity and address.

The prosecutor and the parties may also ask for administration of new evidence during the judicial investigation.

Art. 321

The instance begins the performance of the judicial investigation when the cause is in the trial stage.

The order of performance of the judicial investigation acts is the one stipulated in the provisions of the present section.

The instance may order some changes in this order, when this is necessary for the success of the investigation. When the defendant is present, the change of order cannot be ordered without hearing him first.

Art. 322

The president orders that the clerk read the act informing the instance, after which he explains to the defendant the blame for which he is made responsible. At the same time he clarifies to the defendant his right to ask the co-defendants, the other parties, the witnesses and experts questions, as well as to give

explanations whenever he thinks necessary during the judicial investigation.

Art. 323

The instance then hears the defendant.

The defendant is left to show all that he knows about the deed for which he has been sent to court, then he may be asked questions by the president and the other members of the panel, as well as by the prosecutor, the victim, the civil party, the other defendants or the defender of the defendant being heard.

The instance rejects the questions that are not necessary to the cause.

The defendant may be re-hear as-many times as its necessary.

Art. 324

If there are more defendants, each of them is heard in the presence of the others.
When required by the interest of revealing the truth, the instance may order the hearing of one of the defendants without the others being present.
The statements taken separately are obligatorily read to the other defendants, after hearing them.
The defendant may be heard again in the presence of the other defendants or of some of them.
Art. 325
When the defendant does not remember certain deeds or circumstances or when there are contradictions between the statements made by tile defendant in the instance and those made previously I the president asks him for explanations and may read, wholly or in part, the previous statements.
When the defendant refuses to make statements, the instance orders the reading of the declarations that he made previously.
Art. 326 After hearing the defendant, the other parties are heard. The provisions of art. 322-324 and 325 paragraph 1 are also enforced accordingly for their hearing.
Art. 327
The instance then hears the witnesses according to art. 323 and 325, enforced accordingly. After the witness has been asked by the instance and the prosecutor, he is asked by the party that proposed him and then by the other parties.
The witness who owns a writing related to his testimony may read it before the Instance. The prosecutor and the parties are entitled to examine the writing, and the instance may order the keeping of the writing for the file, as original or copy.
If the hearing of any of the witnesses is no longer possible, the instance orders the reading of his testimony made during the criminal investigation and will take it into account when trying the cause.
The instance also orders the reading of the previous testimony when the witness makes statements that are in contradiction with the previous ones.
If one or more witnesses are missing, the instance may justifiably order either the continuation of the trial or the postponement of the cause. The witness whose absence is not justified may be brought by force.
The provisions in the previous paragraphs are also enforced accordingly for the hearing of the expert or the interpreter.
Art. 328
The witnesses heard stay in the room, available to the instance, until the end of the judicial investigation acts performed during the respective session. If the instance considers necessary, it may order that all or some of them withdraw from the session room, in order to be re-heard or confronted.
The instance, taking the conclusions of the prosecutor and of the parties, may approve the withdrawal of the witnesses after their hearing.
Art.329
The prosecutor and the parties may give up the witnesses that they proposed.
After debating the renunciation, the instance may order that the witness are not heard, if the hearing is no longer necessary.
If during the judicial investigation the administration of a previously admitted piece of evidence becomes useless, the instance, after hearing the prosecutor and the parties, may order that the respective piece of evidence should no longer be administrated.
Art. 330
When there are material means of evidence in the tried cause, the instance, ex officio or at request, orders, if necessary, that the respective evidence should be brought and presented.
Art. 331

If the judicial investigation reveals that, for the clarification of the deeds and circumstances of the cause, the administration of new evidence is necessary, and if the enforcement of art. 333 is not appropriate, the instance orders either the continuation of the trial, or its postponement.

Art. 332

When one discovers, before the end of the judicial investigation, that in the cause being tried criminal investigation has been performed by another body than the competent one, the instance is disseizined and returns the cause to the prosecutor who acts according to art 268 paragraph 1 .

The cause is not returned when the discovery made in the previous paragraph occurs after the beginning of the debates or when the instance, as a result of the judicial investigations, changes the judicial framing of the deed to another crime that should have been criminally investigated by another investigation body.

Recourse may be made by the prosecutor and the arrested defendant against the disseizin decision.

The file is sent to the prosecutor immediately after the decision taken in first instance is declared final or within maximum 5 days after the decision is pronounced by the recourse instance.

Art. 333

All throughout the trial the instance may be disseizined and may return the file to the prosecutor, when the administration of evidence or the debates reveal that the criminal investigation is not complete and the completion before the instance would cause substantial delay.

The instance is obliged to show the reasons for which, according to the previous paragraph, it ordered the return, also specifying the deeds and circumstances that are to be acknowledged and by what specific means of evidence..

The provisions of art. 332 paragraph 3 and 4 are enforced accordingly.

Art. 334

If during the trial it is considered that the judicial framing of the deed in the informing act is to be changed, the instance is obliged to debate the new framing and to inform the defendant that he has the right ask for the cause to be left at the end or, eventually, for the trial to be postponed. in order to prepare his defense.

Art. 335

If during the trial it is discovered in relation with the defendant data regarding other material acts that are part of the crime for which he has been sent to court, the instance, by closing, extends the criminal action to include these acts too and proceeds, according to case, either to try the entire crime, or to return the cause to the prosecutor according to the provisions of art. 333, in order to complete the criminal investigation.

If a definite decision has been previously pronounced for one of the acts that are part of the same crime, the instance joins the cause to the one for which the
definite decision has been pronounced, pronouncing a new decision regarding all the acts that make up the crime and dissolutes the previous decision.

The instance is obliged, if it keeps the cause for trial, to debate the acts that were subject to extension, settling the judicial framing *and* enforcing the provisions of art. 334.

In case of return, the provisions of art. 332 paragraphs 3 *and* 4 are enforced.

Art. 336

When during the trial it is discovered in relation with the defendant data on
another deed stipulated in the criminal law, connected with the crime for which he has been sent to court, the prosecutor may ask for the extension of the criminal trial to include this deed, and when the instance finds the request justified, it approves it and:

a) if the prosecutor declares that he initiates criminal action, tries the cause including this crime;

b) if the prosecutor declares that he does not initiate criminal action, but asks for the cause to be sent to the prosecutor under the conditions of art. 333, the instance may go back on the extension of the criminal trial and may ask for it to be sent to the prosecutor.
If the prosecutor does not participate in the trial and the conditions stipulated in paragraph 1 are met, the instance extends the criminal trial ex officio and either tries the cause or sends it to the prosecutor according to the previous paragraph.
The provisions of art. 335 paragraph 3 are enforceable accordingly, and in case the cause is sent to the prosecutor the provisions of art. 332 paragraphs 3 and 4 are enforced .
Art. 337
During the trial, when data is discovered on the participation of another person in the perpetration of the crime stipulated by the criminal law for which the defendant is held responsible, or data on the perpetration of a crime stipulated by the criminal law by another person, but in relation with the defendant's deed, the prosecutor may ask for the extension of the criminal trial to include the other person.
If the instance finds the claim justified, it approves it and acts according to the provisions of an. 336, which are enforced accordingly.
Art. 338
In cases of restitution according to art. 332, 333 and 335 and of sending the file to the prosecutor according to art. 336 and 337, the instance decides on the preventive measures, the insurance measures stipulated in art. 113 and 114 in the Criminal Code, the assurance measures, regarding the persons for whom the return of the cause or the sending of the file to the prosecutor have been ordered.
Art. 339
Before the judicial investigation is declared finished, the president asks the prosecutor and the parties if they have further explanations or new claims for the completion of the judicial investigation.
If there were no claims or if the claims were rejected, or if the completion required has been done, the president declares the judicial investigation finished.
Art. 340
The debates start after the judicial investigation is over, and the following
persons take the floor, in this order: the prosecutor, the victim, the civil party, the party bearing the civil responsibility and the defendant.
The president may also offer the floor for reply, following the same order.
The president has the right to interrupt the person speaking if he/she exceeds the limits of the cause being tried.
The debates may be interrupted for substantial reasons. The interruption cannot exceed 5 days.
Art. 341
Before closing the debates, the president personally offers the last floor to the defendant.
During the last floor the defendant cannot be asked questions. If the defendant reveals new deeds or circumstances. essential for the settlement of the cause, the instance orders a new judicial investigation.
Art. 342
The instance, when it considers necessary, may ask the parties, after the closing of the debates, to submit written conclusions.
The prosecutor and the parties may submit written conclusions, even if not asked by the instance.

SECTION II

DELIBERATION AND DECISION OF THE INSTANCE

Art. 343
The panel deliberates first over the factual. and then over the legal issues.
The deliberation focuses on the existence of the deed and the guilt of the perpetrator, the settling of the punishment. the educational measure. or the
insurance measure when appropriate as well as on the commutation of the hold or the preventive arrest.
The panel also deliberates on the repair of the damage caused by the crime. on the preventive and assurance measures, material means of evidence, judicial expenses, as well as on any other issues regarding the just settlement of the cause.
All the members of the panel have the duty to express their opinion on every Issue.
The president is the last to express his opinion.
Art. 344
If during deliberation the instance finds that a certain circumstance must be clarified and that further judicial investigation is needed, he re-opens the cause.
If that circumstance may be clarified only by re-opening the debates, the instance will propose it for discussion in the same session, or in one of the following sessions.
Art. 345
The instance decides by sentence on the blame for which the defendant is held responsible, and pronounces, according to case, the conviction, acquittal or cessation of the criminal trial.
The conviction is pronounced if the instance sees that the deed exists, is a crime and was committed by the defendant.
The acquittal or the cessation of the criminal trial is pronounced according to art. 11 (2).
If the instance has ordered the replacement of criminal responsibility, the criminal trial is ended and art. 91 in the Criminal Code is enforced.
Art. 346
In case of conviction, acquittal or cessation of the criminal trial, the instance passes the same sentence for the civil action.
When acquittal has been pronounced for the case stipulated in art. 10 letter b)(1) or because the instance has found out about the existence of a cause that removes the criminal nature of the deed, or because one of the constitutive repair according to the civil law.
Civil damage cannot be paid in case the acquittal was passed because the deed does not exist or has not been committed by the defendant.
The criminal instance does not settle the civil action when it passes the acquittal for the case stipulated in art. 10 letter b) or when it decides the cessation of the criminal trial for one of the cases stipulated in art. 10 letters and j).
Art. 347
The instance may order the severance of civil action and the postponement of v the trial for another session, in case the settlement of the civil claims would lead to a delay in settling the criminal action.
Art. 348
The instance, even if there is no civil party constituted, decides on the damage repair in the cases stipulated in art 171 and in the other cases only on the restitution of the thing, the total or partial destruction of a writing and the rehabilitation of the situation prior to the perpetration of the crime.
Art. 349
The instance also settles by decision the judicial expenses according to the provisions stipulated in art. 189-193.
Art. 350

The instance has the duty to decide on the revocation, maintenance or enforcement of the arrest measure against the defendant, taking into account the provisions in the general part, title IV, chapter 1,
In case of acquittal or cessation of the criminal trial, the instance orders the release of the defendant who has been preventively arrested.
Also, the instance orders the immediate release of the defendant who has been preventively arrested when it passes:
a) a jail punishment at least equal with the period of hold and preventive arrest;
b) a jail punishment with the conditional suspension of the execution or with the suspension of the execution under supervision or with execution at the working place;
c) fine.
The decision passed in the case of the previous paragraphs regarding the preventive arrest is executory ,
When, according to the provisions stipulated in paragraphs 1, 2, 3, the defendant is released, the instance communicates this to the administration of the detention place.
The defendant convicted by the first instance and confined is released as soon as the hold and arrest periods become equal with the duration of the punishment, even if the decision is not definite. The release is ordered by the administration of the detention place. With this purpose, it is sent, immediately after the decision is passed, a copy of the disposition or extract, which will include the mentions specified in art. 140 last paragraph.
When during the criminal investigation or the trial, the defendant has been temporarily released on bail, the instance will order the restitution of the sum deposited as bail, in the cases stipulated by the law. The provisions of art. 160(5) paragraph 5 is enforced accordingly.
Art. 351
In the cases stipulated in art. 62 in the Criminal Code, the military instance by the conviction decision also settles the execution of the jail punishment in a military jail.
Art. 352- abrogated.
Art. 353
The instance, when it admits the civil action, examines according to art. 163 and the following, the necessity of enforcing the assurance measures regarding the civil damages, If such measures have not been previously enforced.
The provisions of the decision regarding the enforcement of assurance measures are executory.
When the instance has not decided on the civil action according to art. 346 last paragraph, the assurance measures are maintained. These measures lawfully
cease if the victim does not introduce action in the civil court within 30 days from the date when the decision is declared final.
Art. 354
The decision by which the criminal instance settles the substance of the cause
I must include an introductory part, an exposition and a disposition. ,
Art. 355
The introductory part includes the mentions stipulated in art. 305.
When a session closing has been drawn up according to the provisions of art. 305, the introductory part is limited to the following specifications: the name of the instance that tried the cause, the date when the decision was passed, the place where the cause was tried, as well as the name and surname of the members of the panel, the prosecutor and the clerk, mentioning that the other data have been specified in the session closing.
The decisions of the military instances must *also* specify the military rank of the members of the panel and of the prosecutor. When the defendant is a military, his rank is also mentioned.
Art. 356

