

Federal Law No. 35

Issued on 1992/06/15

Corresponding to 14 Shawwal 1412 H.

Concerning the **CRIMINAL Procedure Law**

Amended by

Federal Law no. 29/2005 dated 2005/11/30; **AND**

Federal Law no. 35/2006 dated 2006/10/09;

Federal Decree-Law No. 17 dated 2018/09/23.

Federal Decree-Law no. 28 dated 2020/09/27

We Zayed Bin Sultan Al Nahyan , President of the United Arab Emirates State,

Pursuant to the perusal of:

The provisional 2 Constitution;

Federal Law no. (1) of 1972 on Competencies of the Ministries **AND** Powers of the Ministers
AND

its amendments;

Federal Law no. (10) of 1973 on the Federal Supreme Court **AND** its amendments;

Federal Law no. (11) of 1973 on Judicial Relationships Amongst Emirates;

Federal Law no. (6) of 1978 Concerning the Establishment of Federal Courts **AND** The
Transfer of

the Jurisdictions of the Local Judicial Authorities in certain Emirates Thereto **AND** its
amendments;

Federal Law no. (17) of 1978 regulating the cases **AND** procedures of appeal before the
Federal

Supreme Court, **AND** its amendments;

Federal Law no. (3) of 1983 on the Federal Judicial Authority **AND** its amendments;

Federal Law no. (3) of 1987 promulgating the Penal Code;

Federal Law no. (11) of 1992 promulgating the Law of Evidence in Civil **AND** Commercial
Transactions; **AND**

Acting upon the proposal of the Minister of Justice , the approval of the Cabinet **AND** the
ratification of the Federal Supreme Council,

Have promulgated the following Law:

Article1

The accompanying Law on **CRIMINAL** Procedures shall come into effect **AND** abrogate all laws, decrees, orders, measures **AND** instructions in force as well as all provisions in contradiction with the provisions of this Law.

Article 2

The ministers **AND** the competent authorities in the Emirates, each within its jurisdiction, shall implement this Law which shall be published in the Official Gazette **AND** shall come into force three months as of the date of its publication.

Promulgated by Us at Presidential
palace in Abu Dhabi

On 14 Dhu al - Hijjah 1412 H

Corresponding to 15 June 1992

Zayed Bin Sultan Al Nahyan

President of the United Arab Emirates

This Federal Law has been published in the Official Gazette, issue no. 239, p 9.



CRIMINAL Procedure Law

Introductory Title

General Provisions

Article1

The provisions of Clause 1 of Article 1 were replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27, to read as follows:

-1The provisions of this Law shall apply to the procedures concerning the crimes deemed punishable by virtue of the Penal Code **AND** other punitive laws, **AND** they shall also apply to the punitive offences (Kassas) **AND** diya (blood money) without any contradiction to the Shari'a Rules.

-2The provisions of this law shall also apply to pending lawsuits **AND** uncompleted procedures prior to the effective date of this law, with the exception of:

a- Provisions amending jurisdiction, whenever they are put into effect subsequent to the close of pleadings in the case.

b- Provisions amending delays, whenever the delay has started to run prior to the effective date of these provisions.

c- Provisions regulating the means of appeals as concerns the judgments rendered prior to their effective date, whenever these laws were abrogated or were initiating one of these appeal means.

-3Any procedure validly taken, according to a law in force at that time, shall remain valid unless otherwise provided.

-4Newly introduced delays for the forfeiture of the **CRIMINAL** action or other procedural delays shall not take effect except as of the effective date of the law that has initiated such delays.

-5**CRIMINAL** procedures provisions are applicable before the civil courts unless they are governed by a specific provision in this Law.

Article2

The text of Article 2 was replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

No **CRIMINAL** sanction may be imposed on any person until proven guilty according to this Law.

No person may be arrested, searched, detained or imprisoned except in the cases **AND** under the conditions provided for in this Law. Detention **AND** imprisonment shall only occur in the places designated for each **AND** for the period that is specified in the order issued by the competent authority.

It is prohibited to cause physical or moral harm to the accused, **AND** it is prohibited to subject any person to torture or degrading treatment. Any evidence obtained through any harmful treatment shall be considered null.

Article3

As amended by Federal Law no. 29 dated 2005/11/30:

Members of the public authority may not ingress to any dwelling place except in cases specified by law or in case of asking for assistance from within or occurrence of a highly rated risk threatening the body or the property .

Article4

Every person, accused of a felony punished by a death sentence or life imprisonment, must have a lawyer to defend him during the trial **AND** ,in case he has none, the court shall appoint an attorney for him taking in charge his fees for his services as specified by law.

The accused in a felony sanctioned by time imprisonment may ask the court to delegate an attorney for his defense in case his financial inability to appoint a lawyer is verified by it.

Should the delegated lawyer have excuses or impediments he wishes to rise, he must, without delay, submit these to the president of the **CRIMINAL** assize court **AND** , in case the excuses are accepted, the president of the court shall delegate another lawyer.

Article5

The public prosecution is part of the judiciary; it investigates crimes **AND** directs indictments in accordance with the provisions of this Law.

Article6

The public prosecution supervises punitive establishments, places of provisional detention , arrest **AND** incarceration of debtors.

The text of a new Article no. 6 (bis) was added by virtue of clause 1 of Article 2 of Federal Decree-Law no. 28 dated 2020/09/27, to read as follows:

Article) 6 bis)

The Judicial Officers **AND** the investigation entities shall not disclose any information about the victim unless for the concerned persons, in terms of any crimes stipulated in Chapter 5 of Title 7 of Book 2 of the Penal Code issued by virtue of Federal Law no. (3) of 1987, or in Chapter 8 of Federal Law no. (3) of 2016 of the Law of Child Rights ([Wadeema's Law](#)).(

Book1

The **CRIMINAL Action before the Courts**

Title1

****CRIMINAL** Action**

Chapter1

Cases of Lodging the **CRIMINAL Case**

Article7

Excluding the cases specified by law, the public prosecution has exclusive jurisdiction to lodge **AND** pursue **CRIMINAL** cases.

Article8

Relinquishment, discontinuance of a **CRIMINAL** action or impeding it may not be done except in cases specified by law.

Article 9

The Public Prosecutor, in person or through a member of the public prosecution, shall initiate **AND** proceed with the lodging of the **CRIMINAL** action in the manner specified by law.

Article 10

The **CRIMINAL** action may not be lodged, in the following cases, except upon a written or verbal complaint of the victim or his legal representative:

-1Theft, swindling, breach of trust, as well as concealment of objects obtained there from, in case the victim is a spouse of the perpetrator or one of his ascendants or descendants **AND** these

objects are not seized judicially or administratively or encumbered by a lien in favor of another person.

-2Abstention from delivering a minor to the one who has the right to ask it or take him away from the authority of his custodian or surety.

-3Abstention from paying the adjudicated alimony, or cost of fostering suckling or housing.

-4Insult **AND** slANDer.

- 5Other crimes specified by law.

Unless otherwise provided by law, the complaint shall not be accepted after the lapse of three months as of the victim's knowledge of the crime **AND** its perpetrator.

Article11

The complaint shall be submitted to one of the judiciary police **AND** ,in case of a red - h**AND**ed crime, it may be submitted to the public authority officer in presence.

Article 12

Should there be multiplicity of the agreed in the crimes provided for in article 10, filing a complaint by any one of them shall be sufficient.

Should there be multiplicity of the accused **AND** in case the complaint is filed against one of them shall be deemed as well filled against the others.

Article 13

In case the victim in one of the crimes referred to in Article 10 did not complete his fifteen years of age or suffers a brain disability, the complaint shall be submitted by his tutor.

Should the crime be perpetrated on property, the complaint may be submitted by the guardian or the curator.

In both these instances, all the above provisions concerning the complaint shall apply.

Article 14

If there is a conflict of interest between the victim **AND** whoever represents him, or if the former is not represented, the public prosecution shall act for him.

Article15

The right to submit a complaint, in the instances stated in Article 10, shall be forfeited by the death of the victim

Should death occur subsequent to the filing of the complaint, it shall not affect the action process.

Article 16

As amended by Federal Law no. 29 dated 2005/11/30:

In the crimes referred to in Article 10 of this Law, the party submitting the complaint may relinquish his complaint at any time prior to reaching a final decision on the complaint.

The **CRIMINAL** action shall be foreclosed by relinquishment.

Where there are several victims, relinquishment shall not be effective unless done by all those who have submitted the complaint.

In case there are several accused, the relinquishment of the complaint in respect of one of them shall be effective as concerns all others.

If the victim trespasses subsequent to the filing of the complaint, the right to relinquish it shall pass to all his heirs.

Article 17

As amended by Federal Law no. 29 dated 2005/11/30:

Should it be noticed by the **CRIMINAL** court that there are other culprits that have not been prosecuted in the **CRIMINAL** action or that there exist other facts which have not been imputed to the parties thereto, or if a felony or misdemeanor related to the accusation has been perpetrated, it has to remit the lawsuit's paper to the public prosecution for investigation **AND** disposal thereof.

Article 18

In case of perpetration of an offense against the court, one of its judges or one of its staff or if the offense results in a breach of its orders or of the respect due to it or exercise an influence on one of its members or of the witnesses, in the course of examining a case submitted to it, the court has to refer the accused to the public prosecution for investigation.

Article 19

-1 With due observance of the Law regulating the lawyer's profession, should a misdemeanor or contravention be perpetrated during the hearings, the court has to immediately sue the accused **AND** give its decision thereon after hearing the public prosecution **AND** its judgment shall be executor even if appealed. Should the offense be a felony or a misdemeanor of perjury, the court shall order the arrest of the culprit **AND** refer him to the public prosecution.

-2 In this case, the filing of the action is not dependent on filing a complaint, if the law requires for such an offense filing such complaint as a condition precedent.

-3 In all other circumstances, the court shall order, where necessary, the arrest of the culprit.

Chapter2

Termination of the **CRIMINAL A**

Article 20

The provisions of Article 20 were amended by Federal Law no. 29/2005 dated ,30/11/2005 then replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

The **CRIMINAL** action shall terminate by the death of the accused, by pronouncing a decisive judgment, by waiving the proceedings from the party whose right is proven therein, by amnesty or by abrogation of the law penalizing such act.

Except for the punitive offences (Kassas), diya (blood money), **AND** the felonies punished by death sentence or life imprisonment, the **CRIMINAL** action shall extinguish by the lapse of twenty years, **AND** it shall extinguish by the lapse of five years in misdemeanours; **AND** one year in case of violations, such prescriptive period shall start from the date of perpetration of the crime in all cases.

The running of the period determined for the extinguishing of the **CRIMINAL** action shall not be interrupted for any reason whatsoever.

Article 1/20

A new article 20/1 was added by virtue of Article 1 of Federal Law No. 35/2006 dated 2006/10/9, then abrogated by virtue of Article 4 of Federal Decree-Law No. 2018/17 dated 2018/09/23.

Article 21

As amended by Federal Law no. 29 dated 2005/11/30:

The period of limitation of the **CRIMINAL** action shall be interrupted by the investigation or indictment procedures or trial, as well as by prosecution measures if taken in the presence of the accused or if officially notified. In case there are several causes interrupting the period of limitation, the period shall run as of the date of the last measure taken.

In case the accused persons are several, the interruption of the period as regards one of them shall result in its interruption for the others.

Title2 **the Civil Action Related to the **CRIMINAL** Action**

Article 22

As amended by Federal Law no. 29 dated 2005/11/30:

Whoever sustained a direct personal prejudice from the crime is entitled to claim from the accused his civil rights during the gathering of evidence, proceeding with the investigation or before the court examining the **CRIMINAL** case, at any stage of trial up to the close of the oral pleadings but he is not entitled to do so before the appellate court.

In case the prejudice is sustained by a juristic person, the court must ipso jure adjudicate damages if they are specified by law or in a regulation issued under a law.

Article 23

As amended by Federal Law no. 29 dated 2005/11/30:

If the victim of a crime, having sustained a prejudice, is under legal age **AND** is not legally represented, the court examining the **CRIMINAL** case must appoint a representative to claim his civil rights.

Likewise, if the accused, defendant in the civil case, does not have the capacity to appear before the court **AND** is not legally represented, the court must appoint to him a representative.

Article 24

As amended by Federal Law no. 29 dated 2005/11/30:

The civil action may be brought before the **CRIMINAL** court against the insurer in order to repair the prejudice resulting from the crime.

Each of the person assuming civil responsibility **AND** the insurer may, on his own judgment, intervene in the action at any stage of trial.

Article 25

The accused may ask the court to indemnify him for the prejudice sustained because of directing to him a vexatious accusation by the accuser or the victim. The **CRIMINAL** court shall, upon request of the accused, condemn whoever is found guilty of perjury or false accusation to indemnify him.

