**CRIMINAL PROCEDURE CODE**
**THE GENERAL PART**

TITLE I
**BASIC RULES AND ACTIONS IN THE CRIMINAL TRIAL**

Chapter l
**AIM AND BASIC RULES OF THE CRIMINAL TRIAL**

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| **The aim of the criminal trial** | [i]**Art. 1** - The aim of the criminal trial is to acknowledge in due time and completely the deeds that represent offences, so that any person who has perpetrated an offence is punished according to his/her guilt, and no innocent person is held criminally responsible.<br>The criminal trial must contribute to the defence of the rule of law, to the defence of the person's rights and liberties, to the prevention of offences as well as to the citizens' education in the spirit of law. |
| **The legal and official character of the criminal trial** | **Art.2** - The criminal trial takes place both during the criminal investigation and the trial itself, according to the provisions of the law.<br>The papers necessary for the criminal trial are drawn up ex officio, if the law does not stipulate otherwise. |
| **The disclosure of truth** | **Art. 3** - The criminal trial must lead to the disclosure of the truth regarding the deeds and circumstances of the case, as well as those regarding the perpetrator. |
| **The active role** | **Art.4 -** Criminal investigation bodies and courts must take active part in the criminal trial. |
| **The guarantee of the person's liberty** | [ii]**Art.5 -** The person's liberty is guaranteed all throughout the criminal trial.<br>No person may be retained, arrested or deprived of liberty in any way or subjected to any form of liberty restraint, except for the cases and circumstances stipulated by the law.<br>If the person subjected to preventive arrest or hospitalization or any measure of 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.<br>Any person who was, during the criminal trial, deprived of liberty, or whose liberty was restrained, illegally or unjustly, is entitled to reparation of the damages, in the conditions stipulated by the law.<br>During the criminal trial, the accused person or the defendant who is preventively arrested may require temporary release, under judicial supervision or on bail. |
| **The respect of human dignity** | [i]**Art. 5[1] -** Any person subjected to criminal investigation or to criminal criminal trail must be treated with respect for human dignity. Torture |

[i] Art. 1 par. 2 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette of Romania, no. 147 of July 1, 1993.
[ii] Art. 5 was modified by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990. Art. 5, par. 2-4 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no.468 of July 1, 2003.

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| | and cruel, inhuman or degrading treatment are punished under the law. |
| **Presumption of innocence** | [ii]**Art. 5[2]** - Any person shall be presumed innocent till found guilty by a final decision of the court. |
| **The guarantee of the right to defence** | [iii]**Art.6 -** The right to defence is guaranteed to the accused person, to the defendant and to the other parties all throughout the criminal trial.<br>During the criminal trial, the judicial bodies must ensure the parties' full exertion of their procedural rights, under the circumstances stipulated by the law and must administrate the evidence necessary for defence.<br>The judicial bodies must inform the accused person or the defendant, immediately and before hearing, of the deed of which he is held responsible and of its judicial status, and must ensure the preparation and exertion of his/ her defence.<br>Any party is entitled to assistance by defender during the criminal trial.<br>The judicial bodies must inform the accused person or the defendant, before his/ her first statement, on his/ her right to be assisted by a defender; this will be recorded in the official report of the hearing.<br>Under the circumstances and in the cases stipulated by the law, the judicial bodies must provide judicial assistance for the defendant, if the latter has not chosen a defender. |
| **The language in which the criminal trial is conducted** | [iv]**Art. 7** – The judicial procedure of the criminal trial is conducted in Romanian.<br>In front of the judicial bodies, the parties and other persons summoned to trial are ensured the use of their native tongue, the procedure documents being drawn in Romanian. |
| **The use of the official language through an interpreter** | [v]**Art.8** - The parties who do not speak or do not understand the Romanian language, or who cannot express themselves, are given the possibility, free of charge, 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***

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| **The object and exertion of criminal action** | **Art. 9** - The object of criminal action is to impose criminal responsibility on the persons who have perpetrated offences.<br>Criminal action is initiated by the accusation act stipulated by the law.<br>Criminal action can be exerted all throughout the criminal trial. |

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[i] Art. 5[1] was introduced by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990.

[ii] Art. 5[2] was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[iii] Art. 6 was modified by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990. Art. 6 par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468, of July 1, 2003.

[iv] Art. 7 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[v] Art. 8 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | [i]**Art. 10 -** Criminal action cannot be initiated, or carried out in case it has already been initiated, in the following cases:<br>a) the deed does not exist;<br>b) the deed is not stipulated by the criminal law;<br>b[1]) the deed does not present the degree of social danger of an offence;<br>c) the deed was not been committed by the accused person or defendant;<br>d) the deed lacks one of the constitutive elements of an offence;<br>e) one of the cases that annul the criminal nature of the deed is present;<br>f) the preliminary complaint of the injured person, the authorization or notification of the competent body, or any other condition stipulated by the law, necessary for the initiation of the criminal action, is missing;<br>g) amnesty, prescription or death of the perpetrator have occurred;<br>h) the preliminary complaint has been withdrawn or the parties have reconciled, in the case of offences where criminal responsibility is annulled by the withdrawal of the complaint or the reconciliation of the parties;<br>i) replacement of criminal responsibility has been ordered;<br>i[1]) there is motivation for non-punishment, provided by the law.<br>j) there is authority of tried matter. The prevention has consequences even if the finally tried deed were assigned to another judicial category.<br>In the situation stipulated at letter f), ulterior criminal action may be initiated under the law. |
| **Closing, exemption from criminal investigation, cessation of criminal investigation, acquittal and cessation of the criminal trial** | [ii]**Art. 11 -** When the existence of one of the cases stipulated under art. 10 is acknowledged:<br>1. During the criminal investigation, at the proposal of the criminal investigation body or ex officio, the prosecutor orders:<br>a) closing, when there is no accused person;<br>b) exemption from criminal investigation, in the cases stipulated under art. 10 letters a) - e), when the accused person or defendant exist;<br>c) cessation of criminal investigation, in the cases stipulated in art. 10 letters f) - j), when the accused person or defendant exist;<br>2. During the trial, the court decides:<br>a) acquittal, in the cases stipulated in art. 10, letters a) - e);<br>b) cessation of the criminal trial, in the cases stipulated in art. 10 letters f) - j). |
| **Notification of other bodies than the judicial ones** | **Art.12 -** In the cases mentioned under 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 measures or sanctions other than those stipulated by criminal law, notify the competent body. |
| **Resumption of criminal trial in case** | [i]**Art. 13** - In case of amnesty, prescription or withdrawal of the preliminary complaint, as well as in the case of existence of motivation |

[i] Art. 10 par. 1 let. b[1]) was modified by the Law no. 7/1993, published in the Official Bulletin no. 49 of April 6, 1973.
Art. 10 par. 1 let. i[1]) was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 11 par. 1 let. c is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

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| **of amnesty, prescription or withdrawal of preliminary complaint or existence of motivation for non-punishment** | for non-punishment, the accused person or the defendant may require the resumption of the criminal trial.<br>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.<br>If none of the cases stipulated in art. 10 letters a) - e) is acknowledged, the prosecutor orders the cessation of the criminal investigation, with the exception of cases provided under art. 10 let. i) and $i^1$), and the court orders the cessation of the criminal trial. |

*Section II*

***Civil Action***

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| **The object and exertion of the civil action** | [ii]**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.<br>Civil action may be joined with criminal action within the criminal trial, if the injured person claims for damages as a civil party.<br>The damages will be paid for according to the provisions of the civil law:<br>a) in kind, by returning the good(s), by re-establishing the situation anterior to the perpetration of the offence, by partial or total annulment of a document and by any other means of repair;<br>b) by paying a pecuniary compensation, in case restitution in kind is not possible.<br>Financial compensations are also granted for the use of which the civil party has been deprived.<br>The civil action may have as its object to impose civil responsibility for reparation of moral prejudice, according to the civil law. |
| **Constitution as civil party** | **Art.15 -** The injured person may constitute civil party against the accused person or the defendant and against the party that bears civil responsibility.<br>The constitution as civil party may be done during criminal investigation, as well as in court, before the summons act is read out.<br>The quality of civil party does not impede the person who has suffered harm by offence to participate as harmed party in the same case.<br>Civil action is exempted from stamp tax. |
| **The party who bears civil responsibility** | **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.<br>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. |

[i] The marginal name and par. 1 and 3 of art. 13 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 14 par. 5 was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | 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 person or the defendant. |
| **The exertion ex officio of the civil action** | [i]**Art. 17 -** Civil action is also initiated and carried on ex officio, when the injured person lacks or has limited exertion ability.<br>For this purpose, the criminal investigation body or the court will ask the injured person that, through his/ her legal representative, or, according to the case, through the person who agrees upon his/ her acts, to present a report on the size of the damage and of the moral prejudice, as well as data regarding the acts by which the damage was done.<br>The court must decide ex officio on the reparation of damages and of moral prejudice, even if the injured person does not constitute civil party. |
| **The support of the civil action by the prosecutor** | [ii]**Art. 18 -** The prosecutor may support in court the civil action initiated by the injured person.<br>When the injured person is a person lacking or having limited exertion ability, the prosecutor, when taking part in the trial, is obliged to defend the person's civil interests, even if he/she does not constitute civil party. |
| **The action addressed to civil court** | [iii]**Art. 19 -** The injured person who did not sue for civil injury in the criminal trial may initiate in the civil court action for repairing the damages and the moral prejudice caused by the offence.<br>The civil trial is postponed until a final decision is passed in the criminal case.<br>Civil action may also be initiated in civil court by the injured person who can sue for civil injury or for whom civil action has been initiated ex officio within the criminal trial, but the criminal trial was suspended. In case the criminal trial is resumed, the action initiated in the civil court is suspended.<br>The injured person who initiated action in the civil court may leave this court and address the criminal investigation body or the court, if the criminal action was initiated afterwards or the criminal trial was resumed after suspension. The person may not leave the civil court if the latter has passed a decision, even if not final. |
| **Special cases of solving the civil action** | [iv]**Art. 20 -** The injured 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 solved the civil action.<br>In case the civil action was carried on ex officio, if new evidence shows that the damage and moral prejudice have not been entirely repaired, the difference may be claimed by way of an action in the civil court. |

[i] Art. 17 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] Art. 18 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[iii] Art. 19 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[iv] Art. 20 par. 2 and 3 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | Also, the injured person may initiate action in the civil court for repairing the damages and moral prejudice appeared or discovered after the first court has passed the criminal decision. |
| **The exertion of civil action to or toward successors** | [i]**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 case.<br>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 case, and in case it is abolished or dissolved, the liquidators are brought to the case. |
| **The authority of the criminal decision in the civil matter and the effects of the civil decision in the criminal matter** | **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 committed it and of his/her guilt are concerned.<br>The final decision of the civil court that 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 committed it and of his/her guilt are concerned. |

*Section III*

***The parties in the criminal trial***

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| **The defendant** | **Art. 23 -** The person against whom criminal action has been initiated is part of the criminal trial and is called defendant. |
| **Other parties in the criminal trial** | 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.<br>The injured person that carries out the civil action within the criminal trial is called plaintiff.<br>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

## CHAPTER I
## TYPES OF COMPETENCE

*Section I*

***Competence according to matter and the quality of the person***

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| **Competence of the first instance court** | [ii]**Art. 25** - The first instance court tries as first instance all offences, except those attributed by law to the competence of other courts. |

[i] Art. 21 par. 2 contains the term “institution”, as it was provided under art. II of the Law no. 141/ 1996, published in the the Official Gazette of Romania no. 289 of November 14, 1996, which replaced the old term.
[ii] Art. 25 par. 2 was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | The court of first instance also solves other cases especially provided by the law. |
| **Competence of the military tribunal** | [i]**Art. 26 -** The military tribunal:<br>1. tries as first instance:<br>a) the offences provided under art. 174-177 of the Penal code, as well as other offences perpetrated in relation to office duties, committed by officers up to and including the rank of colonel, except for those falling under the competence of other courts;<br>b) the offences provided by the Penal code under art. 348-354, perpetrated by civilians;<br>2. judges and solves also other cases especially provided by the law. |
| **Competence of the tribunal** | [ii]**Art. 27 -** The tribunal:<br>1. tries as first instance:<br>a) the offences provided by the Penal code at art. 174-177, 179, art. 189 par. 3, art. 190, art. 197 par. 3, art. 209 par. 3 and 4, art. 211 par. 2, $2^{1}$ and 3, art. 212, art. 215 par. 5, art. $215^{1}$ par. 2, art. 252, 254, 255, 257, 266 – 270, 273 – 276 if the deed resulted in a railway catastrophe, art. $279^{1}$, 298, 312 and 317, as well as the offence of contraband, if its object were weapons, ammunition or explosive or radioactive materials;<br>b) offences committed on purpose, which resulted in death of a person;<br>c) offences regarding the national security of Romania, stipulated by special laws;<br>d) the offence of money laundering, as well as offences regarding trafficking and illicit consumption of drugs;<br>e) the offence of fraudulent bankruptcy, if the offence regards the banking system;<br>f) other infractions falling under its competence, under the law:<br>2. as appeal court, tries the appeals against the criminal decisions passed by judges at first instance, except for those regarding the offences mentioned in art. 279 paragraph 2 letter a);<br>3. as recourse court, tries the recourses against criminal decisions passed by first instance courts for the offences mentioned in art. 279 paragraph 2 letter a), as well as for other cases stipulated by the law;<br>4. resolves the competence conflicts that appear between the first instance courts within its territorial area, as well other cases stipulated by the law. |
| **Competence of the territorial military** | [iii]**Art. 28 -** The territorial military court:<br>1. tries as first instance: |

[i] Art. 26 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] Art. 27 par. 1 let. c) was abrogated by the Law no. 7/1973, published in the Official Bulletin no. 49 of April 6, 1973. Art. 27 was completely modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, by reintroducing let. c) under par. 1 and adding par. 4. Art. 27 par. 1 let. a) is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003. Art. 27 par. 1 let. d) is reproduced as it was modified by the Law no. 456/2001, published in the Official Gazette of Romania no. 410 of July 25, 2001. Art. 27 par. 4 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[iii] Art. 28 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| **court** | a) the offences mentioned in art 27 par. 1 letters a) - e), committed in relation to office duties, by officers up to and including the rank of colonel;<br>b) other offences falling under its competence, under the law:<br>2. as appeal court, tries the appeals against the decisions passed at first instance by the military tribunals, except for the offences mentioned in art. 279 paragraph 2 letter a) and for the offences against the military order and discipline, sanctioned with maximum 2 years imprisonment, under the law;<br>3. as recourse court, tries the recourses against the military tribunals for the offences mentioned in art. 279 paragraph 2 letter a) and the offences against the military order and discipline, sanctioned with maximum 2 years imprisonment, under the law, as well as for other cases stipulated by the law;<br>4. resolves the competence conflicts that appear between the military tribunals in its territorial area, as well as other cases stipulated by the law. |
| **Competence of the Court of Appeal** | [i]**Art. 28[1]** - The Court of Appeal:<br>1. tries at first instance:<br>a) the offences stipulated in the Penal code at art. 155-173 and 356-361;<br>b) the offences committed by judges of first instance courts and tribunals, by prosecutors of the prosecutor's offices attached to these courts, as well as by public notaries;<br>c) the offences committed by judges, prosecutors and financial controllers in the regional chambers of accounts, as well as by financial controllers of the Court of Accounts;<br>d) other offences falling under its competence under the law;<br>2. as appeal court, tries the appeals against the criminal decisions passed at first instance by the tribunals;<br>3. as recourse court, tries the recourses against the criminal decisions passed by the tribunals in appeal, as well as in other cases stipulated by the law;<br>4. resolves the competence conflicts that appear between tribunals or between judges and tribunals in its territorial area, or between judges from the circumscription of different tribunals in the territorial area of the Court, as well as in other cases stipulated by the law;<br>5. solves the requests by which the extradition or transfer abroad of convicted persons were solicited. |
| **Competence of the Military Court of Appeal** | [ii]**Art. 28[2]** - The Military Court of Appeal:<br>1. judges at first instance:<br>a) the offences stipulated by the Penal code at art. 155-173 and art. 356- |

[i] Art. 28[1] was introduced by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993 and modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996; Law no. 296/2001, published in the Official Gazette of Romania no. 2 of January 4, 2002.

Art. 28[1] par. 1 let. c) and par. 4 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Also, through the Law no. 281/2003, art. 28[1] par. 1 let. e) and f) were abrogated, and art. 28[1] par. 5 was introduced.

[ii] Art. 28[2] was introduced by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. 28[2] par. 1 let. a) and par. 4 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | 361, committed by soldiers;<br>b) offences committed by the judges of military tribunals and of territorial military courts, as well as by the military prosecutors in the military prosecutor's offices attached to these courts;<br>c) other offences falling under its competence, under the law;<br>2. as appeal court, tries the appeals against the decisions passed at first instance by the territorial military courts;<br>3. as recourse court, tries the recourses against the decisions passed by the territorial military courts in appeal, as well as in other cases stipulated by the law;<br>4. resolves the competence conflicts that appear between the territorial military courts, or between the military tribunals and the territorial military courts, or between the military tribunals in the competence area of different territorial military courts, as well as other cases specially stipulated by the law. |
| **Competence of the Supreme Court of Justice** | [i]**Art. 29 -** The Supreme Court of Justice:<br>1. tries at first instance:<br>a) the offences committed by senators and deputies;<br>b) the offences committed by members of the Government;<br>c) the offences committed by judges of the Constitutional Court, members, judges, prosecutors and financial controllers of the Court of Accounts, by the president of the Legislative Council and by the People's Advocate;<br>d) the offences committed by marshals, admirals, generals and quaestors;<br>e) the offences 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;<br>f) the offences committed by judges and assistant magistrates of the Supreme Court of Justice, by the judges of the courts of appeal and of the Military Court of Appeal, as well as by the prosecutors of the prosecutor's offices attached to these courts;<br>g) other cases falling under its competence, under the law;<br>2. as recourse court, tries:<br>a) recourses against the criminal decisions passed, at first instance, by the courts of appeal and by the Military Court of Appeal;<br>b) recourses against the criminal decisions passed, as appeal courts, by the courts of appeal and by the Military Court of Appeal;<br>c) recourses against the criminal decisions passed, at first instance, by the criminal section of the Supreme Court of Justice, as well as in other case provided by the law;<br>3. tries the recourses in the interest of the law;<br>4. tries the actions for cancellation;<br>5. resolves:<br>a) the competence conflicts in cases when the Supreme Court of Justice is the common superior court; |

[i] Art. 29 as a whole was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July July 1, 1993. Art. 29 par. 1 let. c), d) and f), as well as par. 2 let. c), are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 29 par. 5 let. d) was introduced by the Law no. 281/2003.

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| | b) the cases in which the course of justice is interrupted;<br>c) the removal requests;<br>d) other cases specially provided by the law. |

*Section II*

***Territorial Competence***

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| **Competence for the offences perpetrated within the country** | [i]**Art. 30 -** The competence according to territory is determined by:<br>a) the place where the offence was perpetrated;<br>b) the place where the perpetrator has been caught:<br>c) the place where the perpetrator lives;<br>d) the place where the victim lives.<br>The case is tried by the competent court under paragraph 1, in whose territorial area the criminal investigation was performed.<br>When the criminal investigation is performed by the General Prosecutor's Office attached to the Supreme Court of Justice or by the prosecutor's offices attached to the courts of appeal or to tribunals, or by a central or regional investigation body, the prosecutor settles by charge, the court among those stipulated at paragraph 1 who has the competence to try, by ensuring a good progress of the criminal trial, taking into account the circumstances of the case.<br>By "the place of perpetration of the offence" one understands the place where the criminal activity was perpetrated, completely or partially, or the place where its result was produced. |
| **Competence for the offences perpetrated abroad** | [ii]**Art. 31 -** The offences committed outside the country are tried, according to the case, by the civil or military courts in whose territorial area the perpetrator lives or has the domicile. If the latter neither lives, nor has the domicile, in Romania, and the deed falls under the competence of the first instance court, it is tried by the Court of First Instance of sector 2, and in the other cases, by the competent court, according to the matter and quality of the person, of Bucharest, in case the law does not stipulate otherwise.<br>The offence committed on a ship falls under the competence of the court in whose territorial area the first Romanian port where the ship anchors is located, in case the law does not stipulate otherwise.<br>The offence committed on an airship falls under the competence of the court in whose territorial area the first landing place on Romanian territory is located.<br>If the ship does not anchor in a Romanian port or the airship does not land on Romanian territory, the competence is that stipulated by paragraph 1, in case the law does not stipulate otherwise. |

*Section III*

***Competence in case of indivisibility and connexité***

[i] The term "territorial area" of art. 30 par. 2 was replaced with the term "circumscription", by art. II of the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 30 par. 3 is reproduced as it was modified by the Law no. 281/2003.