The exposition must include:
a) data on the parties' identity;
b) the description of the deed that is the object of the blame, showing the time and place where it was committed, as well as its judicial framing in the act informing the instance;
c) the analysis of the evidence that served as basis for the settlement of the criminal side of the cause, as well of those rejected, the justification of the
settlement of the civil side of the cause, as well as the analysis of any factual elements supporting the solution of the cause.
In case of conviction, the exposition must also include the deed or every deed for which the instance held the defendant responsible, the form and degree of guilt, the extenuating or aggravating circumstances, the repetition of the offense, the time deduced from the punishment and the acts that reveal its duration.
If the instance holds the defendant responsible for only some of the deeds that are the object of the blame, the decision will specify the exact deeds for which
the conviction has been passed, and the exact deeds for which the cessation of the criminal trial or the acquittal have been passed:
d) specifying the legal basis that justifies the solutions of the cause.
Art. 357
The disposition must include the data stipulated in art. 70 regarding the defendant. the solution given by the instance to the crime, specifying, in case of conviction its name and the text in the law that corresponds to it, and in case of acquittal or cessation of the criminal trial, the cause according to art. 11, as well as the solution given with regard to damage repair. When the instance enforces art. 86(7) in the Criminal Code, the disposition will specify if the convict will execute the punishment at the institution where he works in another institution.
When the instance enforces art. 86(1) in the Criminal Code, the disposition will mention the assurance measures stipulated in art. 86(3) paragraph 1, that the convict is obliged to comply with, as well as the obligations settled by the instance according to art. 86(3) paragraph 3.
The disposition must also include, according to case, the decisions of the instance on:
a) deducing the hold and preventive arrest, specifying the part of the punishment executed in this way;
b) the preventive measures;
c) the assurance measures;
d) the judicial expenses;
e) the restitution of the things that are not confiscated:
f) the settlement of any other problem related to the Just settlement of the cause.
When the instance decides the jail punishment or the jail punishment with execution at the working place, the decision will mention that the defendant is deprived of the rights shown in art. 71 in the Criminal Code, for the period stipulated in the same article.
The disposition must always mention that the decision is subject to appeal or, according to case, to recourse, specifying the period during which these can be claimed the date when the decision was passed and that it was passed in public session.
Art. 358
The disposition of the decision is pronounced according to art. 310 paragraph 1 .
After pronouncing it, the president explains to the parties present that they may claim appeal or, according to case, recourse.
Art. 359
In case of jail punishment with conditional suspension of execution or with suspension of the execution under supervision or with execution at the working place, the president warns the convict about the provisions whose violation leads to the revocation of the suspension or of the execution of the punishment at the working place. In case of

suspension of the execution of the punishment under supervision, the president informs the convict on the supervision measures that he is subject to and the obligations that he must comply with.
If the defendant is not present and the instance considers that it is not necessary to summon him, it makes a written communication by which it warns him according to the previous paragraph.
In all the cases when the punishment was pronounced with conditional suspension of the execution or with suspension of the execution under
supervision, the instance informs the institution where the convict works of this, and in case of suspension of the punishment under supervision, it also informs the police body in the town where the convict has his domicile.
Art. 360
Copies of the decision disposition are sent to the parties that were absent both from the trial and at pronunciation.
The defendant held or the military defendant at service who were absent from the pronunciation of the decision are sent copies of the decision disposition.
After drawing up the decision, the defendants mentioned in the previous paragraph are sent copies of it.

CHAPTER III
THE ORDINARY WAYS OF ATTACK SECTION
THE APPEAL

Art. 361
The sentences may be attacked by appeal, except for the following:
a) the sentences pronounced by judges against the crimes mentioned in art. 279 paragraph 2 letter a);
b) the sentences pronounced by military tribunals against the crimes mentioned in art. 279 paragraph 2 letter a) and the crimes against the military order and discipline sanctioned under the law by maximum 2 years jail;
c) the sentences pronounced by the courts of appeal and the Military Court of Appeal;
d) the sentences pronounced by the penal and the military department of the Supreme Court of Justice;
e) the sentences depriving one of a certain authority.
The closings in first instance may be attacked by appeal only at the same time with the substance/main issue.
The appeal against the sentence is considered to be also against the closings, even if these have been issued after pronouncing the sentence.
Art. 362
The following persons may claim appeal:
a) the prosecutor, with regard to the penal and civil issues;
b) the defendant, with regard to the penal and civil issues. Against the sentence of acquittal or of cessation of the criminal trial, the defendant may also claim appeal with regard to the reasons for acquittal or for cessation of the criminal trial;
c) the victim, in the causes where the criminal action is initiated at prior complaint, but only with regard to civil issues;
d) the civil party and the party bearing the civil responsibility, with regard to the civil issues;
e) the witness, the expert, the interpreter and the defender, with regard to the judicial expenses due to them;
f) any person whose legitimate interests have been harmed by a measure or an act of the instance.
The appeal may also be claimed for the persons specified at letters b)-f) by the legal representative, by the defender, and for the defendant. by the spouse.

Art. 363
The appeal period is of 10 days, if the Jaw does nct stipulate otherwise.
For the prosecutor, the period is calculated from the pronunciation. In the causes in which the prosecutor did not attend the sessions, the period is calculated from the registration at the prosecution department of the address for sending the file. After drawing up the decision, the instance is obliged to immediately send the file to the prosecutor and the latter is obliged to return it after the appeal deadline.
For the party who attended the sessions or the pronouncing, the period is calculated from pronouncing. For the parties who missed both the sessions and the pronouncing, as well as for the convict defendant or for the defendant who is a military during service, military with reduced service, pupil of a military institution of education, or for the defendant in a center of re-education or in a medical-educational institute, who missed the pronouncing, the period is calculated from the communication of the copy of the disposition.
In the case stipulated in art. 362 letter e), the way of attack may be enforced immediately after the closing settling the judicial expenses is pronounced and in maximum 10 days from pronouncing the sentence that settles the cause. The appeal is tried only after settling the cause, except for the case when the trial has been suspended.
Art. 364
The appeal declared after the deadline stipulated by the law is valid if the appeal instance finds that the delay had substantial reasons, and the appeal claim is filed with maximum 10 days after the beginning of the execution of the punishment or the payment of the civil damages.
Until the settlement of the new period, the appeal Instance may suspend the enforcement of the decision attacked.
Art. 365
The party that missed both the trial and the pronouncing, may claim appeal after the deadline, but not later than 10 days from the beginning of punishment execution or from the beginning of enforcement of provisions regarding the civil damages.
The appeal declared after the deadline does not suspend the execution.
The appeal instance may suspend the execution of the decision attacked.
Art. 366
The appeal is claimed by written request. The request must be signed by the person who claims the appeal.
For the person who cannot sign, the request will be attested by clerk at the instance whose decision is attacked or by the defender. The request may also be attested by the mayor or by the secretary of the local council, or by the employee appointed by them, in the domicile town.
The appeal request that is not signed or attested may be confirmed in the instance by the party or its representative.
The prosecutor and any of the parties present when the decision is pronounced may declare oral appeal in the session in which the decision has been pronounced. The instance takes note and writes this down in an official report.
Art. 367
The appeal request is submitted to the instance whose decision is attacked.
The person held may also submit the appeal request at the administration of the detention place.
If the appeal is declared oral, it is acknowledged in an official report.
The appeal request registered or attested under art. 187 or the official report
drawn up by the administration of the detention place is submitted immediately to the instance stipulated in paragraph 1.
Art. 368

Between pronouncing the decision and the deadline for claiming the appeal, the parties may give up this way of attack.
It is possible to go back to renunciation within the period for claiming appeal, except for the appeal on the civil side of the cause.
The renunciation or going back on the renunciation may be done personally by the parties or by special mandatory.
Art. 369.
Until the closing of the session at the appeal instance, any of the parties may withdraw the declared appeal. The withdrawal must be done personally by the party or by special mandatory I and if the party is held, by a declaration attested or written down in an official report by the managing board of the detention place.
The declaration of withdrawal maybe done either at the instance whose decision V has been attacked or at the appeal instance.
The legal representatives may withdraw the appeal by complying, as far as the civil issues are concerned, with the conditions stipulated by the civil law. The minor defendant cannot withdraw the appeal claimed personally or by his legal representative.
The appeal claimed by the prosecutor may be withdrawn by the hierarchically superior prosecutor.
The appeal claimed by the prosecutor and withdrawn may be appropriated by party in whose favor it was claimed.
Art. 370
The execution of the appeal can be suspended, both with regard to the penal and the civil issues, except for the case when the law stipulates otherwise.
Art. 371
The instance tries the appeal only with regard to person who claimed it and to the person to whom the appeal claim refers, and only taking into account the position that the plaintiff in appeal holds in the trial.
Within the limits shown in the previous paragraph, the instance is obliged, besides the reasons claimed and the requests filed by the plaintiff in appeal to examine the cause under all its aspects.
Art. 372
The appeal instance, settling the cause, cannot create a situation that is more difficult to the one who claimed appeal.
Also, for the appeal claimed by the prosecutor in favor of one party, the appeal instance cannot make the latter's situation worse.
Art. 373
The appeal instance examines the cause by extending it to the parties that have not claimed appeal or by a separate memorandum, which must be submitted at the appeal instance until the day of trial at the latest. The appeal reasons may also be orally formulated on the day of trial.
Art. 375 .
The president of the appeal instance, receiving the file, settles a date for trying the appeal.
The appeal is tried by summoning the parties.
The appeal can only be tried in the presence of the defendant, when he is not held.
The provisions of the previous paragraph are not enforceable in case the appeal is claimed against the decisions by which restitution was ordered for the completion of the criminal investigation or by which a competence conflict was solved.
Art. 376
The participation of the prosecutor in the appeal trial is obligatory, whatever the object of the cause might be.
Art. 377