Article 26

Should the **CRIMINAL** court deem that deciding on the damages claimed by the plaintiff asking his civil rights or the accused requires a special investigation which may delay the settlement of the **CRIMINAL** case, it shall refer the civil action to the competent civil court.

Article 27

The plaintiff in the civil claim may relinquish his claim at any stage of the action **AND** should he does so as concerns the action brought before the **CRIMINAL** court, he may file his case with the civil court.

Article 28

As amended by Federal Law no. 29 dated 2005/11/30:

Where the civil case is brought before the civil court, it must be stayed until a decisive judgment is rendered in the **CRIMINAL** action filed prior or during the examination of the civil case. However, if the **CRIMINAL** action is stayed due to the insanity of the accused, the civil action shall be decided in the presence of his curator.

The stay of the civil action shall not prevent taking the summary precautionary measures. Procedures prescribed in this Law shall be followed when deciding the civil action brought before the **CRIMINAL** court.

The stay of the civil action brought before the civil court shall cease, when the **CRIMINAL** court renders an incriminating judgment in the absence of the accused, as from the day on which

expired the delay allowed for the appeal to be lodged by the public prosecution or from the day of deciding the appeal.

Article 29

If the **CRIMINAL** action is filed then extinguished for any reason whatsoever, the court shall refer the civil action brought before it to the civil court unless the action is ready for judgment on its merits.

Book2

Inquiry AND Investigation of Crimes AND Collecting Evidence

Title1

Collecting Evidence by the Judicial Police

Chapter1

Judicial Police AND Their Duties

Article 30

The judicial police shall inquire about crimes, search for their perpetrators **AND** collect the necessary information **AND** evidence for investigation **AND** indictment.

Article 31

Members of the judicial police are answerable to the public prosecutor **AND** are under his supervision as concerns the performance of their duties.

Article 32

The public prosecutor shall ask the competent body of which depends the member of the judicial police to examine his case should he commit a breach of duty or fails to perform his duties in a satisfactory manner. He may as well ask the said authority to institute a disciplinary action against him without prejudice, in any case, to the right of filing the **CRIMINAL** action.

Article33

As amended by Federal Law no. 29 dated 2005/11/30:

The following shall have the status of judicial police officers:

- 1Members of the public prosecution.
- 2Officers **AND** noncommissioned officers **AND** lower - ranked members of the gendarmerie.
- 3Officers **AND** noncommissioned officers lower - ranked members of frontiers **AND** coast guards.
- 4Passport officers.

- 5Sea port **AND** airport officers from the police **AND** armed forces.
- 6Officers **AND** noncommissioned officers of the Civil Defense.
- 7Municipal inspectors.
- 8Inspectors of the Labor **AND** Social Affairs ministries.
- 9Ministry of Health inspectors.
- 10Civil servants authorized to act as judicial police officers under the laws, decrees **AND** regulations in force.

Article34

In agreement with the competent minister or authority, the Minister of Justice may issue a decision granting some civil servants the capacity of judicial police officers as concerns the offences perpetrated within their jurisdiction **AND** related to the performance of their duties.

Article35

The judicial police officers must accept incoming notifications **AND** complaints about the offences. They, **AND** their subordinates, must obtain clarifications **AND** perform the necessary inspection in order to facilitate the examination of the facts reported to them or those that came to their knowledge by any means. They have to take all precautionary measures necessary for the preservation of the crime's evidences.

Article 36

The provisions of Article 36 were amended by Federal Law no. 29/2005 dated ,30/11/2005 then replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

All measures taken by the Judicial Officers shall be confirmed in reports that shall be signed thereby **AND** shall indicate the date **AND** place of the measures taken as well as the signatures of the accused persons, the witnesses **AND** the experts providing their consultation.

The Judicial Officer shall seek the assistance of a translator in case the accused person or the witness or the expert do not know the Arabic Language, **AND** such translator shall sign on the report.

All reports shall be submitted to the Public Prosecution together with the papers **AND** objects seized.

Article37

Whoever has knowledge of the perpetration of a crime, that the public prosecution could prosecute **AND** file an action without being asked to do so through a complaint or request, must report this to the public prosecution or one of the judicial police officers.

Article 38

Whoever among public servants or those in charge of a public service who has knowledge during, or because of, the performance of his duties, of the perpetration of one of the crimes that the public prosecution could prosecute **AND** file an action without being asked to do so through a complaint or request, must report this to the public prosecution or one of the judicial police officers.

Article39

The complaint in which the plaintiff their not make any civil right claim shall be deemed a notification, **AND** the grievant shall not be considered a claimant of the civil right unless he declare such in his complaint or in a paper presented by thereby at a later date or in case he request a compensation in any one of them.

Article 40

During the collection of evidence, the judicial police officers have to hear the statements of those who may have information on **CRIMINAL** acts **AND** their perpetrators **AND** question the accused about it. They may also seek the assistance of physicians **AND** other experts but they may not ask the witnesses **AND** experts to take oath unless there is fear that there is an impossibility of hearing their testimony later on.

Article 41

The judicial police officers, during the performance of their duties, may directly seek the assistance of the public force.

Chapter2 **Red - hANDed Crimes**

Article 42

A crime shall be considered red - h**AND**ed upon its perpetration or a short while thereafter.

The crime shall also be considered perpetrated red - h**AND**ed if the victim chases the perpetrator; if the latter is chased by the public with shouts upon perpetration of the crime; if the perpetrator is found, after a short while of the perpetration of the crime carrying tools, weapons, wears or objects indicating that he is the perpetrator or the accomplice or if there exists at that time traces or signs so indicating.

Article 43

In case of a red - h**AND**ed crime, the judicial police officer has to go forthwith to the place where the fact occurred, examine **AND** preserve the material facts of the crime, write down the existing state of places **AND** persons **AND** anything else that may lead to revealing the truth **AND** he has to take the statements of those present or those who might give some explanations as concerns the fact **AND** the perpetrator. He has in addition to inform immediately the public prosecution of his move.

The public prosecution has, upon its notification of a red - h**AND**ed crime, to proceed immediately to the place of occurrence of the fact.

Article 44

As amended by Federal Law no. 29 dated 2005/11/30:

In a red - h**AND**ed crime, the judicial police officer has, as soon he moves to the place where it occurs, to prevent the persons in presence to leave or go away of the premises until drafting a report **AND** he is entitled to ask immediately whoever may have any clarification of the fact to appear before him **AND** give his statement.

Should any of the persons present violate the order issued to him by the judicial police officer, or if any of the summoned persons refuse to appear before him, the said officer shall mention this in his report **AND** submit the matter to the public prosecution to take any action deemed necessary.

The competent court shall condemn the violator or the abstaining person, after hearing his defense, to a fine not exceeding five hundreds Dirhams.

Chapter3

Arrest of the Convict

Article 45

The judicial police officer may order the arrest of the accused, present **AND** against whom there are enough evidences that he committed a crime, in any of the following instances:

- 1In matter of felonies;
- 2In suspected misdemeanors sanctioned by a penalty other than the fine;
- 3In misdemeanors sanctioned by a penalty other than the fin, if the accused is put under surveillance or there is an apprehension of his escape;
- 4In misdemeanors of theft, deceit, breach of trust, severe transgression, resistance by force to public authority officers, violation of public morals, misdemeanors concerning arms, ammunitions, intoxicants **AND** dangerous drugs.

Article 46

In case the accused is not present, the judicial police officer may order his apprehension **AND** arraignment **AND** this should be mentioned in the report.

The apprehension **AND** arraignment order shall be executed by one of the public authority officers.

Article 47

The text of Article 47 was replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

The Judicial Officer, upon arrest or apprehension or arraignment of the accused person, **AND** before hearing the statement thereof, shall inform him of the indictment against the accused **AND** about his right for not giving any statement. In case of not hearing a statement that may result in acquittal of the accused person, then the Judicial Officer shall send such accused person within 48 hours to the competent Public Prosecution.

The Public Prosecution shall question the accused within twenty-four hours then it shall order either his arrest or his release.

Article 48

Whoever has seen the offender red - h**AND**ed during the perpetration of a felony or a misdemeanor he must deliver him to the nearest public authority officer without need to an order of apprehension.

Article 49

In felonies, as well as in misdemeanors sanctioned by a penalty other than fine, the public authority officers have to arraign the accused **AND** deliver him to the nearest judicial authority officer.

Article 50

If the red - h**AND**ed crime is one in which the **CRIMINAL** action should be preceded by a complaint, the arrest of the accused may not take place unless the complaint is authorized by the one who has the right to submit it.

The complaint, in this case, may be submitted by any of the present member of the public authority.

Chapter4 **Search of Persons **AND** Dwellings**

Article 51

The judicial police officer has to inspect the accused in the instances where the law allows his arrest. Inspection means the search of the body, clothes or luggage for any trace or things related to the crime or required for the investigation.

Article 52

In case the accused is a female person, inspection must be done by a female delegated by the judicial police officer after she takes oath that she will discharge her duties with loyalty **AND** honesty. Witnesses attending the inspection must also be females.

Article 53

The judicial police officer may not inspect the dwelling of the accused without a written authorization from the public prosecution unless the crime has been committed red - h**AND**ed

AND there are strong indications that the accused is hiding in his house objects or papers which may lead to the truth. Inspection as well as the seizure of the objects **AND** papers shall take place in the manner specified by law. The search for these objects **AND** papers shall be done in all parts of the house, its appurtenances **AND** contents.

Article 54

The judicial police officer, even in cases other than red - **hAND**ed crimes, may inspect dwellings of persons put under surveillance, either according to a law provision or a court decision, should there be strong indications that they may be suspected of perpetrating a felony or a misdemeanor.

Article 55

The dwelling of the accused may not be inspected except for the search of the things related to the crime, for which evidence is collected, or constitute the object of investigation. Nevertheless, if during inspection, some objects are incidentally discovered which possession constitutes per se a crime or which may lead to reveal the truth in another crime, the judicial police officer shall proceed with their seizure.

Article 56

Should there be in the house women **AND** the purpose of entering it is not their arrest or their search, the judicial police officer must take into consideration the usages followed in treating with them **AND** allow them to cover their faces or leave the house **AND** grant them the necessary facilities to this end to the extent that these are not detrimental to the objective or result of the search.

Article 57

Where during the search of the dwelling of the accused, there are strong presumptions against him or against a person present in it that he is concealing with him something which may reveal the truth, the judicial police officer may search him.

Article 58

Should there be in the dwelling of the accused documents sealed or closed by any other means, the judicial police officer may not unseal or open these but must mention them in the inspection report **AND** submit them to the public prosecution.

Article 59

The search shall, whenever possible, be done in the presence of the accused or his delegate, otherwise in the presence of two witnesses who, if possible, must be of legal age among his relatives, or those residing with him in the house or among his neighbors. This should be mentioned in the report.

Article 60

The judicial police officers shall affix the seals on places **AND** objects, in which there are traces helping to reveal the truth, **AND** put them under custody **AND** report forthwith the matter to the public prosecution.

Any interested person may file a grievance against this procedure with the president of the first instance court or the judge, as the case may be, through a petition submitted to the public prosecution which in turn shall immediately refer it, together with its opinion, to the president of the court or the judge.

Article 61

The judicial police officers have to sequester the objects which may have been used in the perpetration of the crime, resulted there from or if the crime has been committed thereon; in addition to whatever may lead to the truth in the matter.

These objects shall be described **AND** submitted to the accused in order to give his remarks thereon after which a report shall be made that will be signed by the accused or mention shall be made therein that he refused to sign it.

The sequestered objects **AND** papers shall be put in a closed **AND** sealed package on which shall be written the date of the sequestration report **AND** mention shall be made as to the subject - matter for which the objects were sequestered.

Article 62

The break of the seals affixed on the places **AND** objects shall be done in accordance with articles 60 **AND** 61 in the presence of the accused or his attorney **AND** the person with whom these objects were seized, or after convening them to attend.

Article 63

Whoever came to his knowledge, because of the search, information on the sequestered objects under search **AND** disclosed this information to a non-qualified third person, or if he drew benefit from it in whatever manner, shall be sanctioned to the same penalty imposed for the crime of disclosing secret information.

Article 64

In case the person with whom the papers were seized has an urgent interest in it, he shall be given a copy thereof countersigned by the public prosecution unless this would be detrimental to the investigation.

Title 2

Public Prosecution Investigation

Chapter 1

Proceeding with the Investigation

Section1

General Provisions

Article 65

The public prosecution shall by itself proceed with the investigation in felonies **AND** in misdemeanors, where deemed necessary.

Article 66

In all investigation procedures taken by a member of the public prosecution, he must be accompanied by one of the public prosecution's clerk or, if necessary, he may assign this duty to another person after having him take the oath.