[ii] Art. 31 par. 2 and 4 are reproduced as they were modified by the Decree no. 203/1974, published in the Official Bulletin no. 131 of October 31, 1974. Art. 31 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The term "territorial area" of art. 31 par. 2 and 3 was replaced with the term "circumscription", by art. II of the Law no. 281/2003

| Reunion of cases | **Art. 32 -** In case of indivisibility or *connexité*, the trial at first instance is judged by the same court if it takes place at the same time for all deeds and all perpetrators. |
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| **Cases of indivisibility** | **Art. 33 -** The following cases are considered indivisibility:<br>a) when more persons were involved in committing an offence;<br>b) when two or more offences were committed through the same act:<br>c) cases of continued offence or any other cases in which two or more material acts make up one offence. |
| **Cases of *connexité*** | **Art. 34 -** The following cases are considered *connexité*:<br>a) when two or more offences are committed through different acts, by one or more persons together, at the same time and in the same place;<br>b) when two or more offences are committed at different times and in different places, as a result of a prior understanding between the perpetrators;<br>c) when an offence is committed in order to prepare, facilitate or hide the perpetration of another offence, or in order to facilitate or ensure avoidance of criminal responsibility by the perpetrator of another offence;<br>d) when there is a connection between two or more offences and the cases must be joined for a better justice. |
| **Competence in cases of indivisibility or *connexité*** | [i]**Art. 35 -** In case of indivisibility or *connexité*, if the competence regarding the different perpetrators or the different deeds belongs, under the law, to various courts, equal in rank, the competence of trying all the deeds and all the perpetrators belongs to the court first summoned, and if the competence according to the nature of the deeds or to the quality of he persons belongs to courts different in rank, the competence of trying all the joint cases belongs to the hierarchically superior court.<br>If one of the courts is civil and the other is military, the competence belongs to the military court.<br>If the civil court is superior in rank, the competence belongs to the military court equal in rank with the civil court.<br>The competence to try the joint cases is kept by the court it was granted to, even if the closing of the criminal trial or the acquittal were passed for the deed or the perpetrator who determined the competence of this court.<br>Hiding or favouring the perpetrator, or not denouncing an offence fall under the competence of the court that tries the offence related to them. |
| **Court competent to decide the joining of cases** | **Art. 36 -** Whether the cases are joined or not is decided by the court which has trying competence, according to the provisions of art. 35.<br>In the case stipulated in art. 35 paragraph 3, the joining of the cases is decided by the civil court which sends the record to the competent military court. |
| **Special cases** | [ii]**Art. 37 -** In the indivisibility cases stipulated at art. 33 letters a) and b), as well as in the *connexité* cases, the cases are joined if they are before the first instance, even after the annulment of the decision sent by the appeal court or after the cassation sent by the recourse court. |

[i] Art. 35 par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 37 par. 1 and 2 were modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. 37 par. 1 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

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| | The cases are also joined at the appeal courts, as well as at the recourse courts equal in rank, it they are at the same stage of the trial.<br>In the indivisibility case stipulated at art. 33 letter c), the cases must always be joined. |
| **Severance** | **Art. 38 -** In the indivisibility case stipulated in art. 33 letter a), as well as in all *connexité* cases, the court may order, for the sake of a fair trial, severance of the cases, so that the trial of some perpetrators or offences is done separately. |

*Section IV*

***Common provisions***

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| **Exceptions of incompetence** | **Art. 39** - The exception of material incompetence or of incompetence according to the quality of the person may be raised all throughout the criminal trial, until the final decision is passed.<br>The exception of territorial incompetence may be raised only until the notification act is read out in front of the first instance.<br>The exceptions of incompetence may be raised by the prosecutor, by any of the parties or be open to discussion by the parties ex officio. |
| **Competence in case of change of the quality of the defendant** | [i]**Art. 40** - When the competence of the court is determined by the quality of the defendant, the court keeps its competence to try even if the defendant, after committing the offence, no longer has that quality, for the cases when:<br>a) the deed is connected to the defendant's work duties;<br>b) a decision was passed at first instance.<br>Acquiring a quality after committing an offence does not lead to a change of competence, except for the offences perpetrated by persons provided at art. 29 par. 1. |
| **Competence in case of change of the juridical framing or qualification** | **Art. 41** - The court summoned to try an offence keeps its competence to try it even if it finds out, as a result of judicial investigations, that the offence falls under the competence of an inferior court.<br>A change in the framing of the offence dictated by a new law, issued during the trial of a case, does not entail the incompetence of the court, unless that law stipulates otherwise. |
| **Declination of competence** | [ii]**Art. 42** - The court which declines its competence sends the record to the court shown as competent by the declination decision.<br>If the declination was determined by the material competence or by the competence according to the quality of the person, the court to whom the case was sent may use the already drawn papers and may keep the measures ordered by the de-summoned court.<br>In case of declination for territorial incompetence, the papers drawn or the measures ordered are kept.<br>The competence declination decision is not subject to appeal or recourse. |
| **Competence conflict** | [i]**Art. 43** - When two or more courts declare themselves competent to try the same case or decline their competence, the positive or negative competence conflict is solved by the common hierarchically superior court. |

[i] Art. 40 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 40 par. 2 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003.

[ii] Art. 42 par. 4 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.

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| | When the competence conflict appears between a civil and a military court, it is solved by the Supreme Court of Justice.<br>The common hierarchically superior court is summoned, for positive conflicts, by the court which last declared itself competent and, for negative conflicts, by the court who last declined its competence.<br>In all cases the court may also be summoned by the prosecutor or by the parties.<br>The trial is suspended until the positive competence conflict is solved.<br>The court which declined its competence or last declared itself competent adopts the measures and carries out the urgent acts.<br>The common hierarchically superior court decides on the competence conflict and summons the parties.<br>When the court summoned to resolve the competence conflict discovers that the respective case falls under the competence of a court different from those in conflict and with regard to which there is no common superior court, it sends the record to the common superior court.<br>The court to which the case was sent by competence-establishing decision cannot declare itself incompetent, unless, following a new situation resulting from a completion of the judicial investigation, it is established that the deed is an offence which, legally, falls under the competence of another court.<br>The court to which the case was distributed shall enforce the provisions of art. 42 paragraph 2 accordingly. |
| **Prior matters** | **Art. 44 -** The criminal court has the competence to try any prior matter on which the resolution of the case depends, even if, by its nature, that matter falls under the competence of another court.<br>The prior matter is tried by the criminal court according to the rules and probative means regarding the field to which the matter belongs.<br>The final decision of the civil court on a circumstance that represents prior matter in the criminal trial has authority of tried matter in front of the criminal court. |
| **Provisions applied for criminal pursuit** | [ii]**Art. 45 -** The provisions of art. 30-36, 38, 40, 42 and 44 shall be applied accordingly during the criminal investigation as well.<br>The provisions of art. 35 par. 4 are not applied in case the elimination or the ceasing of the criminal pursuit was disposed by a military prosecutor.<br>The declination of competence is disposed through ordinance.<br>When none of the places specified in art. 30 paragraph 1 is known, the competence belongs to the criminal investigation body first summoned.<br>In case of simultaneous summons, the priority is settled according to the listing at art. 30 paragraph 1.<br>If' according to one of the criteria specified in art. 30 paragraph 1, more criminal investigation bodies are competent, the competence belongs to the body first summoned. The criminal investigation of the offences committed in the conditions stipulated in art. 31 is performed by the criminal investigation body in the territorial area of the court competent to try the |

[i] The term "Supreme Tribunal" was replaced with the term "Supreme Court of Justice", according to art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. 43 par. 8 was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.

[ii] Art. 45 par. $1^1$ and $1^2$ were introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The term "territorial area", from art. 45 par. 5, was replaced with the due time "circumscription", by art. II of the Law no. 281/2003.

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| | case.<br>The competence conflict between two or several prosecutors is solved by the common superior prosecutor. When the conflict appears between two or several 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***

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| **The kinship between judges** | [i]**Art. 46** - The judges who are spouses or close relatives cannot be part of the same panel. |
| **Judge who previously pronounced his/her opinion** | [ii]**Art. 47 -** The judge who took part in the resolution of a case cannot take part in the resolution of the same case before a superior court or in the trial of the case after the dissolution of the decision sent to appeal or after cassation sent to recourse.<br>Also, the judge who has previously expressed his/ her opinion regarding the possible solution for a case cannot take part in the trial of that case. |
| **Other causes of incompatibility** | [iii]**Art. 48** - The judge is also incompatible to try if, in the respective case:<br>a) he/ she initiated the criminal action, or ordered sending to court, or passed conclusions as prosecutor in court, or issued the arrest warrant during criminal prosecution;<br>b) he/she has been representative or defender of one of the parties;<br>c) he/ she has been expert or witness;<br>d) there are circumstances which prove that the spouse or a close relative are in any way interested. |
| **Incompatibility of prosecutor, of criminal investigation body, of assistant magistrate and of session clerk** | [iv]**Art. 49 -** The provisions of art. 46 are applied for the prosecutor and for the assistant magistrate or, if the case, for the session clerk, when there is incompatibility between them or between one of them and one of the panel members.<br>The provisions regarding the incompatibility cases stipulated in art. 48 letters b) - d) are applied for the prosecutor, for the person who performs the criminal investigation, for the assistant magistrate and for the session clerk.<br>The prosecutor who took part as judge in the resolution of the case in first instance cannot pass conclusions when the case is tried in appeal or |

[i] Art. 46 is reproduced as it was implicitly modified by the Law no. 45/1991, published in the Official Gazette of Romania no. 142 of July 11, 1991, which dissolved the institution of assessors. Art. 1 from this law provides that courts judge as panels made up only of judges.
[ii] Art. 47 par. 1 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.
[iii] Art. 48 is reproduced as it was implicitly modified by the Law no. 45/1991, published in the Official Gazette of Romania no. 142 of July 11, 1991, which dissolved the institution of assessors. Art. 1 from this law provides that courts judge as panels made up only of judges. Art. 48 let. a) is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003.
[iv] The marginal name and par. 1-2 of art. 49 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Par. 3 of art. 49 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003.

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| | recourse.<br>The person who performed the criminal investigation is incompatible for its completion or reconstruction, when the completion and reconstruction is ordered by the court. |
| **Abstention** | **Art. 50 -** The incompatible person must declare, according to the case, to the president of the court, to the prosecutor who supervises the criminal investigation or to the hierarchically superior prosecutor that he refrains from taking part in the criminal trial, showing the incompatibility case that is the reason for abstention.<br>The declaration of abstention is made as soon as the person obliged to it has acknowledged the incompatibility case. |
| **Challenge** | **Art. 51 -** In case the incompatible person did not make 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.<br>The challenge is formulated orally or in writing, showing the incompatibility case that is the reason for challenge. |
| **Procedure for solution during judgment** | [i]**Art. 52 -** Abstention or challenge of the judge, of the prosecutor, of the assistant- magistrate or of 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.<br>The abstention declaration or the challenge request are examined immediately, by hearing the prosecutor when he/she is present in the court, and, if necessary, the parties, as well as the person who refrains or whose challenge is demanded.<br>When the abstention or challenge regard the case stipulated in art. 46 and 49 paragraph 1, the court, by approving the challenge, decides which of the persons specified in the mentioned texts will not take part in the trial of the case.<br>In case the abstention or challenge is approved, it remains to be established to what extent the drawn papers or the measures taken shall be maintained.<br>The abstention or challenge which regard the whole court must include the concrete mention of the incompatibility case for each judge and are resolved by the hierarchically superior court. The latter, when it finds the abstention or the challenge substantiated, appoints a court equal in rank with the court in front of which the abstention or challenge have appeared to try the case.<br>In cases in which the defendants are under preventive arrest, when the whole court is challenged, the hierarchically superior court competent to solve the challenge request, before deciding on the challenge, disposes relative to preventive arrest in the conditions of the law.<br>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. |

[i] Art. 52 was implicitly modified by the Law no. 45/1991, published in the Official Gazette of Romania no. 142 of July 11, 1991, which dissolved the institution of assessors. Art. 1 from this law provides that courts judge as panels made up only of judges. Art. 52 par. 1 and 5 are reproduced as they were modified by the Law 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Par. $5^1$ and par. 7 of art. 52 were introduced by the Law 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | The closing through which the challenge was rejected may be attacked only in recourse, in 48 hours due time from the passing of the decision, and the file is immediately submitted to the recourse court. The recourse is tried in 48 hours due time from the reception of the file, in the council room, with the participation of the parties. |
| **Procedure for solution during criminal investigation** | [i]**Art. 53 -** During the criminal investigation, the prosecutor who supervises the criminal investigation or the hierarchically superior prosecutor decides on the abstention or challenge of the person who performs the criminal investigation or of the prosecutor.<br>The challenge request regarding the person who performs the criminal investigation is addressed either to that person, or to the prosecutor. In case the request 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.<br>The prosecutor must resolve the request within maximum 3 days, by ordinance.<br>The challenge request regarding the prosecutor is resolved within the same due time and in the same conditions by the hierarchically superior prosecutor.<br>Abstention is solved according to the provisions of paragraphs 3 and 4, enforced accordingly. |
| **Incompatibility of the expert and of the interpreter** | **Art. 54** - The provisions of art. 48, 50, 51, 52 and 53 are enforced accordingly to the expert and the interpreter.<br>The quality of expert is incompatible with that of witness in the same case. The quality of witness comes first.<br>Participation as expert or interpreter more than once in the same cases is not a reason for challenge. |

[ii]*Section II*

***Removal of the criminal case trial***

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| **The reason for removal** | **Art. 55** - The Supreme Court of Justice removes the trial of a case from the competent instance to another instance equal in rank, when, considering the seriousness of the reasons for the removal, it appreciates that the removal would ensure a normal unfolding of the trial.<br>The removal may be requested by the interested party, by the prosecutor or the minister of justice. |
| **The request and its effects** | [iii]**Art. 56** - The removal request is addressed to the Supreme Court of Justice and must be motivated. The writings supporting the request are attached to it when the party who requests the removal has them.<br>In the request it shall be mentioned whether there are arrested persons in the case. |

[i] Art. 53 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] The term “Supreme Tribunal” used in the texts of Section II was replaced with the term “Supreme Court of Justice”, according to art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.

[iii] Art. 56 par. 4 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | The suspension of the trial may be ordered by the president of the Supreme Court of Justice upon reception of the request, or by the Supreme Court of Justice after it has been given the appropriate authority.<br>The request drawn up by the general prosecutor of the Prosecutor's Office attached to the Supreme Court of Justice suspends *de jure* the trial of the case. |
| **Procedure of information** | **Art. 57** - The president of the Supreme Court of Justice requests, in order to clarify certain matters for the court, information from the president of the court hierarchically superior to that having the case whose removal is requested, informing him on the date settled for trying the removal request.<br>When the hierarchically superior court is the Supreme Court of Justice, the information is requested from the Ministry of Justice.<br>In case a new removal request is introduced regarding the same case, the request of information is optional. |
| **Information of the parties** | **Art. 58 -** The president of the court hierarchically superior to that which has the case takes measures for informing the parties about the introduction of the removal request, the date settled for its resolution, specifying that the parties may send statements and may come at the settled date for the resolution of the request.<br>The information sent to the Supreme Court of Justice will include express specifications about informing the interested persons, with the corresponding proofs attached.<br>When arrested persons are involved in the case whose removal is requested, the president orders the appointment of an ex officio defender. |
| **Examination of the request** | **Art. 59 -** The removal request is examined in secret session.<br>When the parties are present, their conclusions are also heard. |
| **Solution of the request** | **Art. 60 -** The Supreme Court of Justice orders, without disclosing the reasons, the approval or rejection of the request.<br>In case it finds the request substantiated, it orders the removal of the trial, deciding at the same time the extent to which the acts performed in front of the court from which the case has been removed are kept.<br>This court will be immediately informed about the approval of the removal request.<br>If the court which has the case to which the removal request is demanded has in the meantime tried it, the decision passed is dissolved by the approval of the removal request. |
| **Reiteration of the request** | **Art. 61** - The removal of the case cannot be demanded again, unless the new request is based on circumstances unknown to the Supreme Court of Justice at the resolution of the previous request or that appeared after that. |

## TITLE III
## EVIDENCE AND MEANS OF EVIDENCE
### CHAPTER I
### GENERAL PROVISIONS

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| **Clarification of the case through evidence** | **Art. 62 -** In order to find out the truth, the criminal investigation body and the court must clarify the case under all its aspects, on the basis of evidence. |

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| **Evidence and their appreciation** | [i]**Art. 63 -** Any fact that leads to the acknowledgement of the existence or or non-existence of an offence, to the identification of the person who committed it and to the discovery of the circumstances necessary for the fair resolution of the case is considered evidence.<br>The value of the evidence is not established in advance. The criminal investigation body and the court appreciate each piece of evidence according to their own convictions, formed after examining all the evidence administrated, and using their own conscience as guide. |
| **Means of evidence** | [ii]**Art.64 -** The means of evidence that lead to the factual elements which may serve as evidence are: the testimonies of the accused person or 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 technical-scientific findings, the forensic findings and the expertise.<br>Pieces of evidence that were illegally obtained may not be used in the course of the criminal trial. |
| **The task of administrating the evidence** | **Art. 65 -** The task of administrating the evidence during the criminal trial belongs to the criminal investigation body and to the court.<br>Upon request from the criminal investigation body or the court, any person who knows of a piece of evidence or holds a means of evidence must reveal or present it. |
| **The right to prove the inconsistency of evidence** | [iii]**Art. 66 -** The accused person or the defendant benefits from the presumption of evidence and is not obliged to prove his/her innocence.<br>In case there is evidence for his/her guilt, the accused person or the defendant has the right to prove their inconsistency. |
| **Conclusiveness and usefulness of evidence** | **Art. 67 -** During the criminal trial the parties may propose pieces of evidence and may request their administration.<br>The request for administration of a piece of evidence cannot be rejected, if the respective piece of evidence is conclusive and useful.<br>Approval or rejection of requests shall be motivated. |
| **Interdiction of means of constraint** | **Art. 68** - It is forbidden to use violence, threats or any other constraints, as well as promises or encouragement with the purpose of obtaining evidence.<br>Also, it is forbidden to force a person to commit or to continue committing an offence with the purpose of obtaining evidence. |

## CHAPTER III
## MEANS OF EVIDENCE

### *Section I*
### ***Statements of the accused person or the defendant***

[i] Art. 63 par. 2 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 64 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. Art. 64 par. 2 was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iii] The marginal name and par. 1 of art. 66 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| **Statements of the accused person or defendant** | **Art. 69 -** The statements given by the accused person or defendant during the criminal trial may lead to the truth only to the extent to which they are corroborated with facts and circumstances resulted from all the evidence in the case. |
| **Questions and preliminary clarifications** | [i]**Art. 70 -** Before being heard, the accused person or 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.<br>The accused person or defendant is then informed about the deed that makes the object of the case, the right to have a defender, as well as the right not to make any statement, at the same time being informed that everything he declares may be used against him/her as well. If the accused person or defendant makes a statement, he/she is asked to declare everything he/she knows related to the deed and to the accusation in connection to this.<br>If the accused person or defendant agrees to make a statement, the criminal investigation body, before hearing him/her, asks him/her to write personally a statement related to the guilt he is made responsible of. |
| **Modality of hearing** | **Art. 71 -** Every accused person or defendant is heard separately.<br>During the criminal investigation, if there are several accused persons or defendants, each of them is heard without the others attending.<br>The accused person or defendant is first left to declare everything he/she knows in relation with the case.<br>The hearing of the accused person or defendant cannot begin by reading or reminding the statements that the latter has previously given in relation with the case.<br>The accused person or defendant cannot present or read a previously written statement, but he/ she may use notes for details that are difficult to remember. |
| **Questions related to the deed** | **Art. 72 -** After the accused person or defendant has given the statement, he/she may be asked questions in relation with the deed that constitutes the object of the case and with his/her guilt. He/she is also asked about the evidence that he/she considers fit to propose. |
| **Registering of declarations** | [ii]**Art. 73 -** The statements of the accused person or defendant are written down. Each declaration will also include a mention of the hour of the beginning and ending of the hearing of the accused person or defendant. The written statement is read to the accused person or defendant and, if he/she asks, he/she is handed the statement to read it. When he/she agrees with its content, signs on every page and at the end.<br>When the accused person or defendant cannot or refuses to sign the statement, this will be mentioned in the written statement.<br>The written statement is also signed by the criminal investigation body that has heard the accused person or defendant or by the president of the panel and by the clerk, as well as by the interpreter, when the declaration has |

[i] Art. 70 par. 2 and 3 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 73 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | been given through an interpreter.<br>If the accused person or defendant changes his/her mind about one of his statements or wants to make adding, corrections or specifications, these are written down and signed under the conditions shown in the present article. |
| **Hearing of the accused person or defendant where he/she is** | [i]**Art. 74** - Whenever the accused person or defendant finds himself/ herself herself in the impossibility to come for a hearing, the criminal investigation body or the court hear him at the place where he/she is, unless it is provided otherwise by the law. |

*Section II*

***Statements of the victim, the civil party and the party bearing the civil responsibility***

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| **Statements of the other parties in the trial** | **Art. 75** - The statements given during the trial by the victim, by the civil party and by the party bearing the civil responsibility may lead to the truth only to the extent to which they are corroborated with facts or circumstances resulting from all the evidence in the case. |
| **Preliminary explanations** | [ii]**Art. 76** - The criminal investigation body or the court must call, in order to be heard, the person harmed by offence, as well as the person bearing the civil responsibility.<br>Before being heard, the injured 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 statement of taking part in the trial as victim or of suing for civil injury may be given all throughout the criminal investigation, until the summons act is read. |
| **Modality of hearing** | **Art. 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 accused person or defendant, enforced accordingly. |