If the appeal is being tried at the settled date, the president of the panel listens to the plaintiff in appeal, then to the respondent in appeal and lastly to the prosecutor. If the prosecutor's claim is between the appeal claims, the prosecutor is listened first.
When the prosecutor or the parties claim the necessity to administrate new evidence, the plaintiff must show this evidence and the means by which it can be administered.
The prosecutor and the parties are entitled to response with regard to the new issues that appear in the sessions.
The defendant is the last to take the floor.
Art. 378
The instance, trying the appeal, verifies the decision attacked on the basis of papers and material in the file of the cause and of any new writings presented in the appeal instance.
In order to settle the appeal, the instance may give a different assessment to the evidence in the file of the cause and may administer any new evidence that it considers necessary .
The instance is obliged to pronounce itself on all the appeal reasons claimed.
Art. 379
The instance, trying the appeal, pronounces one of the following solutions:
1. rejects the appeal and keeps the attacked decision:
   a) if the appeal is late or impossible to admit;
   b) if the appeal is not substantiated;
2. admits the appeal and:
a) dissolutes the sentence of the first instance, pronouncing a new decision and acts according to art. 345 and the following as far as the Judgment on the merits is concerned;
b) dissolutes the sentence of the first instance and orders a new trial by the instance whose decision was dissoluted, for the reason that the trial of the cause in that instance took place in the absence of a party illegally summoned or who, even if legally summoned, could not appear or inform the instance on this, or because the decision did not settle the substance of the cause. If the decision has been dissoluted on grounds of incompetence, anew trial by the competent instance is ordered.
Art. 380
If the decision is dissoluted because of the existence of one of the situations shown in art. 333, the restitution of the cause to the prosecutor is ordered, so that the latter can take measures for the completion of criminal investigation.
Art. 381
The instance, deliberating on the appeal, enforces, when such is the case, the provisions related to resumption of the debates, the damages, the assurance measures, the judicial expenses and any other issues that affect the complete settlement of the appeal. Also, the appeal instance verifies if the first instance justly enforced the provisions regarding the held and arrest and adds, if such is the case, the arrest time passed after pronouncing the decision attacked in appeal.
The instance deliberates and decides on any other Issue that affects the complete settlement of the appeal.
Art. 382
In case the appeal is admitted. the decision attacked is entirely dissoluted, but within the limits stipulated in art. 371 and 373.
The decision may be dissoluted only with regard to some facts or persons, or only as far as the penal or civil issues are concerned, if this does not impede the just settlement of the cause.
When the first instance has ordered the arrest of the defendant, the appeal instance may maintain the arrest measure in case the decision is dissoluted.
Art. 383
The decision of the appeal instance must include in the introductory part the mentions stipulated in art. 355, and in the exposition the reasons for the rejection or admission of the

appeal, according to case, as well as the reasons for adoption of any of the solutions stipulated in art. 379(2). The disposition must include the solution given by the appeal instance, the date when the decision was pronounced and the mention that it was pronounced in public session.
In case the defendant was held, the exposition and the disposition must mention the time deduced from the punishment.
When a new trial was ordered, the decision must specify the last procedural act valid from which the criminal trial is to begin.
If the restitution of the cause for the completion of criminal investigation was ordered, one will take into account when drawing up the decision the provisions of art. 333 paragraph 2, which are enforced accordingly.
Art. 384
The trial of the main issue of the cause by the appeal instance or the re-trial of the cause after the dissolution of the attacked decision takes place according to the provisions in the special part, title II, chapters I and II, which are applied accordingly.
Art. 385
The re-trial instance must comply with the decision of the appeal instance to the extent to which the factual situation is the one taken into account when settling the appeal.
If the decision has been dissoluted in the prosecutor's appeal claimed in the detriment of the defendant, or in the victim's appeal, the re-trial Instance may decide on an even heavier punishment than the one shown in &1. 372 paragraph 2 and art. 373 paragraph 2.
When the decision is dissoluted only with regard to some facts or persons, or only as far as the penal or civil issues are concerned, the re-trial instance pronounces itself within the limits according to which the decision was dissoluted.

SECTION II

THE RECOURSE

Art.385(1)
The following sentences may be attacked by recourse:
a) the sentences pronounced by judges against the crimes mentioned in art.279 paragraph 2 letter a). as well as for other cases stipulated by the law;
b) the sentences pronounced by military tribunals against the crimes mentioned in art. 279 paragraph 2 letter a) and crimes against military order and discipline, sanctioned under the law with maximum 2 years jail;
c) the sentences pronounced by the courts of appeal and by the Military Court of Appeal;
d) the sentences pronounced by the penal and military departments of the Supreme Court of Justice;
e) the decisions pronounced, as appeal instances, by the regional tribunals, the territorial military tribunals, the courts of appeal and the Military Court of Appeal, except for the decisions by which the re-trial of the causes has been ordered.
The closings may be attacked by recourse only along with the sentence or
decision, except for the cases when, according to the law, they may be attacked separately by recourse.
The recourse claimed against the sentence or decision is considered as also claimed against the closings, even if these were issued after the decision has been pronounced.
The sentences for which the persons mentioned in art. 362 have not used the appeal, or when the appeal has been withdrawn, cannot be attacked by recourse, if the law stipulates this way of attack. Against the decisions
pronounced in appeal, the persons stipulated in art. 362, even if they have not used the appeal, may claim recourse.

Art. 385(2)
The persons mentioned in art 362 may claim recourse, and the provisions of this article are enforced accordingly.
Art.385(3)
The recourse period is of 10 days, if the law does not stipulate otherwise.
The provisions of art. 363-365 regarding the date from which the period is calculated, the new period and the claim of the way of attack after the deadline, are enforced accordingly.
Art. 385(4)
The recourse is claimed under the conditions stipulated in art. 366 and 367, which are applied accordingly.
The parties may give up the recourse according to the provisions of art. 368 and may withdraw the recourse under the conditions of art. 369, which are enforced accordingly.
Art. 385(5)
The execution of the recourse may be suspended both with regard to the penal and the civil issues, If the law does not stipulate otherwise.
Art. 385(6)
The instance tries the recourse only with regard to the person who claimed it and to the person to whom the recourse claim refers, and only taking into account the position that claimer holds in the trial.
The recourse instance examines the cause only within the limits of the cassation motifs stipulated in art. 385(9).
The recourse claimed against a decision that, according to the law I cannot be attacked by appeal, is not limited to the cassation motifs stipulated in art. 385(9), and the instance is obliged, besides the reasons claimed and the requests filed by the claimer, to examine the cause under all its aspects.
Art.385(7)
The recourse instance examines the cause by extending it to the parties that have not claimed recourse or to whom the recourse does not refer, being able to decide for them too, but without making their situation worse.
The prosecutor, even after the recourse deadline, may ask for the extension of the recourse claimed before the deadline so as to include other persons than the initial ones, without making their situation worse.
Art. 385(8)
The recourse instance, settling the cause, cannot make the situation of the claimer worse.
In the recourse claimed by the prosecutor in favor of one party, the recourse
instance cannot make the latter's situation worse. -
Art. 385(9)
The decisions are subject to cassation in the following situations:
1. the provisions regarding competence according to matter or to the quality of the person have not been followed;
2. the instance has not been legally summoned;
3. the instance has not been made up according to the law or the provisions of art. 292 paragraph 2 have been violated or there was a case of incompatibility;
4. the trial session has not been public, except when the law stipulates otherwise:
5. the trial took place without the prosecutor's or the defendant's participation, when this was obligatory under the law;
6. the criminal investigation or the trial took place in the absence of the defender, v when his presence was obligatory:
7. the trial took place without the performance of social inquiries in the causes involving minor perpetrators;
8. when the psychiatric expertise of the defendant was not performed in the cases and under the conditions stipulated in art. 117 paragraphs 1 and 2;

9. the decision does not include the reasons for the solution or when the
motivation of the solution contradicts the disposition of the decision or this cannot be understood;
10. the instance has not decided on a deed for which the defendant IS held responsible by the informing act or with regard to some of the evidence
administrated or to some claims that are essential for the parties. meant to guarantee their rights and to influence the solution of the trial;
11. the instance has admitted a way of attack not stipulated by the law or introduced late;
12. when the constitutive elements of a crime do not exist or when the instance has pronounced a decision of conviction for another deed than the one for which the defendant was sent to court, except for the cases stipulated in art. 334-337;
13. when the defendant has been convicted for a deed that is not stipulated by the criminal law;
14. when the punishments enforced were wrongly individualized according to the provisions of art. 72 in the Criminal Code or within other limits than those stipulated by the law;
15. when the convicted person has been definitely judged before for the same deed or if there is a cause for removing the criminal responsibility, the punishment has been pardoned *o*f the defendant has died;
16. when the defendant has wrongly been acquitted for the reason that the deed committed by him is not stipulated by the criminal law or when the cessation of the trial has been wrongly ordered for the reason that there is authority of tried matter or there is a cause for removing the criminal responsibility, because the defendant has died or the punishment has been pardoned;
17. when the deed committed has received a wrong judicial framing;
17(1). when the decision is against the law or when it led to a wrong enforcement of the law;
18. when a serious factual error occurred;
19. when the judges have abused their power, in the sense that they trespassed the domain of another power established in the State;
20. when the-trial in first instance or in appeal tool place without the legal summons of one party, or when the legally summoned party could not appear and could not inform of this.
The cassation cases stipulated in paragraph 1 may be claimed both with regard to the settlement of the penal and to the civil issues of the cause.
The cases stipulated in paragraph 1, points 1-7: 10, 13, 14, 17(1), 19 and 20 are always taken into account ex officio, and those at points 11, 12, 15, 17 and 18 are taken into account ex officio when they have influenced the decision in the detriment of the defendant.
When the instance takes into account the reasons for cassation ex officio, it is obliged to subject them to the parties' debate .
Art. 385(10)
The recourse must be motivated, in writing or orally before the instance.
The reasons for recourse are formulated in writing through the recourse claim or through a separate memorandum, which must be submitted to the recourse ' instance at least 5 days before the first trial date.
The provisions in the previous paragraphs are not enforced in the case stipulated in art. 385(6) paragraph 3, when the recourse may be orally motivated on the day of the trial. c
The trial of the recourse is done by summoning the parties.
The trial of the recourse can only take place in the presence of the defendant. when the latter is held.
The provisions of the previous paragraph are not enforceable in the cases stipulated in art. 375 paragraph 4 or for the recourse trial against closings

regarding preventive measures.
The participation of the prosecutor in the recourse trial is obligatory in all cases.
Art. 385(12)
The president of the recourse instance, receiving the file, settles a date for the
trial of the recourse and may at the same time delegate one of the judges to draw up a written report on the trial. At the Supreme Court of Justice the report may be drawn up by a judge or an assistant magistrate.
The report must include, in brief, the object of the trial, the solutions pronounced .I by the instances and the deeds retained by the last instance, to the extent to which they are necessary to the settlement of the recourse.
The report must further include observations on the admissibility conditions for the recourse, as well as the reasons for recourse, with references, if such is the case, to jurisprudence and doctrine, without showing the opinion of the author of the report.
The cases of cassation stipulated in art. 385(9) paragraph 2 are mentioned ex officio in the report.
The magistrate who draws up the report is obligatorily part of the instance, and in case of impossibility a new person is appointed, at least 48 hours before the trial.
Art. 385(13)
After reading the report, when a report was ordered, the president of the panel gives the floor to the claimer of the recourse, then to the person against whom the recourse was claimed and then to the prosecutor. If the prosecutor's claim is between the recourse claims, the prosecutor will speak first.
The prosecutor and the parties are entitled to reply on the new matters that appear during the sessions.
The defendant speaks last. 1 Art. 385(14) ;
The instance, trying the recourse, verifies the decision attacked on the basis of the papers and material in the file of the cause and of any new writings presented in the recourse instance.
The instance is obliged to pronounce itself on all the recourse reasons claimed by the prosecutor and the parties.
Art. 385(15)
The instance, trying the recourse, pronounces one of the following solutions:
1. rejects the recourse and maintains the attacked decision;
a) if the recourse is late or cannot be admitted; b) if the recourse is unsubstantiated;
2. admits the recourse and subjects the attacked decision to cassation and:
a) Maintains the decision of the first instance when the appeal has been wrongly admitted;
b) acquits the defendant and orders the cessation of criminal trial in the cases stipulated in art. 11 ;
c) orders a new trial by the instance whose decision was subject to cassation for one of the nullity cases stipulated in art. 197 paragraph 2, with the exception of the incompetence case, for which the new trial will be conducted by the competent instance. A new trial by the instance whose decision was subject to cassation is also ordered when the trial in that instance took place in the absence of a party illegally summoned or who, legally summoned, could not appear or inform the instance of this, or when one of the parties was unjustifiably rejected a postponement request and because of this could not defend herself or the decision did not settle the substance of the cause.
When the recourse regards both the decision of the first instance and the decision of the appeal instance, in case of admission and order of a new trial by the instance whose decision was subject to cassation, the cause is sent to the first instance if both decisions were subject to cassation, and to the appeal instance, if only its decision was subject to cassation.