The member of the public prosecution **AND** the clerk shall sign every page of the reports which shall be kept **AND** the other papers with the clerks' office.

The member of the public prosecution shall, before the presence of the clerk, record all required investigation procedures taken.

Article 67

The investigation procedures in themselves **AND** the ensuing results shall be considered secret information which the members of the public prosecution **AND** their assistants, clerks, experts **AND** others who are related to the investigation or attending it because of their office or profession, must not disclose it. Whoever breaches this duty shall be punished by the same penalty prescribed for the crime of disclosing secret information.

Article 68

The member of the public prosecution may assign to one of the judicial police officers one or more task of the investigation, except the interrogation of the accused. He may also, if required to take any of the measures outside his jurisdiction, to delegate for its performance a member of the public prosecution or a judicial police officer within this area of performance **AND**, in all cases, the delegated person shall, for the investigation, all powers that the principal may have in order to carry out, in his jurisdiction, the investigation.

Article 69

Under all circumstances the member of the public prosecution who delegates to another person to perform some investigations has to specify the matters to investigate **AND** the procedures required to be taken. The delegate may carry out any other investigation including the interrogation of the accused in the instances where it would be too late to take such action whenever it is necessary for reaching the truth.

Article 70

Investigation shall be carried out in Arabic.

In case the accused, one of the parties, the witness or others whose statements are deemed by the public prosecution necessary to be heard, ignore the Arabic language, the member of public prosecution may seek the assistance of a translator after having him taking oath that he will perform his duties in all loyalty **AND** honesty.

Section2

Examination, Search **AND Sequestration of the Objects Related to Crime**

Article 71

The member of the public prosecution shall go to any place in order to determine the status of persons, places **AND** objects related to crimes **AND** all what requires this procedure.

Should the case require to take action in an area situated outside his jurisdiction, he shall delegate to a member of the competent prosecution in order accomplish such action.

Article 72

The member of the public prosecution shall search the dwelling of the accused upon a charge imputed to him of perpetrating a crime or by acting as an accomplice in it. He may, in this respect search any place **AND** seize any papers, arms **AND** all what may likely be used in the perpetration of the crime or resulting there from, as well as anything that may help in revealing the truth.

Article 73

Searching the house of the accused shall be made in his presence or in the presence of his representative, wherever possible. Should a search be made in other than the house of the accused the owner thereof shall be called to attend, by himself or through his representative whenever possible.

Article 74

In searching a female person, the provisions of Article 52 of this Law shall be observed.

Article 75

As amended by Federal Law no. 29 dated 2005/11/30:

The member of the public prosecution shall search the accused **AND** may not search any other person or any other house unless there are strong presumptions that he is in possession of objects related to the crime. He may, with the approval of the Chief Prosecutor, seize at the post offices all correspondence, letters, papers, printed materials, parcels **AND** at the telegrams' offices, all cables. He may in addition control **AND** record wire **AND** wireless conversations, whenever the investigation requirements so necessitates.

Article 76

The member of the public prosecution may exclusively read the correspondence, letters **AND** other seized papers **AND**, as the examination reveals, he is entitled to order the joining of these papers to the action file or return same to its original possessor or to their addressee.

Article 77

The member of the public prosecution may not seize, under the h**AND**s of the Attorney for the accused, the papers **AND** documents which were delivered to him by the accused in order to discharge the task entrusted to him, or the correspondence exchanged between them in the case.

Article 78

The member of the public prosecution shall order the person in possession of something which he deems that it should be seized or perused, to submit it. The provisions prescribed for the refusal to testify shall apply in case of refraining from executing this order.

Article 79

Correspondence, letters, cables or similar papers seized or addressed to the accused shall be notified to him or he shall be given, within the shortest period possible, a copy thereof, unless this is prejudicial to the good run of the investigation.

Whoever claims that he has a right on the seized objects, may ask the member of the public prosecution to deliver these to him.

Section3

Return of the Seized Objects **AND the Disposal Thereof**

Article 80

Objects seized in the course of the investigation, even before the judgment, may be restituted unless they are necessary for the action process or under confiscation.

Article 81

Return of the seized objects to the person who was in possession thereof at the time of their detainment. However, if the seized objects are those on which the crime was perpetrated or resulting thereof, their return shall be to the one who lost its possession as a result of the crime, unless the person with whom they were seized has a right to detain them under the law.

Article 82

The writ of replevin is issued by the public prosecution **AND** the court may order restitution during the examination of the **CRIMINAL** action.

Article 83

The writ of replevin does not prevent the interested persons to claim their rights before the civil court but this claim is not available to the accused or the civil party in the **CRIMINAL** case if the writ was issued by the **CRIMINAL** court upon request of either of them against the other.

Article 84

The writ may be ordered even without a request.

The public prosecution may not order the replevin of a disputed object or of any other object where there is doubt about the person having the right of reception thereof.

Article 85

As amended by Federal Law no. 29 dated 2005/11/30:

Whenever is issued an order to discontinue the case or a decision on the counts to institute a case, the member of the public prosecution must decide the issue of the seized objects.

When deciding the case, the **CRIMINAL** court has to decide the issue of the arrested objects should the claim for replevin be filed before it as it may order, if it deems necessary, to refer the parties to the civil court **AND**, in this case, put the arrested objects in custody **AND** take other measures to preserve them.

Article 86

If the arrested object is exposed to damage in time or that maintaining it would depreciate its total value, an order may be issued to sell it by public auction, in case the investigation requirements so allows, **AND** the sale proceeds shall be reserved for its rightful owner.

Article 87

As amended by Federal Law no. 29 dated 2005/11/30:

Arrested objects not claimed by their rightful owners within one year as of the date of closing the **CRIMINAL** case, may be subject to an order for sale by public auction **AND** the proceeds shall be reserved for their rightful owners.

Section 4

Hearing the Witnesses

Article 88

The member of the public prosecution shall hear the witnesses which the parties ask to be heard, unless he deems it useless. He may hear those witnesses considered by him useful to be heard as concerns the established facts or those evidencing the crime, its circumstances **AND** its imputation to the accused or his innocence there from.

Article 89

The member of the prosecution shall summon the witnesses, decided to be heard, through the public authority personnel. He may also hear the testimony of any witness who attends the hearing session on his own **AND** this shall be recorded in the minutes.

Article 90

The member of the public prosecution may hear each witness separately or he may make them confront each other.

Article 91

The member of the public prosecution shall ask each witness to specify his name, surname, age, profession, nationality, residence; his relation to the accused, the victim **AND** the civil party plaintiff **AND** he shall check his identity.

The witness who has completed is fifteen years of age must, before giving his testimony, to swear under oath that he will say the truth, the whole truth **AND** nothing but the truth. Witnesses under this age may be heard for all useful purposes but without being sworn.

The above information, the testimony of witnesses **AND** their hearing procedure shall be recorded in the minutes without modification, crossing out, erasure, insertion or addition. None of these shall be considered unless ratified by the member of the public prosecution, the clerk **AND** the witness.

Article 92

A amended by Federal Law no. 29 dated 2005/11/30:

The member of the public prosecution **AND** the clerk shall each appose their signature on each page of the testimony. The witness shall follow suit after reciting it to him **AND** ,if he abstains from signing or apposing his thumb print, or if unable to do so, this should be mentioned in the minutes together with the reasons therefore as explained by him.

Article 93

Whoever is summoned to appear before the public prosecution to give his testimony must comply with the convocation addressed to him **AND** ,if he abstains without excuse, the member of the prosecution shall issue a warrant to arrest **AND** have him appear before the public prosecution.

Article 94

In case the witness is sick or has his excuse for not appearing, his testimony shall be heard where he is present.

Article 95

Upon request of the witnesses the member of the public prosecution shall assess the amount of expenses **AND** compensation to which they are entitled because of their appearance to give their testimony.

Section5

Experts Assignment

Article 96

Should the investigation require the assistance of a physician or other experts to establish a status quo, the member of the public prosecution shall issue an order of assigning him to submit a report on the task he was assigned for.

The member of the public prosecution shall be present when the expert is to perform his task **AND** the expert may discharge his duty without the presence of the parties.

Article 97

If the expert's name is not recorded in the roll, he must take oath before the member of the public prosecution to perform the duties of his assignment with trust **AND** loyalty.

Article 98

The expert shall submit his report in writing at the time fixed by the member of the public prosecution. In case he fails to submit his report in time or if the investigation so requires, the member of the public prosecution shall replace the expert by another one.

Section6

Interrogation **AND Confrontation**

Article 99

The member of the public prosecution must, upon the presence of the accused for the first time before the investigation authority, write down all the information concerning proof of his identity **AND** inform the accused of the charge imputed to him **AND** mention in the report the answer of this latter on this charge.

Article 100

The attorney for the accused must be enabled to attend the investigation with him **AND** take knowledge of the investigation papers, unless otherwise decided by the member of the public prosecution in the interest of the investigation.

Section7

Subpoena **AND Writ of Capias**

Article 101

The member of the public prosecution shall, according to circumstances, issue a subpoena or a writ of capias to the accused.

Each of these instruments must include the accused name, surname, profession, nationality, residence, the charge imputed to him, date of the writ, place **AND** time of appearance, name of the public prosecution member, his signature, the official seal **AND** the writ of *capias* must, in addition, include assigning to a member of the public authority the task of arresting the accused **AND** bringing him before the public prosecution member in case he refuses to willfully **AND** instantly appear.

The said writs shall be notified to the accused by the members of the public authority **AND** he shall be delivered a copy of this notification.

Article 102

If the accused does not appear after summoning him to do so, without an acceptable excuse, or if it is feared that he will escape, or if he has no known place of residence, or if the crime is committed red - h**AND**ed, the public prosecution member may order to arrest **AND** bring the accused even where the event is not one that allows putting the accused under provisional detention.

Article 103

Orders issued by the public prosecution member shall be executory in all parts of the State **AND** the arrest warrant may not be executed after the lapse of six months following the date of its issue unless confirmed by the public prosecution member for another period.

Article 104

The public prosecution member must immediately interrogate the arrested person or, if this be impossible, he should be put in one of the specialized places of detention until his interrogation. The period of detention must not exceed twenty four hours after which the administrator of this place has to send the detained person to the public prosecution which must instantly interrogate him otherwise order is release.

Article 105

With due observance of the provisions of the Federal Law no. 11 of 1973, organizing the relations between the Emirates members of the Federation 2 If the accused is arrested outside the scope of jurisdiction of the court where the interrogation takes place , he shall immediately be sent to the public prosecution of the place of his arrest which shall verify all information concerning the identity of this person, then refer him to the public prosecution of the court where he is interrogated through the public authority which has to deliver him there as quickly as possible.

In case the accused objects to his moving or if his condition does not allow his transport, the public prosecution member shall inform the investigator of this matter who shall forthwith order what should be followed.

Section8

Provisional Detention Order

Article 106

With due observance of the provisions provided in the law on juvenile delinquents **AND** homeless persons 2 the public prosecution member may, after interrogating the accused, order his provisional detention if there is enough evidence **AND** if the act constitutes a felony or a misdemeanor sanctioned by other than the fine penalty.

Article 107

As amended by Federal Law no. 29 dated 2005/11/30:

In addition to the information stated in clause 2 of Article 101, the order of detention must include an instruction to the person in charge of the administration of the place of detention to accept the accused **AND** place him therein. The order should mention the law provision applicable to the case **AND** shall be governed by the law provisions provide for by the last paragraph of Article 108.

Article 108

When confining the accused in the place of detention, a copy of the order of detention must be delivered to the person in charge of the administration of the place after securing his signature on the original stating that he received the copy thereof.

The administrator of the place of detention may not allow any member of the public authority to have any contact with the person under provisional detention inside the place except by a written authorization from the public prosecution **AND** ,if this be the case, he must write down in the book kept for the purpose, the name of the person giving the authorization, the time of the visit **AND** the date **AND** contents of the authorization.

Article109

Should the investigation procedures so necessitate, the public prosecution member shall issue an order forbidding any contact between the provisionally detained accused **AND** the other detained **AND** any visits by any person whatsoever, without prejudice to the right of the accused to permanently contact in private his attorney.

Article 110

The detention order given by the public prosecution shall be issued, subsequent to his interrogation, **AND** for a period of seven days renewable for another period not exceeding fourteen days.

Should in the interest of the investigation that the provisional detention be continued after the lapse of the periods mentioned in the above paragraph, the public prosecution must submit the papers to one of the judges of the competent **CRIMINAL** court who may, after perusing the papers **AND** hearing the accused statements, order the extension of the detention period for another period not exceeding thirty days, renewable, or the release of the detained with or without bail.