*Section III*

***Statements of the witnesses***

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| **The witness** | **Art. 78 -** The person who knows of any fact or circumstance that may lead to finding the truth in the criminal trial may be heard as witness. |
| **Hearing the person obliged to keep the professional secret** | [iii]**Art. 79** - The person obliged to keep a professional secret cannot be as witness in relation to facts and circumstances that he/she 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.<br>The quality of witness comes before that of defender, in relation with the facts and circumstances that a person learned about before becoming defender or representative of one of the parties. |

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[i] Art. 74 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] Art. 76 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[iii] The term “institution” from art. 79, par. 1 was replaced with the term “unit”, according to art. II of the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

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| **Hearing the spouse and close relatives** | **Art. 80 -** The accused person or defendant's spouse and close relatives are not obliged to testify as witnesses.<br>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. |
| **The juvenile as witness** | **Art. 81** – The juvenile may be heard as witness. Up to 14 years old, his/her hearing will be conducted in front of one of his parents or of his/her tutor or of the person to whom he/she has been given for upbringing and education. |
| **The injured person** | **Art. 82 -** The injured 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. |
| **The obligation to appear** | **Art. 83 -** The person summoned as witness must come at 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 case. |
| **Preliminary questions** | **Art. 84 -** The witness is first asked about his name, surname, age, address and occupation.<br>In case of doubt over the witness' identity, this will be established by any means of evidence.<br>The witness will then be asked whether he/she is spouse or relative of any of the parties and about his/her relations with the latter, as well as whether he/she has suffered any damage as a result of the offence. |
| **The witness' oath** | [i]**Art. 85** - Before being heard, the witness will take the following oath: "I swear to tell the truth and not to hide anything that I know. So help me God!"<br>While taking the oath, the witness will keep his/her hand on the cross or on the Bible.<br>The reference to divinity in the oath is changed according to the religious creed of the witness.<br>For the witness of other religion than Christian, the provisions of par. 2 are not enforceable. The irreligious witness shall take the following oath: "I swear on my honour and conscience to tell the truth and not to hide anything that I know."<br>The witnesses who, from reasons of conscience or religion, do not take the oath, will utter the following formulation in front of the court: "I oblige myself to tell the truth and not to hide anything that I know."<br>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.<br>After taking the oath or uttering the formulation stipulated in paragraph 5, the witness will be informed that, by not telling the truth, he commits the offence of false testimony.<br>All these will be mentioned in the written statement.<br>The juvenile under 14 years does not take oath; however, he is asked to tell the truth. |
| **Modality and limits** | **Art. 86 -** The witness is informed about the object of the case and the deeds and circumstances for whose proof he/she was proposed as witness, |

[i] Art. 85 is modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. Art. 85 par. 6 and 7 are reproduced as they were modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

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| **of hearing the witness** | being asked to declare everything he/she knows in relation to them.<br>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 case, related to the parties' person, as well as to the way in which he learnt about the things declared.<br>The provisions of art. 71-74 are enforced accordingly to the witness' hearing. |
| **Protection of data for witness identification** | [i]**Art. 86[1]** – If there is evidence or solid indications that by declaring the real identity of the witness or his/her place of domicile or residence the life, corporal integrity or freedom of the latter or of another person might be endangered, the witness may be given permission not to declare this information, being attributed a different identity under which to appear in front of the judicial body.<br>This measure may be disposed by the prosecutor during criminal prosecution and by the court during trial, upon motivated request from the prosecutor, witness or any other entitled person.<br>The information about the real identity of the witness is mentioned in an official report that will be kept at the prosecutor's office which performed or supervised the performing of the criminal investigation or, according to the case, at the court, in a special place, in a sealed envelope, in conditions of maxim security. The official report will be signed by the person who handed the request, as well as by the one who disposed the measure.<br>The documents concerning the real identity of the witness shall be presented to the prosecutor or, according to the case, to the panel of judges, in conditions of strict confidentiality.<br>In all cases, the documents regarding the real identity of the witness will be introduced in the criminal file only after the prosecutor, by ordinance, or, according to the case, the court, by closing, established that the danger which determined taking measures for witness protection has disappeared.<br>The statements of witnesses who were attributed another identity, reproduced in the prosecutor's report, according to art. 86[2] par. 5, as well as the witness' statement, recorded during trial and signed by the prosecutor present at the witness' hearing and by the president of the panel, according to art. 86[2] par. 6, thesis I, may serve to finding out the truth only to the extent to which they are corroborated with facts and circumstances resulted from all the evidence in the case.<br>Other persons who may be heard as witnesses that were attributed another identity are undercover investigators.<br>Dispositions provided by par. 1-6 are also applied to experts. |
| **Special modalities of hearing the witness** | [ii]**Art. 86[2]** – In the situations provided by art. 86[1], if there are appropriate technical means, the prosecutor or, according to the case, the court may allow the witness to be heard without actually being present at the place where the criminal investigation body is or in the room where the judgment takes place, through technical means provided in the following paragraphs. |

[i] Art. 86[1] was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 86[2] was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | Recording the witness' statement, in the conditions described at par. 1, will be performed in the presence of the prosecutor.<br>The witness may be heard through a television network, with the image and voice distorted so as not to be recognised.<br>The statement of the witness heard, in the conditions stated at par. 1 and 2, are recorded through technical video and audio means and are rendered entirely in written form.<br>During the criminal investigation, a report is made in which the witness' statement is accurately rendered and which is signed by the prosecutor present at the witness' hearing and by the criminal investigation body and kept with the case file. The witness' statement, transcribed, shall be signed also by the latter and kept in the file set down at the court, in the conditions provided under par. 5.<br>Video and audio tapes, on which the witness' statement was recorded, as an original, sealed with the prosecutor's office seal or, according to the case, to that of the court in front of which the statement was made, are kept in the conditions provided at art. 5. The video and audio tapes recorded during the criminal investigation shall be handed, at the ending of the criminal investigation, to the competent court, together with the case file, and shall be kept in the same conditions.<br>The provisions of art. 78, 85 and of art. 86 par. 1 and 2 shall be applied accordingly. |
| **Checking the means for hearing the witnesses** | [i]**Art. 86$^3$** – The court may admit, upon request from the prosecutor, from the parties or ex officio, the carrying out of a technical expertise regarding the means for hearing the witnesses, in the conditions provided under art. 86$^2$. |
| **Hearing witnesses under 16 years old in certain cases** | [ii]**Art. 86$^4$** – In the cases regarding violence offences between the members of the same family, the court may dispose the witness under 16 years old shall not be heard in the courtroom, allowing the presentation of a previously performed, as audio-video recordings, in the conditions provided under art. 86$^2$ par. 2, 4, 5 and 7. |
| **The protection of witness' displacements** | [iii]**Art. 86$^5$** – The prosecutor who performs or supervises the criminal investigation or, according to the case, the court may dispose that the police units supervise the witness' domicile or residence or to ensure for the latter a temporary supervised residence, as well as to accompany him/her to the prosecutor's office or to court and back to the place of residence or domicile.<br>The measures provided at art. 1 will be eliminated by the prosecutor or, according to the case, by the court, when they decide that the danger which imposed them has disappeared. |

*Section IV*
***Confrontation***

[i] Art. 86$^3$ was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 86$^4$ was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iii] Art. 86$^5$ was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| **The object of confrontation** | **Art. 87 -** When there are contradictions between the declarations of the persons heard in the same case, the respective persons are confronted, if this is necessary for the clarification of the case. |
| **The confrontation procedure** | **Art. 88** – The persons confronted are heard on the deeds and circumstances in relation to which the previous declarations contradict each other.<br>The criminal investigation body or the court may approve that the confronted persons ask one another questions.<br>The declarations made by the confronted persons are written down in an official report. |

*Section V*
***Writings***

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| **Written means of evidence** | **Art. 89 -** Documents may serve as means of evidence if they contain reference of deeds or circumstances that may contribute to revealing the truth. |
| | [i]**Art. 89[1]** – The forms in which any statement is to be recorded, at the stage of criminal prosecution, shall be recorded and numbered beforehand, as forms with a special status, and after filling in, will be introduced in the case file. |
| **The official report as means of evidence** | [ii]**Art. 90 -** The official reports drawn up by the criminal investigation body or by the court are means of evidence.<br>The official reports and acknowledgment papers drawn up by other bodies are also means of evidence, if the law stipulates so. |
| **The contents and form of the official report** | **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.<br>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. |

[iii]*Section V[1]*
***Audio or video interceptions and recordings***

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| **Conditions and cases of interception and recording** | **Art. 91[1]** – The interceptions and recordings on magnetic tape or on any other type of material of certain conversations or communications shall be performed with motivated authorization from the court, upon prosecutor's request, in the cases and under the conditions stipulated by |

[i] Art. 89[1] was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 90 par. 2 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.
[iii] Section V[1] of Chapter II (art. 91[1] – 91[6]) is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

| of conversations or communications | the law, if there are substantial data or indications regarding the preparation or commitment of an offence that is investigated ex officio, and the interception and recording are mandatory for revealing the truth. The authorization is given by the president of the court that would be competent to judge the case at first instance, in the council room. The interception and recording of conversations are mandatory for revealing the truth, when the establishment of the situation de facto or the identification of the perpetrator cannot be accomplished on the basis of other evidence.<br>The interception and recording of conversations or communications may be authorized in the case of offences against national security provided by the Penal code and by other special laws, as well as in the case of offences such as trafficking in drugs, trafficking in weapons, trafficking in human beings, terrorist acts, money laundering, forgery of money or of other values, in the case of offences provided by the Law no. 78/2000 for the prevention, detection and sanctioning of corruption deeds or of other serious offences, which cannot be discovered or whose perpetrators cannot be identified through other means, or in the case of offences perpetrated through means of telephone communication or through other means of telecommunications.<br>The authorization is given for the duration necessary for the recording, up to maximum 30 days. The authorization may be extended under the same conditions, for fully justified reasons, each extension being of maximum 30 days. The maxim duration for authorized recordings is 4 months.<br>Measures disposed by the court shall be annulled before the expiration of the due time for which they were authorized, as soon as the reasons that justified them have ceased.<br>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 court.<br>The authorization of interception and recording of conversations or communications is done through motivated closing, which shall comprise: concrete indications and facts that justify the measure; reasons why the measure is mandatory for discovering the truth; the person, the means of communication or the place subject to supervision; the period for which the interception and recording are authorized. |
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| **The bodies performing interception and recording** | **Art. $91^2$** – The prosecutor proceeds personally to the interceptions and recordings provided under art. $91^1$ or may dispose that these are performed by the criminal investigation body. The persons called to technically support the interceptions and recordings are obliged to keep the secret of the operation performed, the violation of this obligation being punished according to the Penal code.<br>In emergency cases, when the delay in obtaining the authorization provided at art. $91^1$ par. 1 would entail serious prejudice for the investigation activity the prosecutor may dispose, with provisional title, by motivated ordinance, the interception and recording on magnetic tape or on any other type of material of conversations and communications, transmitting this to the court immediately, but no later than 24 hours.<br>The court must decide in 24 hours at most on the prosecutor's ordinance |

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| | and, and if it is confirmed and if necessary, shall dispose further authorization of interception and recording, in the conditions of art. $91^1$ par. 1-3. If the court does not confirm the prosecutor's ordinance, it must dispose immediate ceasing of interceptions and recordings and the destruction of those already made.<br>The court disposes, until the end of the criminal investigation, the information, in writing, of persons whose conversations or communications were intercepted and recorded, the dates when these were performed. |
| **Certification of recordings** | **Art. $91^3$** – About the performing of interceptions and recordings mentioned in the art. $91^1$ and $91^2$, the prosecutor or the criminal investigation body draws up an official report, that will include: the authorization given by the court for their performing, the phone number or numbers involved, the names of the persons having the conversations, if known, the date and time of each conversation and the number of the magnetic tape or of any other material on which the recording was made.<br>The recorded conversations are entirely transcribed in writing and attached to the official report, with certificate for authenticity from the criminal investigation body, checked and countersigned by the prosecutor who performs or supervises the respective criminal investigation. In case the prosecutor proceeds to interceptions and recordings, the certification for authenticity is made by the latter, and the checking and countersigning, by the hierarchically superior prosecutor.<br>Correspondence in other language than Romanian is transcribed in Romanian, through an interpreter. The magnetic tape or other material containing the recorded conversation, sealed with the seal of the criminal investigation body is attached to the official report.<br>The magnetic tape or any other type of material containing the recording of the conversation, its written transcription and the official report are handed to the court which, after hearing the prosecutor and the parties, decides which of the gathered information is of interest for the investigation and solution of the case, drawing up an official report in this sense. The conversations or communications that contain state secrets or professional secrets shall not be mentioned in the official report. If the perpetration of offences takes place through conversations or communications which contain state secrets, they are mentioned in separate official reports, and the dispositions of art. 97 par. 3 are applied accordingly.<br>The magnetic tape or any other type of material, together with the entire transcription and copies of official reports, are kept at the court clerk's office, in special places, in sealed envelope.<br>The court may approve, upon motivated request from the defendant, from the civil party or their defender, the consultation of parties in the recording and entire transcription, transmitted at the court clerk's office, which are not included in the official report.<br>The court disposes through closing the destruction of recordings which were not used as means of evidence in the case. The other recordings shall be kept until the file is archived.<br>The recording of conversations between the defender and the defendant may not be used as a means of evidence. |

| **Other recordings** | **Art. $91^4$** – The conditions and modalities for making the interceptions and recordings provided at art. $91^1$ – $91^3$ are applicable, accordingly, also in the case of conversations through other means of telecommunication, authorized in the conditions of the law. |
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| **Image recordings** | **Art. $91^5$** - The provisions of art. $91^1$ and $91^2$ are also enforceable in the case of image recording, and the certification procedure is the one stipulated in art. $91^3$, except for the transcription, according to the case. |
| **Checking the means of evidence** | **Art. $91^6$** - 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.<br>The recordings stipulated in the present section, presented by the parties, may serve as means of evidence, if they are not forbidden by the law. |

*Section VI*
***Assistant witnesses***

| **Presence of 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.<br>Juveniles under 14, persons interested in the case and persons from the same institution with the body performing the procedural act may not be assistant witnesses. |
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| **Establishing the identity of assistant witnesses** | **Art. 93 -** The body that performs a procedural act in the presence of assistant witnesses must acknowledge and mention in the official report drawn data regarding the identity of assistant witnesses, including the observations the latter were invited to make in connection with the facts acknowledged and to the operations that they assist. |

*Section VII*
***Material probative evidence***

| **Objects as means of 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. |
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| **Material evidence** | **Art. 95 -** The objects that were used or destined to be used for committing an offence, as well as objects that are the result of an offence are also material means of evidence. |

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

| **Confiscation of objects and writings** | **Art. 96 -** The criminal investigation body or the court must take away the objects or writings that may serve as means of evidence in the criminal trial. |
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| **Delivery of objects and writings** | [i]**Art. 97 -** Any natural person or legal person who possesses an object or a piece of writing that may serve as means of evidence must appear and hand it, and take a proof for this, to the criminal investigation body or to the court, at their request.<br>If the criminal investigation body or the court considers that even a copy of a piece of writing may serve as a means of evidence, it keeps only the copy.<br>If the object or the writing has a secret or confidential character, the presentation or the delivery is done in circumstances that would ensure keeping the secret or confidentiality. |
| **Retaining and handing over of correspondence and objects** | [ii]**Art. 98 -** The court, with the prosecutor's proposal, during the criminal investigation or ex officio, may order that any post or transport office retain and deliver the letters, telegrams or any other correspondence, or the objects sent by the accused person or defendant, or addressed to him/her, either directly or indirectly.<br>The measure provided at par. 1 is disposed if the conditions shown in art. $91^1$ par. 1 are met and according to the procedure provided there.<br>The retaining and handing over of letters, telegrams or any other correspondence or objects to which par. 1 makes reference may be disposed, in writing, in urgent and fully justified cases , by the prosecutor as well, who is obliged to immediately inform the court about this.<br>Retained correspondence and objects that have nothing to do with the case are returned to the addressee. |
| **Confiscation by force of objects or writings** | **Art. 99 –** If the object or writing required is not delivered voluntarily, the criminal investigation body or the court order confiscation by force.<br>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. |
| **The search** | [iii]**Art. 100 -** 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 the search is necessary in order to discover and gather evidence, a search may be ordered.<br>The search may be domiciliary or corporal.<br>Domiciliary search may be disposed only by the judge, through motivated closing, during criminal prosecution, upon prosecutor's request, or during trial.<br>Domiciliary search is disposed during criminal prosecution in the council room, without summoning of the parties. The participation of the prosecutor is mandatory.<br>Corporal search may be disposed, according to the case, by the criminal investigation body, by the prosecutor or by the judge.<br>Domiciliary search may not be disposed before the beginning of the criminal investigation. |

[i] Art. 97 par. 1 and 3 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] Art. 98 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 97 par. $1^1$ and $1^2$ were introduced by the Law no. 281/2003.

[iii] Art. 100 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003.

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| **Domiciliary search during criminal investigation** | [i]**Art. 101 -** The search ordered during criminal investigation, according to art. 100, is performed by the prosecutor or by the criminal investigation body, accompanied, according to the case, by operational workers. |
| **Domiciliary search during trial** | **Art. 102 -** The court may perform a search on the occasion of a local investigation.<br>In the other cases, the court's order to perform a search is communicated to the prosecutor, in order to proceed with the search. |
| **The time for making the search** | [ii]**Art. 103 -** Confiscation of objects and writings, as well as domiciliary search may be performed between 6 a.m. - 8 p.m., and at other times only in case of *flagrante delicto*, 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. |
| **The search procedure** | [iii]**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.<br>The taking away 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 whose place is searched and, when the person is absent, in the presence of a representative, of a member of the family or of a neighbour, having exertion ability.<br>These operations are performed by the criminal investigation body in the presence of assistant witnesses.<br>When the person whose place is searched is held or arrested, he/she will be brought to the search. In case he/she cannot be brought, the taking away of objects and writings, as well as domiciliary search, are performed in the presence of a representative or a member of the family, and, in their absence, in the presence of a neighbour having exertion ability. |
| **Performing domiciliary search** | **Art. 105** - The judicial body that performs the search has the right to open the rooms or other means of enclosing where the objects or the writings wanted may be found, if the person entitled to open them refuses to do so. The judicial body must 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.<br>The judicial body must take measures so that facts and circumstances in the personal life of the person whose place is searched which are not connected with the case are not made public. |
| **Performing corporal search** | **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.<br>Corporal search is performed only by a person of the same gender with |

[i] The marginal name and content of art. 101 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 103 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iii] Art. 104 par. 1 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette of Romania no. 748 of October 26, 2003. Art. 104 par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | the person being searched. |
| **Identifying and keeping objects** | **Art. 107 -** Objects and writings are shown to the person from whom they are taken away and to those who assist, in order to be recognized and marked by them in order not to be changed, after which they are labelled and sealed.<br>The objects that cannot be marked, labelled or sealed are wrapped up or closed, together if possible, after which they are sealed.<br>The objects that cannot be taken away are attached and left to be kept, either by the person who has them or by a custodian.<br>Tests for analysis are taken at least twice and are sealed. One test is left with the person from whom they are taken or, in his/her absence, with one of the persons mentioned in art. 108, final paragraph. |
| **Official report for search and confiscation of objects and writings** | **Art. 108 -** An official report is drawn up mentioning the performance of the search and confiscation of objects and writings.<br>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.<br>The objects that have not been taken away, as well as those left for keeping are also mentioned in the official report.<br>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 neighbour and, if such is the case, with the custodian. |
| **Measures regarding confiscated objects** | **Art. 109 -** The criminal investigation body or the court order that the objects or writings taken away, that represent means of evidence are, according to case, attached to the record or kept in another way.<br>The taken away objects and writings that are not attached to the file may be photographed. In this case, the photos are stamped and attached to the record.<br>Until the case is finally resolved, material means of evidence are kept by the criminal investigation body or by the court where the record is.<br>Objects and writings delivered or taken away during the search which are not connected with the case are returned to the person to whom they belong. Confiscated objects are not returned.<br>The objects that serve as means of evidence, if they are not subject to confiscation, may be returned to the person to whom they belong, even before the trial is finally resolved, unless the return might impede the revealing of the truth. The criminal investigation body or the court informs the person to whom the objects were returned that he/she must keep them until the case is finally resolved. |
| **Conservation or use of confiscated objects** | **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 to be returned are kept or used according to the provisions of that article. |
| **Special provisions regarding public** | [i]**Art. 111 -** The provisions in the present section are also enforced accordingly when the procedural acts are performed at a unit among |