In case it admits the recourse against the decision pronounced in appeal, the recourse instance also dissolutes the decision of the first instance, if it finds the same violations as in case of the initial decision.
The-Supreme-Col1rtofjustic-e;if-it-admitsthe recourse, when administration of evidence is necessary 1 orders a new trial conducted by the instance whose decision was subject to cassation or, when the justice interests ask for it, by another instance of equal rank;
d) orders anew trial conducted by the recourse instance in the other cases than the ones stipulated at c);
Art. 385(16)
When the recourse instance subjects the decision to cassation and retains the cause for re-trial according to art. 385(15) point 2 letter d), it also decides on the evidence that is to be administrated, settling a date for re-trial.
The provisions of art. 380 and 381 are enforced accordingly.
Art. 385(17)
In case the recourse is admitted, the attacked decision is entirely subject to cassation, but within the limits stipulated in art. 385(6) and 385(7).
The provisions of art. 382 paragraphs 2 and 3 are enforced accordingly.
The decision of the recourse instance must include in the introductory part, the mentions stipulated in art. 355, and in the exposition the factual and legal reasons that led, according to case, to the rejection or admission of the recourse, as well as the reasons for the adoption of the solutions stipulated in art. 385(15) point 2. The disposition must include the solution given by the recourse instance, the date when the decision was pronounced and the specification that the decision was pronounced in public session.
The provisions of art. 383 paragraphs 2-4 are enforced accordingly.
If the instance retains the cause for re-trial, the evidence to be administrated is mentioned in the decision.
Art. 385(18)
The re-trial instance must comply with the decision of the recourse instance, to the extent to which the factual situation is identical with the one taken into account when settling the recourse.
When the decision is dissoluted only with regard to some deeds or persons, or only as far as the penal or civil issues are concerned, the re-trial instance pronounces itself within the limits within which the decision was subject to cassation.
Arl.385(19)
The re-trial of the case after the cassation of the attacked decision takes place according to the provisions in the special part, title II, chapters I and II, which are applied accordingly.

CHAPTER IV
EXTRAORDINARY MEANS OF ATTACK
Section I
Contestation in cancellation

Art. 386.
Contestation in cancellation against final penal decisions can be done in the following cases:
a) when the citation procedure of the party to the term where the cause was judged by the appeal court was not accomplished in accordance with the law.
b) when the party proves that the term when the cause was judged by the court of appeal, he could not come and notify the court with this issue;
c) when the appeal court did not pronounce any decision regarding the termination of the penal suit for a certain cause as provided in article 10 letters f) -i), which had filed evidence;

d) when there are two final decisions pronounced for the same crime perpetrated by a person.
Art.387
The contestation in cancellation can be done either parties, and the contestation for the reasons mentioned article 386 letters c) and d), and by the prosecutor.
The application for the contestation in cancellation for the reasons mentioned in article 386 letters a) -c) must specify all the cases of contestation, which the contestor can invoke, and all the reasons for their support.
Art. 388
Contestation in cancellation for the reasons mentioned in article 386 letters a) -c) can be introduced by the person against whom the execution addresses, within 10 days since the initiation of the execution the latest, and by the other parties within 30 days since pronouncement of the decision whose cancellation is requested.
The contestation for the case mentioned in article 386 letter d) can be introduced anytime.
Art. 389
The contestation in cancellation for the cases mentioned in article 386 letters a) -c) is introduced at the appeal court which pronounced the decision subject to request.
The contestation for the case mentioned in article 386 letter d) is introduced at the court where the last decision was declared final.

CHAPTER IV

EXTRAORDINARY MEANS OF ATTACK

Section I

Contestation in cancellation

Art. 386. - Contestation in cancellation against final penal decisions can be done in the following cases:

a) when the citation procedure of the party to the term where the cause was judged by the appeal court was not accomplished in accordance with the law;

b) when the party proves that the term when the cause was judged by the court of appeal, he could not come and notify the court with this issue;

c) when the appeal court did not pronounce any decision regarding the termination of the penal suit for a certain cause as provided in article 10 letters f) - i), which had filed evidence;

d) when there are two final decisions pronounced for the same crime perpetrated by a person.

Art. 387. - The contestation in cancellation can be done by either parties, and the contestation for the reasons mentioned article 386 letters c) and d), and by the prosecutor.

The application for the contestation in cancellation for the reasons mentioned in article 386 letters a) - c) must specify all the cases of contestation, which the contestor can invoke, and all the reasons for their support.

Art. 388. - Contestation in cancellation for the reasons mentioned in article 386 letters a) - c) can be introduced by the person against whom the execution addresses, within 10 days since the initiation of the execution the latest, and by the other parties within 30 days since pronouncement of the decision whose cancellation is requested.

The contestation for the case mentioned in article 386 letter d) can be introduced anytime.

Art. 389. - The contestation in cancellation for the cases mentioned in article 386 letters a) - c) is introduced at the appeal court which pronounced the decision subject to request.

The contestation for the case mentioned in article 386 letter d) is introduced at the court where the last decision was declared final.

Art. 390. - Until the solving of the contestation in cancellation, the notified court, considering the prosecutor's conclusions, may suspend the execution of the decision subject to request.

Art. 391. - The court analyses the theoretical admissibility of the contestation request mentioned in article 386 letters a) - c), without the parties' citation.

If the court finds that the contestation request is done within the term provided by the law, that the reason which supports this contestation is one of those established in article 386 and that there are filed evidence to enforce this contestation, it admits the request and orders for the citation of the interested parties.

Art. 392. - At the term fixed for the suit of the contestation in cancellation, the court, examining the parties and the prosecutor's conclusions, and if finding the contestation reasonable, decides the cancellation of the decision subject to contestation and orders immediate, or, depending on the case, within a term, the re-trial of the appeal, or the re-trial of the cause after cessation.

When the convict is in detention, the provisions of article 375 paragraphs 2 and 3 apply accordingly.

The contestation provided in article 386 letter d) is judged with the citation of the parties involved in the cause for which the last decision was pronounced. The court, examining the parties and the prosecutor's conclusions, and if finding the contestation reasonable, abrogates by decision or, depending on the case, by sentence, the last decision or the portion of the last decision subject to authority of ... ...

The sentence under contestation is subject to appeal, and the decision under appeal is subject to recourse.

Section II

Review

Art. 393. - Final court decisions can be subject to review both regarding the criminal character, and the civil one.

When a decision refers to more crimes or to more persons, the review can be requested for any of these crimes or criminals.

Art. 394. - Review can be requested when:

a) new actions or circumstances occurred, which were not notified by the court at the settlement of the cause;

b) a witness, an expert or an interpreter perpetrated the crime of perjury in the cause subject to review;

c) a written document that served as reason of the review decision is declared false afterwards;

d) a member of the panel, the prosecutor or the person who investigated the crime committed a crime related to the cause subject to review;

e) when two or more court final decisions cannot be reconciled.

The case at letter a) constitutes a reason for review, if on the basis of new actions and circumstances, the relapse decision is not reasonable, as well as the termination of the trial or the conviction.

The cases in letters b), c) and d) constitute reason for review, if they yielded to an illegal or unreasonable decision.

In the case mentioned at letter e), all decisions which cannot reconcile are subject to review.

Art. 395. - The situations which constitute the cases of review mentioned in article 394 letters b), c) and d) are proved by court ordinance or by the prosecutor's ordinance, if they established the substance of the case.

When the bodies mentioned in paragraph 1 cannot or could not examine the substance of the cause, the situations mentioned are analysed during the review procedure.

Art. 396. - The review can be requested by the following:

a) any party of the trial, within his process limits;

b) the convict's husband/wife and close relatives, even after the convict's death.

The prosecutor may directly initiate the review procedure.

The leading bodies of the units addressed in article 145 in the Criminal Code who have knowledge of any action or circumstance which could constitute reason for review, must notify the prosecutor.

Art. 397. - The review application addresses to the prosecutor of the office affiliated to the court which judged the cause for the first time.

The application is done in writing, and it should include the review case on which it is based and the means of proving it true.

If the application does not meet the requirements mentioned in paragraph 2, the prosecutor calls the applicant for clarifications

Art. 398. - The review request in favour of the convict can be done anytime, even after the penalty's execution or after the convict's death.

The review request in disfavour of the convict, of the discharged or of the person whose trial terminated, can be done within one year, which starts since:

a) the date when the actions or the circumstances were acknowledged by the applicant, in the case mentioned in article 394 letter a), as well in cases mentioned at letters b), c) and d) when these cases are not acknowledged by final decision;

b) the decision was acknowledged by the applicant, in the cases mentioned in article 394 letters b), c) and d), if these cases are notified by final decision.

The provisions in the preceding paragraph apply also in the case the prosecutor makes the notification directly.

The review in disfavour of the convict cannot be done when a new cause occurred, which prevents the initiation of the criminal action or the continuation of the penal trial.

Art. 399. - After the introduction of the review application, the prosecutor examines, if it is the case, in accordance with article 397 paragraph 3, the person who requests the review. If investigations are necessary in order to verify the reason of the review application, the prosecutor may order this through an ordinance.

Additionally, the prosecutor requests the file of the cause, if necessary.

The prosecutor may appoint the body which deals with the criminal investigation to perform the investigation. The provisions in article 217 last paragraph are applicable.

The investigation term is 2 months and it starts with the date of applying for the review.

After the investigation, the prosecutor presents the entire material together with his conclusions to the competent court.

Art. 400. - During the investigation, the superior prosecutor may order the suspension of the decision's execution, within the limits of the review application.

Art. 401. - The court, which judged the cause in first hearing, is the competent court for judging the review request. When the reason of the request lies in the existence of some decisions that cannot reconcile, the competence is established according to the provisions in article 35.

Art. 402. - When receiving the materials sent by the prosecutor, the president of the court establishes a term for trial in order to examine the review request and calls the involved parties, for the admission.

When the person subject to favourable or unfavourable review is under detention, even for another cause, the president orders the notification of the term to this person and takes measures for the appointment of an attorney.

The convict is brought into court only if the court considers it necessary.

Art. 403. - The court, after the hearing of the prosecutor's and the parties' conclusions, examines whether the review application is done in accordance with the law and whether the collected evidence during the investigation performed by the prosecutor contain sufficient data for admission. The court may verify any evidence which is the base of the review request and, if necessary, may administer new evidence.

The persons mentioned in article 394 letters b) and d) cannot be heard as witnesses in the cause subject to review.

On the basis of the new findings, the court orders the admission of the review request, through dismissal, or its denial, through sentence.

When the review application was done for a deceased convict, or when the convict who did the request or for whose behalf the review was died after the introduction of the application, the review procedure will continue, through derogation of provision in article 10 paragraph 1 letter g), and in the case of admission, after the re-hearing of the cause, the court will decide in accordance with provisions in article 13 paragraphs 2 and 3 which apply accordingly.

Art. 404. - Simultaneously with the admission of the review application, and during the entire new process of the cause, the court may maintain the suspension granted by the prosecutor or may suspend, totally, or partially, the execution of the decision subject to review.

Also, the court may take any of the security measures, if they meet the legal requirements.

In case of admission of the review request for the existence of some decisions which cannot reconcile, the causes where these decisions were pronounced are reunited for the purpose of re-trial.

Art. 405. - The new trial of the cause after the admission of the review application is performed in accordance with the procedures rules regarding the trial in first hearing.

If found necessary, the court administers again the evidence which were performed during the first process or during the admission of the review application.

Art. 406. - The court, if finds that the review request is reasonable, cancels the decision to the extent in which the review was admitted or the decisions which cannot be reconcile and it pronounces a new decision in accordance with the provisions of articles 345 - 353, which apply accordingly.

The provisions of article 373 also apply accordingly.

If this is the case, the court orders at the same time the restitution of the fine which was paid and of the confiscated assets, as well as of the judiciary expenses, and for those

convicted to imprisonment penalty with execution at the place of work, the court orders the restitution of the rate which was income for the budget and including the period of executed penalty to work continuity.

The court will deny the review request if it finds it unreasonable.

Art. 407. - The court's review sentences, pronounced according to article 403 paragraph 3 and article 406 paragraph1, are subject to the same ways of appeal as the decisions which are the subject of the review, and the decisions sent to appeal are subject to recourse.

Art. 408. - The rules included in the present section apply accordingly regarding the review of the criminal decision related to civil issues.

Section III

Recourse in cancellation and recourse for the interest of the law

Art. 409. - The General Prosecutor may send any decision to recourse in cancellation to the Supreme Court of Justice.