The accused may submit a grievance to the president of the court against the order issued in his absence extending the detention. The grievance should be submitted within three days as of the date of his notification of the order or from the date of taking knowledge thereof.

Section9

Provisional Release

Article 111

As amended by Federal Law no. 29 dated 2005/11/30:

The provisional detained person convicted in a crime sanctioned by a death penalty or a life imprisonment sentence, may not be released.

The public prosecution may order a provisional release of the accused under provisional detention, for a felony or a misdemeanor, at any time whether on its own decision or upon request of the accused unless the latter has been referred to the competent court for trial, in which case his release falls within the jurisdiction of the said court.

Article 112

In cases other than those the provisional release is a must, the release may be conditioned on a personal or pecuniary bail to be determined by the public prosecution or the judge , as the case may be, **AND** the amount of the bail shall be allocated as an adequate penalty for the abstention of the accused from appearing in any of the procedures during investigation or trial **AND** as a remedy against his evasion from the enforcement of the judgment **AND** an incentive to perform all the other duties imposed on him .

Article 113

The amount of bail shall be paid by the accused, or others, through depositing the assessed amount with the court treasury. The bail may also consist of an undertaking made by a solvent person to pay the assessed amount of bail in case the accused does not fulfill the release conditions. This undertaking shall be recorded in the investigation report or by making a declaration in the clerks' office **AND** both the report **AND** the declaration shall have the force of an executory instrument.

Article 114

Should the accused, without an acceptable excuse, fail to fulfill one of the obligations imposed on him under Article 112, the pecuniary bail shall be the property of the government without need to a judgment to this effect.

The amount of bail shall be returned in full if a non - suit decision is rendered in the case or if the accused is declared innocent. The court may, in any case decide to refund the amount of the bail, any portion thereof or even discharge the bail or from his obligation.

Article 115

As amended by Federal Law no. 29 dated 2005/11/30:

The order of releasing the accused does not prevent the public prosecution member from issuing another order to arrest **AND** detain the accused should the evidence against him become stronger, if he fails to fulfill the duties imposed on him or if there are circumstances that require such a measure.

In case the release order is issued by the court, the new order to detain the accused shall be given by the same court upon request of the public prosecution.

Article 116

Article 116 was replaced by virtue of Article 1 of Federal Decree-Law No. 17/2018 dated 23/09/2018as follows:

In the event that the accused is referred to the court, his release, if detained, his detention, if released, or his temporary placement under electronic monitoring, if detained or released, or cancellation thereof shall be of the jurisdiction of the court he is referred to.

In the event of adjudicating lack of jurisdiction, the court that has issued the judgment shall have jurisdiction to examine the application for release, detention or temporary placement under electronic monitoring or cancellation thereof, until the case is brought before the competent court.

Article 117

The application to detain the accused submitted by the victim, the civil party in the case, shall not be accepted **AND** his statements in the discussions related to the release of the accused shall not be heard.

Chapter2

Disposal of the Accusation **AND of the Action**

Article 118

Subsequent to the investigation done by it, the public prosecution may issue a nonsuit order **AND** order the release of the accused unless he is detained for another reason.

The nonsuit order in felonies may only be issued by the Head of the public prosecution department or his substitute **AND** shall not be executory except after its ratification by the Public Prosecutor.

The order shall state the name **AND** surname of the accused, his age, birth place, residence, profession, nationality **AND** the charge imputed to him together with its legal characterization.

The order must include the reasons on which it is based **AND** should be notified to the civil party in the suit, or if deceased, to his heirs as a whole without detailing their names, at the last domicile of the decedent.

Article 1/118

Added by Federal Law no. 29 dated 2005/11/30:

Should the public prosecution, in misdemeanors **AND** petty offenses, find from the evidences collected that the action is ready to be lodged, it shall summon the accused to appear immediately before the competent **CRIMINAL** court. If on the contrary it deems that there is no reason to pursue the action, it shall order that it be archived.

Article 119

As amended by Federal Law no. 29 dated 2005/11/30:

In misdemeanors, the Public Prosecutor may cancel the order referred to in Article 118 of this Law within three months following its issue unless it has been appealed **AND** the appeal rejected.

Article 120

As amended by Federal Law no. 29 dated 2005/11/30:

In case the public prosecution deems that the act is a misdemeanor or a petty offense **AND** there is sufficient evidence against the accused, it shall refer the case for examination to the competent **CRIMINAL** court.

Article 121

Should the Head of the prosecution department, or his substitute deem that the act constitutes a felony **AND** the evidence against the accused is sufficient, he shall order the referral of the accused to the assize court. If there is any doubt as to whether the act constitutes or a misdemeanor, the accused shall be referred to the court of assizes under the charge of a felony.

Article 122

If a final decision of non- jurisdiction has previously been rendered by the **CRIMINAL** court examining misdemeanors because the act constitutes a felony, the public prosecution must decide the referral of the action to the court of Assizes.

Article 123

The order of referral shall include the name **AND** surname of the accused, his age, place of birth, residence **AND** nationality; it shall also specify the charge imputed to him with all its constituting elements, the extenuating or aggravating circumstances **AND** the applicable articles of the governing law.

The public prosecution shall notify this order to the parties within three days from its issuance.

Article 124

Without prejudice to the provisions of the Federal Law no. 11 of 1973 concerning the Regulation of the Judicial Relations between the Emirates member of the Federation, should the accusation comprise more than one offense falling within the jurisdiction of more than one court of first degree, they shall all be referred through one order to the court having *ratione loci* jurisdiction in one of these offenses.

Should the offenses fall within the jurisdiction of courts of different degrees, the action shall be referred to the court of the highest degree.

Article 125

The accused detained on rem **AND** shall be released if the order referring him to the competent court does not include maintaining him under detention.

Article 126

As amended by Federal Law no. 29 dated 2005/11/30:

When the public prosecution issues an order of referral to the **CRIMINAL** court, it shall ask the accused, the civil party **AND** the party liable for the damages to submit forthwith a list of the witnesses to be heard before the court showing their names **AND** places of residence.

The public prosecution shall make a list of its witnesses **AND** of those mentioned in the preceding clause. The list shall be notified to the accused **AND** to the witnesses mentioned therein.

Article 127

Each of the parties shall summon, through the process server **AND** at his own expense, his witnesses mentioned in the list prepared by the public prosecution **AND** shall deposit with the clerks' office their transport expenses.

Article 128

As amended by Federal Law no. 29 dated 2005/11/30:

As soon as the public prosecution finishes with the investigation **AND** disposes of the case file by referral, it shall forward the file to the competent court.

Article 129

If an order is issued in absentia to refer an accused of a felony to the court of assizes then he shows up or is arrested, the case shall be re - trialed anew, before the court, in his presence.

Article 130

Where, subsequent to the issuance of an order of referral, an event occurs that necessitates a complementary investigation, the public prosecution has to proceed with it **AND** submit the report to the court.

Article 131

The non - suit order issued by the public prosecution prevents from recurring to the investigation unless new evidences are discovered.

Shall be considered new evidence, testimony of witnesses, reports **AND** the other papers that were not submitted to the public prosecution **AND** which shall reinforce the existing evidence considered insufficient or add more clarification which may lead to the truth.

Title3

Appeal of Orders **AND Decisions Issued at the Stage of Investigation**

Article 132

The public prosecution should appeal the decision rendered by the judge ordering the provisional release of the detained on rem**AND AND** this decision may not be executed prior to the expiry of the delay of the appeal or prior to reaching a decision thereon if lodged within the prescribed delay.

Article 133

The party in a **CRIMINAL** case claiming damages may appeal the non - suit decision issued by the public prosecution on grounds of negation of the charge, the act is not punishable or if the evidence against the accused is insufficient.

Article 134

As amended by Federal Law no. 29 dated 2005/11/30:

The appeal mentioned in Articles 132 **AND** 133 above shall be lodged through a report deposited with the clerks' office of the **CRIMINAL** court **AND** the delay of appeal shall be Twenty Four hours in the case provided for in Article 132 **AND** Ten days in the case stated in Article 133.

The delay of appeal shall start as of the date of issuance of the decision, as concerns the public prosecution **AND** as of the notification of the order, as concerns the other parties.

Article 135

As amended by Federal Law no. 29 dated 2005/11/30:

The date of the hearings shall be fixed to the appellant in the appeal report **AND** this date shall be within three days. The public prosecution shall summon the other parties to be present in the fixed hearing **AND** shall forward forthwith the papers to the clerks' office of the **CRIMINAL** court.

Article 136

The appellate court shall examine the appeal in challenge of the orders **AND** decisions referred to in this Title, in closed chambers, as it may also, whenever necessary, examine it outside the days fixed for holding these hearings **AND** outside the seat of the court.

Article 137

As amended by Federal Law no. 29 dated 2005/11/30:

The court of appeal shall issue the non - suit decisions after perusing the papers **AND** hearing the explanations that it deems necessary to ask the parties to give. It may also perform everything required for reaching a decision in the appeal including complementary investigations or delegating for this purpose one of its members or the public prosecution.

When deciding the cancellation of the non - suit order , the court of appeal should rem**AND** the case to the public prosecution through a decision stating the grounds on which it is based detailing the offense, its constituting elements **AND** the provisions of the governing law in order to refer it to the competent **CRIMINAL** court.

Under all circumstances, the decisions of the court of appeal may not be challenged.

Article 138

When examining the appeal against the order releasing the accused detained on rem**AND** ,the court of appeal should, after detaining him **AND** in case it does not take a decision concerning the appeal within three days from filing the report, immediately execute the order of release.

Book3 the Courts

Title1 Jurisdiction

Chapter1 Jurisdiction in **CRIMINAL Matters**

Article 139

With the exception of the offenses falling within the jurisdiction of the Supreme Federal Court, the first degree court composed of three judges shall have jurisdiction to examine the felonies transmitted to it by the public prosecution, referred to in this Law as the Felonies **CRIMINAL** Court , **AND** when composed of one judge, it shall have jurisdiction to examine all cases of misdemeanors **AND** petty offenses **AND** is referred to in this law as the Misdemeanors **CRIMINAL** Court.

A new paragraph was added by virtue of Article 2 of Federal Decree-Law No. 17/2018 dated 2018/09/23 as follows:

As an exception to the provisions hereof, the Minister of Justice, after consulting the Federal Judicial Supreme Council, **AND** the chairmen of the local judicial authorities as the case may be **AND** in accordance with the laws governing their work, may set the rules regulating the work of the one-day court at the Court of Misdemeanours, determine its jurisdictions **AND** announce the litigants **AND** the systems of its hearings as well as other procedures.

Article 140

Should the Misdemeanors **CRIMINAL** Court notice that the act constitute a felony, it shall decide that the case is beyond its jurisdiction **AND** shall return the papers to the public prosecution to take the legal prescribed measures.

Article 141

Should the Felonies **CRIMINAL** Court notice that the act, as described in the referral order **AND** prior to its investigation in session, is a misdemeanor, it shall decide its lack of jurisdiction **AND** refer the case to the Misdemeanor **CRIMINAL** Court.

Article 142

Jurisdiction shall be determined by the place where the crime occurred.

Article 143

In case of attempt, the crime shall be considered perpetrated in each place where one of the acts of commencement of execution has taken place. In continuous crimes, it shall be considered place of the crime each place where a state of continuity is present. In case of recidivism **AND** in successive crimes, the place of the crime is each place where one of the inclusive acts is perpetrated.

Article 144

Where any crime is perpetrated abroad **AND** is governed by the provisions of the national law, the perpetrator shall be sued before the **CRIMINAL** courts of the capital.

Article 145

If one or more of the accused, in a single crime or in connected crimes included in the same investigation, is brought before two trial instances **AND** where both instances are competent, the case shall be transferred to the court to which it was first submitted.

Article 146

Should the court notice, at any stage of the proceedings, that it lacks jurisdiction to examine the case, it shall decide its incompetence even without any request to this effect.

Chapter2

Jurisdiction as to the Civil Case for Damages **AND in matters Which Settlement is Dependent on the Decision to be rendered in the **CRIMINAL** Action**

Article147

The civil action, regardless of the amount involved, may be brought before the **CRIMINAL** court in order to be examined in conjunction with the **CRIMINAL** case after payment of the prescribed legal fees.

Article 148

Unless otherwise provided by law, the **CRIMINAL** court has jurisdiction to decide on any matter that is dependent on the adjudication of the case pending before it.

Article 149

In case the judgment in a **CRIMINAL** case depends on the result of settling another **CRIMINAL** case, the first case should be stayed until the decision in the second case is rendered.

Article 150

Should the adjudication of a **CRIMINAL** action depends on deciding a personal status matter, the **CRIMINAL** court may order the stay of this action **AND** fix a delay to the accused, the party claiming damages or the defendant, as the case may be, to submit the mentioned matter to the competent authority; but the stay of the action shall not prevent taking the necessary or urgent measures or investigations.