[i] The term "institution" from art. 111 was replaced with the term "unit", according to art. II of the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. The marginal name and introductory part

| units and other legal persons | those referred to in art. 145 in the Penal code, provisions completed as follows:<br>a) the judicial body proves its identity and, according to the case, shows to the representative of the public unit or to another legal person the authorization given;<br>b) the confiscation of objects and writings, as well as the search, are performed in the presence of the representative of the unit;<br>c) when the presence of assistant witnesses is obligatory, they may be part of the unit staff;<br>d) a copy of the official report is left with the representative of the unit. |
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*Section IX*
***Technical-scientific and legal-medical acknowledgments***

| **The use of specialists** | **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 case is necessary, the criminal investigation body may resort to the knowledge of a specialist or technician, ordering ex officio or upon request a technical-scientific acknowledgment.<br>The technical-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. |
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| **The object and material of technical-scientific acknowledgement** | **Art. 113 -** The criminal investigation body that orders the technical-scientific acknowledgment decides upon its object, formulates the questions that must be answered and settles the due time for their work.<br>The technical-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 attributions specific for a criminal investigation body or control body.<br>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 their completion. |
| **Forensic acknowledgement** | **Art. 114 -** In case of violent death, of death by unknown or suspect cause, or when a corporal examination of the defendant or the injured person is needed in order to see the traces of the offence on their bodies, the criminal investigation body orders a forensic acknowledgment and asks the forensic body who has the appropriate competence under the law to perform this acknowledgment.<br>Exhumation in order to find out the causes of death is done only with the prosecutor's approval. |
| **The report of technical-scientific or forensic** | **Art. 115 -** The operations and conclusions of the technical-scientific and forensic acknowledgment are written down in an official report.<br>The criminal investigation body or the court, ex officio or at the |

and let. a) of art. 111 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

| acknowledgement | request of any of the parties, if they consider that the technical-scientific or forensic report is not complete or that its conclusions are not accurate, has it redone or orders an expertise.<br>When redoing or completion of the technical-scientific or forensic acknowledgment is ordered by the court, the report is sent to the prosecutor, in order for the latter to take measures for its completion or redoing. |
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*Section X*
***Expertise***

| **Ordering an expertise** | **Art. 116 -** When, for the clarification of certain deeds and circumstances of the case, in order to find out the truth, the knowledge of an expert is necessary, the criminal investigation body or the court order, ex officio or upon request, an expertise. |
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| **Obligatory expertise** | [i]**Art. 117 -** A psychiatric expertise is obligatory in case of the offence of extremely serious murder, as well as when the criminal investigation body or the court has doubts about the defendant's mental health.<br>In such cases, the expertise is performed in specialized sanitary institutions. In order to make the expertise, the criminal investigation body, with the approval of the prosecutor or the court, orders hospitalization of the accused person or defendant for the necessary period. This measure is executory and is enforced, in case of opposition, by the police bodies.<br>Also, an expertise is obligatory in order to clarify the causes of death, if a forensic report has not been drawn up. |
| **The expertise procedure** | **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.<br>The expert is appointed by the criminal investigation body or by the court, except for the expertise stipulated in art. 119 paragraph 2.<br>Each party is entitled to request that an expert recommended by it take part in the expertise. |
| **Official experts** | **Art. 119 -** If there are forensic experts or official experts in the respective specialty, another person may not be appointed expert, except when special circumstances would demand it.<br>When the expertise is to be performed by a forensic service, by a criminological expertise laboratory or by any specialized institute, the criminal investigation body or the court ask them to perform the expertise.<br>When the forensic service, the criminological 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. |
| **Explanations given to the expert** | [i]**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 |

[i] The term "militia body" was replaced with the term "police body" in par. 2 of art. 117, on account of the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990.

| and parties | summoned, if the latter was appointed by the criminal investigation body or the court.<br>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 and they are informed that they have the right to make observations regarding these questions and that they may require their modification and completion.<br>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 part in the expertise.<br>After the examination of objections and claims of the parties and the expert, the criminal investigation body or the court notifies the expert on the due time of the expertise, as well as inform him/her whether the parties are going to attend the expertise. |
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| **The expert's rights** | **Art. 121 -** The expert is entitled to familiarize himself/herself 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.<br>The expert may require clarifications from the criminal investigation body or the court regarding certain deeds or circumstances of the case.<br>The parties, with the approval and in the conditions settled by the criminal investigation body or the court, may offer the expert the necessary clarifications. |
| **The expertise report** | **Art. 122 -** After the expertise, the expert draws up a written report.<br>When there are several experts, only one expertise report is drawn up. If there are different opinions, they are mentioned in the report or in an annex.<br>The expertise report is submitted to the criminal investigation body or to the court that ordered the expertise. |
| **The content of the report** | **An. 123 -**The expertise report includes:<br>a) the introduction, which states the criminal investigation body or the court that ordered the expertise, the date when it was ordered, the name and surname of the expert, the date and place of expertise, the date when the report was drawn up, its object and the questions that the expert had to answer, the material on which the expertise was based and whether the attending parties offered explanations during the expertise;<br>b) a detailed description of the expertise operations, the objections or explanations given by the parties, as well as the analysis of these objections or explanations based on the facts discovered by the expert;<br>c) the conclusions, including the answers to the questions and the expert's opinion on the object of the expertise. |
| **Supplementary 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 expertise supplement, either to the same expert or to another.<br>Also, when it is considered necessary, the expert is asked for supplementary written explanations or is called to give verbal explanations in relation with the expertise report. |

[i] Art. 120 par. 5 was abrogated by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1. 2003.

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| | In this case, the hearing is conducted according to the provisions regarding the witnesses' hearing.<br>Supplementary written clarifications may also be requested from the forensic service, the criminological expertise laboratory or the specialized institute that completed the expertise. |
| **Making a new expertise** | **Art. 125 -** If the criminal investigation body or the court has doubts about the accuracy of the expertise report conclusions, they order a new expertise. |
| **Clarifications required from the issuing institute** | **Art. 126** - In cases of forgery of money or other values, the criminal investigation body or the court may require clarifications from the issuing institute. |
| **Presentation of scripts of comparison** | **Art. 127** - In relation with offences of false in writings, the criminal Investigation body or the instance may require that scripts of comparison to be presented.<br>If the scripts are found in public deposits, the lawful authorities must provide them.<br>If the scripts are found at a private person who is neither spouse nor close relative of the accused person or defendant, the criminal investigation body or the court informs him/her that he/she must provide them.<br>The scripts of comparison must be acknowledged by the criminal investigation body or the by the president of the panel, and signed by the person who provides them.<br>The criminal investigation body or the instance may order that the defendant provide something handwritten by himself/ herself or write by dictation.<br>If the defendant refuses, this will be mentioned in the official report. |

*Section XI*
***The use of interpreters***

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| **Cases and procedure for the use of interpreters** | [i]**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 court cannot communicate with him/her, they provide an interpreter, free of charge. The interpreter may be appointed or chosen by the parties; in this case, it must be an authorized interpreter, according to the law.<br>The provisions of the previous paragraph are also enforced accordingly in case some of the writings in the case record or presented in court are in another language than Romanian.<br>The provisions of art. 83, 84 and 85 are enforced accordingly on the interpreter as well. |

*Section XII*
***Field investigation and reconstruction***

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| **Field** | **Art. 129 -** Field investigation is done when it is necessary to establish the |

[i] Art. 128 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1. 2003.

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| **investigation** | situation of the place where the offence was committed to find out and settle the traces of the offence, to establish the position and condition of the material means of evidence, and the circumstances of the offence.<br>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.<br>The accused person or defendant who is held or arrested, if he/she cannot be brought to the investigation place, is informed by the criminal investigation body that he/she has the right to be represented and is ensured, if he/she requires it, representation.<br>The court performs the field investigation after summoning the parties, in the presence of the prosecutor, when the latter's attendance in the trial is obligatory.<br>The criminal investigation body or the court may forbid the persons who are present or come to the place of investigation to communicate between them or with other persons, or to leave before the investigation is over. |
| **Reconstruction** | **Art. 130 -** The criminal investigation body or the court, 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 was committed.<br>The reconstruction is done in the presence of the accused person or defendant. The provisions of art. 129 paragraph 2 are enforced accordingly. |
| **Official report of the field investigation** | **Art. 131 -** An official report is drawn up on the field investigation, that must 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.<br>In case of reconstruction of the way in which the deed was committed, a detailed description of the reconstruction is also included.<br>In all cases, sketches, drawings, photos or other such things may be done, which will be acknowledged and placed as annexes in the official report. |

*Section XIII*
***Rogatory commission and delegation***

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| **Conditions for disposing the rogatory commission** | **Art. 132 -** When a criminal investigation body or the court cannot hear a witness, perform a field investigation, take away objects or perform any other procedural act, they may address another criminal investigation body or another court, who have the possibility to perform them.<br>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.<br>The rogatory commission may only address a body or a court that are equal in rank. |
| **The content** | **Art. 133 -** The cancellation or closing by which the rogatory commission |

| of 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.<br>The criminal investigation body or the court that form the rogatory commission may ask other questions too, if their necessity results during the hearing. |
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| **The rights of the parties in case of rogatory commission** | **Art. 134 -** When the rogatory commission was ordered by the court, the parties may ask questions that will be communicated to the court which is to form the rogatory commission.<br>At the same time, any of the parties may ask to be summoned when the rogatory commission is formed.<br>When the defendant is under arrest, the court that will form the rogatory commission appoints an ex officio defender who will represent the defendant. |
| **Delegation** | **Art. 135** - The criminal investigation body or the court may order, under the conditions mentioned in art.132, the performance of a procedural act by delegation as well. Only a hierarchically inferior body or court may be delegated.<br>The dispositions 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***

| **The purpose and categories of preventive measures** | [i]**Art. 136** - In cases related to offences punished by life detention or imprisonment, in order to ensure a successful unfolding of the criminal trial or to prevent elusion of the accused person or defendant from criminal investigation, from trial or punishment enforcement, one of the following preventive measures may be taken:<br>a) confinement;<br>b) obligation not to leave the locality;<br>c) preventive arrest.<br>The purpose of preventive measures may be accomplished also by provisional release under judicial control or on bail.<br>The measure under par. 1 let. a) may be taken by the criminal investigation body or by the prosecutor.<br>The measures under par. 1 let. b) and c) may be taken by the prosecutor, during criminal investigation, or by the court, during trial. |
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[i] Art. 136 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 1, 2003. Par. 5 of art. 136 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette no. 748 of October 26, 2003.

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| | The measure under par. 1 let. d) may be taken by the judge.<br>The measure of preventive arrest may not be taken in the case of offences for which the law provides alternatively the fine punishment.<br>Provisional release is ordered by the court.<br>The choice of the measure to be taken is made taking into account its aim, the degree of social danger of the offence, the health, age, antecedents and other situations related to the person against whom the measure is taken. |
| **Content of the act by which the preventive measure is taken** | **Art.137 -** The act 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 offence committed and the concrete reasons that led to the respective preventive measure. |
| **Informing on the reasons for taking preventive measures and on the blame** | [i]**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.<br>When preventive arrest of the accused person or defendant is ordered, the judge communicates it, within 24 hours, to a member of his/her family or to other person appointed by the accused person or defendant, which will be mentioned in an official report.<br>The person held may demand that a family member or one of the persons mentioned at par. 2 is informed on the measure taken. Both the request of the person held and the notification are written down in an official report. Exceptionally, if the criminal investigation body considers that this would affect the criminal investigation, it informs the prosecutor, who will decide on the held person's request. |
| **Informing the prosecutor in order to take preventive measures** | [ii]**Art. 138 -** When the criminal investigation body thinks it appropriate to take one of the measures stipulated in art. 136 paragraph 1 letters b) - d), it draws a justified report that it submits to the prosecutor.<br>In the case of measures provided at art. 136 par. 1 let. b) and c), the prosecutor must take a decision within 24 hours.<br>In the case of the measure stipulated in art. 136, paragraph 1, letter d), the prosecutor, if he appreciates the conditions provided by the law are met, proceeds, as it is the case, according to art. 146 or 149[1]. |
| **The replacement or revocation of preventive measures** | [iii]**Art. 139** - The preventive measure taken is replaced with another preventive measure when the reasons that determined the first measure have changed. |

[i] Art. 137[1] was introduced by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993. The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003, modified par. 2 of art. 137[1] and the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, introduced par. 3.

[ii] Art. 138 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iii] The Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993, modified par. 3 of art. 139 and introduced par. $3^1 – 3^5$. The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003, modified par. $3^4$ of art. 139.

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| | When there is no longer a reason to justify the maintenance of the preventive measure, it must be revoked ex officio or upon request.<br>In case the preventive measure was taken, during criminal investigation, by the court or by the prosecutor, the criminal investigation body must immediately inform the prosecutor of the change or cessation of the reasons motivating the respective measure.<br>In case the preventive measure was taken, during criminal investigation, by the prosecutor or by the court, if the prosecutor considers that the information received from the criminal investigation body justify the replacement or revocation of the measure, he/she orders this or, according to the case, informs the court.<br>The prosecutor must inform the court ex officio as well, for the replacement or revocation of the preventive measure taken by the latter, when he realises that the reason which justified taking the measure no loner exists.<br>Also, the preventive measure is cancelled ex officio when it was taken by violation of the legal provisions, disposing, in the case of confinement and preventive arrest, the immediate release of the accused person or defendant, unless he/ she is arrested in another case.<br>Also, if the court establishes, based on forensic expertise, that the person under preventive arrest suffers from a disease which cannot be treated within the network of the General Direction of Penitentiaries, it orders, upon request or ex officio, the revocation of the preventive arrest measure.<br>The preventive arrest measure may be replaced with one of the measures provided by art. 136 par. 1 let. b) and c).<br>The provisions of the previous paragraphs are enforced even if the judicial body is to decline its competence. |
| **The lawful cessation of preventive measures** | [i]**Art. 140 -** The preventive measures lawfully stop in the following cases:<br>a) expiration of the due times stipulated by the law or settled by the judicial bodies;<br>b) exemption from investigation, cessation of criminal investigation, closing of the criminal trial or acquittal.<br>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 offence, without exceeding, during criminal investigation, the maxim provided at art. 159 par. 13, as well as in the other cases especially stipulated by the law.<br>In the cases shown at paragraph 1 and 2, the court, ex officio or upon notification from the prosecutor, or the prosecutor, in the case of confinement, ex officio or, as a result of informing the |

[i] Art. 140 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Par. 3 of art. 140 is reproduced as it was modified by the Emergency Ordinance no. 109/2003, published in the Official Gazette no. 748 of October 26, 2003.

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| | investigation body, must order the immediate release of the person held or arrested. Also, they must send to 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 accused person or defendant, the number of the arrest warrant, the number and date of the ordinance, of the closing or decision by which the release was ordered, as well as the legal justification for release. |
| **Complaint against the ordinance of the prosecutor or criminal investigation body regarding the measure of confinement** | [i]**Art.140[1]** – Complaint may be made against the ordinance of preventive arrest issued by the criminal investigation body, before the expiry of the 24 hours from taking the measure, at the prosecutor who supervises the criminal investigation. Complaint may be made against the ordinance issued by prosecutor for taking this measure, before the expiry of 24 hours, at the prime- prosecutor of the prosecutor's office or, according to the case, to the hierarchically superior prosecutor, in the conditions of art. 278 par. 1 and 2.<br>The prosecutor decides through ordinance before the expiry of the 24 hours from taking the measure of confinement.<br>If he/she considers the measure of confinement illegal or not justified, the prosecutor orders its revocation. |
| **Complaint against prosecutor ordinance regarding preventive measures provided at art. 136 let. b) and c)** | [ii]**Art. 140[2]** – Complaint may be made against the prosecutor ordinance disposing, the measure of interdiction to leave the locality or the measure of interdiction to leave the country, by the accused person or defendant, within 3 days from taking the measure, at the court that would have the competence to try the case at first instance.<br>The complaint will be examined in the council room.<br>The summoning of the accused person or defendant is obligatory. His/her absence does impede on the complaint judgment.<br>The prosecutor's attendance to the complaint judgment is obligatory.<br>The record of the case will be sent to the court, within 24 hours, and the complaint is solved in 3 days due time.<br>The court decides on the same day, through closing.<br>When the court considers the preventive measure illegal or unjustified, it orders its revocation.<br>The execution of the accused person or defendant's complaint against the prosecutor ordinance, disposing the preventive measure, may not be suspended.<br>The record is returned to the prosecutor within 24 hours from the solution of the complaint. |
| **The way of attack against the closing passed by the court during criminal investigation,** | [i]**Art. 140[3]** – Against the closing which disposes, during criminal investigation, the measure of preventive arrest of the accused person or defendant, against the closing which disposes the revocation, replacement, cessation or extension of preventive arrest, as well as against the closing for the rejection of proposal for preventive arrest, |

[i] Art. 140[1] is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[ii] Art. 140[2] was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

| regarding preventive arrest[i] | the accused person or defendant and the prosecutor may promote recourse at the superior court. The due time is 24 hours from passing the decision, for those present and from the communication, for those absent.<br>The accused person or defendant arrested will be brought to court and heard in the presence of his/her defender. In case the defendant is hospitalized and the state of his health does not allow him/her to appear in court or, in other cases when he cannot appear, the complaint will be examined in his/her absence, but only in the presence of the defender who is allowed to pass conclusions.<br>The prosecutor's attendance in the recourse is obligatory.<br>The record will be presented to the recourse court, within 24 hours, and the recourse is solved within 48 hours, in case of arrest of the accused person, and within 3 days, in case of arrest of the defendant.<br>The court takes its decision on the same day, by closing.<br>When the court considers the preventive measure taken illegal or unjustified, it orders its revocation and the immediate release of the accused person or defendant, unless he/she is arrested in another case.<br>The execution of the recourse against closing which disposed taking the measure of preventive arrest or which established the lawful cessation of this measure may not be suspended.<br>The file is returned to the court whose closing was attacked within 24 hours from the solution of the recourse. |
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| **The way of attack against closing passed by the court during trial, regarding preventive measures** | [iii]**Art. 141 -** The closing in first instance and in recourse, by which taking, revocation, replacement, cessation or maintaining of a preventive measure is ordered or by which the lawful cessation of preventive arrest is established, may be attacked separately by recourse, by the prosecutor or by the defendant. The recourse due time is of 24 hours and is calculated from decision passing, for those present and from decision communication, for those absent.<br>The file is transmitted to the recourse court within 24 hours and the recourse is judged within 3 days. The recourse court is to return the file to the first instance within 24 hours from the recourse solution.<br>The execution of the recourse declared against closing by which taking or maintaining a preventive measure was ordered, or by which the lawful cessation of the preventive arrest was established, may not be suspended. |
| **Separate confinement of** | **Art. 142 -** During confinement or arrest, the juveniles are kept separately from adults, and women separately from men. |

[ii] Art. $140^3$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003, modified par. 1 and 8 of art. $140^3$ and abrogated par. 2.

[i] On the grounds of art. II par. (1) from the Government Emergency Ordinance no. 109/2003 regarding the modification of the Criminal Procedure Code, „everytime when, in the Criminal Procedure Code and in other laws containing criminal procedure provisions, the term *instance* refers to house search or to ordering preventive arrest, it shall be replaced with the term *judge.*"

[iii] Art. 141 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

| certain categories of delinquents | |
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*Section II*
***Confinement***

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| **Confinement conditions** | [i]**Art. 143 -** The confinement measure may be taken by the criminal investigation body against the accused person if there are pieces of evidence or strong signs that he/she committed a deed stipulated by the criminal law.<br>The criminal investigation body must immediately inform the prosecutor about taking the measure of confinement.<br>The criminal investigation body will inform the accused person of his right to appoint a defender. Also, he/she is informed of his/her right not to make any statement, and on the fact that anything he/she declares may be used against him/her as well.<br>The confinement measure may be taken also by the prosecutor, in the conditions of par. 1 and $1^1$, in which case the head of the prosecutor's office where he/she functions is informed.<br>The confinement measure is taken in the cases stipulated by art. 148, regardless of the limits of the imprisonment punishment stipulated by the law for the deed committed.<br>The existence of strong signs means that the data on the case lead to the presupposition that the person criminally investigated committed the deed. |
| **Confinement duration** | [ii]**Art. 144** - The confinement measure may only be enforced for maximum 24 hours. From the duration of the confinement measure is deduced the period when the person was deprived of liberty as a result of the administrative measure of being taken to the police office, provided at art. 31 par. 1 let. b) of the Law no. 218/2002 regarding the organisation and functioning of the Romanian Police.<br>The ordinance that enforced the confinement measure must mention the day and time when the confinement started, and the release ordinance, the day and time when the confinement ceased.<br>When the criminal investigation body considers it necessary to enforce the measure of preventive arrest, it submits to the prosecutor a motivated report, in the first 10 hours from the accused persons' confinement, together with the notification mentioned by art. 143 par. 1. The prosecutor, if he/she appreciates the conditions provided by the law for the measure of preventive arrest, proceeds, within the due time provided at par. 1, according to art. 146.<br>When the confinement measure is taken by the prosecutor, if he/she considers appropriate to take the measure of preventive arrest, proceeds, within 10 hours from the confinement measure, according to art. 146. |

[i] Art. 143 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 1, 2003. The same law introduced par. $1^1$ and $1^2$ of art. 143.
[ii] Par. 1 and 3 of art. 144 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The same law introduced par. 4 of the same article.