Art. 410. - Final decisions of conviction, discharge and termination of the penal process can be sent to recourse in cancellation in the following cases:

I. Cases in which the recourse affects the situation of the parties in the process:

1. the court did not pronounce any decision on an action pertaining to the accused person through notification;

2. when the elements which constitute a crime are not complete or when the court pronounced a conviction decision for another action than the one for which the convict was brought into court, except for the cases mentioned in articles 334 - 337;

3. when the accused was convicted for an action which is not provided in the criminal law;

4. when the penalties were wrongly individualized according to the provision of article 72 in the Criminal Code or within other limitations than those provided by the law;

5. when the convict has been finally judged for the same action before or if there is a removal cause for the criminal responsibility, if the penalty was pardoned or if the accused person deceased;

6. when, by mistake, the accused was discharged for the reason that his perpetrated action is not provided by the criminal law or when, by mistake, the court ordered the termination of the process for the reason that there is a removal cause for the penal responsibility or the accused person deceased;

7. when the perpetrated action was viewed in a wrong legal category;

7(1). when the decision is not consistent with the law or when such a decision constituted a wrong application of the law which could affect the solution of the process;

8. when a serious error of the event occurred;

9. when the substance judges committed an authority abuse, in the sense that they passed into the field of another power in the state.

II. Cases for which the recourse can be declared only in favour of the convict:

1. the provisions regarding the competence were violated with respect to the issue or to the nature of the person;

2. the court was not legally notified;

3. the court did not have the componence provided in the law or the provisions of article 292 paragraph 2 were violated or there was a case of incompatibility;

4. the trial was not open for the public, except for the cases where the law requires otherwise;

5. the trial took place without the prosecutor or the accused person, when the law required their presence;

5(1). the trial took place without the legal summons of the parties or with incomplete summons procedure;

6. the trial took place in the absence of the defender, when his presence is mandatory;

7. the trial took place without the execution of the social investigation, in causes with juvenile criminals;

8. when the psychiatric expertise for the accused was not performed in the cases and under the terms provided in article 117 paragraphs 1 and 2;

9. the court accepted a means of attack which is not provided by the law or which was introduced too late.

Final decisions, others than those provided in paragraph 1 can be subject to attack with appeal in cancellation only if inconsistent with the law.

The court, solving the appeal in cancellation, verifies the attacked decisions under the aspect of all reasons of cassation provided in the preceding paragraphs, by presenting them to the parties for debates in advance.

Art. 411. - Appeal in cancellation in favour of the convict can be declared anytime, even after his death, with regard to the criminal aspect, and with respect to the civil aspect, only if its solving affects the criminal aspect.

The provisions of the preceding paragraph apply also in the case the appeal in cancellation is done in favour of the person for whom the criminal trial terminated.

In other cases, the appeal in cancellation may be declared only within one year since the decision was final.

The courts must send for examination, within 10 days since the receiving of the request made by the general prosecutor's office, the files where the decisions are final, or, depending on the case, must communicate , within the same term, the judicial situation of these decisions.

Art. 412. - The general Prosecutor may request the suspension of the decision's execution before the introduction of the appeal in cancellation.

After the notification of the Supreme Court of Justice, it can request the suspension of the execution of the decision under attack or may resume to the suspension which was granted.

The provisions of the present article apply also in the case the convict started the penalty's execution.

The compliance with the provisions regarding the suspension of the decision's execution is done through the execution court.

Art. 412 (1). - During the trial of the appeal in cancellation, the court examines the cause through expansion regarding the parties which are not addressed, being able to decide with their regard too, without creating a worse situation to these parties.

Art. 413. - During the trial of the appeal in cancellation, declared in disfavour of the convict, of the discharged or of the person for whom the criminal trial ceased, the parties are summoned. If the appeal is declared in favour of the convict, the parties are summoned when the Supreme Court of Justice considers necessary, as well as in the case when the civil compensations could modify.

The parties present in the trial of the appeal in cancellation are entitled to speak, even if they were not summoned.

Art. 414. - Until the closing of the debates, the general prosecutor may withdraw the appeal in cancellation.

The withdrawal of the appeal in cancellation must be motivated.

Art. 414(1). - The mot6ivation, the trial and the settlement of the appeal in cancellation are done in accordance with the provisions in chapter III, section II, which apply accordingly and complete with the provisions in this section.

When the convict is executing the penalty, the Supreme Court of Justice, admitting the appeal in cancellation and pronouncing the cassation, requests for the release.

When the appeal in cancellation is done in favour of a deceased convict, or when, after the introduction of the appeal in cancellation, the favoured convict with the appeal deceased, by derogation from the provisions in art. 10 paragraph 1 letter g), the appeal will be brought to trial, and if admitted, the Supreme Court of Justice, on the basis of the file,

will make decisions in accordance with the provisions of article 13 paragraphs 2 and 3, which apply accordingly.

Art. 414(2). - The General Prosecutor, directly or through the ministry of justice, through the general prosecutor, is entitled , in order to assure the unitary interpretation and enforcement of the criminal and criminal procedure laws over the entire Romania, to request for the Supreme Court of Justice to make decisions regarding legal issues which got a different settlement from the courts in appeal.

The decisions that settle the notifications are pronounced by the United Sections and communicated to the courts within the ministry of justice.

Settlements are pronounced only in the interest of the law, they do not affect judge decisions and the situations of the parties involved in the trial.

TITLE III

EXECUTION OF CRIMINAL DECISIONS

CHAPTER I

GENERAL PROVISIONS

Art. 415. - Criminal courts' decisions become executory once they remained final.

Non-final decisions re executory when the law requests that.

Art. 416. - First court's decisions remain final as follows:

1. on the pronouncement date, when the decision is not subject to appeal or recourse;

2. on the date of expiration of the appeal deadline;

a). when the court did not declare the appeal deadline;

b). when the declared appeal was withdrawn before the deadline;

3. on the date of appeal's withdrawal, if after the expiration of the appeal deadline;

4. on the date of expiration of recourse deadline in the case of decisions which were not subject to appeal or if the appeal was denied:

a) when the court did not declare recourse with deadline;

b). when the declared recourse was withdrawn before the deadline;

5. on the date of withdrawal of the recourse declared against the decisions mentioned at point 4, if this took place after the expiration of the recourse deadline;

6. on the date of pronouncement of the decision by which the recourse against the decisions mentioned at point 4 was denied.

Art. 416. - The decisions made by the Court of Appeal remain final as follows:

1. on the date of expiration of the recourse deadline:
a). when the appeal was admitted without sending for a new trial and when the recourse with deadline was not declared;

b). when the recourse declared against the decisions mentioned at letter a) was withdrawn before the deadline;

2. on the date of withdrawal of the recourse declared against the decisions mentioned at letter a), if this took place after the expiration of the recourse deadline;

3. on the date of pronouncement of the decision of rejection of the recourse declared against the decisions mentioned at letter a).

Art. 417. - The decision made by the Court of recourse remains final on its pronouncement date when:

a). the recourse was admitted and the trial ended before the court o9f recourse, without a new trial;

b). the cause was subject to a new trial before the court of recourse after the admittance of the recourse;

c). the decision implies the payment of the judicial expenses, in case of recourse rejection.

Art. 418. - Once declared final at the first court, at the court of appeal or at the court of recourse, the decision of the criminal court is enforced by the first court of trial.

The decisions pronounced in first court by the Supreme Court of Justice are enforced, depending on the case, by the Bucharest Tribunal or by the territorial military tribunal located in Bucharest.

When the decision remains final before the superior court, this immediately submits the execution court a copy of that decision, with all the data necessary for enforcement.

The provisions in the preceding paragraphs apply also to non-final decisions, but executory decisions.

Art. 419. - The execution court appoints one of its judges to enforce the decision.

If during the execution of the decision any lack of clarification or obstacle occurs, the appointed judge may notify the execution court, which will proceed according to the provisions of article 460.

CHAPTER II

DECISIONS' ENFORCEMENT

Section I

Enforcement of main penalties

Art. 420. - Imprisonment and life sentence are executed through issuing the execution mandate. Execution mandate is issued by the execution court, it is drafted in 3 copies and it includes the following: the name of the court which issued the mandate, the issuing date, the data regarding the convict as provided in article 70, the number and the date of the decision under execution, the name of the court which pronounced it, the penalty pronounced and the law text applied, period of preventive arrest and restrainment which resulted from the duration of the penalty, the mention whether the convict is at second offence, the arrest and detention order, as well as the seal of that court.

Art. 421. - In order to carry out the issued execution mandate, two copies, according to the case, are submitted to the police, to the chief of the detention place when the convict is arrested, or to the chief of the military unit where the convict is performing the military service.

Art. 422. - On the basis of the execution mandate the police arrest the convict. The arrested person is submitted a copy of the mandate and is taken to the closest detention place, where the police will submit the other copy of the execution mandate.

The provisions of article 161 apply accordingly, and the police must do the notifications.

If the person object of the mandate is not found, the police notify that in a report and proceeds to follow. A copy of the report and a copy of the execution mandate are submitted to the court which issued the mandate.

When receiving the execution mandate, the chief of the military unit submits a copy to the convict and takes measures for his sending to the place of the penalty's execution.

When the convict is under arrest, he is submitted a copy of the execution mandate by the chief of the detention place.

The chief of the detention place states in a report the date on which the convict began the penalty's execution.

One copy of this report is submitted to the execution court.

Art. 422 (1). - Issuing the execution mandate enforces the penalty of imprisonment with execution to the place of work. The mandate is issued by the execution court, it is drafted in 4 copies, and it includes, beside the mention provided in article 420, which apply accordingly, also the following data: the name, the location of the unit where the penalty is

executed, the execution order addressed to the chief of the unit, the detainment order and depositing the rate provided in the law to the state budget.

Art. 422 (2). - In order to carry out the issued execution mandate, one copy is sent to the unit where the penalty will be executed, one copy to the convict, and one copy to the police in the town the unit is located.

One copy of the decision is sent to the execution court of the local council under the territorial jurisdiction the convict's residence is located.

Art. 423. - If the person object of the execution mandate does not admit the identity, he will be subject to the provisions in article 153, which apply accordingly.

Art. 424. - Abrogated.

Art. 425. - The person subject to the fine penalty must submit the receipt of the total fine payment to the execution court, within 3 months since the decision remained final.

When the convict cannot pay the entire fine within the term provided in the preceding paragraph, the execution court, upon the request made by the convict, may order the payment of the fine in rates, over maximum 2 years in monthly rates.

In case of non-payment within the term provided in paragraph 1 or in case of non-payment of a rate, the execution court executes the fine as follows:

a) if the convict is an employee, member in a state land association, or has other income by work, or if he is retired, the execution court notifies the unit which pays the salaries or any other income resulted by work or the body which orders the payment of the retirement allowance, the amount of the fine to be paid and to be deposited at the state budget;

b). if the convict is not a case among those mentioned at letter a)., the execution court submits a copy of that fragment which refers the enforcement of the fine to the financial body of the local council where the convict has residence.

If in rapport with the amount of the fine and the income of the convict, in cases under letter a), the fine cannot be executed entirely within 2 years, its execution is performed also over other assets belonging to the convict.

In the situation mentioned in the preceding paragraph, the execution court submits a copy of that excerpt regarding the fine enforcement to the financial body of the local council where the convict has residence.

Section II

Enforcement of complementary penalties

Art. 426. - The penalty of interdiction of certain rights is enforced through submittance by the execution court of a copy of the decision to the local council where the convict has residence and to the body which supervises the exercise of those rights.

Art. 427. - The penalty of military degradation is enforced through submittance by the execution court of a copy of the decision, according to the situation, to the chief of the military unit where the convict was performing his military service or to the chief of the military unit under whose territory the convict has residence.

Art. 428. - Abrogated.

Section III

Enforcement of safe measures

Art. 429. - The safe measure of obligation to medical treatment taken by a final decision is enforced through submittance of the copy of the decision and of the copy of the medico-legal report to the medical chief in the county where the person has residence. The regional medical chief will immediately communicate to the person object of the obligation for medical treatment the medical unit where the treatment will take place.

The execution court communicates the person obliged to medical treatment that he also must immediately come to the medical unit where the treatment will take place, and that in case of non-compliance with this measure, the person will be subject to medical hospitalization.

In case the mandatory medical treatment accompanies the penalty of imprisonment or life detention or in case it refers to a person under detention, the communication mentioned in paragraph 1 is addressed to the place of detention.