Article 151

If the delay referred to in the preceding Article has lapsed without submitting the mentioned matter to the competent authority, the court may disregard the order to stay the action **AND** adjudicate it, as it may fix another delay in case it is justified.

Article 152

The **CRIMINAL** courts, in non-**CRIMINAL** matters to be decided by it in conjunction with the **CRIMINAL** action, shall follow the means of evidence prescribed by the law governing these matters.

Chapter 3 Conflict of Jurisdictions

Article 153

In case two final judgments upholding or denying jurisdiction are rendered, concerning the same object under litigation, the application to designate the competent court shall be submitted to the Federal Supreme Court according to the following two articles.

Article 154

Each of the public prosecution **AND** the parties to the litigation may apply for the designation of the competent court through a petition sustained by documents in support thereof.

The court to which the application has been submitted shall, within Twenty Four hours from its submission, order the deposit of the papers with the clerks' office.

The clerks' office shall notify the other parties of this deposit within the three days following this notification in order for them to peruse the deposited papers **AND** submit a Memor**AND**um of their statements thereon within the ten days following their notification of this deposit.

The order of deposit shall entail stay of the action for which the application is submitted, unless otherwise decided by the court.

Article 155

After taking knowledge of the papers, the court to which the application was submitted, shall designate the competent court **AND** shall also render a decision as concerns the measures **AND** judgments that may have been taken or rendered by the other court whose jurisdiction has been cancelled.

Title2 Trial Procedures

Chapter1 General Provisions

Section1 Notification of the Parties

Article 156

As amended by Federal Law no. 29 dated 2005/11/30:

Should the action be referred to one of the **CRIMINAL** courts, the public prosecution shall summon the accused to appear before the competent court specified in the referral order.

Article 157

The summons addressed to the accused to appear before the court may be dispensed with if the accused attended the session **AND** was faced by the charge addressed to him by the public prosecution **AND** he accepted the trial.

Article 158

As amended by Federal Law no. 29 dated 2005/11/30:

Summoning the parties to appear before the court shall be prior to holding the session for at least one full day in minor offenses, three days in misdemeanors **AND** ten days in felonies.

The summons to appear shall mention the charge **AND** the law articles specifying the sanction.

Article 159

The summons to appear shall be notified to the accused in person or at the place of residence or work in the manner prescribed by the law on the procedures followed before the civil courts.

If, despite the search, the place of residence or work of the accused is not known, the notice shall be delivered to the police station of which depends the last known residence of the accused **AND** the place of the crime shall be considered as his last residence unless otherwise established

In misdemeanors **AND** minor offenses, the notification may be served by a member of the public authority.

Section2 **the Session Order **AND** Procedures**

Article 160

As amended by Federal Law no. 29 dated 2005/11/30:

The accused of a felony or a misdemeanor, sanctioned by a penalty other than a fine, has to appear in person. In other misdemeanors or petty offenses, however, he may delegate an attorney to submit his defense but without prejudice to the right of the court to order his presence in person.

However , in all circumstances , his attorney or one of his relatives or in - laws may attend **AND** submit the excuse of the accused for his absence **AND** , in case the court accepts the excuse , it shall fix another date for the accused to appear before it **AND** the public prosecution shall notify him of this date.

Article161

The hearing must be public but the court may for reasons relating to public policy or morals order that the action , in whole or in part be examined in closed session or prevent some class of people to attend .

A new paragraph was added by virtue of Article 2 of Federal Decree-Law No. 17/2018 dated 2018/09/23 as follows:

In any case, closed hearings shall be held in sexual assault cases stipulated in Chapter 5 of Title 7 of Book 2 of the aforementioned Penal Code.

Article 162

A member of the public prosecution must attend the hearings of the **CRIMINAL** court which has to hear him **AND** rule over his dem**AND**s.

Article 163

Order **AND** administration of the hearing are entrusted to its presiding judge who, with due compliance with the law on the Law Profession, may in this respect oust whoever disturb the order **AND** ,if he refuses to obey, the court may condemn him instantly to a twenty - four - hour - detention or to a fine of one hundred Dirhams **AND** its judgment in this respect is final.

The court may, at any time prior to the end of the hearing, go back on its judgment or decision issued under the preceding paragraph.

Article164

The accused shall be brought to the court h**AND**s free but under the necessary surveillance.

He may not be ousted from the hearing during the examination of the action unless he commits any act of disturbance justifying this measure. In this case the procedures shall continue until he is allowed to attend again , then the court shall keep him informed of the procedures taken in his absence .

Article 165

As amended by Federal Law no. 29 dated 2005/11/30:

The investigation shall commence by calling on the parties **AND** the witnesses. The accused shall be asked to state his name, surname, his profession, nationality, place of residence **AND** place of birth, after which the charge imputed to him shall be recited **AND** the public prosecution **AND** the party claiming damages, if any, shall submit their claims. Thereafter the accused shall be asked if he avows having perpetrated the act that is imputed to him **AND** in the positive the court may be satisfied with his avowal **AND** condemn him without listening to the witnesses, otherwise it shall listen to the testimony of the witnesses to the prosecution unless the crime is sanctioned by the death penalty in which case the court has to complete the investigation.

The public prosecution shall first address the questions to these witnesses then the victim followed by the party claiming damages, if any, as concerns his claim, **AND** the person liable to pay these damages. The public prosecution, the victim **AND** the responsible for damages shall, in turn, shall interrogate a second time the mentioned witnesses in order to clarify the facts for which they testified in their answers, provided that the court shall hear their testimony individually.

Article 166

As amended by Federal Law no. 29 dated 2005/11/30:

After hearing the witnesses to the prosecution, the court shall listen to the witnesses to the defense who shall be questioned first by the accused, then by the responsible for the damages, the public prosecution, **AND** the person claiming damages. The accused **AND** the responsible for the damages shall address to the mentioned witnesses other questions in order to clarify the facts for which they testified in their answers to the questions addressed to them.

Each of the parties may ask the rehearing of the mentioned witnesses in order to clarify or investigate the facts for which they testified, or ask to hear other witnesses for this purpose.

Article167

The witnesses shall be called, by their names one by one, to give their testimony **AND** the one whose testimony was heard shall remain in the hearings room until closing the debates unless the court authorizes him to leave. Where necessary, a witness may be asked to leave the room while hearing the testimony of another witness, or the witnesses may be confronted with each other.

Article 168

As amended by Federal Law no. 29 dated 2005/11/30:

The court may, at any stage of the proceedings, address to the witnesses any question it deems necessary to reveal the truth as it may authorize the parties to do so.

It must prevent addressing questions to the witnesses if irrelevant to the case or unacceptable.

Moreover, it must protect the witness from any word express or implied, as well as any sign that may confuse his thoughts or frighten him.

The court may also refuse to hear the testimony of witnesses on facts that it deems clear enough.

Article 169

After hearing the witnesses to the prosecution **AND** to the defense, the public prosecution, the accused **AND** all other parties in the action may speak but in any case the accused shall be the last to speak.

The court may prevent the accused, the remaining parties **AND** those assuming their defense to talk any further in case they speak beyond the subject or repeat themselves.

Article 170

Should the absent accused appear before the end of the hearing in which the judgment was rendered, the case should be reexamined in his presence .

Article 171

A report should be drawn up of all what takes place during the trial **AND** each page thereof should be signed by the presiding judge **AND** the clerk.

This report shall include the date of the hearing, with mention whether it is public or closed , the names of the judges **AND** the member of the public prosecution who assisted in the hearing , the names of the clerk , the parties **AND** their defenders, the testimony of the witnesses , the statements of the parties **AND** reference should be made in it to the papers that were recited **AND** all measures taken, the claims submitted during the examination of the case, the decisions taken in ancillary matters, the decision clause in the judgments rendered **AND** all other things that took place during the hearing.

Section3

Witnesses **AND Other Evidences**

Article172

As amended by Federal Law no. 29 dated 2005/11/30:

The witnesses are summoned to appear upon request of the parties, through the process server or one of the members of the public authority, twenty four hours at least prior to the hearing to which shall be added the distance delays. The witness may attend the hearing upon request of the parties without being notified.

The court may, during the examination of the case, ask any person to be present **AND** give his statement even if it has, where necessary, to issue a writ of arrest **AND** force him to appear. It may also order to subpoena him for another hearing.

Article 173

Should the witness fail to appear before the court after he has been subpoenaed he may, after hearing the public prosecution, be condemned to a fine not exceeding a thousand **AND** Dirhams.

If the court deems that his testimony is important, it shall postpone the action to notify him again to appear, as it may order that he be arrested **AND** brought by force.

Should the witness appear, after he has been notified for the second time or by himself or by submitting an acceptable excuse, he may be exempted from the fine, after hearing the public prosecution.

If the witness fails to appear after he has been notified for the second time, he may be condemned to a fine not exceeding double the maximum fine prescribed in the first paragraph. The court may order his arrest **AND** that he be brought by force to the same hearing or to another hearing to which the action was adjourned.

Article 174

Should the witness fail to appear before the court until the action is adjudicated, he may complain from the judgment condemning him to a fine before the court that rendered the judgment.

Article 175

In case the witness submitted as an excuse his illness or any other excuse preventing him from appearing to give his testimony, the court shall go to him **AND** hear his testimony after informing the public prosecution **AND** the other parties. The parties may attend in person or through their attorneys **AND** address the questions to the witness that they deem necessary.

Should the court, after displacing itself, find out that the excuse was fake, it may condemn the witness to detention for a period not exceeding three months or to a fine not in excess of two thousand **AND**s Dirhams.

Article 176

The provisions of Article 91 of this Law shall apply as concerns the witnesses.

Article 177

In case it was impossible to hear the witness for whatever reason, the court may decide the recital of the testimony made in the preliminary investigation or in the report, concerning the collection of evidence, or after giving oath according to Article 40 of this Law.

Article 178

Should the witness state that he does not remember one of the facts, it is possible to recite from the investigation or from his statements in the report concerning the collection of evidence the part relating to this fact.

This shall be the case where his testimony in the hearing is in contradiction to his previous statements.

Article 179

As amended by Federal Law no. 29 dated 2005/11/30:

The court may of its own accord, during the examination of the case, order the producing of any evidence deemed necessary to reveal the truth.

Article 180

As amended by Federal Law no. 29 dated 2005/11/30:

The Court, of its own accord or upon request of the parties, may appoint one or more experts in the lawsuit **AND**, if necessary, a commission of odd - numbered experts.

As it may, of its own accord, order the notification of the experts to discuss with them the content of the reports submitted by them in the preliminary investigation or during the trial; or it must issue such order if so requested by the parties to the litigation.

If it is impossible to verify a proof before the court, it may verify it on spot.

Section 4 the Ancillary Action of Forgery

Article 181

As amended by Federal Law no. 29 dated 2005/11/30:

The public prosecution **AND** the parties may, at any stage reached by the action, to challenge in forgery any paper submitted in the case.

The challenge shall be made by a statement in the minutes of the hearing **AND** the challenger must indicate where the forgery occurred **AND** produce the proof to such a forgery.

Article 182

Should the court examining the action deem that the decision to be taken is dependent on the challenged paper **AND** there is a reason to proceed with the verification of the evidence to such forgery, it has to refer the papers to the public prosecution **AND** stay the action until a decision is reached in the forgery by the competent authority. It may also, if the decision to be taken concerning the forgery is within its jurisdiction, the court may investigate the challenge **AND** take its decision as to the validity of this paper.

The court may condemn the party claiming forgery to a fine not exceeding one thousand **AND** Dirhams in case a judgment or a decision is rendered rebutting the claim of forgery.

Article183

In case the judgment confirms the existence of forgery in all or part of an official paper, the court that rendered the judgment shall order the cancellation of the forged paper or its correction, as the case may be, **AND** a report shall be drawn up **AND** mention this on the forged paper.

Section5

the Accused Suffering of a Mental **HANDicap or a Psychic Disorder**

Article 184

As amended by Federal Law no. 29 dated 2005/11/30:

If the case requires that the accused state of mind or his psychic condition be examined, the public prosecution during the investigation, or the court examining the case may order to put the accused, if detained under rem**AND**, under observation in a specialized treatment asylum for successive periods not exceeding fifteen days each **AND** forty five days in total. Should the public prosecution do not complete the investigation procedures with the accused **AND** the extension of the detention period is required, the Head of the prosecution department shall submit the matter to the competent court for decision to maintain the detention under rem**AND** for a specified period or to release the accused.

In case the accused is not detained under rem**AND**, the Head of the prosecution department or the competent court may put the accused under observation in any other place.

Article185

If it is established that the accused is unable to defend himself due to a condition of lunacy, brain disorder or weakness or a serious psychic disease occurring after the perpetration of the crime, the action or the trial shall be stayed until recovery from this condition.