*Section III*

***Interdiction to leave the locality***

| Content of the measure | [i]**Art. 145 -** The obligation not to leave the locality consists in the obligation imposed on the accused person or defendant by the prosecutor, during criminal investigation, or by the court, during trial, not to leave the locality where he lives without the approval of the body that enforced this measure. This measure may be taken only if the conditions stipulated in art. 143 paragraph 1 are met.<br>During the criminal investigation, the duration of the measure stipulated in the paragraph 1 may not exceed 30 days, unless it is extended in the conditions of the law. The measure of obligation not to leave the locality may be extended during criminal investigation, in case of necessity and only with a motivation. The extension is ordered by the court competent to judge the case, each extension not exceeding 30 days. The provisions of art. 159 par. 7 - 9 are applied accordingly. The maxim duration of the measure provided at par. 1 during criminal investigation is one year. Exceptionally, when the punishment provided by the law is life detention or 10 years imprisonment or more, the maxim duration of the obligation not to leave the locality is of 2 years.<br>A copy of the prosecutor's ordinance or, according to the case, of the court closing, which remained final, is communicated to the accused person or defendant, respectively to the police office in whose territorial area the accused person or defendant lives.<br>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. |
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[ii]*Section III*$^{1}$

***Interdiction to leave the country***

| The obligation not to leave the country | **Art. 145**$^{1}$ – The obligation not to leave the country consists in the obligation imposed on the accused person or defendant by the prosecutor, during criminal investigation, or by the court, during trial, not to leave the locality where he lives without the approval of the body that enforced this measure.<br>The provisions of art. 145 are applied accordingly in the case of the measure of obligation not to leave the country as well.<br>A copy of the prosecutor's ordinance or, according to the case, of the court closing, which remained final, is communicated, according to the case, to the accused person or defendant and to the police office in whose territorial area he/she lives, to bodies competent to release his/her passport, as well as to frontier police bodies. The authorized bodies deny the release of the passport or, according to the case, temporarily retain the passport for the duration of the measure. |
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[i] Par. 1 of art. 143 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The same law introduced par. $2^{1}$ of art. 145. Par. 2 of art. 145 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.

[ii] Section III is introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

*Section IV*
***Preventive arrest***

### 1. Arrest of the accused person

| **Arrest of the accused person during criminal investigation** | [i]**Art. 146** – The prosecutor, ex officio or solicited by the criminal investigation body, when the conditions stipulated in art. 143 are met and there is evidence from which results one of the cases provided at art. 148, if he considers the accused person's arrest to be in the interest of the criminal investigation, and only after hearing the latter in the presence of his/her defender, presents the case file, with the motivated proposal to take the measure of preventive arrest of the accused person, to the president of the court or to the judge delegated by the latter.<br>The file is presented to the president of the court that would be competent to judge the case at first instance, or of the corresponding court in whose jurisdiction the detention place is, or to the judge delegated by the court president.<br>At the presentation of the file by the prosecutor, the court president or the delegated judge settle the day and hour for the solution of the proposal for preventive arrest, before the expiry of the 24 hours, in case the accused person is held. The day and the hour are communicated both to the chosen or appointed ex officio defender and to the prosecutor, the latter being obliged to ensure the presence in front of the judge of the accused person confined.<br>The proposal for preventive arrest is solved in the council room by only one judge, regardless of the nature of the offence.<br>The accused person is brought in front of the judge and will be assisted by a defender.<br>The provisions of art. 149[1] par. 6 and of art. 150 are applied accordingly.<br>The prosecutor's attendance is obligatory.<br>After hearing the accused person, the judge immediately admits or rejects the proposal of preventive arrest, through motivated closing.<br>If the conditions provided at par. 1 are met, the judge orders, by closing, the preventive arrest of the accused person, showing the reasons justifying the preventive arrest and settling its duration, which may not exceed 10 days.<br>At the same time, the judge, after admitting the proposal, urgently issues an arrest warrant for the accused person. The warrant includes the corresponding specifications mentioned in art. 151 par. 3 letters a) - c), e) and j), as well as the accused person's name and surname and the duration of the preventive arrest.<br>The provisions of art. 152 par. 1 are applied accordingly.<br>Recourse may be introduced against the closing, within 24 hours from the passing, for those present, and from the communication, for those absent. |
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| **Arrest of the** | **Art. 147 -** The court, in the situations shown in the special part, title 11, |

[i] Art. 146 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette Gazette no. 748 of October 26, 2003.

| accused person at court | may order the arrest of the accused person 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 accused person. The accused person arrested is immediately sent to the prosecutor together with the arrest warrant. |
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## 2. Arrest of the defendant

| **Conditions and cases in which the arrest of the defendant is disposed** | [i]**Art. 148 -** The arrest measure may be taken against the defendant if the conditions stipulated in art. 143 are met and only in one of the following cases:<br>a) the defendant's identity or domicile cannot be clarified without the necessary data;<br>b) the offence is flagrant, and imprisonment punishment stipulated by the law is longer than one year;<br>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 execution of punishment;<br>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;<br>e) the defendant has committed a new offence or there are data that justify the fear that he might commit other offences;<br>f) the defendant is recidivist;<br>g) abrogated;<br>h) the defendant has committed an offence for which the law stipulates imprisonment for life alternatively with a imprisonment punishment or imprisonment for more than 4 years and there is clear evidence that the release would be too great a danger for the public order;<br>i) there are sufficient data or signs which motivate the fear that the defendant will exert pressure on the injured person or will attempt to make an illegal agreement with the latter.<br>In the cases stipulated at par. 1 letters c)-f) and i), the arrest measure may be taken against the defendant only if the punishment stipulated by the law is imprisonment for life or imprisonment for more than 2 years. |
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| **Duration of the defendant's arrest** | [ii]**Art. 149 -** The duration of the defendant's arrest during criminal investigation may not exceed 30 days, except for the case when it is extended under the law. The due time is calculated from the date when the warrant was issued, when the arrest was ordered after hearing the defendant, and in case the arrest was ordered in the defendant's absence, the due time is calculated from the date of execution of the arrest warrant.<br>When a case is moved in the course of criminal investigation from one investigation body to another, the arrest warrant previously issued remains |

[i] Par. 1 let. b), e), h) and par. 2 of art. 148 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The same law abrogated let. g) and introduced let. i).

[ii] Art. 149 par. 1 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003. Par. 3 of art. 149 was abrogated by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | valid. The duration of the arrest is calculated according to the provisions of the previous paragraph. |
| **Arrest of the defendant during criminal investigation** | [i]**Art. 149[1] -** The prosecutor, ex officio or solicited by the criminal investigation body, when the conditions stipulated in art. 143 are met and there is evidence from which results one of the cases provided at art. 148, if he considers the defendant's arrest to be in the interest of the criminal investigation, and only after hearing the latter in the presence of his/her defender, presents the case file, with the motivated proposal to take the measure of preventive arrest of the defendant, to the president of the court or to the judge delegated by the latter.<br>The file is presented to the president of the court that would be competent to judge the case at first instance, or of the corresponding court in whose jurisdiction the detention place is, or to the judge delegated by the court president.<br>At the presentation of the file by the prosecutor, the court president or the delegated judge settle the day and hour for the solution of the proposal for preventive arrest, before the expiry of the preventive arrest warrant of the accused person which became defendant or, in case the defendant is held, until the expiry of the 24 hours of confinement. The day and the hour are communicated both to the chosen or appointed ex officio defender and to the prosecutor, the latter being obliged to ensure the presence in front of the judge of the confined or arrested defendant.<br>The proposal for preventive arrest is solved in the council room by only one judge, regardless of the nature of the offence.<br>The defendant is brought in front of the judge and will be assisted by a defender.<br>In case the defendant is in a state of confinement or arrest according to art. 146 and because of the state of his/her health or because of emergency reasons or necessity he/she cannot appear in court, the arrest proposal will be examined in the absence of the defendant, but in the presence of the defender who is allowed to pass conclusions.<br>The provisions of art. 150 are applied accordingly.<br>The prosecutor's attendance is obligatory.<br>The judge admits or rejects the proposal of preventive arrest, through motivated closing.<br>If the conditions provided at par. 1 are met, the judge orders, by closing, the preventive arrest of the defendant, showing the reasons justifying the preventive arrest and settling its duration, which may not exceed 30 days.<br>The defendant's arrest may be disposed only for the days left after subtracting from 30 days the period when he/she was previously held or arrested. The preventive arrest of the defendant is ordered before the expiry of the duration of the accused person's arrest.<br>The provisions of art. 146 par. 10 and of art. 152 par. 1 are applied accordingly.<br>Recourse may be introduced against the closing, within 24 hours from the passing, for those present, and from the communication, for those absent. |

[i] Art. 149[1] was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003 and is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.

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| | The provisions of previous paragraphs are applied also for the case when the prosecutor initiates the criminal action before the expiry of the duration of the accused person's arrest warrant. The accused person's arrest warrant ceases at the date when the defendant's arrest warrant is issued. |
| **Hearing the defendant** | [i]**Art. 150 -** The arrest measure may be taken against the defendant only after the prosecutor or the court have heard him, except for the case when the defendant has disappeared, is abroad or escapes from investigation or trial, or is in one of the situations provided at art. 149[1] par. 6.<br>In case the defendant has disappeared, is abroad or escapes from investigation or trial, when the warrant has been issued without hearing the defendant, the latter will be heard as soon as he/she is caught or appears. |
| **Content of the arrest warrant** | [ii]**Art. 151 -** Immediately after drawing up the decision ordering the defendant's arrest, the judge issues an arrest warrant.<br>If the same decision orders the arrest of several defendants, separate arrest warrants are issued for each of them.<br>The arrest warrant should mention:<br>a) the court that ordered the arrest measure against the defendant.<br>b) the date and place of issue;<br>c) the name, surname and position of the person who issued the arrest warrant;<br>d) the data regarding the defendant, stipulated in art. 70, and his/her identity number;<br>e) the deed that makes the object of the accusation and the name of the offence;<br>f) the legal framing of the deed and the punishment stipulated by the law;<br>g) the concrete reasons leading to the arrest;<br>h) the arrest order for the defendant;<br>i) the place where the person to be arrested will be kept;<br>j) the signature of the judge. |
| **Execution of the warrant** | [iii]**Art. 152 -** When the arrest warrant was issued after hearing the defendant, the judge 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.<br>When the arrest measure was ordered in the absence of the defendant according to art. 150, the warrant issued is submitted in 2 copies to the police body for enforcement.<br>The police body arrests the person designated in the warrant, to whom it gives a copy of the warrant, and brings him/her before the judge who issued the warrant.<br>The judge hears the defendant, and if the latter has objections that need urgent clarifications, he/she immediately settles a trial date. |

[i] Par. 1 of art. 150 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003. Par. 2 of art. 150 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[ii] Art. 151 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.

[iii] Art. 152 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.

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| **Objections regarding identity** | [i]**Art.153** - If the arrested person has objections against the enforcement of of the warrant only as far as the identity is concerned, he/she is brought before the court of the place where he/she was found. When it is necessary, the court asks the judge who issued the warrant for information.<br>Until the objections are clarified, the court, if it considers there is no danger of disappearance, orders the release of the person against whom the warrant has been enforced.<br>If the court discovers that the person brought is not the one specified in the warrant, it releases him/her immediately, and if it discovers that the objections are not justified, orders the enforcement of the warrant, according to the provisions of art. 152 paragraph 3.<br>In the cases provided at par. 1 -3, the court orders through closing, that will also be sent to the judge who issued the warrant. |
| **Not finding the person stipulated in the warrant** | **Art. 154 -** 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 body that issued the warrant, as well as the competent bodies for searching. |
| **Extension of the arrest duration during criminal investigation** | [ii]**Art. 155** - The duration of the defendant's arrest ordered by the court may be extended, during criminal prosecution, for justified reasons, if the reasons which determined initial arrest impose further deprivation of freedom or if there are new reasons to justify the deprivation of freedom.<br>In the case provided at par. 1, the extension of the defendant's arrest may be ordered by the court who would have the competence to try the case or by the corresponding court in whose territorial area the detention place is located. |
| **Proposal for extension of arrest ordered during criminal investigation** | [iii]**Art. 156 -** The extension of the arrest provided at art. 155 is ordered on the basis of the justified proposal of the body that performs the criminal investigation.<br>The proposal of the criminal investigation body is acknowledged by the supervising prosecutor and forwarded by the latter, with at least 5 days before the expiry of the arrest duration, to the court provided at art. 155 par. 2.<br>If the arrest was ordered by a court inferior to the one competent to grant the extension, the proposal is forwarded to the competent court.<br>The proposal is included as annex to the paper informing the court. The paper may also include other reasons justifying the extension of the arrest than those included in the proposal.<br>When in the same case there are several defendants arrested, whose preventive arrest duration expires at different dates, the prosecutor who informs the court for one of the defendants will inform it about the other defendants as well. |

[i] Art. 153 is reproduced as it was modified by The Emergency Ordinance no.109/2003, published in the Official Gazette Gazette no. 748 of October 26, 2003.
[ii] Art. 155 par. 1 is reproduced as it was modified by the Emergency Ordinance no. 66/2003, regarding the modification of certain dispositions of the Criminal procedure code, published in the Official Gazette no. 502 of July 11, 2003. Art. 155 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iii] Art. 156 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | [i]**Art. 157** -Abrogated. |
| | [ii]**Art. 158**- Abrogated. |
| **Procedure for extension of arrest ordered during criminal investigation** | [iii]**Art. 159** – The record of the case will be brought by the prosecutor, together with the court notification, at least 5 days before the expiry of the preventive arrest and the defender will be able to consult it.<br>The proposal of extension of the arrest is solved in the council room, by only one judge, regardless of the nature of the offence.<br>The defendant is brought before the court and will be assisted by the defender.<br>In case the arrested defendant is hospitalized and, because of the state of his/her health, cannot be brought before the court, or in other cases when his/her displacement is not possible, the proposal will be examined in the absence of the defendant, but only in the presence of the defender, who is allowed to pass conclusions.<br>The prosecutor's attendance is obligatory.<br>In case the court approves the extension, this cannot exceed 30 days.<br>The court solves the proposal and takes a decision with regard to the preventive arrest extension, within 24 hours from receiving the file, and communicates the closing to those absent from trial, within the same due time.<br>The closing by which the arrest extension was decided may be attacked by recourse by the prosecutor or by the defender, within 24 hours from decision passing, for those present and, from decision communication, for those absent. The recourse is solved before the expiry of the preventive arrest duration.<br>The enforcement of the recourse declared against the closing by which the preventive arrest extension was decided may not be suspended.<br>The defendant is brought at recourse trial.<br>The measure disposed by the court is communicated to the administration of the detention place, which must inform the defendant about it.<br>If the closing of the first instance deciding on the extension of preventive arrest is not attacked by recourse, the court must return the file to the prosecutor within 24 hours from the expiry of the recourse due time.<br>The judge may also approve other extensions, each of less than 30 days. The provisions of the previous paragraphs are enforced accordingly. The total duration of preventive arrest during criminal investigation may not exceed 180 days. |
| **Maintaining the defendant's arrest upon receiving the file** | [iv]**Art.160** - When the prosecutor disposes, by charge, the summoning to court of the defendant under arrest, the file is transmitted to the competent court at least 5 days before the expiry of the arrest warrant or, according to the case, of the duration for which extension of the arrest was disposed.<br>The court, in the council room, proceeds according to art. 300[1]. |

[i] Art. 157 was abrogated by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993.
[ii] Art. 157 was abrogated by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993.
[iii] Art. 159 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Par. 2 and 13 of art. 159 are reproduced as they were modified by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.
[iv] Art. 160 is reproduced as it was modified by the Emergency Ordinance no.109/2003, published in the Official Gazette Gazette no. 748 of October 26, 2003.

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| **The defendant's arrest during trial** | [i]**Art. 160$^{a}$** – The preventive arrest of the defendant may be ordered during trial, through motivated closing, if the conditions provided at art. 143 are met and if there is one of the cases provided at art. 148.<br>The closing may be attacked by recourse. The due time for recourse is 24 hours and is calculated from passing the decision, for those present and, from communication, for those absent. The file will be communicated to the recourse court in 24 hours due time, and the recourse is judged in 3 days. The execution of the recourse pronounced against the closing by which arrest was ordered may not be suspended.<br>The provisions of art. 151 are applied also for the case of the defendant's arrest during trial.<br>With regard to the defendant who has previously been arrested in the same case, during criminal prosecution or trial, the same measure may be disposed again, if new clemencies have intervened, which make necessary his/her deprivation of freedom. |
| **Checking related to the defendant's arrest during trial** | [ii]**Art. 160$^{b}$** – During trial, the court checks periodically, but no later than 60 days, the legality and justification of the preventive arrest.<br>If the court establishes that the reasons which determined preventive arrest have ceased or there are no new reasons to justify the deprivation of freedom, it orders, through closing, the revocation of preventive arrest and immediate release of the defendant.<br>When the court establishes that the reasons which determined preventive arrest impose further deprivation of freedom or that there are new reasons that justify the deprivation of freedom, it orders, through motivated closing, the maintaining of preventive arrest.<br>The closing may be attacked by recourse, the provisions of art. 160$^{a}$ par. 2 being applied accordingly. |
| | [iii]**Art. 160$^{c}$** – Abrogated. |
| | [iv]**Art. 160$^{d}$** – Abrogated. |

### [v]*Section IV$^{1}$*
### ***Special provisions for juveniles***

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| **General provisions** | [vi]**Art. 160$^{e}$** – The confinement and preventive arrest of the juvenile are performed according to the provisions from sections I, II and IV, with the derogations and completions of the present section. |

[i] Art. 160$^{a}$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, and is reproduced as it was modified by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003. Through the modification from the Official Gazette no. 756 of October 29, 2003, it is shown that, at par. 4 of art. 160$^{a}$ instead of: "…if new clemencies have intervened, which make necessary his/her deprivation of freedom", it will be read: "…if new elements have intervened, which make necessary his/her deprivation of freedom".
[ii] Art. 160$^{b}$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, and is reproduced as it was modified by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.
[iii] Art. 160$^{c}$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. and abrogated by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.
[iv] Art. 160$^{d}$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, and abrogated by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.
[v] Section IV was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[vi] Art. 160$^{e}$ is reproduced as it was modified by the Emergency Ordinance no.109/2003, published in the Official no. 748 of October 26, 2003.

| Specific rights and special conditions for juveniles | **Art. $160^{f}$ -** The confined or preventively arrested juveniles are ensured, besides the rights provided by the law for the persons under preventive arrest over 18 years old, specific rights and special conditions of preventive arrest, related to the characteristics of their age, so that the measures privative of freedom, taken for juveniles with the purpose of a good unfolding of the criminal trial or of preventing their escaping criminal prosecution, trial or the execution of punishment, do not bring prejudice to the physical, mental or moral development of the juvenile.<br>The juvenile accused persons or defendants, confined or preventively arrested, are ensured in all cases obligatory judicial assistance, the judicial bodies being obliged to take measures in order to appoint an ex officio defender, if the juvenile has not chosen one, and so that the defender may directly contact the arrested juvenile and communicate with him/her.<br>When the confinement or preventive arrest of a juvenile accused person or defendant, this will be, immediately, in the case of confinement, and within 24 hours, in the case of arrest, brought to the notice of the parents, tutor, the person in whose care or supervision the juvenile is, other persons designated by the latter, and, in case of arrest, also the service of social reintegration of delinquents and of supervision of the execution of sanctions non-privative of freedom, attached to the court that would be competent to judge the case at first instance, this being mentioned in an official report.<br>During confinement or preventive arrest, the juveniles are kept separate from adults, in special places destined for juveniles under preventive arrest.<br>The observance of rights and of the special conditions provided by the law for the confined or preventively arrested juveniles is ensured through the control of a judge especially appointed by the court president, through the visits of the preventive arrest locations by the prosecutor, as well as through the control of other bodies authorized by the law to visit preventively arrested persons. |
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| **Keeping the juvenile at the disposal of the criminal investigation body or of prosecutor** | **Art. $160^{g}$** – Exceptionally, the juvenile between 14 and 16 years of age, who is criminally responsible, may be retained at the disposal of the prosecutor or of the criminal investigation body, with the notification and under the supervision of prosecutor, for a duration which may not exceed 10 hours, if there is clear information the juvenile has committed an offence punished by the law with life detention or imprisonment for 10 years or more.<br>Confinement may be extended only if this is imposed, through motivated ordinance, by the prosecutor, for 10 hours duration at most. |
| **Preventive arrest of the juvenile** | [i]**Art. $160^{h}$** – The juvenile between 14 and 16 years old may not be preventively arrested unless the punishment provided by the law for the deed he/she is charged with is life detention or imprisonment for 10 years or more and another preventive measure is insufficient.<br>The duration of arrest of the juvenile defendant, between 14 and 16 years of age is, during criminal prosecution, of 15 days at most, and |

[i] Art. $160^{h}$ par. 2 and 3 are reproduced as they were modified by the Emergency Ordinance no.109/2003, published in the Official Gazette no. 748 of October 26, 2003.

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| | the checking of the legality and justification of preventive arrest is performed periodically during trial, but not later than 30 days. The extension of this measure during criminal investigation or its maintaining during trial may be disposed only exceptionally. The preventive arrest of the juvenile during criminal investigation may not exceed, as a whole, a reasonable due time and no more than 60 days, each extension not surpassing 15 days. Exceptionally, when the punishment provided by the law is life detention or imprisonment for 20 years or more, the preventive arrest of the juvenile defendant between 14 and 16 years of age, during criminal investigation, may be extended up to 180 days.<br>The juvenile defendant who is older that 16 may be preventively arrested during criminal investigation for a duration of 20 days at most. The duration of the preventive measure may be extended during criminal investigation, each time with 20 days. The preventive arrest of the juvenile defendant during criminal investigation may not exceed, as a whole, a reasonable due time and no more than 90 days. Exceptionally, when the punishment provided by the law is life detention or imprisonment for 10 years or more, the preventive arrest of the juvenile defendant, during criminal investigation, may be extended up to 180 days. The checking of the legality and justification of the preventive arrest of the juvenile defendant over 16 years of age is performed periodically during trial, but not later than 40 days.<br>The duration of arrest for the juvenile defendant is 3 days at most. |

*[i]Section V*

***Temporary release under judicial control and temporary release on bail***

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| **Modalities of temporary release** | [ii]**Art.160[1]** - All throughout the criminal trial, the defendant under preventive arrest may ask for temporary release, under judicial control or on bail. |

### 1. Temporary release under judicial control

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| **Conditions of release** | [iii]**Art.160[2] -** Temporary release under judicial control may be approved in the case of offences from guilt, as well as for intentional offences for which the imprisonment punishment stipulated by the law does not exceed 12 years.<br>Temporary release under judicial control is not approved in case the accused person or defendant is recidivist or when there are data justifying the necessity to prevent him/her from committing other offences or proving that he/she will try to impede the revealing of the truth, by influencing witnesses or experts, altering or destroying means |

[i] Section V (art. 160[1] – 160[10]) was introduced by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990.