Art. 430. - The medical unit where the perpetrator was sent to for the medical treatment must notify the court with the following:

a). whether the person obliged to treatment came to the unit;

b). failure to presentation to the treatment of the arrival to the unit;

c). whether the measure ordered by the court is no longer necessary, but in order to remove the danger the person sent to treatment represents another treatment would be necessary;

d). whether medical hospitalization is necessary in order to carry out the medical treatment.

In case the medical unit is not located under the territory of the court which ordered the execution, the communication provided at letters b) - d) is addressed to the court under whose territorial jurisdiction the medical unit is located.

The provisions of the preceding paragraphs apply accordingly also in the case mentioned in article 429 paragraph 3.

Art. 431. - After receiving the communication, the execution court or the court mentioned in article 430 paragraph 2, after the examination of the prosecutor's conclusions, and if necessary, of the respective person's conclusions, requests either replacement of the treatment, or medical hospitalization.

One copy of the final decision provided in article 430 paragraph 2 is submitted to the execution court.

Art. 432. - The safe measure of medical hospitalization taken by a final decision is enforced through the submittance of the copy of this decision and of a copy of the medico-legal report to the medical unit in the county where the respective person has residence.

Art. 433. - The medical unit if the county must perform the hospitalization and notify this to the execution court.

The medical unit where hospitalization took place must, in case it considers hospitalization no longer necessary, notify the court under whose territory the medical unit is located.

Art. 434. - The court, after receiving the notification mentioned in article 433 paragraph 2, after hearing the prosecutor's conclusions, and the hospitalized person's conclusions, if considered necessary, orders either termination of hopitalization or its replacement with the obligation of medical treatment.

Termination or replacement of the hospitalization measure can be asked also by the respective person or by the prosecutor. In these cases, the court asks for the approval of the medical unit where the hospitalized person is.

If the hospitalized person does not have a lawyer, he will be assured an ex officio one.

One copy of the final decision ordering the replacement or the termination of the medical hospitalization is submitted to the execution court.

Art. 435. - If the measure of medical treatment or medical hospitalization was a provisory one, during the criminal investigation or trial, the enforcement is done by the prosecutor or by the court of trial which took such a measure.

The provisions mentioned in articles 430 - 434 apply accordingly.

Art. 436. - The safe measure of interdiction of a position or profession and the safe measure of interdiction to circulate in certain towns are enforced through the submittance of a copy of the decision to the competent body which must achieve these measures and supervise their compliance.

This body must assure the execution of the taken measure and notify the criminal investigation body with failure of execution of the safe measure.

The safe measure of interdiction of being in certain towns can be postponed or interrupted by the body which must ensure the execution of this measure, in case of diseases or any other reason justifying the postponement or the interruption.

Art. 437. - The person object of such measures as mentioned in articles 113 - 116 in the Criminal Code can ask the court under whose territory this person lives to cancel the measure, when the reasons of such a measure ceased to exist.

The prosecutor can ask cancellation as well. The settlement of the request is done with the summons of the respective person, hearing also the defendant's and the prosecutor's conclusions.

If the hospitalised person does not have a lawyer, he will be granted one ex officio.

Art. 438. - When by the decision of imprisonment also the safe measure of expulsion applies, the execution mandate will include the mention that, on the release date, the convict shall be submitted to the police, which will perform the expulsion.

If the measure of expulsion does not accompany the imprisonment penalty, the communication regarding expulsion will be addressed to the police as soon as the decision is final.

Art. 439. - The safe measure of special confiscation taken by ordinance or decision is enforced as follows:

a). the confiscated objects are submitted to the competent bodies which take them and valorise in accordance with the law;

b). when the confiscated objects must be destroyed, this will be done, according to the situation, in the presence of the prosecutor or of the judge, together with a report submitted to the file of the cause.

Section IV

Enforcement of provisions regarding replacement of criminal responsibility

Art. 440. - In case of replacement of criminal responsibility, the execution of warning is performed according to article 487, which apply accordingly, and the execution of the fine performs according to the provisions in article 442 and article 443.

Art. 441. - Abrogated.

Section IV (1)

Enforcement of the provisions by which the sanctions provided in article 18 (1) in the Criminal Code applied

Art. 441(1). - Warning is performed in accordance with the provisions in article 487, which apply accordingly, and the execution of the fine performs in accordance with the provisions of articles 442 and 443.

Section V

Enforcement of judiciary fine and expenses advanced by the state

Art. 442. - The judiciary body which applied this fine enforces judiciary fine.

The enforcement is done by submittance of a copy of that excerpt in the decision which refers to the application of the judiciary fine to the body which, according to the law, executes the criminal fine.

The body mentioned in the preceding paragraph performs the execution of judiciary fines.

Art. 443. - The provision in the criminal decision regarding the obligation for payment of the judicial expenses advanced by the state is enforced in accordance with art. 442 paragraph 2.

When the obligation for payment of judicial expenses advanced by the state was provided by an ordinance, the enforcement is done through power attorney, by accordingly applying the provisions in art. 42 paragraph 2.

The execution of judicial expenses is done by the bodies which, according to the law, enforces the criminal fine.

Section VI

Enforcement of the civil provisions in the decision

Art. 444. - When the criminal decision requested the restitution of certain assets which are kept or which are available to the execution court, this restitution is done by the judge responsible with the execution, through the remission of those assets to the rightful persons. For this purpose, the persons to whom the assets are about to be returned, are notified with that.

If, within 6 months since receiving the notification, the persons summoned do not come in order to pick up the assets, these assets pass to the state patrimony. The court notifies this through a report and requests the submittance of the assets to the competent bodies in order to be valorised according to the law.

If the restitution of the assets could not be performed because the persons who should get the assets are not known and nobody made a complaint regarding the assets within 6 months since the decision remained final, the provisions in the preceding paragraph apply accordingly.

When the restitution was requested by the prosecutor or by the criminal investigation body, these proceed in accordance with the provisions in the preceding paragraphs.

Art. 445. - The provisions of the criminal decision which states a written document as totally or partially false is executed or enforced by the appointed judge.

When the written document was totally cancelled, each page should contain this note, and in case of partial cancellation, only the pages which contain the false statement include this note.

Any written document declared false remains to the file of the cause.

In case it is necessary for the written document declared false to make a note in the registers of one of the units refereed in article 145 in the Criminal Code, this unit is submitted a copy of the decision.

The court can request, when notifying the existence of a legitimate interest, the issuing of a copy with the notes provided in paragraph 2, of the written document signed with a false private signature. Under the same terms, the court can request the restitution of the official written document partially falsified.

Art. 446. - The provisions in the criminal decision regarding civil indemnify and judicial expenses owed to the parties are executed in consistence with the civil law.

CHAPTER III

OTHER PROVISIONS REGARDING ENFORCEMENT

Section I

Changes in enforcement of certain decisions

Art. 447. - Regarding revocation or cancellation of conditioned suspension of penalty's execution provided in article 83 or in article 85 in the Criminal Code or of suspension of penalty under surveillance provided in article 86(4) or in article 86(5) in the Criminal Code, the court makes decisions, ex officio or at the prosecutor's notification, which judges or which judged in first instance the crime that could attract revocation or cancellation.

If until the expiration of the test term the civil obligations provided in article 84 or those provided in article 86(4) paragraph 1 in the Criminal Code were not complied with, the interested party or the prosecutor notifies the court which pronounced the suspension in first instance, in order to revoke the suspension of the penalty's execution.

Art. 447(1). - Revocation or cancellation of the penalty' s execution at the place of work, in the cases mentioned in articles 86(9) and 86(10) in the Criminal Code, is requested, according to the case, by the execution court or by the appropriate court under whose territorial jurisdiction the unit where the penalty is executed is located, or by the court which is judging or which judges in first hearing the crime that could yield to revocation or cancellation. The prosecutor notifies the court ex officio, by the unit or by the police. In the case provided in article 86(9) paragraph 4, the court can be notified also by the convict.

Art. 448. - The replacement of life sentence with imprisonment penalty is ordered by the execution court, ex officio or upon request made by the prosecutor or by the convict and if the convict is under detention, by the appropriate court under whose territorial jurisdiction the detention place is located.

Once final, the replacement decision is enforced in accordance with the provisions in art. 420 - 423.

Art. 449. - The penalty pronounced can be modified, if at the decision's enforcement or during the penalty's execution, on the basis of another final decision, one of the following situations is found:

a) concurrence of crimes;
b) second offence;
c) actions which pertain to the same crime.

The court which is competent to pronounce orders regarding the modification of the penalty is the execution court of the last modification or, if the convict is under detention or under the execution of the penalty at the place of work, orders will be pronounced by the appropriate court under whose territorial jurisdiction the detention place, or, according to the case, the unit where the penalty is executed, are located.

The court is notified ex officio, upon the request made by the prosecutor or by the convict.

Art. 449(1). - The execution court requests the replacement of the fine execution in the case provided in article 63(1) in the Criminal Code.

The court is notified ex officio or by the body which, according to the law, enforces the fine.

Art. 450. - Conditioned release is ordered, upon the request or the proposal made in accordance with the provisions of the law regarding penalties' execution, by the court under whose territorial jurisdiction the detention place is located, and in the case provided in article 62 paragraph 3 in the Criminal Code, by the military tribunal under whose territorial jurisdiction the military prison is located.

When the court finds that the requirements for the conditioned release, are violated, the denial decision will establish the deadline of no more than one year, after which the proposal or the request can be renewed.

The courts provided in paragraph 1 pronounce decisions also on the revocation of the conditioned release, if the court which judged the convict for another crime did not make any decision in this respect.

The appeal and recourse terms are of three days. The appeal and the recourse declared by the prosecutor are under suspension of execution.

The court which made the final decision must submit a copy of the conditioned release revocation decision to the detention place.

Art. 450(1). - The court under whose territorial jurisdiction the unit where the convict executes the penalty is located requests the termination of the penalty's execution at the place of work.

The provisions in article 450 paragraphs 2, 3 and 4 apply accordingly.

The court where the decision remained final must submit to the unit where the penalty is executed, and to the police in the town where the unit is located, a copy of the decision ordering the termination of the penalty's execution.

Art. 451. - The replacement of the imprisonment penalty's execution with the execution in military prison, in the case of the convicts who became soldiers in service during the trial in a civil court, as well as in the case of those who became soldiers in service after the conviction decision remained final, is requested by the military tribunal under whose territorial jurisdiction the military unit where the convict is in service, at the notification made by the head of the unit.

The replacement of the penalty in a military prison with the execution in a detention place, in the case of the convicts who were on the retired list before the initiation of the penalty's execution, is requested by the court mentioned in the preceding paragraph, ex officio or at the notification made by the head of the military unit of the convict.

Art. 452. - The reduction of the penalty which is executed in a military prison in the case and under the terms provided in article 62 paragraph 2 in the Criminal Code is done at the notification made by the head of the respective prison.

The court which is competent to reduce the penalty is the military tribunal under whose territorial jurisdiction the military prison is located.

Section II

Postponement of imprisonment penalty or life detention's execution

Art. 453. - The execution of the imprisonment or life detention penalties can be postponed in the following cases:

a) when it is found that, on the basis of a medico-legal expertise, the convict suffers from a disease which makes the penalty's execution impossible. In this case, the penalty's execution is postponed until the convict can execute the penalty;

b) when a female convict is pregnant or has a child younger than one year. In such cases, the penalty's execution is postponed until the termination of the cause which determined postponement;

c) when because of special circumstances, the immediate execution of the penalty would bring serious consequences to the convict, family or the unit where he works. In this case, the execution can be postponed 3 months at most and only once.

The postponement request for imprisonment penalty or life detention's execution can be done by the prosecutor, by the convict or by the persons mentioned in article 362 last paragraph, and in the case provided at letter c) in the present article, also by the board of the unit where the convict works.

The provisions of the present article apply also to the convict to penalty's execution at the place of work. For the situation provided at letter b), the penalty's execution can be postponed for a period established by legal norms regarding the holiday given to female employees before and after birth.

Art. 454. - The court that is competent with pronouncing a decision on the postponement of the penalty is the execution court.

The execution court keeps the record of the postponement granted and at the expiration of then deadline, it takes measures for the issuing of the execution mandate, and if the mandate was issued, takes measures to enforce it.

Section III

Interruption of the imprisonment or life detention's execution

Art. 455. - The execution of imprisonment or life detention can be interrupted in the cases and under the terms provided in article 453, upon the request made by the persons mentioned in paragraph 2 of the same article.