The accused shall, in this case, be put in a treatment asylum by order of the public prosecution or the court examining the action, as the case may be.

The stay of the action shall not prevent taking the investigation measures deemed urgent **AND** necessary.

Article 186

The period spent by the accused in the treatment asylum, under the two preceding articles, shall be deducted from the penalty or the measures to which he is condemned.

Article 187

As amended by Federal Law no. 29 dated 2005/11/30:

If a nonsuit order is issued or a judgment declaring the accused not guilty is rendered on grounds of lunacy, mental disorder or weakness or serious psychic disease, the authority that issued the order or rendered the judgment shall order to put the accused in a treatment asylum until this authority decides his release, after taking knowledge of the report of the institution where he is detained **AND** the statement of the public prosecution, in case it did not issue the

order, **AND** after making sure that the accused has recovered sound mind or is no more dangerous .

Section6

Protection of Under - Aged **AND Imbecile Victims**

Article 188

As amended by Federal Law no. 29 dated 2005/11/30:

In each crime perpetrated against an under - aged, who did not reach fifteen years of age, it may, when necessary, be ordered that he be delivered to a trustworthy person who undertakes to watch over him **AND** keep him in good condition or to a care hood institution acknowledged by the ministry of Labor **AND** Social Affairs until the case is settled.

If the crime is perpetrated against an imbecile, an order may be issued to put him provisionally in a sanatorium or a treatment institution or to deliver him to a trustworthy person, as the case may be, until the case is settled.

Under all circumstances **AND** for the above purpose, the order shall be issued by the competent court.

Chapter2

Special Procedures for the Misdemeanors **AND Minor Offenses Courts**

Article 189

In case the party legally summoned to appear on the day shown in the summons paper **AND** does not send an attorney, in case he is allowed to be represented, the court shall judge him in absentia.

Should the action be lodged against several persons for the same act **AND** some have appeared before the court to the exclusion of the others, the court must adjourn the action to a second hearing in order to notify those who did not show. The judgment shall be considered rendered in their presence for all of them.

Article 190

The judgment shall be considered rendered in the presence of all who attended the hearing upon roll call of the action even if he left the court room afterwards or was absent at the hearings to which the action was adjourned .

Article 191

In the above instances where the judgment is considered as rendered in the presence of the parties, the court has to investigate the case brought before it as if the accused is present.

Chapter3

Special Procedures for the **CRIMINAL Court of Felonies**

Article 192

In each first instance court, shall be formed one or more Chamber for felonies composed of three of its judges.

Article 193

The jurisdiction of the **CRIMINAL** Court of Felonies shall include the territorial scope for the jurisdiction of the first degree courts at the seat of this court, **AND** it may hold its hearings at any other place within its jurisdiction.

Article 194

As amended by Federal Law no. 29 dated 2005/11/30:

The Attorney - At - Law, assigned, or m**AND**ated by the accused, must defend him at the hearings or delegate someone to represent him, failing which he shall be condemned to a fine not exceeding one thous**AND** Dirhams; without prejudice to the disciplinary trial, if applicable.

The said judgment shall be final.

The court may exempt him from the fine if he establishes that he has an acceptable excuse that prevented him from attending the hearing in person or delegate someone in his place.

Article 195

The assigned attorney - at - law may request the assessment of his fees on the public Treasury **AND** the court shall assess these fees taking into consideration what has already been assessed to him in consideration of his efforts. This assessment may not be challenged by any means.

Article 196

The President of the Court examining felonies has, upon receiving the case file, to transmit it to the members of the court **AND** order to notify the accused **AND** the witnesses of the day he fixed to examine the case. The public prosecution shall summon them to be present.

Should there be serious reasons for the adjournment of the case, it should be adjourned to a fixed date .

Article 197

The court examining felonies shall order, in all instances, to arrest the accused **AND** have him brought, as it may order the provisional detention thereof, **AND** the release thereof on personal or pecuniary bail, or without bail for the provisionally detained accused.

Article 198

Should the accused of a felony fail to attend the hearing, after his legal notification of the writ of referral **AND** the subpoena, the court may render its judgment in absentia as it may adjourn the action **AND** order his summoning once more.

Article 199

Every condemnation judgment rendered in absentia shall necessarily entail depriving him from disposing of, or administering, his properties or file any action in his name. Every act of disposition or undertaking done by the condemned person shall be void.

The court of first instance, in whose jurisdiction the properties of the condemned are located, shall appoint a guardian to administer them, upon request of the public prosecution or any interested person. The court shall obligate the appointed guardian to submit a guarantee **AND** the latter shall be answerable to the court in all what relates to the guardianship **AND** to the accounts he is bound to submit.

Article 200

In case the accused is residing outside the country, the referral order **AND** the subpoena shall be notified to him at his residence, if known, one month prior to the hearing fixed for the examination of the action to which shall be added the distance period. Judgment may be rendered in his absence if he fails to appear subsequent to his notification.

Article 201

The referral order shall be recited in the hearing **AND** shall be followed by all the papers evidencing that the absentee has been notified, after which the public prosecution **AND** the other parties shall state their claims **AND** the court shall, if necessary, hear the witnesses **AND** then decide the case.

Article 202

As soon as rendered, the judgment given in absentia shall be executed as concerns all executable penalties **AND** measures **AND** the damages. In this case, the party claiming damages has to submit a personal or pecuniary guarantee, unless otherwise mentioned in the judgment, **AND** the guarantee has to be refunded after two years from the time the judgment is rendered.

Article 203

Should the convicted condemned in absentia appear before the court or if he has been arrested, the judgment be forfeited, whether as concerns the penalty, the measures or the damages **AND** the action shall be reexamined by the court. If the previous judgment for damages has been executed, the court may order the refund of the amount collected in whole or in part.

Article 204

The absence of a party shall not delay adjudicating the action as concerns the other accused with him. In case the accused of a misdemeanor, brought before the court examining felonies, absents himself, the procedures in force before the misdemeanors court shall be applied.

Title 3

Non Jurisdiction of the Judge to Examine the Case, his Challenge **AND Withdrawal**

Article205

Provisions **AND** procedures provided for in the Civil Procedural Law shall be followed in cases of non-jurisdiction of the judge to examine the case, his challenge **AND** withdrawal; with due observance of the provisions of the two following articles:

Article206

Without prejudice to the provisions of Article 163, a judge is prohibited to examine the action if the crime has been perpetrated on him personally or if he assumed in the case the functions of the judiciary police, the public prosecution, the defense attorney for a party, has given his testimony or has performed an act of expertise.

He is also prohibited to participate in adjudicating the appeal in case the challenged judgment has been rendered by him.

Article 207

Parties to litigation may challenge the judge in the instances provided for in the preceding article **AND** in all challenge cases stated in the Law on Civil Procedures.

Members of the public prosecution **AND** of the judiciary police may not be challenged.

Title4 the Sentence

Chapter1 Issuance of the Sentence

Article 208

The court is not bound to follow what is written in the preliminary investigation or the collection of evidence reports unless there is a law providing for the contrary.

Article209

The judge shall decide the case according to his personal conviction, however he may not base his judgment on an evidence that was not submitted by the parties during the hearings.

Article 210

The judgment shall be rendered in an open court hearing even if the action was examined in closed chambers **AND** it must be recorded in the minutes **AND** signed by the president of the court **AND** the clerk.

The court may order taking all necessary measures to prevent the accused from leaving the court room before pronouncing the sentence , or to ensure his presence in the hearing to which is adjourned the judgment, even if this necessitates ordering his detention if the act allows detention under rem**AND**.

Article 211

Should the act be not established or if the law does not punish it, the court shall declare the accused innocent **AND** shall be released in case he is detained for this act alone.

Article 212

If the act is established **AND** constitutes a punishable one, the court shall order to apply the penalty as prescribed by law.

Article 213

The court may not condemn the accused for an act other than that mentioned in the referral order or the subpoena, as it may not condemn a person other than the accused against whom the action is brought.

Article 214

The court, in its judgment, may change the legal characterization of the act imputed to the accused **AND** it may amend the charge as it deems appropriate according what the investigation or the oral pleadings may reveal.

The court must draw the attention of the accused to this change **AND** allow him a respite to prepare his defense in accordance with the new characterization or amendment, if he so asks.

The court may also correct any material mistake **AND** remedy any omission in the text of the accusation as mentioned in the referral order or the subpoena.

Article 215

The minutes of the hearings **AND** the judgment complete each other as regards the trial procedures **AND** the statements shown in the reasons adduced for the verdict.

Article 216

The judgment must include the reasons on which it is based **AND** each incriminating judgment must include description of the punishable act, the circumstances surrounding its perpetration **AND** refer to the provisions of the law according to which the judgment was rendered.

Article 217

The court must decide the merits of the claims submitted by the parties **AND** mention the grounds on which the decision is based.

Article 218

The president shall collect all opinions starting with the most recently nominated judge then he gives his opinion **AND** the sentence shall be rendered by a majority opinion except death sentences which requires unanimity **AND** ,if not reached, the death penalty shall be substituted by life imprisonment.

Article 219

Upon pronouncing the sentence, the court must deposit with the clerks' office the first authentic copy of the judgment, comprising the reasoning, signed the soonest by the court president **AND** the clerk.

Chapter2

Correction **AND Amendment of the Sentence**

Article 220

Should a material mistake occur in a judgment or decision that does not entail nullity, the body of judges that rendered the judgment or issued the decision shall correct this mistake de jure, or upon request of one of the parties, after summoning them to be present.

Correction shall take place without pleadings, after hearing the statements of the parties, **AND** it shall be annotated in the margin of the judgment or decision.

The same procedure shall be followed for the correction of the name or surname of the accused.

The decision ordering the correction may be challenged, if the body that issued it has gone beyond its powers to correct, by all means of challenging a judgment or a decision subject to correction.

The decision rejecting correction may not be challenged separately.

Title5

Voidance

Article 221

The procedure is void if the law expressly provides for its voidance or if defective to the extent that the procedure did not reach its objective.

Article222

Should voidance be due to the violation of the law provisions relating to the formation of the court, its attributions or its jurisdiction as to the nature of the crime submitted to it or for other reasons relating to public policy, it may be raised at any stage of the trial **AND** the court shall decide this plea even without request therefore.

Article 223

With the exception of cases of voidance other than those related to public policy, none may avail himself of the plea of voidance except the one that such voidance has been prescribed in his interest, unless he was the cause for such voidance.

Article 224

Voidance shall not be decided despite that it is provided for, if it is established that the objective was reached through the form or the statement requested.

Article 225

Nullity shall be forfeited if it has been expressly or impliedly relinquished by the one in whose interest it was provided for, except in instances where nullity is connected to public policy.

Article 226

If the accused attended the hearing in person or through an attorney, he is not entitled to invoke nullity of the summons but he may ask for its correction or remedy to any omission in it **AND** be granted a delay to prepare his defense before the examination of the action. The court has to grant him what he applied for.

Article 227

The void procedure may be renewed by a valid one, even after raising the plea of nullity, provided this be done within the period prescribed by law for performing such procedure. In case there is no period prescribed by law, the court shall fix an adequate period for its renewal which procedure shall not be taken into consideration except as of the date of his renewal.

Article 228

The voidance of the procedure shall entail the voidance of all preceding procedures **AND** the following ones , if not based on it.

Title6 Challenge of the Judgments

Chapter1 Opposition

Article 229

As amended by Federal Law no. 29 dated 2005/11/30:

The condemned party as well as the party claiming damages may both challenge, by way of opposition, the judgments in absentia rendered in misdemeanors **AND** petty offences within seven days from the date of his notification of the judgment by filing a report with the clerks' office of the **CRIMINAL** court that rendered the judgment. The date of the hearing set for the examination of the opposition shall be mentioned on the report **AND** this shall be considered a notification of that date even if the report was submitted by an attorney.

The opposition shall result in the review of the case, as concerns the opposing party, before the court that rendered the judgment in absentia **AND** the said party may not be prejudiced by his opposition. If the opposing party fails to attend the first hearing set for the examination of his

opposition, it will be considered as if it never took place **AND** the opposing party may not file an opposition on the judgment rendered in his absence.

Chapter2

Appeal

Article 230

Each of the accused **AND** the public prosecution may appeal the judgments rendered by the **CRIMINAL** courts of first degree.

The appeal shall not result in staying the execution of the appealed judgment unless otherwise decided by the court that rendered it, under the conditions set forth by this court.

The judgment pronouncing the death sentence is considered de jure appealed **AND** its execution stayed.

Article 231

Crimes connected to each other in such a way as to form one non severable entity may be appealed even if the appeal is not allowed except to some of these crimes.