[ii] Art. 160[1] is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iii] Art. 160[2] par. 1 and 2 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | of evidence or by other such acts.<br>The judicial body orders that, during the temporary release, one or more of the following obligations should be followed by the defendant:<br>a) not to trespass the territorial limit agreed upon, except under the conditions settled by the judicial body;<br>b) inform the judicial body of any change of domicile or residence;<br>c) not to go to places previously agreed upon;<br>d) to come to criminal investigation body or, if such is the case, to the court whenever he/she is called;<br>e) not to get in touch with certain persons;<br>f) not to drive cars, or certain cars;<br>g) not to exert a profession of the nature of the one used for committing the offence. |
| **The body disposing temporary release** | [i]**Art.160[2a]** – Temporary release under judicial control is ordered, both during criminal prosecution and during trial, by the court. |
| **The body checking the observance of obligations** | [ii]**Art.160[2b]** – The control of the way in which the accused person or defendant observes the obligations established by the court rests upon the judge delegated for the execution, as well as to the prosecutor and to the police body. |
| **Modification or suspension of judicial control** | [iii]**Art.160[3] -** The judicial control instituted by the court may be modified or suspended by the latter anytime, partially or totally, for justified reasons. |

## 2. Temporary release on bail

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| **Conditions for release** | [iv]**Art.160[4] -** Temporary release on bail may be approved upon request, by the court, both during criminal investigation and during trial, when the bail has been paid and the conditions provided at art. 160[2] par. 1 and 2 are met.<br>During temporary release, the accused person or defendant must present himself/herself whenever the judicial bodies solicit him/her, communicate any change of domicile or residence and observe the obligations provided at art. 160[2] par. 3, ordered by the court.<br>Temporary release on bail is not approved in the case of intentional offences 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 offence 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. |
| **The bail** | [i]**Art.160[5] -** The bail guarantees the compliance by the accused person or defendant with the obligations imposed on him/her during the temporary |

[i] Art. 160[2a] and 160[2b] are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[ii] Art. 160[2a] and 160[2b] are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iii] Art. 160[3] is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iv] Art. 160[4] is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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|  | release.<br>The bail amounts to at least 10.000.000 lei.<br>The bail is registered on the accused person or defendant's name and at the order of the court that settled its value.<br>The bail is returned when:<br>a) the temporary release is revoked in the case stipulated in art.$160^{10}$ paragraph 1 letter a);<br>b) the court acknowledges, by closing, that the reasons which justified the preventive arrest no longer exist;<br>c) exemption from criminal investigation, cessation of criminal investigation acquittal or cessation of criminal trial are ordered;<br>d) the fine or imprisonment punishments are ordered, with conditional suspension of enforcement or with suspension of enforcement under supervision or with execution at the working place;<br>e) imprisonment punishment is ordered;<br>f) the request for temporary release was rejected according to art. $160^{8a}$ par.6.<br>The bail is not returned in the case stipulated at letter e), when the temporary release was 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.<br>In the cases stipulated at letters b) - e), the cessation of temporary release is ordered. |

## 3. [ii]Common provisions

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| **The request of temporary release and the body competent to solve it** | [iii]**Art.$160^{6}$ -** The temporary release request may be made during the criminal investigation, as well as during the trial, by the accused person or defendant, by the defendant's spouse or close relatives.<br>The request 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 the cases when the bail is not returned.<br>In case of provisional release on bail, the request must include also the obligation to deposit the bail and the specification that the respective person is aware of the legal provisions regarding the cases when the bail is not returned.<br>The competence to solve the request belongs, during the criminal investigation, to the court that would be competent to solve the case and, during the criminal trial, to the court summoned to try the case.<br>The request submitted to the criminal investigation body or to the administration of the detention place is forwarded, within 24 hours, to |

[i] Art. $160^{5}$ was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996 (par. 2 and par. 4 let. d), by the Law no. 169/2002, published in the Official Gazette of Romania no. 261 of April 18, 2002 (par. 2) and by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003 (par. 1, par. 3 and par. 4 let. b and f).
[ii] Art. $160^{6}$ - $160^{10}$ make up a new paragraph, par. 3, entitled "Common provisions", within Section II from Chapter I of Title IV from the General part, according to the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.
[iii] Art. $160^{6}$ is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | the competent court. |
| **Measures preliminary to the request examination** | [i]**Art.160$^7$ -** The court checks if the temporary release request includes the specifications stipulated in art. 160$^6$ paragraphs 2 and 3 and, if the case, takes measures for its completion. When the request is submitted to the court before the trial date, these obligations belong to the president of the court, who also informs the petitioner of the request trial date.<br>When the request is made by another person than the accused person or defendant, according to art. 160$^6$ paragraph 1, the court asks the accused person or defendant whether he acknowledges the request, and his/her declaration is written in the request. |
| **The examination and admissibility in principle of the request** | [ii]**Art.160$^8$ -** The court immediately examines the request, checking if the conditions stipulated by the law for its admissibility are met.<br>In the case of the request for release on bail, if the court establishes that the conditions stipulated by the law are met, settles the bail value and informs the person who made the request about this. After the proof of bail acknowledgment has been submitted, the court admits the request in principle and settles the trial date.<br>If the conditions of the law are not met and the proof for acknowledgement of bail was not submitted, the request is denied. |
| **Solution of the request** | [iii]**Art.160$^{8a}$** – The request is solved after hearing the accused person or defendant, the defender's conclusions, as well as the prosecutor's conclusions.<br>In case the conditions stipulated by the law are met and the request is justified, the court approves the request and orders the temporary release of the accused person or defendant.<br>The court, in case the temporary release under judicial control request is approved, establishes also the obligations that are to be followed by the accused person or defendant.<br>A copy of the closing order, which remained final, or an extract, is sent to the administration of the detention place, as well as to the police body in whose territorial area the accused person or defendant lives. The interested persons are informed.<br>The administration of the detention place must take measures for the immediate release of the accused person or defendant.<br>In case the conditions provided by the law are not met, when the request is not justified or when it was made by another person and not acknowledged by the accused person or defendant, the court rejects the request. |
| **The recourse against closings regarding temporary release** | [iv]**Art.160$^9$** – Recourse may be introduced against the closing through which the request for temporary release was admitted or rejected, by the accused person or defendant or by the prosecutor, at the superior court.<br>The recourse due time is of 24 hours and is calculated from decision |

[i] Art. 160$^7$ is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[ii] Art. 160$^8$ is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iii] Art. 160$^{8a}$ was introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iv] Art. 160$^9$ is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | taking, for those present, and from decision communication, for those absent.<br>The file will be transmitted to the recourse court within 24 hours.<br>The recourse is tried in 2 days due time.<br>The recourse is solved in the council room.<br>The accused person or defendant is brought to recourse trial. The prosecutor's attendance is obligatory.<br>The court decides on the same day on the admission or rejection of the recourse.<br>The execution of the recourse against the closing by which the request for temporary release was rejected may not be suspended.<br>The file is returned within 24 hours from the solution of the recourse.<br>The provisions of previous paragraphs are applied accordingly also in the case of modification or suspension of judicial control. |
| **Release revocation** | [i]**Art.160$^{10}$ -** The temporary release may be revoked if:<br>a} facts or circumstances unknown at the time when the temporary release request was approved are revealed, justifying the accused person or defendant's arrest;<br>b} the accused person or defendant does not fulfil, on purpose, the obligations due to him/her under art. 160$^{2}$ paragraph 3 and art. 160$^{4}$ paragraph 2, or tries to impede the revealing of truth or intentionally commits an offence for which he/she is investigated or tried.<br>Revocation of the temporary release is ordered by the court, through closing, after hearing the accused person or defendant assisted by the defender. Revocation is also ordered in the absence of the accused person or defendant, when the latter, having no justified reasons, does not respond to the summons.<br>In case the temporary release is revoked, the court orders the preventive arrest of the accused person or defendant and issues a new arrest warrant.<br>Recourse may be introduced against the court closing by which revocation of provisional release was ordered.<br>The provisions of art. 160$^{9}$ are applied accordingly. |

## CHAPTER II
## OTHER PROCEDURAL MEASURES

### *Section I*
### *Protection and safety measures*

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| **Protection measures in case of confinement or preventive arrest** | **Art. 161 -** When the confinement or preventive arrest measure was taken against an accused person or defendant who takes care of a juvenile, 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 to take protection measures. The judicial body which took the confinement or preventive arrest measure has the |

[i] Art. 160$^{10}$ is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

| | obligation to make the notification. |
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| **Taking safety measures** | [i]**Art. 162 –** If the prosecutor, during criminal trial, notices that the accused person or defendant is in one of the situations shown in art. 113 or 114 of the Penal code, he/she informs the court which, if the case, orders temporary enforcement of the corresponding safety measure. During trial, the corresponding safety measure is also disposed temporarily by the court.<br>The court orders taking the safety measures provided at par. 1 only after hearing the accused person or defendant and in the presence of the defender and of the prosecutor.<br>The court takes measures for temporary hospitalization and, at the same time, informs the medical commission that has the competence to approve the hospitalization of mentally deranged persons and of dangerous drug addicts.<br>The temporary hospitalization measure is valid until its acknowledgment by the court.<br>The acknowledgment is done on the basis of the medical commission approval.<br>In case hospitalization has been ordered, the measures stipulated in art. 161 will be enforced.<br>The decision by which the court acknowledges the hospitalization measure may be attacked separately through recourse. The recourse does not suspend the execution. |

*Section II*

***Insuring measures, return of objects and reestablishment of the situation anterior to the offence***

| **Insuring measures** | [ii]**Art. 163 -** The insuring measures are taken during the criminal trial trial by the prosecutor or by the court and consist in non-availability by instituting an attachment of movables and of real estate, in order to repair the damage caused by the offence, as well as in order to make sure the fine punishment will be executed.<br>The insuring measures in order to repair the damage may be taken with regard to the goods of the accused person or defendant and of the person who bears the civil responsibility, until the estimated value of the damage is reached.<br>The insuring measures taken as guarantee for the fine punishment execution are only taken with regard to the goods of the accused person or defendant.<br>One may not attach the goods that belong to one of the institutions |
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[i] Par. 1 and 2 of art. 162 were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The same law introduced par. $1^1$ of art. 162.

[ii] Art. 163 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The same law, art. 163 par. 6 let. a) (declared as unconstitutional by the decision of the Constitutional Court no. 191 of October 12, 2000, published in the Official Gazette of Romania no. 665 of December 16, 2000) was abrogated. Par. 3 and 4 of art. 163 are reproduced as they were modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. The same law abrogated par. 6 let. c) of art. 163.

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| | referred to in art. 145 in the Penal code, as well as those excepted by the law.<br>The insuring measures for repair of the damage may be taken at the request of the civil party or ex officio.<br>The enforcement of the insuring measures is obligatory when:<br>a) abrogated;<br>b) the victim is the person who lacks or has limited exertion ability. |
| **The bodies which accomplish insuring measures** | [i]**Art. 164** - The insuring measure ordinance is enforced by the criminal investigation body which has taken the measure.<br>The closing by which the court ordered the insuring measure is enforced by the judicial executor.<br>The insuring measures ordered by the prosecutor or by the court may also be enforced by the execution bodies of the damaged unit, in case this unit is one of those referred to in art. 145 of the Penal code.<br>In case the criminal investigation is performed by the prosecutor, the latter may order that the insuring measure taken is enforced by the secretary of the prosecutor's office. |
| **The attachment procedure** | [ii]**Art. 165 -** The body that enforces the attachment must identify and evaluate the goods in question may, in case of necessity, appeal to experts.<br>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 attachment, will obligatorily be taken away.<br>Perishable goods are delivered to commercial institutions where the State is the major shareholder, according to their activity profile, which must accept and use them immediately.<br>The precious metals or stones, or the objects made of them and foreign payment means are deposited at the nearest competent banking institution.<br>Domestic value titles, art or museum objects and valuable collections are given for keeping to the specialized institutions.<br>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 from the solution of the case by the prosecutor, after the criminal investigation has been completed.<br>The attached objects are kept until the suspension of attachment.<br>The sums resulted from the use under paragraphs 3 and 7 as well as the sums taken under paragraph 2 are acknowledged, according to the case, under the name of the accused person or defendant or of the person bearing the civil responsibility, following the writ of the |

[i] Par. 3 of art. 164 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The term "prosecution department" was replaced with the term "prosecutor's office" according to art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. The same law abrogated the last par. of art. 164 (par. 5).

[ii] Art. 165 par. 3 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996, and art. 7 of the same article is reproduced as it was modified by the Law no. 281/2003 published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | body that disposed the institution of attachment, 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.<br>If there is the danger of estrangement, the other movables attached will be sealed or taken away, and a custodian may be appointed. |
| **The official report of attachment and mortgage inscription** | **Art. 166 -** The body that enforces the attachment draws up an official report on all acts performed under art. 165, including a detailed description of the goods attached and specifying their value. The goods exempted from investigation under the law, found at the person to whom attachment was enforced are also mentioned in the official report. Objections of the parties or other interested persons are included as well.<br>A copy of the official report is left with the person to whom attachment has been enforced, and in his/her absence, to the persons he/she lives with, the administrator, the janitor or his replacement, or to a neighbour. In case part of or all the goods have been delivered to a custodian, a copy of the official report is left with him/her. A copy is forwarded to the body that ordered the insuring measure, within 24 hours from the conclusion of the official report.<br>For the real estate attached, the body that ordered the institution of the attachment asks the competent body to take a mortgage inscription of all attached real estate, including as annexes copies of the writ by which the attachment was ordered and a copy of the official report of the attachment. |
| **The garnishment** | **Art. 167 -** The sums owed under any title to the accused person or defendant or to the person bearing the civil responsibility by a third party or by the injured person, are garnisheed in their hands and within the limits stipulated by the law, from the date of receiving the papers by which the attachment is instituted. These sums will be acknowledged by debtors, according to the case, and put at the disposal of the body that ordered the garnishment or of the execution body, within 5 days from the settling day, the receipts being delivered to the same body within 24 hours from this. |
| **Contestation of ensuring measures** | [i]**Art. 168 -** Against the insuring measure taken and of its enforcement means, the accused person or defendant, the party bearing the civil responsibility, as well as any other interested person may complain to the prosecutor or to the court, at any stage of the criminal trial.<br>The decision of the court may be attacked separately by recourse. The recourse does not suspend the execution.<br>After the final settlement of the criminal trial, if no complaint has been filed against the enforcement of the insuring measure, contestation may be made under the civil law. |

[i] Art. 168 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| **Restoring things** | [i]**Art. 169 -** If the prosecutor or the court finds out that the things taken away from the accused person or defendant, or from any other person who received them for custody, are the property of the victim or have been unjustly 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 art. 168, the enforcement of this right and return of the things.<br>The things taken away are returned only if this does not impede the revealing of truth and the just settlement of the case, and imposing upon the person to whom they are returned the obligation to keep them until the decision is declared final. |
| **Reestablishment of the previous situation** | [ii]**Art. 170 -** The prosecutor or the court may take measures for the reestablishment of the situation prior to the offence, when the change of that situation was clearly the result of the offence, and the reestablishment is possible. |

## TITLE V
## TRIAL-RELATED AND COMMON PROCEDURAL ACTS

### CHAPTER I
### JUDICIAL ASSISTANCE AND REPRESENTATION

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| **Assistance of the accused person or defendant** | [iii]**Art. 171 –** The accused person or 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/her of this right.<br>Judicial assistance is obligatory when the accused person or defendant is a juvenile, military in service, military with reduced service, called-up reservist, student of a military educational institute, held in a re-education centre or in a medical-educational unit, when arrested in another case, or when the criminal investigation body or the court appreciate that the accused person or defendant could not defend himself/herself, as well as in other cases stipulated by the law.<br>During the trial, judicial assistance is obligatory, also in the cases in which the law provides for the offence committed life detention or imprisonment for 5 years or more.<br>When judicial assistance is obligatory, if the defendant has not chosen a defender, measures are taken for appointing one ex officio.<br>When judicial assistance is obligatory, if the chosen defender does not appear, without reason, at two consecutive summons, according to the case, at the date established for an action of criminal investigation or at the date settled for trial, thus creating difficulties for the development and solution of the criminal trial, the judicial body appoints an ex officio defender to replace the chosen one, granting him/her the necessary time to prepare the |

[i] Par. 1 of art. 170 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] Art. 170 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iii] Art. 171 par. 1 is reproduced as it was modified by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990. Art. 171 par. 2, 3 and 6 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003, law by which par. $4^1$ was introduced as well.

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| | defence, which may not be shorter than 3 days, except the solution of requests regarding preventive arrest, when the due time may not be shorter than 24 hours.<br>The delegation of the ex officio defender ceases once the chosen defender appears.<br>If the defender is absent from the trial and cannot be replaced, in the conditions of par. 41, the case is postponed. |
| **The rights of the defender** | [i]**Art. 172 -** During the criminal investigation, the defender of the accused person or defendant has the right to assist in the performance of every criminal investigation act and may draw up requests and statements. 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 the act performance.<br>When judicial assistance is obligatory, the criminal investigation body will ensure the presence of the defender at the defendant's hearing.<br>In case the defender of the accused person or defendant is present at the performance of a criminal investigation act, this will be mentioned and the act is also signed by the defender.<br>The arrested accused person or defendant has the right to get in touch with the defender, the confidentiality of talks being ensured.<br>The contacting of the defender may not be forbidden at the extension of the arrest duration by the court, while at the presentation of the criminal investigation material it is obligatory.<br>The defender has the right to complain, under art. 275, if his/her 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.<br>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.<br>The defender chosen or appointed ex officio must ensure the judicial assistance of the accused person or defendant. In case of non-compliance with this obligation, the criminal investigation body or the court may inform the managing board of the bar, in order to take measures. |
| **Assistance of other parties** | [ii]**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 requests and statements.<br>During the trial, the defender exerts the rights of the party that he/she assists.<br>When the court considers that, for certain reasons, the victim, the civil party or the party bearing the civil responsibility cannot handle their own defence, it orders, ex officio or upon request, enforcement of the measures for appointing a defendant. |
| **Representation** | [i]**Art. 174 -** During the trial, the accused person and the defendant, as well as |

[i] Art. 172 was modified by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 17, 1990. Art. 172 par. 4 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 172 par. 6 and 8 are reproduced as they were modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993.
[ii] Art. 173 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | as the other parties may be represented, with the exception of the cases when the presence of the accused person or defendant is obligatory.<br>In all the cases when the law allows the representation of the accused person or defendant, the court has the right, when it considers the presence of the accused person or defendant necessary, to order his/her presentation. |

## CHAPTER II
## SUMMONS COMMUNICATION OF PROCEDURAL ACTS, ORDER TO APPEAR

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| **The way of summoning** | **Art. 175 -** A person is called in front of the criminal investigation body or the court by written summons. The summons may also be done by phone or telegraph.<br>The summons is handed by agents especially appointed to exert this attribution or by the mail service. |
| **Content of the summons** | **Art. 176** - The summons is individual and must include the following specifications:<br>a) the name of the criminal investigation body or the court who issues the summons, its headquarters, the date of issue and the number of the file;<br>b) the name, surname of the person summoned, the quality in which he/she is summoned and the object of the case;<br>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 are included in the summons;<br>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.<br>The summons is signed by the issuing body. |
| **Place of summoning** | [ii]**Art. 177 -** The accused person or defendant is summoned at the address where he/she lives, and if this is not known, at the address of his/her work place, through the human resources department of the institution where he/she works.<br>If, by a statement made during the criminal trial, the accused person or defendant indicated another place where he/she can be summoned, he/she is summoned at the specified place.<br>In case the address specified in the accused person or defendant's statement is changed, the latter is summoned at the new address, only if he/she has notified the criminal investigation body or the court of the change, or if the judicial body considers, on the basis of the data |