Art. 456. - The court which is competent to order the interruption of the penalty's execution is the execution court or the court under whose territorial jurisdiction the detention place , or, according to the case, the unit where the penalty is executed at the p[lace of work, is located and which corresponds with the execution court in degree.

Art. 457. - The court which granted the interruption communicates immediately this measure to the detention place or, according to the case, to the unit where the convict executes the penalty and to the police, and if the interruption was granted by the court under whose territorial jurisdiction the detention place or the unit are located, this court communicates the decision to the execution court as well.

The execution court, the administration of the detention place and of the unit where the convict executes the penalty keep record of the granted interruptions. If at the expiration of the interruption term the convict to imprisonment penalty does not come to the detention place, the administration immediately submits a copy of the execution mandate to the police, for execution. The copy of the mandate will include also the rest of the penalty which must be executed. If, at the expiration of the interruption term, the convict to imprisonment penalty at the place of work does not come to the unit, this unit will notify immediately the execution court.

The administration of the detention place or the unit communicates to the execution court the date on which the penalty restarted being executed.

Section IV

Removal or modification of the penalty

Art. 458. - When after the conviction decision remained final a law occurs which does not provide as crime the action for which conviction was pronounced, or a law which provides a milder penalty than the one in execution or than the one which is to be executed, the court takes measures for the accomplishment, according to the case, the provisions in articles 12, 14 and 15 in the Criminal Code.

The application of the provisions in the preceding paragraph is done ex officio or upon the request made by the prosecutor or by the convict, by the execution court, and if the convict is being under the execution of the penalty, by the corresponding court under whose territorial jurisdiction the detention place or the unit where the convict executes the penalty at the place of work, is located.

Art. 459. - The application of amnesty, when introduced after the decision remained final, as well as the application of the pardon are done by a judge within the execution court, and if the convict is executing the penalty, by a judge within the corresponding court under whose territorial jurisdiction the detention place or the unit where the penalty's execution at the place of work is located.

CHAPTER IV

COMMON PROVISIONS

Art. 460. - When the settlement of the situations regulated in the present title is passed to the execution court, the chairman requests the summons of the interested parties and takes measures form the appointment of a defender ex officio, in the cases mentioned in article 171.

The convict under arrest is brought to court only if his situation might get more serious or when the court considers his presence necessary.

The prosecutor must participate to trials.

After the conclusions expressed by the prosecutor and after hearing the parties, the court pronounces its decision through sentence.

The provisions included in the special part, title II, which are not inconsistent with the provisions in this chapter, apply accordingly.

The provisions in the preceding paragraphs apply also in the case in which the settlement of one of the situations regulated in the present title is passed to the court under whose territorial jurisdiction the detention place or the unit where the convict executes his penalty is located. The solution is communicated to the execution court.

Art. 461. - The contestation of the criminal decision's execution can be done in the following cases:

a) when a non-final decision was enforced;

b) when the execution jeopardizes another person than the one mentioned in then conviction decision;

c) when there is a lack of clarification regarding the decision which is executed or if there is an obstacle against execution;

d) when amnesty, pardon, prescription or any other cause are invoked in order to extinguish or reduce the penalty, as well as any other incident occurred during the course of execution.

In the cases provided in letters a), b) and d) the contestation is done, according to the case, at the court provided in paragraphs 1 or 6 in ar5ticle 460, and in the case provided at letter c), at the court which pronounced the decision under execution.

The civil court, according to the civil law acts regarding confiscation of assets settles the contestation of the execution.

Art. 462. - The settlement procedure of the contestation at execution is the one provided in article 460.

In the case mentioned in article 461 letter d), if the decision under execution does not show the data and the situations which influence the settlement of the contestation, their notification is done by the court which is competent to judge the contestation.

Art. 463. - The contestation regarding the execution of the civil provisions of the decision is done, in the cases provided in article 461 letters a) and b), at the execution court provided in article 460, and in the case provided in article 461 letter c), at the court which pronounced the decision under execution.

The settlement procedure of this contestation is the one provided in article 460 paragraphs 1 and 2.

The civil court in accordance with the civil law settles the contestation of execution actions.

Art. 464. - The court which enforced the fines settles the contestation of judicial fine execution.

TITLE IV

SPECIAL PROCEDURES

CHAPTER I

INVESTIGATION AND JUDGEMENT OF FLAGRANT CRIMES

Art. 465. - A crime is flagrant if discovered during or immediately after its perpetration.

Also, a crime is flagrant if the criminal, immediately after the perpetration, is followed by the injured person, witnesses or by public callings, or is found close to the place of the perpetration with guns, instruments or any other objects which could make him presupposed participant in the crime.

For the cases mentioned above, any person is entitled to catch the perpetrator and to bring him in front of the authorities.

Art. 466. - Flagrant crimes punished by the law with imprisonment longer than three months and less than five years, as well as the aggravated forms of such crimes, perpetrated in towns, in means of transportation, fairs, ports, airports or stations, even if they do not belong to the territorial units mentioned above, as well as in any crowded place, are investigated and judged according to the provisions mentioned in this chapter, which complete with the provision of the present code.

Art. 467. - The notified criminal investigation body drafts a report where it includes the findings regarding the perpetrated action. Also, the report will include the statements of the incriminated and of the other persons listened to.

According to the case, the criminal investigation body collects other evidence as well.

The report is read in front of the incriminated and of the other persons listened to, who are told that they can complete the statements or disagree with these.

The report is signed by the criminal investigation body, by the incriminated and by the persons listened to.

Art. 468. - The incriminated is retained. Retainment lasts 24 hours. At the notification made by the investigation body or ex officio, the prosecutor can issue an arrest warrant for the incriminated.

If the prosecutor considers that there are sufficient evidence for the initiation of the criminal action, he presents an indictment through which the criminal action is initiated and orders for the trial, issuing at the same time the arrest warrant for the defendant.

Art. 469. - If the prosecutor issued an arrest warrant for the incriminated and returned the cause, the investigation body must continue the investigation and submit the file to the prosecutor at the same time with the incriminated, the latest within 3 days since the arrest.

If the investigation could not be completed within the term mentioned in the preceding paragraph , the continuation of the criminal investigation is done according to the provisions of the common procedure.

Art. 470. - The prosecutor, after receiving the file, verifies the results of the criminal investigation and pronounces a conclusion within 2 days at most since receiving; after that, he can request for trial, exclude or cease the criminal investigation, in accordance with article 262, or return the cause in accordance with article 265.

When the prosecutor requests the trial, he drafts the indictment, issues an arrest warrant for the defendant and submits the file of the cause to the court immediately.

If the prosecutor returns the cause for completion or for a new criminal investigation, this investigation is performed according to the usual procedure. The provisions in articles 267 and 268 apply accordingly.

Art. 471. - The trial competence for the causes regarding flagrant crimes provided in article 466 is the regular one.

For towns divided into sectors, the minister of justice can appoint one or more courts which could take over these causes.

Art. 472. - The chairman of the court establishes the trail term which cannot exceed 5 days since the file was received and requests at the same time for bringing to court the witnesses by warrant.

The defendant is brought to trial. The other parties are not summoned.

The prosecutor must participate in trial.

The court verifies whether all requirements of the cause and provided in article 466 are complied with.

When the court finds that these requirements in the cause are not complied with, the trial takes place according to the regular procedure.

Art. 473. - The court proceeds with the trial by listening to the defendant, to the present witnesses and to the injured person if present. The judgement is done on the basis of these statements and results in the file.

The court can request, ex officio or upon request, the administration of new evidence, and for this purpose it takes the appropriate measures which it accomplishes directly or through the police.

In order to administer the evidence, the court can grant terms which should not exceed 10 days in total.

Art. 474. - When the court is not competent to retain the cause for trial under the regular procedure, or if the court postpones the judgement of the cause according to article 473 last paragraph, it must request the release of the defendant.

Art. 475. - The court must pronounce a decision on the cause during the same day when the debates ended or during the next 2 days the latest.

The defendant under detention is brought to hear the pronouncement.

The decision must be written within 24 hours at most.

When the defendant was previously released, if the court pronounces the imprisonment penalty, it can also request for arrest.

The court must request the release of the defendant under arrest, in the cases provided in article 350 paragraphs 2 and 3, which apply accordingly.

Art. 476. - The court examines the civil action only if the injured person is present and constituted as civil party, and his requests can be settled without the postponement of the trial.

If the injured person is one of the units mentioned in article 145 in the Criminal Code or a person who has no capacity for exercise or with limited capacity for exercise, the court examines the civil action in absence of these and even if they did not constitute civil party, and the settlement of the civil action does not yield the postponement of the cause.

If the requirements in the preceding paragraphs are not met, the court settles the civil action through a separate action which is exempted from the stamp fees.

Art. 477. - The appeal and recourse terms are maximum 3 days since pronouncement.

The file of the cause is submitted to the court of appeal or, according to the case, to the recourse court during the following 24 hours since the declaration of the appeal or recourse.

The appeal and recourse trial takes place immediately.

Art. 478. - In case of concurrence of crimes, when the procedure provided in the present article applies only to certain concurrent crimes, the next step consists in severance of causes, while the investigation and the judgement of the crimes are performed separately.

In case of indivizibility or connexion, if the procedure provided in the present article applies only to certain crimes or criminals, and the severance of causes is not possible, the investigation and the judgement are performed according to the regular procedure.

Art. 479. - The procedure provided in the present article does not apply to the crimes perpetrated by juveniles.

In case of crimes for which the initiation of the criminal action is done only upon the prior complaint filed by the injured person, if these crimes are flagrant and perpetrated under the terms provided in article 466, the notification of their perpetration is mandatory and it is done in accordance with article 467. The investigation and judgement procedure mentioned in this chapter applies only to the crimes mentioned in article 279 paragraph2 letters b) and c) and if the injured person made a complaint within t 24 hours since the flagrant crime at the criminal investigation body. For this purpose, the injured person is called and interrogated by the criminal investigation body whether he understands to make a complaint within the term provided above.

CHAPTER II
THE PROCEDURE IN CAUSES INVOLVING JUVENILE CRIMINALS

Art. 480. - The investigation and the judgement of crimes perpetrated by juveniles, as well as the enforcement of the decisions regarding these juveniles are done according to the regular procedure, with the completion and derogation in the present article.

Art. 481. - When the incriminated or the defendant is a juvenile under 16 years old, if the criminal investigation body considers it necessary, for each hearing or confrontation of the juvenile, it summons the delegate of the tutelary authority, as well as parents, and according to the case, the tutor, the curator or the person under whose care or surveillance the juvenile is.

The summon of the persons mentioned in the preceding paragraph must take place when the criminal investigation material is presented.

The absence of the persons legally summoned at the drafting of the documents provided in par. 1 and 2 is not an obstacle against the drafting of the respective documents.

Art. 482. In cases involving juvenile criminals, the criminal investigation body or the court must order the social investigation.

The social investigation consists in a collection of information regarding the usual behaviour of the juvenile, his physical and mental condition, his prior offences, the conditions in which he lived and was raised, the way in which parents, tutor or the person under whose care the juvenile is accomplish their duties towards this juvenile and, in general, regarding any elements which could facilitate a measure or in applying a sanction against the juvenile.

Persons appointed by the tutelary authority of the local council under whose territory the juvenile has residence perform the social investigation.

Art. 483. The causes involving a juvenile defendant are judged according to regular competence rules and by judges appointed by the minister of justice.

The court made up as provided in the preceding paragraph is competent to judge and to enforce the special procedural provisions regarding juveniles, even if the defendant reached the age of 18 meantime.

The defendant who perpetrated the crime while being a juvenile is judged in accordance with the regular procedure, if on the notification he had reached the age of 18.

Art. 484. The judgement of a cause regarding a crime perpetrated by a juvenile is performed in the presence of this juvenile, with exception for the case when the juvenile eluded from trial.

Beside the parties, the tutelary authority and the parents are summoned to the court, and according to the case, the tutor, the curator or the person under whose care and supervision the juvenile is, as well as other persons whose presence the court considers necessary.

The persons mentioned in the preceding paragraph are entitled and obligation to give clarifications, to express requests and to present suggestions regarding the measures which will be taken.

The absence of the persons legally summoned does not prevent the judgement of the cause.

Art. 485. The session involving the judgement of the juvenile criminal takes place separately from the other sessions.