Article 232

Interlocutory judgments may not be appealed unless they serve as a basis for preventing to proceed with the action.

Appealing the judgment rendered on the merits of the case shall inevitably result in appealing all those judgments. Nevertheless, all non-jurisdiction judgments may be appealed.

Judgments confirming jurisdiction may be appealed in case the court is not competent to settle the subject matter of the action.

Article 233

The party claiming damages, the responsible for these damages, the insurer **AND** the accused may appeal the judgments rendered in the civil disputes by the civil court, only as concerns the civil right to these damages, if the claimed damages are beyond the limits of the amounts which the judge may finally adjudge, if the judgment is void or has been affected by the nullity of the procedures.

Article 234

As amended by Federal Law no. 29 dated 2005/11/30:

The appeal is lodged through a report to be submitted to the clerks' office of the **CRIMINAL** court within fifteen days as of the date of pronouncing the judgment in the presence of the parties or from the date of the judgment rendered in the opposition.

Should the condemned party be in prison, he may submit his appeal report to the officer in charge of the prison who has to forward it forthwith to the **CRIMINAL** clerk's office

If the condemned is bailed the court of appeal may release him against an undertaking or any other guarantee as deemed by the court until the settlement of the appeal.

The public prosecutor may lodge his appeal within a time limit of thirty days from the time the judgment is rendered.

Article 235

As concerns the party who has been sentenced in absentia, judgments considered as issued in his presence according to articles 189 **AND** ,190 the period of appeal shall run as of the date of his notification thereof.

Article 236

As amended by Federal Law no. 29 dated 2005/11/30:

The clerks' office of the **CRIMINAL** court shall fix in the appeal report the date of the hearing set for the examination of the appeal **AND** this shall be considered as a notification of it even if the report is submitted by an attorney. The public prosecution shall inform the other parties of fixed hearing.

Should the accused be imprisoned, the public prosecution must shift him in due time to the punitive institution where the appeal court is located **AND** this court shall settle the appeal as urgently as possible.

Article 237

The court shall listen to the statements of the appellant **AND** the counts on which are based the appeal, then the other parties shall make their statements **AND** the accused shall be the last one to speak. The court shall, then, render its judgment after perusing the papers.

Article 238

The appeal filed by the convicted condemned to a penalty restricting his freedom shall be forfeited if it is not submitted for execution prior to the hearing set for the examination of the appeal.

Article 239

The court of appeal shall hear by itself the witnesses who should have been listened to before the court of first instance court **AND** shall remedy to any other shortage in the investigation procedures.

It may, in all circumstances, order to complete whatever investigation, or listening to witnesses as it deems appropriate. Serving a subpoena to any witness may not be done unless the court so orders.

Article 240

As amended by Federal Law no. 29 dated 2005/11/30:

In an appeal lodged by the public prosecution, the court of appeal, if it deems that the act condemned as a misdemeanor is in fact a felony may decree the cancellation **AND** the non-jurisdiction of the court of first instance **AND** return the case to the public prosecution to take whatever action required.

Article 241

As amended by Federal Law no. 29 dated 2005/11/30:

If the appeal is lodged by the public prosecution, the court may confirm, cancel or amend the appealed judgment, whether for or against the accused but a judgment acquitting the accused may only be appealed by a unanimous opinion.

In case the appeal is filed by other than the public prosecution, the court may only confirm, cancel or amend the judgment in favor of the appellant. In judgments in absentia **AND** opposition thereto before the court of appeal, the same procedures prescribed for the first degree court shall apply.

Article 242

Should the first degree court judge the merits of the case **AND** the court of appeal deems that there is a nullity in the judgment or in the procedures affecting, it shall decree its cancellation **AND** re - judge the case.

However, if the court of first instance decided its non-jurisdiction or accepted a corollary plea entailing stay of the action's progress **AND** if the court of appeal decides to cancel the judgment **AND** declare the jurisdiction of the court, or to reject the ancillary plea **AND** examine the case, it must return the case to the first instance court **AND** the public prosecution has to notify this to the absent parties.

Article 243

In case the judgment allowing damages has been provisionally executed on these damages, they have to be returned upon the cancellation judgment.

Chapter3 Cassation

Article 244

As amended by Federal Law no. 29 dated 2005/11/30:

Each of the public prosecution , the condemned party , the responsible for the damages claimed **AND** the insurer may challenge by way of cassation the final judgments rendered by the court of appeal in a felony or a misdemeanor, in the following instances:

- 1 In case the challenged judgment is based on a violation of the law or a mistake in its application or interpretation.
- 2 If the judgment is void or there is a nullity in the procedures affecting the judgment.
- 3 If the court has adjudged the civil claim in excess of the amount claimed.

-4If the judgment is void of any justification or if it is insufficient or obscure.

-5If two contradictory judgments have been rendered on the same act.

The appellant in cassation may establish by all possible means that the procedures have been violated or disobeyed **AND** they are neither mentioned in the minutes of the hearing nor in the challenged judgment. In case they are mentioned in either one, their non-fulfillment may not be established except by a challenge in forgery.

Article 245

The challenge shall consist of a report embodying the reasons therefore to be deposited with the clerks' office of the court, to which the challenge is lodged, within thirty days as of the date of issue of the judgment, unless it is considered rendered in the presence of the parties then this period shall start from the date of its notification. The challenge shall be entered in the register kept for this purpose.

If the challenge is filed by the public prosecution, the reasons thereof must be signed, at least, by a Head of the prosecution department **AND** if filed by someone else, the reasons should be signed by an Attorney - at - Law admitted to exercise before the court.

The court clerks' office shall notify the respondent a copy of the challenge within a period not exceeding eight days from the date of recording the challenge in the ad hoc register **AND** the respondent has to deposit with the court clerks' office a memorandum including the answer to the challenge, within eight days as of its notification to him.

Article 246

No other counts of challenge may be raised before the court in the appeal for cassation except those previously stated within the period prescribed for the challenge.

Nonetheless, the court may, of its own motion, quash the judgment in favor of the accused if it notices from what is established by the papers that the challenged judgment is based on a violation relating to public policy, a violation of the law, a misapplication or a misinterpretation thereof, that the court that rendered it is not legally formed or the dispute was not among the disputes that it has the power to settle or if, subsequent to the challenged judgment, a law was enacted, more favorable to the accused **AND** applicable to the case.

Article 247

In case the challenge was not filed by the public prosecution or the party condemned to a death penalty or one that restricts his freedom, it is accepted only if the appellant deposits with the court treasury, as guarantee, an amount of one thousand **AND** Dirhams.

Article 248

The court clerk's office has to ask for joining of the case file, which judgment is challenged, within three days as of filing the pleading in cassation **AND** the clerks' office of the court that rendered the challenged judgment has to remit the case file within six days at most as of the receipt of the application asking for the file.

The court, after deliberation **AND** without pleadings, **AND** after reciting the report prepared by of its members , shall render its judgment **AND** it may listen to the statement of the public prosecution **AND** the Attorneys of the parties or the parties themselves, if it deems it necessary.

Article 249

As amended by Federal Law no. 29 dated 2005/11/30:

In the challenge is not filed in accordance with what is prescribed in Article 245, the court shall decide its non-admittance.

Should the court accept the challenge **AND** its subject matter is ready for judgment, or if the challenge was for the second time, it shall adjudicate it **AND** complete the necessary procedures. However, in the other instances the court shall quash the judgment, totally or partially **AND** refer the case to the court that rendered it for review by another panel of judges or refer it to the competent court for adjudicating it anew. The court to which the case was referred shall be bound by the cassation decision in the points settled by the said decision.

The second paragraph of this article is applicable on the quashed judgment according to the second paragraph of Article 246.

Article 250

In case the reasons of the challenged judgment include a mistake in law or in mentioning the applicable law provisions, the judgment may not be quashed as long as the adjudicated penalty is prescribed by law for the crime **AND** the court shall correct the occurring mistake.

Article 251

The judgment shall be quashed only as concerns the counts on which were based the appeal in cassation unless the fractioning thereof is not possible. If the challenge is not lodged by the public prosecution, the judgment shall be quashed only as regards the challenger unless the counts on which the challenge in cassation was based have a relation to other accused then the judgment shall be quashed in their respect even if they did not submit a challenge.

Article 252

Should the challenged judgment decide to accept a plea in law staying the action **AND** the court quashed it **AND** referred back the case to the court that rendered it to review the merits of the case, the said court may not render a decision in contradiction to that rendered by the judgment in cassation.

Article 253

Without prejudice to the above provisions, the judgment ordering the death penalty shall be considered challenged in cassation **AND** its execution stayed until the settlement of the challenge. The clerks' office of the appellate court that rendered the judgment has to transmit the case file to the clerks' office of the court, before which the challenge is filed, within three days as of the date of its issue.

The public prosecution has to deposit with the clerks' office of the court, within twenty days from the date of rendering the judgment, a memorandum of its opinion in it **AND** commission to the condemned party a lawyer to defend him. The court shall adjudge the challenge in accordance with paragraph two of Article 246 **AND** paragraph two of Article 249.

Article 254

Should the court examining the challenge decide the non-acceptance of the challenge or its rejection, in whole or in part, or is not admitted for examination, it shall condemn the challenger to the adequate expenses in addition to the confiscation of the deposit made in guarantee, in whole or in part as the circumstances may require.

Should the court deem the challenge vexatious, it shall decide the payment of damages to the harassed party in case he so claims.

Article 255

In case the quashing of the judgment is ordered upon request of one of the parties, other than the public prosecution, he shall not be prejudiced as a result thereof.

Article 256

The public prosecutor shall, directly or upon a written request of the minister of Justice, challenge in cassation, in favor of the Law, the final judgments, regardless of the court that rendered it, in case the challenge is based on a violation, misapplication or misinterpretation of the law, in the following two instances:

- 1 Judgments which the law does not allow the parties to challenge.
- 2 Judgments in which the parties have allowed the time limit set for challenge to expire, have relinquished their right to challenge or have filed one but it was not accepted.

The last paragraph was replaced by virtue of Article 1 of Federal Decree-Law No. 2018/17 dated 2018/09/23 to become as follows:

This appeal in cassation shall be lodged by way of a pleading signed by the Public Prosecutor **AND** the court shall examine the challenge after summoning the litigants.

Chapter 4 Review

Article 257

Final judgments inflicting a penalty or a measure may be subject to review in the following instances:

- 1 If the accused is condemned in a crime of murder **AND** the victim was found alive.
- 2 If a person was condemned for an act then another person was condemned for the same act **AND** the two judgments were contradictory resulting in that one of the condemned is innocent.

-3Where one of the witnesses or experts is condemned to the penalty of perjury or of forging a paper produced as an exhibit during the examination of the case, if the testimony, the report or the paper has a bearing on the judgment.

-4In case the judgment is based 2 on another judgment, rendered by one of the civil or personal status division, which was cancelled.

-5Should facts occur or be revealed after judgment or if papers were submitted that were unknown to the court during trial **AND** these facts or papers establish the innocence of the condemned.

Article 258

In the first four instances mentioned in the preceding article, each of the public prosecutor or the condemned or his legal representative, if incapacitated, absent or one of his relatives or spouse subsequent to his death, are entitled to ask for review.

Should the applicant be someone else than the public prosecution, he has to submit his request to the public prosecution by way of a pleading stating the judgment to be reviewed, the justification it was based upon to which he shall attach the supporting documents.

The public prosecutor, whether the application is submitted by him or by others, shall submit the application together with the investigations that he may have made to the **CRIMINAL** cassation division through a report stating his opinion **AND** the reasons on which he based himself.

The request should be filed with the court within three months following its presentation.

Article 259

The request for review, in the case provided for in clause 5 of Article 257 is exclusively reserved for the public prosecutor, whether directly or upon request of the concerned persons. Should he be convinced that there is a reason for it, he shall refer it to the **CRIMINAL** cassation division stating in the request the fact or the paper on which he based himself.

The mentioned division shall decide upon this request after perusing the papers **AND** completing whatever investigation deemed necessary, in conformity with the procedures prescribed for the examination of an appeal in cassation in **CRIMINAL** matters.

Article 260

The public prosecution shall notify the parties of the hearing that will be fixed for the examination of the request before the **CRIMINAL** cassation division, three days at least prior to the date fixed for holding it.

Article 261

The **CRIMINAL** cassation division shall decide upon the request after hearing the statement of the public prosecution **AND** the parties **AND** after taking the investigation measures it deems necessary in accordance with the procedures prescribed for the appeal in cassation. Should it decide the acceptance the request, it shall order the cancellation of the judgment **AND** declare the condemned not guilty, if his innocence is apparent, otherwise it shall refer the case to the

court that has rendered the judgment, unless the said **CRIMINAL** division deems that it should be examined before a division composed of other judges or be referred to the competent court for review. The court to which the case is referred shall be bound to follow the cassation decision as to the points settled by it.