[i] Art. 174 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[ii] In art. 177 par. 4, the term "popular council" was replaced with the term "local council", according to art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Par. 8 and 9 of art. 177 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | obtained according to art. 180 that the address has changed.<br>If the accused person or defendant's address or his/her work place is not known, the summons is posted at the headquarters of the local council in whose territorial area the offence was committed. When the criminal activity was performed in more than one place, the summons is posted at the headquarters of the local council in whose territorial area the body that conducts the criminal investigation is located.<br>Sick persons in hospitals or sanatoriums are summoned through the administration of these institutions.<br>Convicts are summoned at the detention place, through its administration.<br>Militaries are summoned at the unit where they belong, through their commander.<br>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.<br>Other persons than the accused person or defendant are summoned according to the provisions of the present article. The institution referred to in art. 145 in the Penal code and other legal persons are summoned at their headquarters, and in case the headquarters is not identified, the summons is posted at the headquarters of the local council in whose territorial area the offence was committed. |
| **Handing the summons** | [i]**Art. 178 -** The summons is handed personally to the person summoned, who will sign the proof of receiving.<br>If the person summoned refuses to receive the summons, or 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 response on this.<br>In case the registered letter, by which an accused person or defendant who lives abroad is summoned, cannot be handed because of the person's refusal to receive it or for any other reason, as well as in the case when the state of the addressee does not allow the summoning of its citizens by mail, the summons will be posted at the headquarters of the prosecutor's office or the court, according to the case.<br>When the summons is made according to art. 177 paragraph 1 final part, paragraphs 5, 6 and 7, 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 court that issued the summons.<br>The summons destined to one of the institutions referred to in art. 145 of the Penal code is delivered to the registry office or to the clerk who receives the correspondence. The provisions of paragraph 2 are enforced accordingly. |
| **Handing the** | **Art. 179 -** If the person summoned is not at home, the agent hands the |

[i] Art. 178 par. 4 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The same law introduced par. 2[1] of art. 178.

| summons to other persons | 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 juvenile under 14 or to an irrational person.<br>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 the latter.<br>The person who receives the summons signs for receiving, and the agent certifies his/her 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.<br>In the absence of the persons referred to in paragraphs 1 and 2, the agent must find out when he/she can find the summoned person to hand him/her the summons. When he/she 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.<br>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. |
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| **Research made in order to hand the summons** | **Art. 180 -** 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 in the official report. |
| **The proof of reception and official report of handing the summons** | **Art. 181 -** The proof of receiving the summons must include the number of the file, the name of the criminal investigation body or the court 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.<br>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. |
| **Communication of other procedural papers** | **Art. 182 -** Communication of the other procedural papers is done according to the provisions in the present chapter. |
| **Order of appearance** | [i]**Art. 183 -** A person may be brought before the criminal investigation body or the court on the basis of an order to appear, drawn up according to the provisions of art. 176, if he/she has been previously summoned and did not appear, and his/her hearing or presence is necessary. |

[i] At art. 183, par. 3 and 4 were introduced through the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | The defendant may be brought on the basis of an appearance order even before being summoned, if the criminal investigation body or the court justifiably thinks that this measure is necessary for the settlement of the case.<br>The persons brought through order of appearance, according to par. 1 and 2, may remain at the disposal of the judicial body only for the time necessary for their hearing, except the case when their confinement or preventive arrest was disposed. |
| **Enforcement of the order of appearance** | [i]**Art. 184 -** The order of appearance is enforced trough the police bodies.<br>If the person specified in the order of appearance cannot be brought because of an illness, 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 court.<br>The provisions of par. 2 are applied also in the case when the person mentioned in the order cannot be brought for any other reason.<br>If the person appointed to enforce the order of appearance does not find the person specified in the order at the specified address, he/she makes investigations and, if he/she does not succeed, he/she draws up an official report including mentions of the investigations made.<br>If the accused person or defendant refuses to obey the order or attempts to escape, he/she will be constraint to do so.<br>Enforcement of the orders of appearance regarding the militaries is done through the commander of the military unit or of the garrison. |

## CHAPTER III
## DUE DATES

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| **Consequences for not observing the due time** | **Art. 185 -** When the law stipulates a certain due time 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 due time.<br>When a trial-related measure may only be enforced in a limited period, the expiration of the due time entails the cessation of the effect of the measure.<br>For the other procedural due times, the provisions regarding nullities are enforced in case of non-compliance. |
| **Calculating procedural due dates** | **Art. 186 -** When procedural due dates are calculated, the starting point is the time, day, month or year mentioned in the act that determined the due time, if the law does not stipulate otherwise.<br>When the due dates are calculated by hours or days, the time or day when the interval begins or ends are not taken into account.<br>The due dates calculated by months or years expire, according to case, on the last corresponding day of the last month, or on 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 due time is the last day of that month. |

[i] Art. 184 par. 1 is reproduced as it was modified by the Law no. 32/1990, published in the Official Gazette of Romania no. 128 of November 17, 1990 and by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Art. 184 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. The same law introduced par. $2^1$ and $3^1$.

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| | When the interval ends on a holiday, the due time is the next working day. |
| **Acts considered as performed within the due time** | [i]**Art. 187 -** The paper submitted within the due time 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 by the administration of the detention place, or the post office receipt, as well as the registration or certification of the submitted paper by the military unit, serve as proof of the date of submission.<br>Except for the ways of attack, the paper drawn up by the prosecutor is considered as done in time, if the date when it was registered in the issue-register of the prosecutor's office is anterior to the due time stipulated by the law for the respective paper. |
| **Calculating due times for preventive measures** | [ii]**Art. 188 -** When the due times regarding preventive measures are calculated, the time and day when the interval begins or ends are considered as part of it. |

CHAPTER IV
## JUDICIAL EXPENSES

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| **Covering judicial expenses** | [iii]**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.<br>The judicial expenses provided at par. 1, forwarded by the state, are separately included, according to the case, in the budget of revenues and expenses of the Ministry of Justice, of the Public Ministry and of the Ministry of Interior. |
| **Sums due to the witness, expert and interpreter** | [iv]**Art. 190 -** The witness, expert and interpreter called by the criminal investigation body or the court are entitled to reimbursement of expenses related to transport, maintenance, accommodation and other necessary expenses, caused by their summons.<br>The witness, expert and interpreter who are employed are also entitled to the income due to them at their work place, for the period while they are absent from work, as a result of their being called by the criminal investigation body or the court.<br>The witness who is not employed, but has an income, is entitled also to compensation.<br>The expert and the interpreter are entitled also to remuneration for accomplishing the task given to them, in the cases and under the |

[i] Art. 187 par. 2 is reproduced as it was modified by art. II of the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, the term "prosecution department" being replaced with that of "prosecutor's office".
[ii] Art. 188 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iii] Par. 2 was introduced to art. 189 by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.
[iv] At art. 190, par. 2, 3 and 6 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | circumstances stipulated by legal provisions.<br>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 appearing and to the expert and interpreter after they have completed their tasks.<br>The sum representing the income mentioned in paragraph 2 is paid by the institution where the witness, expert or interpreter is employed. |
| **Payment of expenses made by the state in case of conviction** | [i]**Art.191** - In case of conviction, the defendant must cover the judicial expenses made by the state, with the exception of expenses for interpreters appointed by the judicial bodies, according to the law, as well as in case assistance free of charge has been granted, these being covered by the state.<br>When more defendants are convicted, the court 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.<br>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. |
| **Payment of expenses made by the state in other cases** | [ii]**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:<br>1. In case of acquittal, by:<br>a) the victim, to the extent to which they were caused by him/her;<br>b) the civil party whose civil claims were totally rejected, to the extent to which the expenses were caused by this party;<br>c) the defendant, when, even if acquitted, he/she was still obliged to pay for damages.<br>2. In case of cessation of the criminal trial, by:<br>a) the defendant, if the replacement of crimina1 responsibility has been ordered or there is a cause for non-punishment;<br>b) both parties, in case of reconciliation;<br>c) the victim, in case the complaint has been withdrawn.<br>3. In case of amnesty, prescription or withdrawal of the complaint, as well as in the case of existence of a cause for non-punishment, if the defendant demands the continuation of the criminal trial, the judicial expenses are covered by:<br>a) the victim, when art. 13 paragraph 2 is enforced:<br>b) the defendant, when art. 13 paragraph 3 is enforced.<br>In case of appeal, recourse or submission of any other request, the judicial expenses are covered by the person whose appeal, recourse or request were rejected, or who withdrew them. |

[i] Art. 191 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] Art. 192 point. 2 lat. a) and the introduction of point 3 of par. 1 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003. Art. 192 par. 2 was introduced by the Law no. 7/1973, published in the Official Gazette of Romania no. 49 of April 6, 1973 and modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993. Par. 6 of art. 192 was introduced by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | In all other cases, the judicial expenses forwarded by the state are the state's concern.<br>In case several parties are obliged to cover the judicial expenses, the court decides on the part of the judicial expenses owed by each party.<br>The provisions stipulated at point 1 letter a), as well as at points 2 and 3 are also enforced accordingly in case of closing, exemption from criminal investigation or cessation of criminal investigation.<br>The expenses for the payment of interpreters appointed by the judicial bodies, according to the law, to assist the parties, remain, in all cases, in the state's charge. |
| **Payment of judicial expenses made by the parties** | **Art. 193 -** The defendant must pay to the victim, in case he/she is convicted, as well as to the civil party whose civil action has been approved, their judicial expenses.<br>When the civil action is only partially approved, the court may oblige the defendant to pay for the whole or part of the judicial expenses. In case the civil action is given up, the court decides on the expenses at the request of the parties.<br>In the situations stipulated in paragraphs 1 and 2, when there is 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.<br>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.<br>In the other cases related to the reimbursement of judicial expenses caused by the parties during the criminal trial, the court 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

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| **Modifications of procedural papers** | **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.<br>Unacknowledged modifications that do not change the meaning of the phrase are valid.<br>Blanks in a statement must be crossed, so that completions cannot be made. |
| **Correction of material errors** | **Art. 195 -** The obvious material errors in a procedural paper are corrected by the criminal investigation body or the court that has drawn up the act, at the request of the person interested or ex officio.<br>For the correction of the error, the parties may be called to offer clarifications.<br>The criminal investigation body or the court, according to case, draw up an official report or a closing on the correction made, mentioning this at the end of the corrected paper. |
| **Correction** | **Art. 196 -** The provisions of art. 195 are also enforced in case the criminal |

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| **of obvious omissions** | investigation body or the court, 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 of things or suspension of insuring measures. |

CHAPTER VI
## NULLITIES

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| **Violations which entail nullity** | **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.<br>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/her being assisted by the defender, when they are obligatory under the law, as well as those regarding the performance of the social inquiry, when juvenile perpetrators are involved.<br>The nullity stipulated in paragraph 2 may not be suspended in any way. It may be claimed at any stage in the trial and it is considered even ex officio. Violation of any legal provision, other than those stipulated in paragraph 2, entails the nullity of the act under paragraph 1, only if 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.<br>The court takes into consideration ex officio the violations, at any stage of the trial, if the abatement of the act is necessary for revealing the truth and finding a just settlement for the case. |

CHAPTER VII
## JUDICIAL FINE

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| **Judicial violations** | [i]**Art. 198 -** The following violations done during the criminal trial are sanctioned by judicial fine between 500. 000 lei -2.000.000 lei:<br>a) failure to accomplish, un-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;<br>b) failure to accomplish or un-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.<br>Unjustified absence of the defender, chosen or appointed ex officio, when the judicial assistance of the defendant is obligatory under the law, is sanctioned by judicial fine between 1.000.000 lei -2.500.000 lei.<br>The following violations, committed during criminal trial, are sanctioned with judicial fine between 1.000.000 – 10.000.000 lei:<br>a) unjustified absence of the witness, expert or interpreter legally summoned; |

[i] Art. 198 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

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| | b) tergiversation by the expert or by the interpreter of the accomplishment of the tasks assigned to them;<br>c) failure of any person to comply with the duty to bring, at the request of the criminal investigation body or court, 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;<br>d) failure to comply with the custody duty stipulated in art. 109 paragraph 5;<br>e) failure of the commander of the unit where an expertise is to be conducted, to take into consideration the measures necessary for performing the expertise;<br>f) unjustified failure of the criminal investigation body to comply with dispositions given by the prosecutor, according to the law, or unjustified failure to present to the prosecutor the criminal investigation files or acts, within the due time provided by the law;<br>g) unjustified failure of the criminal investigation body to communicate to the prosecutor, within the due time provided by the law, the initiation of criminal investigation, as well as the failure of the same body to carry out, within the due time and in the conditions provided by the law, the written dispositions of the prosecutor and of the court;<br>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.<br>The enforcement of the judicial fine does not remove the criminal responsibility, when the deed committed is an offence. |
| **Procedure related to judicial fine** | **Art. 199 -** The fine is enforced by the criminal investigation body, by ordinance, and by the court, by closing.<br>The person upon whom the fine is enforced may ask for exemption from or reduction of the fine. The exemption or reduction request may be submitted within 10 days from the communication of the fine ordinance or closing.<br>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 court consider his/her reasons and orders exemption from or reduction of the fine. |

## SPECIAL PART

## TITLE I
## CRIMINAL INVESTIGATION

### CHAPTER I
### GENERAL PROVISIONS

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| **The object of criminal investigation** | **Art. 200 -** The aims of the criminal investigation are the gathering of necessary evidence regarding the existence of offences, identification of the perpetrators and establishing their responsibility in order to see whether they should be sent to court or not. |

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| **The criminal investigation bodies** | [i]**Art. 201 -** The criminal investigation is performed by prosecutors and the criminal investigation bodies.<br>The criminal investigation bodies are the following:<br>a) the judicial police investigation bodies;<br>b) the special investigation bodies.<br>The investigation bodies of the judicial police are made up of specialised employees of the Ministry of Interior, which are especially appointed by the minister of interior, with the approval of the General prosecutor of the General Prosecutor's Office attached to the Supreme Court of Justice or which are appointed and function in a different way, according to special laws. |
| **The active role of the criminal investigation body** | **Art. 202 -** The criminal investigation body must gather the necessary evidence for revealing the truth and for clarification of the case under all its aspects, for its just settlement. The criminal investigation body gathers evidence both in favour and in the detriment of the accused person or defendant.<br>The duties stipulated in the previous paragraph are accomplished even if the accused person or defendant admits his/her offence.<br>The criminal investigation body is obliged to explain to accused person or defendant, as well as to the other parties, their trial-related rights.<br>The criminal investigation body is also obliged to gather data regarding the circumstances that led to, facilitated or favoured the offence, as well as any other data that may serve to settle the case. |
| **The criminal investigation body's ordinances** | **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 resolution.<br>The ordinance must be justified and must always include the date and place where it was drawn up, name, surname and position of the person who draws it up, the case 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.<br>When the criminal investigation body considers it is necessary to enforce certain measures, it makes justified proposals. |
| **Performing investigation acts within certain units** | [ii]**Art. 204 -** Any criminal investigation act on the premises of one of the units referred to in art. 145 of the Penal code may be performed only with the approval of the managing board of that unit or with the authorization of the prosecutor.<br>In case of *flagrante delicto*, the approval or the authorization is not necessary. |
| **Keeping certain acts of criminal investigation** | **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. |

[i] Art. 201 was modified by the Law no. 32/1990, published in the Official Gazette no. 128 of November 17, 1990. Art. 201 par. 2 let. a) and art. 201 par. 3 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[ii] At art. 204 par. 1, the term "institution" was replaced by the term "unit", according to art. II of the Law no. 141/1996, published in the Official Gazette no. 289 of November 14, 1996.

CHAPTER II
## COMPETENCE OF CRIMINAL INVESTIGATION BODIES

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| | [i]**Art. 206** - Abrogated. |
| **Competence of investigation bodies of the judicial police** | **Art. 207 -** The criminal investigation is performed by the police investigation bodies for any offence that does not obligatorily tall under the competence of other investigation bodies. |
| **Competence of special criminal investigation bodies** | [ii]**Art. 208 -** The criminal investigation is also performed by the following special bodies:<br>a) officers especially appointed by commanders of military units special corps and similar, for the subordinated militaries. The investigation may also be performed personally by the commander.<br>b) officers especially appointed by the garrison commanders, for offences committed by militaries outside the military units. The investigation may also be performed personally by the garrison commanders.<br>c) officers especially appointed by the commanders of military centres, for offences falling under the competence of military courts, committed by civil persons in relation with their military duties. The investigation may also be performed personally by the commanders of the military centres.<br>At the request of the commander of the military centre, the police body performs certain investigation acts, after which it leaves the activity to the commander of the military centre;<br>d) frontier police officers, especially appointed for frontier offences;<br>e) port captains, for offences against security of water navigation and against order and discipline on board, as well as for work or work-related offences stipulated in the Penal code, committed by the navigating staff of the civil marine, if the offence did endanger or could have endangered the security of the ship or of navigation.<br>In the cases stipulated at letters a), b) and c), the criminal investigation is obligatorily performed by the special bodies mentioned there. |
| **The prosecutor's competence at the stage of investigation** | [iii]**Art. 209 -** The prosecutor supervises the criminal investigation; while exerting this attribution, the prosecutors directly conduct and control the criminal investigation activity performed by the judicial police and by other special investigation bodies.<br>The prosecutor may perform any criminal investigation acts in the cases that he/she supervises.<br>The criminal investigation is performed obligatorily by the prosecutor for the offences stipulated in art. 155-173, 174-177, 179, 189 paragraph |

[i] Art. 206 was modified by the Law no. 7/1973, published in the Official Gazette no. 49 of April 6, 1973 and abrogated by art. 2 of the Decree-Law no. 12/1990, published in the Official Gazette no. 7 of January 12, 1990.

[ii] Art. 208 par. 1 let. a) and d) are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Art. 208 par. 1 let. e) is reproduced as it was modified by the Decree no. 203/1974, published in the Official Gazette no. 131 of October 31, 1974.

[iii] Art. 209 par. 1, 3 and 5 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Art. 209 par. 4 is reproduced as it was modified by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993.

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| | 3 - 5, art. 190, 191, 211 paragraph 4, art. 212, 236, 236[1], 239, 239[1], 250, 252, 254, 255, 257, 265, 266, 267, 267[1], 268, 273-276, 279[1], 280, 280[1], 302[2], 317, 323 and 356-361 of the Penal code, for the offences specified in art. 27 point 1 letter b) – e), art. 28[1] point 1 letters b) and c), and art. 28[2] point 1 letter b) and art. 29 point 1 of the present Code, for offences against work protection, as well as in the case of other offences given by law in its competence.<br>The competence to perform the criminal investigation, in the cases stipulated in the previous paragraph, and to supervise the criminal investigation belongs to the prosecutor in the prosecutor's office corresponding to the court that, under the law, tries the case in first instance.<br>When the criminal investigation is performed by the prosecutor, the charge is submitted for acknowledgment to the prime-prosecutor of the prosecutor's office, and when the investigation is performed by the latter, the acknowledgment is done by the hierarchically superior prosecutor. When the criminal investigation is performed by a prosecutor of the Prosecutor's Office attached to the Supreme Court of Justice, the charge is subject to acknowledgement by the prosecutor head of section, and when the investigation is performed by the latter, acknowledgement is performed by the General prosecutor of this prosecutor's office. |
| **Checking competence** | **Art. 210 -** The criminal investigation body solicited according to art. 221 must verify its competence.<br>If the criminal investigation body finds that it is not competent to perform the investigation, it immediately transmits the case to the supervising prosecutor, so that he may notify the competent body. |
| **Extension of territorial competence** | **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.<br>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.<br>The criminal investigation body performs all the investigation acts in the same locality, even if some of them must be performed outside its territorial area, complying with the provision in the previous paragraph. |
| | [i]**Art. 212** - Abrogated. |
| **Emergency cases** | **Art. 213 -** The criminal investigation body must perform the investigation acts that may not be postponed, even if they are related to a case that is not of its competence. Activities performed in such cases are immediately transmitted, through the prosecutor supervising the body which performed the respective activities, to the competent prosecutor. |
| **Acts concluded by certain** | [i]**Art. 214 -** The following bodies are obliged to take statements from the perpetrator and eye-witnesses to the perpetration of an offence and |

[i] Art. 212 was abrogated by the Law no. 45/1993, published in the Official Gazette no. 147 of July 1, 1993.

| investigation bodies | to draw up an official report on the concrete circumstances of the offence:<br>a) the state inspections bodies, other state bodies, as well as the units referred to in art. 145 of the Penal code, for offences that constitute violations of the provisions and obligations whose enforcement they control under the law;<br>b) the control and managing bodies of the public administration and of other units referred to in art. 145 of the Penal code, for work-related offences committed by those subordinated to them or under their control;<br>c) officers and non-commissioned officers of the Romanian Gendarmerie for the offences discovered during specific missions.<br>The above mentioned bodies have the right to hold the material evidence, to proceed to the evaluation of damages, and to perform any other acts, if the law stipulates so.<br>The acts concluded are forwarded to the prosecutor within maximum 3 days from the discovery of the deed that constitutes offence, if the law does not stipulate otherwise.<br>In case of *flagrante delicto*, 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.<br>The official reports drawn up by these bodies are means of evidence. |
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| **Acts concluded by commanders of ships and airships, as well as by frontier police officers** | [ii]**Art. 215 -** The obligations and rights stipulated in art. 214 paragraphs 1 and 2 also apply to the following bodies;<br>a) the commanders of ships and airships for offences committed on board, when the ships and airships are outside ports and airports;<br>b) officers of the frontier police, for frontier offences.<br>The above mentioned bodies may perform corporal searches on the perpetrator and may verify the things that the latter has with him.<br>Also, the above mentioned bodies may catch the perpetrator and, in this case, they will bring him/her to the prosecutor or the criminal investigation body, together with results of the activities performed and the material means of evidence.<br>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.<br>When the offence was committed on a ship or an airship, the above mentioned intervals begin when the ship anchors or the airship lands on Romanian territory.<br>The official reports drawn up by these bodies are means of evidence. |

## CHAPTER III
## SUPERVISION BY THE PROSECUTOR DURING THE CRIMINAL INVESTIGATION

[i] At art. 214, the term “institution” was replaced by the term “unit”, according to art. II of the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. At art. 214 par. 1, letter c) was introduced letter c) after letter b) by the Law no. 281/2003, published in the Official Gazette of Romania no. 468 of July 1, 2003.