The session is not public. The persons mentioned in the preceding article, the parties' lawyers as well as other persons accepted by the court can participate in the trial.

When the juvenile is under 16, the court, after the hearing, can request his removal from the session, if the court considers that the judicial investigation and the debates could have a negative impact on the juvenile.

Art. 486. When there are more defendants in the same cause, juveniles and majors, and severance of causes is not possible, the court makes the judgement under the componence provided in article 483 and according to the regular procedure, but by applying the provisions in this chapter regarding juvenile defendants.

Art. 487. If the juvenile was subject to lecture , this educational measure is executed immediately, during the session in which the decision was pronounced.

Under any circumstances when the lecture cannot be executed immediately after pronouncement of the decision, the court establishes a term when the juvenile must be brought and parents must be summoned, or, according to the case, the tutor or the curator or the person under whose care and supervision the juvenile is.

Art. 488. When the court decided freedom under surveillance of the juvenile, this measure can be enforced even in the session when it was pronounced, if the juvenile and the person or the representative of the institution or of the special unit of surveillance is present.

When the enforcement cannot take place in the same session, the court establishes a term for the juvenile to be brought and for the persons mentioned in the preceding paragraph to be summoned.

Art. 489. Recalling of the freedom under surveillance for one of the causes mentioned in article 108 in the Criminal Code, with exception for the case in which the juvenile perpetrated a new crime, as well as the replacement of the freedom under surveillance are ordered by the court which pronounced this measure.

Art. 490. If the juvenile was sent to a re-education unit, the court may request, through the same decision, immediate enforcement of the measure. Submitting a copy of the decision to the police station where the juvenile is located does enforcement.

The police station takes measures for the internment of the juvenile.

The copy of the decision is submitted to the re-education unit where the juvenile is interned.

The re-education unit communicates the court the accomplishment of the internment.

Art. 491. A juvenile's release from a re-education unit before he reaches 18 years old, calling of release before he reaches 18 years old as well as the suspension or extension of the internment measure in a re-education unit are ex officio or are requested by the court or the tribunal which judged the juvenile in first hearing.

The same court may order the suspension, the extension or the replacement of the internment in a medical-educational institute.

Art. 491(1). The enforcement of the education measure of internment in a re-education unit can be postponed or interrupted in the cases and under the terms provided in articles 453 and 455.

Art. 492. Recalling or maintenance of the educational measures, as well as the release of the juvenile from a re-education unit before he reaches the age of 18 or from a medical-educational institute, when the juvenile perpetrated a new crime, is ordered by the court which is competent to judge that crime.

Art. 493. The provisions in articles 483-489 apply accordingly also in trials in appeal and recourse courts, for causes regarding crimes perpetrated by juveniles.

CHAPTER III
JUDICIAL REHABILITATION PROCEDURE

Art. 494. The court which judged the cause in first hearing and pronounced the conviction ordering rehabilitation, or the corresponding court under whose territorial jurisdiction the convict has residence holds either the competence for judicial rehabilitation decision.

Art. 495. The judicial rehabilitation request is done by the convict, and after his death by the husband/wife or close relatives. The husband/wife or close relatives may continue the judicial rehabilitation procedure initiated before the decease.

The request has to include the following:

a) the convict's address, and when the request is done by another person, this person's address;

b) the conviction for which rehabilitation is requested and the action for which that conviction was pronounced;

c) the towns where the convict had residence and places of work during the whole period between the enforcement of the penalty until the filing of the request, and if the enforcement of the penalty was prescribed, since the date the decision remained final and until the filing of the request;

d) the reasons of the request;

e) useful notes for the identification of the file and of any other data for the settlement of the request.

The documents proving that rehabilitation terms are met will be enclosed to the request.

Art. 496. The president of the court, establishing the term of the rehabilitation request settlement, orders the summon of the petitioner and of the persons whose hearing the court considers necessary, takes measures for bringing the file including the conviction decision and asks for a copy of the criminal record of the convict.

Art. 497. The rehabilitation request is denied because of failure to accomplish the form terms under the following cases:

a) when the request was introduced before the legal term;

b) when there is no mention as provided in article 495 paragraph 2 letter a) and the petitioner did not come at the established term;

c) when one of the notes mentioned in article 495 paragraph 2 letters b) – e) and the petitioner did not fill out the request at first hearing and at the term he was granted in order to fill it out.

In the case mentioned in letter a), the request can be repeated after the legal deadline, and in the cases provided in letters b) and c) , anytime.

Art. 498. The court hears the persons summoned at the fixed term, the prosecutor's conclusions and checks if the conditions established by the law for rehabilitation admission are accomplished. When the material in the file does not prove sufficient data regarding the accomplishment of the rehabilitation terms, the court may request the completion of the material by the interested party, and, if considered necessary, requests details from competent bodies with regard to the convict's behaviour.

Art. 499. When the convict or the person who expressed the rehabilitation request proves that he could not pay the civil damage and judicial expenses, the court, after evaluating the circumstances, may request rehabilitation or may grant a term for total or partial payment of the due amount, in order to settle the request. This term cannot be longer than 6 months.

In case of solidar obligation, the court establishes the amount to be paid by the convict or his descendants for the purpose of rehabilitation.

The rights granted to the civil party by the conviction decision are not modified by the decision granted for the purpose of rehabilitation.

Art. 500. If before the settlement of the rehabilitation request the criminal prosecution was initiated for a new crime perpetrated by the convict, the examination of the request is suspended until the final settlement of the cause regarding the new case.

Art. 501. The decision through which the court settles the rehabilitation request is subject to appeal, and the decision pronounced by the court of appeal is subject to the recourse.

Art. 502. After the rehabilitation decision remains final, the court requests for a note on that included in the conviction decision for which rehabilitation was admitted.

Art. 503. Rehabilitation cancellation is decided at the prosecutor's request, by the court provided in article 494.

The procedure provided for settlement of rehabilitation request applies accordingly in the case of cancellation request as well.

CHAPTER I

DAMAGE REPAIR IN CASE OF CONVICTION OR UNLAWFUL PREVENTATIVE MEASURE

Art. 504. Any person who was finally convicted is entitled to damage repaired by the state, if after the second judgement of the cause the final decision provided that the action was not perpetrated or the action does not exist.

Also, any person against whom a preventative measure was taken is entitled to damage repair, if afterwards, for the reasons mentioned in the preceding paragraph, this person was removed from investigation or discharged.

A person with no right to damage repair is a person who, during the criminal investigation or judgement, deliberately or non-deliberately prevented or intended to prevent the discover of the truth.

The persons mentioned in paragraphs 1 and 2, who before the arrest were working, have length of work including the time of arrest, and the persons mentioned in paragraph 1 have length of work including the time of penalty's execution at the place of work.

Art. 505. The damage repair can be initiated by the person in due according to the provisions in article 504, and after the decease of this person it can be continued or initiated by the persons who were under his support.

The action can be initiated within one year since the dismissal decision remained final or since the date of the order of removal from the criminal investigation.

Art. 506. In order to obtain damage repair, the person in due can address to the tribunal under whose jurisdiction he has residence and sue the state in civil trial.

The state is summoned through the Ministry of Finance.

Art. 507. If the damage repair was granted in accordance with the provisions of article 506, the state has action in regress against the person who caused the situation resulting into damage out of bad will or serious negligence.

CHAPTER V

PROCEDURES IN CASE OF DISAPPEARANCE OF JUDICIAL WRITTEN DOCUMENTS

Art. 508. In case of disappearance of a judicial file or written document which belongs to such a file, the criminal investigation body or the president of the court where the file or the written documents were kept drafts a report notifying the disappearance and shows the measures which were taken to find such documents.

On the basis of the report, the court acts in accordance with the provisions in the present chapter.

Art. 509. When the file or the judicial written document which disappeared is the object of a request made by a justified interest and it cannot be re-drafted according to regular procedure, the prosecutor orders through the court conclusion or through ordinance, according to the case, the replacement or the reconstitution of the file or document which disappeared.

The court conclusion is given without the summon of the parties, except the case when the court considers it necessary. The conclusion is not object of any means of attack.

Art. 510. The replacement or reconstitution is done by the criminal investigation body or by the court where the cause is on pending, and in causes which are finally settled, by the court which keeps the file.

When a criminal investigation body or a court notified the disappearance, others than those mentioned in the preceding paragraph, this criminal investigation body or court send to the competent criminal investigation body or court all materials necessary for the replacement or reconstitution of the disappeared written document.

Art. 511. The replacement of the written document takes place when there are official copies of that written document. The criminal investigation body or the court takes measures for finding such a copy.

The copy thus obtained replaces the original written document until it is found.

The person who submitted the official copy receives a certified copy of this document.

Art. 512. When there is no official copy of the disappeared written document, this document will be reconstituted. Reconstitution of a file is done by the reconstitution of the written documents this file included.

Any evidence can be used for the purpose of reconstitution.

The result of the reconstitution is notified, according to the case, by the ordinance of the criminal investigation ordinance confirmed by the prosecutor or through the decision given to the court with summon for the parties.

The reconstitution decision is object of the appeal, and the decision pronounced by the court of appeal is object of the recourse.

CHAPTER VI

JUDICIAL INTERNATIONAL ASSISTANCE
Section I
General Provisions

Art. 513. The terms of accomplishing judicial international assistance in criminal matters are those provided in the present chapter, except the case in which the law provides other wise, by conventions or in lack of conventions, or on the basis of reciprocity.

Section II

The rogatory commission

Art. 514. When it considers it necessary, the criminal investigation body or the court performs a procedural action abroad by addressing through the rogatory commission to the criminal investigation body and courts abroad, which are able to perform that action.

The provisions in article 134 are applicable.

Art. 515. The rogatory commission is submitted, according to the case, to the general prosecutor or to the minister of justice, who at their turn address the Ministry of External Affairs for the transmission of the rogatory commission.

Art. 516. The procedural action performed abroad, in accordance with the law of the respective country, is valid before Romanian judicial bodies.

Art. 517. The criminal investigation body or the court can perform rogatory commissions requested by criminal investigation bodies and courts abroad.

The request for rogatory commission is submitted to the Ministry of External Affairs, and according to the case, to the general prosecutor or to the minister of justice, who notifies the competent criminal investigation body or court.

Art. 518. The request for rogatory commission addressed to a foreign authority, as well as the written documents enclosed, must be translated and legalized according to the rules regarding official written documents which are about to be presented to foreign authorities.

Section III

Recognition of penal decisions or any foreign judicial documents

Art. 519. Final penal decisions pronounced by foreign courts as well as the documents drafted by judicial criminal bodies abroad, can be recognized if they can produce, in accordance with the Romanian criminal law, legal penal effects.

The recognition can be performed fortuitously, during a penal trial on going, by the prosecutor during the investigation or by the court where the cause is judged.

The recognition of penal decisions pronounced by foreign courts or of other foreign judicial actions can be done also by direct means, namely by the court notified for this purpose.

Art. 520. The recognition of foreign decisions or judicial actions takes place only under the following circumstances:

a) the decision was pronounced by a competent court or the action is issued by a competent legal body;

b) the decision or the action does not violate the rule of law in Romania;

c) the decision of the judicial action can produce legal effects in Romania, in accordance with the Romanian criminal law.

The accomplishment of the term provided at letter a) is notified on the basis of the certification of the competent authority of the foreign state.

Art. 521. The recognition by direct way of court decision and foreign judicial actions is done at the notification made by the prosecutor, by the court under whose territorial jurisdiction the convict is located.

The convict is summoned, and at the same time he is communicated with the foreign decision enclosed with the documents, translated in Romanian.

The court, hearing the prosecutor's conclusions and the convict's statements, if finds that legal terms are accomplished, recognizes the foreign penal decision and foreign judicial documents, and if the penalty pronounced by that decision was only partially executed, it replaces the non-executed penalty or the rest ofd the penalty with a corresponding penalty in accordance with the Romanian criminal law.

Art. 522. The enforcement of civil provisions in a foreign criminal court decision is performed in accordance with the rules provided for foreign civil decisions' execution.

FINAL PROVISIONS

Art. 523. The terms or phrases whose meaning are specifically explained in the Criminal Code have the same meaning in the Criminal Procedure Law.

Art. 524. The present Code comes into enactment on January 1, 1969.