[ii] At art. 215, the marginal name and text of par. 1 let. b) are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| **The object of supervision** | **Art. 216 -** The prosecutor, while supervising the compliance with the law in the criminal investigation, makes sure that every offence is discovered, every perpetrator is held responsible for his/her offences and no person is criminally investigated, unless there is strong evidence that he/she committed a deed stipulated by the criminal law.<br>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.<br>The prosecutor takes measures and gives orders in writing and justifiably. |
| **Transmitting the case from one body to an other** | [i]**Art.217 -** The prosecutor may order, according to necessity, that a case that should be criminally investigated by a certain investigation body, is investigated by another such body.<br>Taking of a case by a hierarchically superior investigation body is ordered by the prosecutor in the prosecutor's office supervising it, on the basis of the justified proposal of the criminal investigation body that takes the case, and after notifying the prosecutor who supervises it.<br>The cases taken by a central criminal investigation body are supervised by a prosecutor in the General Prosecutor's Office attached to the Supreme Court of Justice.<br>For the cases criminally investigated by the prosecutor, the latter may order that certain criminal investigation acts should be performed by the police bodies. |
| **Ways of exerting supervision** | [ii]**Art. 218 -** The prosecutor directly conducts and checks the criminal investigation activity performed by the judicial police and by other investigation bodies and makes sure that the criminal investigation acts are performed in compliance with the legal provisions.<br>The criminal investigation bodies are obliged to inform immediately the prosecutor of the offences they found out about.<br>The prosecutor may assist in the performance of any criminal investigation act or to perform it personally. The prosecutor may ask for verification any file from the criminal investigation body, which is obliged to deliver it, accompanied by all the acts, materials and data that make up the object of investigation. |
| **Orders given by the prosecutor** | [iii]**Art.219 -** The prosecutor may give orders regarding the performance of criminal investigation act. In the case of investigation bodies of the criminal police, the bodies hierarchically superior to the latter may not give them advice or orders regarding the criminal investigation, the prosecutor being the only one competent in this sense.<br>The orders given by the prosecutor are compulsory for the criminal investigation body. If this body has objections, it may inform the prime- |

[i] Art. 217 was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, which introduced a new paragraph and modified par. 2, which became par. 3. The Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996, introduced a new paragraph, which became par. 3, and the former par. 3 became par. 4.

[ii] Art. 218 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iii] The Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003, modified art. 219 par. 1, as it is reproduced, and introduced par. 3.

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| | prosecutor in the prosecutor's office or, when the orders were given by the latter, the hierarchically superior prosecutor, without interrupting the execution of the orders. The prime-prosecutor or the hierarchically superior prosecutor is obliged to make a decision within 3 days from notification.<br>In the case of failure to accomplish or of defective accomplishment, by the criminal investigation body, of orders given by the prosecutor, the latter will inform the head of the criminal investigation body, who has the obligation to communicate the disposed measures to the prosecutor, within 3 days from the notification. |
| **Rejection of illegal trial-related acts or measures** | **Art. 220 -** When the prosecutor notices that a trial-related act or measure taken by the criminal investigation body does not comply with the legal provisions, he/she justifiably rejects it. |

CHAPTER IV

## PERFORMANCE OF THE CRIMINAL INVESTIGATION

*Section I*

***Informing the criminal investigation bodies***

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| **Ways of informing** | [i]**Art. 221 -** The criminal investigation body is informed by complaint or denunciation, or ex officio, when it discovers the perpetration of an offence in any other way.<br>When, according to the law, the initiation of criminal investigation may only be done after the prior complaint of, notification by or authorization of the body stipulated by the law, the criminal investigation may not begin in their absence.<br>Also, the criminal investigation may not begin unless the foreign government expressed its will relative to the offence stipulated in art. 171 in the Penal code.<br>When, by the perpetration of an offence, damage has been caused to one of the units referred to in art. 145 in the Penal code, the respective unit 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 a civil party. |
| **Complaint** | [ii]**Art. 222 -** The complaint is the informing by a natural or legal person, relative to a damage caused by an offence.<br>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.<br>The complaint may be filed personally or by authorized agent. The mandate must be special and the procuration remains attached to |

[i] Art. 221 par. 4 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.

[ii] Art. 222 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | the complaint.<br>The oral complaint is written in an official report by the body who receives it.<br>The complaint may also be filed by one spouse for the other or by the child who is of age for his/her parents. The victim may declare non-appropriation of the complaint.<br>For the person lacking the exertion capacity, the complaint is filed by his/her legal representative. The person with limited exertion capacity may file a complaint with the approval of the persons stipulated by the civil law. |
| **Denunciation** | [i]**Art. 223 -** The denunciation is the notification made by a natural or legal person on the perpetration of an offence.<br>The denunciation must include the same data as the complaint.<br>The written denunciation must be signed by the denouncer, while the oral denunciation is written in an official report by the body in front of which it was made. |
| **Preliminary acts** | [ii]**Art. 224 -** In order to initiate the criminal investigation, the criminal investigation body may perform preliminary acts.<br>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 Interior, as well as of the other state bodies having attributions related to national security, especially appointed for this purpose, may perform preliminary acts in connection with the deeds that constitute, according to the law, threats to national security.<br>The official report that acknowledges the performance of preliminary acts may constitute means of evidence. |
| **Preliminary acts performed by undercover investigators** | [iii]**Art. 224$^1$** – In case there are solid and concrete proofs that an offence against national security provided in the Penal code and in special laws, has been or is going to be perpetrated, as well as in the case of offences of trafficking in drugs and weapons, trafficking in persons, terrorist actions, money laundering, money or other values forgery, or of an offence provided by the Law no. 78/2000 for the prevention, detection or sanctioning of corruption deeds, with the ulterior modifications and completions, or of another serious offence which cannot be discovered or whose perpetrators cannot be identified through other means, investigators with an identity different from the real one may be used, with a view to gather information on the existence of the offence and identification of the persons who are supposed to have committed an offence.<br>Undercover investigators are operative employees of the Ministry of Interior, as well as of the state bodies which perform, under the |

[i] Art. 223 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. Through the same law, art. 223 par. 4 (introduced by the Law no. 704/2001, published in the Official Gazette of Romania no. 807, of December 17, 2001) was abrogated.
[ii] Art. 224 par. 1 is reproduced as it was modified by the Law no. 7/1993, published in the Official Gazette of Romania no. 49 of April 6, 1973. Par. 2 of art. 224 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.
[iii] Art. 224$^1$ – 224$^2$ were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | law, information activities for the assurance of national security, they are especially appointed for this purpose and may be used only for a determined period, in the conditions provided by art. $224^2$ and $224^3$.<br>The undercover investigator gathers data and information on the basis of the authorization issued according to provisions of art. $224^2$, that he/she leaves, as a whole, at the disposal of the criminal investigation body. |
| **Authorising the use of undercover investigators** | [i]**Art. $224^2$** – The persons provided at art. $224^1$ may perform investigations only with the motivated authorization of the prosecutor appointed by the general prosecutor of the prosecutor's office attached to the court of appeal.<br>The authorization is given through motivated ordinance, for a period of 60 days at most, and may be extended only for seriously justified reasons. Each extension may not exceed 30 days, and the whole duration of the authorization, in the same case and with regard to the same person, may not exceed one year.<br>In the request for authorization addressed to the prosecutor, the data and indications relative to deeds and persons who are suspected of having committed an offence shall be mentioned, together with the period for which the authorization is requested.<br>The prosecutor's ordinance, by which the use of the undercover investigator is authorized, must include, besides the mentions provided at art. 203, the following:<br>a) solid and concrete indications justifying the measure and reasons for which the measure is necessary;<br>b) the activities that the undercover investigator may perform;<br>c) the persons relative to whom there is the presupposition that they perpetrated an offence;<br>d) the identity under which the undercover investigator will perform the authorized activities;<br>e) the period for which the authorization is given;<br>f) other mentions provided by the law.<br>In urgent and solidly justified cases, the authorization of other activities than the one authorized may by solicited, the prosecutor taking an immediate decision. |
| **The use of data obtained by undercover investigators** | [ii]**Art. $224^3$** – The data and information obtained by the undercover investigator may be used only for the criminal case and related to the persons to whom the authorization issued by the prosecutor makes reference.<br>These data and information may be used also for other cases and related to other persons, if they are conclusive and useful. |
| **Measures for the protection of undercover investigators** | [iii]**Art. $224^4$** – The real identity of undercover investigators may not be revealed during or after the conclusion of their action.<br>The prosecutor competent to authorize the use of an undercover investigator has the right to know the latter's real identity, with the |

[i] Art. $224^1$ – $224^2$ were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[ii] Art. $224^1$ – $224^2$ were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iii] Art. $224^1$ – $224^2$ were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | observance of the professional secret. |
| **Notification upon request from the competent body** | **Art. 225 -** When the law stipulates that the criminal investigation may not 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 the data stipulated in art. 222 paragraph 2. |
| **Certain provisions regarding criminal investigation of militaries** | [i]**Art. 226 -** For the offences stipulated in the Penal code in art. 331-331-336, 348, 353 and 354, the criminal investigation may begin only upon notification from the commander.<br>For the other offences committed by militaries, the criminal investigation body acts according to the usual rules, informing the commander as soon as the criminal investigation is initiated. |
| **Notifications made by persons in managing positions and by other employees** | [ii]**Art. 227** - Any person in a managing position in one of the units referred to in art. 145 in the Penal code or having control attributions, who found out about the perpetration of an offence in the respective unit, is obliged to inform immediately the prosecutor or the criminal investigation body and to take measures so that the traces of the offence, the material evidence and any other means of evidence do not disappear.<br>The obligations stipulated in paragraph 1 apply also to any employee who found out about the perpetration of an offence related to the department where he accomplishes his/her tasks. |

*Section II*
***The unfolding of the criminal investigation***

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| **The initiation of criminal investigation** | [iii]**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 under letter $b^1$).<br>In the case shown in art. 10 letter $b^1$), the criminal investigation body submits the file to the prosecutor, with the proposal of exemption from the criminal investigation.<br>When the criminal investigation body is informed ex officio, it draws up an official report that constitutes the act of initiation of the criminal investigation.<br>The resolution and official report for the initiation of the criminal investigation, issued by the criminal investigation body, are subject to motivated approval from the prosecutor who supervises the criminal investigation activity, within at most 48 hours from the date of initiation of the criminal investigation, the criminal investigation bodies being |

[i] Art. 226 par. 3 was abrogated by the Law no. 104/1992, published in the Official Gazette of Romania no. 244 of October 1, 1992.
[ii] At art. 227 par. 1, the term “institution” was replaced with the term “unit” according to art. II of the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. The marginal name and par. 2 of art. 227 are reproduced as they were modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iii] At art. 228, par. 5 was modified and par. $3^1$ and $6^1$were introduced by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | obliged to present also the case file.<br>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 b[1]), the criminal investigation body submits to the prosecutor the acts drawn up, with the proposal not to initiate the criminal investigation.<br>If the prosecutor finds that the conditions shown under paragraph 4 are not met, the latter returns the acts to the criminal investigation body, either for completing the preliminary acts or for the initiation of the criminal investigation.<br>In case the prosecutor agrees with the proposal, he/she confirms it by justified resolution and informs the person who made the notification of all these.<br>Complaint may be drawn up against the resolution of non-initiation of the criminal investigation before the court, according to art. 278[1] and the following.<br>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. |
| **The accused person** | **Art. 229 -** The person criminally investigated is called accused person as long as criminal action has not been initiated against him. |
| **Exemption from criminal investigation when the deed does not present the social danger of an offence** | [i]**Art. 230 -** The prosecutor, informed according to art. 228 paragraph 2, orders by ordinance the exemption from criminal investigation and informs of this, when necessary, the person who made the notification. |
| **The restitution of the file for the continuation of criminal investigation** | [ii]**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/she returns the file to the criminal investigation body for the initiation of criminal investigation. |
| **The restitution of the file for initiation or continuation of the criminal investigation** | [iii]**Art. 232 -** If the prosecutor returned, on the basis of art. 228 paragraph 5 or art. 231, the acts and file, 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 case. |

[i] Art. 230 and 231 are reproduced as they were modified by the Law no. 7/1973, published in the Official Gazette of Romania no. 49 of April 6, 1973.
[ii] Art. 230 and 231 are reproduced as they were modified by the Law no. 7/1973, published in the Official Gazette of Romania no. 49 of April 6, 1973.
[iii] Art. 232 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| **Preventive arrest of the accused person** | [i]**Art. 233 -** During the criminal investigation, if the criminal investigation investigation considers that the conditions stipulated by the law for taking the preventive arrest measure against the accused person are met, makes proposals in this sense and submits them to the prosecutor to decide.<br>If the prosecutor, having examined the file of the case, finds it appropriate to enforce the preventive arrest measure on the accused person, he/she proceeds according to art. 146. |
| **Proposals made by the criminal investigation body** | [ii]**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.<br>The criminal investigation body, if it considers that the conditions stipulated by the law for enforcing the preventive arrest measure are also met, proceeds in the same way. |
| **The initiation of criminal investigation through ordinance** | **Art. 235 -** The prosecutor makes a decision regarding the initiation of criminal investigation after having examined the file.<br>If the prosecutor agrees with the proposal, he/she initiates the criminal investigation by ordinance.<br>The ordinance of criminal investigation initiation must include, besides the specifications shown in art. 203, data on the defendant, the deed of which he/she is blamed and its judicial framing. |
| **Preventive arrest of the defendant** | [iii]**Art. 236 -** The prosecutor informed according to art. 234, if he/she initiates the criminal investigation and sees that the conditions stipulated by the law for enforcing the preventive arrest measure on the defendant are met, acts according to art. $149^1$. |
| **Continuing the investigation and hearing the defendant** | [iv]**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.<br>If the prosecutor initiated the criminal investigation, the criminal investigation body calls the defendant, informs him/her of the deed for which he/she is blamed and offers him/her explanations regarding his/her rights and obligations. When the defendant does not live in the country, the criminal investigation body will take into account, in settling the due time for presentation before it, the special regulations regarding judicial assistance in criminal matters.<br>The criminal investigation body informs the free defendant that he/she is obliged to show up at every call that he/she receives during the criminal trial and that he/she has the duty to inform the authorities of any change of address.<br>The criminal investigation body will continue the investigation without |

[i] Art. 233 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 1, 2003.
[ii] Art. 234 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iii] Art. 236 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.
[iv] Art. 237 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of of July 1, 2003.

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| | hearing the defendant in case of disappearance, elusion from investigation or in case he/she lives abroad. |
| **Extension of the criminal investigation** | [i]**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 initiation of criminal investigation was disposed or has already started, 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 may decide on the extension of the criminal investigation or the change of judicial framing. Proposals are submitted within at most 3 days from the date of discovering the new deeds, circumstances or persons. The prosecutor will take a decision, through ordinance, in 5 days at most. |

*Section III*
***Suspension of criminal investigation***

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| **Suspension cases** | [ii]**Art. 239** - In case a forensic expertise shows that the accused person or defendant is suffering from a serious illness that impedes him/her 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.<br>The prosecutor decides on the suspension of the criminal investigation by ordinance. |
| **The suspension ordinance** | [iii]**Art. 240 -** The ordinance must include, besides the specifications shown in art. 203, the data on the accused person or defendant, the deed of which he/she is blamed, the cases that led to the suspension and the measures taken for the recovery of the accused person or defendant.<br>The ordinance for the suspension of criminal investigation is communicated, in copy, to the accused person or defendant and to the harmed party. After communication, the file is returned to the criminal investigation body. |
| **The task of the investigation body during suspension** | **Art. 241** - During the suspension period, the criminal investigation body continues to perform all acts whose performance is not impeded by the situation of the defendant.<br>The criminal investigation is obliged to inquire periodically whether the case that led to the suspension still exists. |

*Section IV*
***Cessation of criminal investigation***

[i] Art. 238 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, July 1, 2003.
[ii] Art. 239 par. 1 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of of July 1, 2003.
[iii] Art. 240 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of of July 1, 2003.

| Cases of cessation | [i]**Art. 242 -** The criminal investigation may be terminated if one of the cases cases stipulated in art. 10 letters f)-h) and j) occurs and there is an accused person or defendant in the case.<br>If there are several accused persons or defendants in the same case or if several deeds make the object of the same case, the criminal investigation is terminated only in connection with the accused persons or defendants or deeds to which the case for criminal investigation cessation applies. |
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| **The cessation procedure** | [ii]**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.<br>The prosecutor makes a decision regarding the cessation of criminal investigation by ordinance, according to art. 11 point 1 letter c). In case the criminal action has not been initiated, the cessation of the investigation is decided by justified resolution.<br>When the investigation cessation regards an arrested accused person or defendant, the prosecutor must decide on the cessation of the investigation on the same day of receiving the cessation proposal from the criminal investigation body. If the prosecutor disposed the cessation of criminal investigation, he/she must immediately solicit the court the revocation of the preventive arrest measure. Within 24 hours from receiving from prosecutor the file, together with a report mentioning the case or cases of cessation of the criminal investigation discovered, the court disposes, through closing, the revocation of the measure and immediate release of the accused person or defendant and returns the file to the prosecutor, within the same due time, together with a copy of the closing. |
| **The ordinance of cessation of criminal investigation** | **Art. 244 -** The ordinance of investigation cessation must include, besides the specifications shown in art. 203, data on the person and the deed to which the cessation refers, as well as the reasons on the basis of which the cessation is ordered. |
| **Complementary provisions of the ordinance** | [iii]**Art. 245 -** The ordinance of investigation cessation also settles the following:<br>a) revocation of the insuring measures taken with a view to enforcement of the fine;<br>b) confiscation of things that are, according to art. 118 in the Penal code, subject to special confiscation, and return of the others.<br>If the property over material evidence and other objects which served as material means of evidence is contested, they are kept by the criminal investigation body until the civil court makes a decision.<br>c) the insuring measures regarding the civil repairs and reestablishment of the situation prior to the perpetration of the offence.<br>In case the maintenance of the insuring measures regarding the civil repairs |

[i] Art. 242 par. 1 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette no. 289 of November 14, 1996.

[ii] Art. 243 par. 1 is reproduced as it was modified by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. Art. 243 par. 2 is reproduced as it was modified by the Law no. 7/1973, published in the Official Bulletin no. 49 of April 6, 1996. Art. 243 par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

[iii] Art. 245 par. 1 let. a) is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003. The same law introduced par. 3 of art. 245.

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| | has been ordered, these measures will be considered dissolved, if the victim does not initiate action in the civil court within 30 days from the communication of criminal investigation cessation.<br>d) judicial expenses, settling their value, which must cover them and ordering their payment;<br>e) return of the bail in the cases stipulated by the law.<br>If, during the criminal investigation, one of the assurance measures shown in art. 162 was enforced, this will be specified.<br>In case the cessation of criminal investigation regards an accused person or defendant arrested, the ordinance will include mention of the revocation of preventive arrest by the court, according to art. 243 par. 3. |
| **Informing on the cessation of criminal investigation** | [i]**Art. 246 -** The prosecutor informs the interested persons of the cessation cessation of the criminal investigation.<br>When the accused person or defendant is preventively arrested, the prosecutor informs in writing the administration of the detention place, ordering the immediate release of the accused person or defendant, according to art. 243 par. 3. |
| | [ii]**Art. 247** - Abrogated. |
| **Return of the file and continuation of criminal investigation** | **Art 248 -** The prosecutor if he/she does not think it appropriate to order the cessation or if he/she 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***

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| **Cases and procedure of exemption from investigation** | [iii]**Art. 249 -** The exemption from criminal investigation takes place place when one of the cases stipulated in art. 10 letters a)-e) occurs and there is an accused person or defendant in the case.<br>The provisions of art. 242-246 and 248 are also enforced accordingly in the procedure of exemption from investigation.<br>In the case stipulated in art. 10 letter $b^1$), the prosecutor decides by ordinance. |
| **The execution of ordinance by which an administrative sanction was enforced** | [iv]**Art. 249$^1$ -** In case the exemption from criminal investigation has has been ordered according to the art. 10 letter $b^1$), the enforcement of reprimand or of reprimand with warning, stipulated in art. 91 in the Penal code, enforced by the prosecutor, is done according to art. 487, which is enforced accordingly.<br>The execution of the administrative sanction of fine is done |

[i] Art. 246 par. 2 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of of July 1, 2003.
[ii] Art. 247 was modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, 1993, and was abrogated by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996.
[iii] Art. 249 par. 3 was introduced by the Law no. 7/1973, published in the Official Bulletin no. 49 of April 6, 1973.
[iv] Art. 249$^1$ was introduced by the Law no. 7/1973, published in the Official Bulletin no. 49 of April 6, 1973 and modified by the Law no. 45/1993, published in the Official Gazette of Romania no. 147 of July 1, 1993, and by the Law no. 141/1996, published in the Official Gazette of Romania no. 289 of November 14, 1996. Par. 3 is reproduced as it was modified by the Law no. 281/2003, published in the Official Gazette no. 468 of July 1, 2003.

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| | according to the art. 442 and 443.<br>A complaint may be filed against the ordinance on exemption from criminal investigation according to art. 10 letter b[1]), within 20 days from the notification stipulated in art. 246.<br>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. |