However, if the review is not made possible, i .e .in case of death of the condemned, his incapacity due to lunacy, mental disorder or weakness or serious psychic disease, the **CRIMINAL** cassation division shall examine the case.

The said division shall cancel of the judgment only the part where the mistake occurred.

Article 262

The request for review shall not cause the stay of execution except in case of a death sentence. In other cases, the court may order the stay of execution in its decision accepting the request in review.

Article 263

Every judgment declaring the condemned innocent subsequent to a request for review must be published, on the government's expense, in the Official Gazette **AND** in two papers indicated by the person concerned.

Article 264

The cancellation of the challenged judgment shall entail the forfeiture of the judgment allowing damages **AND** creates an obligation to refund the executed part of it.

Article 265

Should the condemned claim damages for the prejudice sustained as a result of the judgment deciding its cancellation, the court may adjudicate it to him in the judgment declaring his innocence.

If the condemned is dead when reviewing the judgment rendered against him, the right to claim damages shall devolve to his rightful heirs.

Damages may be claimed at any stage of the judgment review.

Article 266

Judgments rendered on the merits of the case, upon review from other than the **CRIMINAL** cassation division , may be challenged by all means of challenge prescribed by law.

The accused may not be condemned to a more severe penalty or measures to which he was previously condemned.

Article 267

In case the request for review is turned down, it may not be renewed on the same facts on which it was based.

Title7

Res Judicata

Article 268

As concerns the accused, the action raised against him **AND** the facts imputed to him, the **CRIMINAL** action is extinguished by the issue of a decisive judgment declaring him innocent or guilty.

If a judgment is rendered in the **CRIMINAL** action, it may not be reviewed except by way of challenging the judgment through the means prescribed by law.

Article 269

The conclusive **CRIMINAL** judgment rendered on the merits of a **CRIMINAL** action declaring innocence or guilt has res judicata **AND** is binding on the civil courts, in cases not yet settled by a conclusive judgment, as concerns the perpetration of the crime, its legal characterization **AND** in its imputation to its perpetrator. The judgment declaring innocence has the same res judicata, whether based on the negation of the charge or lack of sufficient proof, but not if grounded on basis that the fact is not penalized by law.

Article 270

Judgments rendered in civil matters have no res judicata before the **CRIMINAL** courts as concerns the perpetration of the crime **AND** its imputation to the perpetrator.

Article 271

Judgments rendered in personal status matters shall have res judicata before the **CRIMINAL** courts in matters of which depend the settlement of the **CRIMINAL** action.

Book4

Execution

Title1

General Provisions

Chapter1

Executory Judgments

Article 272

The public prosecution is entrusted with the execution of all judgments rendered in **CRIMINAL** actions brought before the courts **AND** ,when necessary it may directly seek the assistance of the public authority.

Article 273

The first paragraph was replaced by virtue of Article 1 of Federal Decree-Law No. 2018/17 dated 2018/09/23 to become as follows:

Subject to the provisions of Book 1 of Penal Code No. 3 of 1987, the penalties or measures provided for therein or in any other laws may not be substituted or modified when adjudicating or executing same, unless in the legally prescribed cases.

Application **AND** execution thereof shall be as stated in this Law.

Article 274

The text of Article 274 was replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

Judgments pronounced against crimes of Qisas shall not be subject to rapid execution.

Article 275

Article 275 was replaced by virtue of Article 1 of Federal Decree-Law No. 17/2018 dated 23/09/2018 to become as follows:

An accused detained under rem **AND** shall be immediately released or his temporary placement under electronic monitoring shall be immediately cancelled, as the case may be, if the judgment declares innocence, imposes a non-custodial measure or a sentence whose execution does not require detention or orders stay of execution of the sentence or if the accused has been detained under rem **AND** or temporarily placed under electronic monitoring during the adjudicated sentence or measure.

Chapter 2 Opposition to Execution

Article 276

The oppositions to execution of **CRIMINAL** judgment shall be filed with the court that rendered the judgment.

Article 277

The opposition is made by way of a report to be deposited with the clerks' office of the court where execution shall take place within its jurisdiction. The date of examination of the opposition by the competent shall be mentioned in the report **AND** this date should not be beyond the seven days following the filing of the opposition report. The opposing party shall be advised to attend on that day **AND** the public prosecution shall summon the parties to be present this day.

Article 278

If the opposition is on the execution of a death sentence, the report may be made before the manager of the establishment or the place where the execution shall occur **AND** this person shall immediately submit the report to the public prosecution in order to fix the date on which it shall be examined **AND** to summon the parties for attendance on this day.

Article 279

The opposition shall not stay the execution of the judgment unless it includes a death sentence, but for any other penalty the court may order a stay of execution until a decision is taken on the opposition.

Article 280

The opposing party may, under all circumstances, be represented by an attorney to defend him but without prejudice to the right of the court to order his presence in person.

Article 281

A decision shall be taken as regards the opposition after hearing the public prosecution **AND** the concerned parties. The court may make the necessary investigations **AND** decide on the merits of the opposition whether by ordering that the execution is unacceptable, rejected or should be continued **AND** its decision on the opposition may not be challenged.

Title 2

Execution of the Death Sentence

Article 282

The person condemned to death shall be put in one of the penitentiaries upon an order issued by the public prosecution until the sentence is executed on him.

Article 283

Should the judgment rendered by a Federal court become conclusive, the case papers must be submitted through the minister of Justice to the State President for ratification.

Article 284

The relatives of the condemned to the death penalty may meet him the day fixed for the execution of the judgment provided it is far from the place of execution.

If the condemned asks to meet the preacher of the penitentiary, or a religious member of his religion, prior to the execution of the sentence, all necessary facilities should be provided in order to make this possible.

Article 285

The death penalty shall be executed inside the penitentiary or in any other place upon a written request of the public prosecutor in which he specifies the necessity of fulfilling the procedure provided for in Article 287.

Article 286

As amended by Federal Law no. 29 dated 2005/11/30:

The execution shall take place in the presence of a member of the public prosecution, a delegate of the ministry of Interior, the administrator of the penitentiary **AND** its doctor or another doctor delegated by the public prosecution.

The rightful claimants by blood in a crime of murder have the right to attend to the execution procedures **AND** the public prosecution has to notify this to them thirty days prior to the fixed date of execution.

None of the persons not mentioned above may attend the execution except by a special authorization of the public prosecution. The defense Attorney of the condemned may always be granted an authorization to attend.

Article 287

The person in charge of the administration of the penitentiary shall recite, in the place of execution **AND** in audible voice, the conclusive part of the sentence imposing the death penalty **AND** the charge on basis of which the judgment was rendered. Should the condemned wish to speak, the public prosecution member shall draft a report thereof.

Upon termination of the execution, the public prosecution member shall draw up the relevant report in which he shall record the doctor's certificate attesting death **AND** the hour of its occurrence.

Article 288

Death penalty may not be executed during official holidays or religious feasts relative to the religion of the condemned person.

Article 289

The death sentence on a pregnant woman shall be adjourned until delivery **AND** suckling her newborn for two Hegira years during which she will be detained until the time fixed for execution.

Title3

Execution of Penalties Restricting Freedom

Article 290

Judgments ordering penalties restricting freedom shall be executed in the appropriate penitentiary upon an order to be issued by the public prosecution.

Article 291

The day of commencement of execution on the condemned convict shall be counted within the period of the penalty **AND** he shall be released on the day following the expiry of the penalty at he at the time fixed for the release of the prisoners.

Article 292

The period of the penalty restricting freedom shall start the day the condemned was arrested, in implementation of the executory judgment, taking into consideration its reduction by the period of detention on rem**AND AND** the period of arrest.

Article 293

If the accused was found by the court not guilty of the crime for which he was detained on rem**AND** ,or if an order of nonsuit is issued, the period of detention on rem**AND** shall be deducted from the adjudicated period in any **CRIMINAL** offense he may have perpetrated during or prior to the detention on rem**AND**.

Article 294

In case of multiple penalties restricting freedom inflicted by judgment on the accused, the period of detention on rem**AND** as well as the period of arrest shall be deducted first from the less severe penalty.

Article 295

If the condemned woman, for a penalty restricting freedom, is pregnant, execution of the sentence may be adjourned until delivery **AND** three months thereafter.

Article 296

Where the condemned to a penalty restricting freedom has a disease which by itself, or because of the execution, threatens his life, the execution of the penalty may be adjourned.

Article297

If the condemned to a penalty restricting freedom suffers lunacy, disruption or diminution of his mental capacity or a serious psychic disease causing absolute loss of his ability to control his acts , the execution of the penalty must be adjourned until his recovery **AND** he shall be put in a treatment asylum **AND** the period spent in it shall be deducted from the period of the adjudicated penalty.

Article 298

If a man **AND** his wife are condemned to a penalty restricting freedom, the execution of the penalty on one of them may be delayed until the release of the other should they be in charge of a youngster who has not reached fifteen years of age **AND** provided they have a known place of residence in the State.

Article299

The postponement of the execution of the penalty restricting freedom in accordance with the preceding articles, shall be by order of the Head of the prosecution department , whether directly or upon request of the concerned persons, **AND** he may order taking any precautionary measure deemed necessary to prevent the condemned from escape.

In instances other than those mentioned in the preceding articles , the adjournment of execution may exclusively be upon an order of the public prosecutor , in cases where the provisions of the Shari'a so require **AND** the order shall specify the period of adjournment **AND** the measures taken to prevent the condemned from escaping .

Article 300

Should there be a variety of penalties restricting freedom, execution shall commence with the most severe one .

Title4 Implementation of the Measures

Article301

In instances other than those specified by law, the detained convict may not be released prior to serving the penalty period.

Article 302

Every condemned to a penalty restricting freedom may be conditionally released provided he fulfills the conditions provided for in the law on penitentiaries.

The conditionally released person shall be subject, during the balance of the penalty period, to the conditions specified in the law on penitentiaries.

Conditional release may be cancelled upon request of the public prosecution should the released person violate the restrictions specified in the above paragraph.

Article 303

Execution of the judgments ordering detention in one of the labor institutions or in a treatment asylum shall be in the places habilitated for the purpose.

Detention of the condemned shall be upon an order from the public prosecution.

Detention in a treatment asylum shall be governed by the provision of Article 297.

Detention in one of the labor institutions shall be governed by the provisions of Articles 295 **AND** 296 **AND** Articles 200 to 304.

Article304

Measures shall not be implemented except after executing the penalties restricting freedom.

As an exception to the preceding paragraph, the measure of detention in a treatment asylum shall be implemented prior to the execution of any penalty or other measure. Unless otherwise provided, material measures shall be immediately implemented.

Title5

Settlement of the Adjudicated Amounts

Article 305

When settling the amounts due to the government, as fines, the amounts to be restituted **AND** the damages to be paid, the public prosecution must, prior to execution, notify the condemned of the aggregate of these amounts unless they are assessed in the judgment.

Article 306

As amended by Federal Law no. 29 dated 2005/11/30:

If the fines, the amounts to be restituted **AND** the damages are adjudicated **AND** the funds of the condemned are not sufficient to settle all these, the amount recovered must be allocated between those entitled according to the following order:

First – Fines **AND** other material penalties.

Second – Amounts due to the claimant of damages in the civil claim.

Third – Amounts due to the government as restituted amounts **AND** the damages.

In case the adjudicated crimes are different, the amount paid or resulting from the forced execution on the properties of the condemned shall first be deducted from the amounts adjudicated for the felonies, then those for misdemeanors **AND** lastly for minor offenses.

Article 307

Article 307 was replaced by virtue of Article 1 of Federal Decree-Law No. 17/2018 dated 23/09/2018as follows:

Should a person be detained under rem**AND** or placed temporarily under electronic monitoring while he was only sentenced to pay a fine, AED 100 shall be deducted therefrom at the time of execution for each day of detention under rem**AND** or temporary electronic monitoring.

If he is sentenced to both imprisonment **AND** a fine **AND** the period spent in rem**AND** custody or under temporary electronic monitoring exceeds the adjudicated prison sentence, the mentioned amount shall be deducted from the fine for each extra day of the rem**AND** custody or temporary electronic monitoring mentioned.

Article 308

The public prosecution may grant the condemned, upon his request **AND** when necessary, a respite to pay the amounts due by him to the government or to allow him paying it in installments provided the period of payment does not exceed two years **AND** ,in case of default of paying an installment on time all the other installments become due.

The public prosecution may withdraw the order issued by it if there is any reason for this.

Article309

Bodily constraint may be used for the recovery of the fines **AND** other pecuniary penalties **AND** this constraint may be by detention of he condemned for a period equivalent to one day per each one hundred Dirhams or less provided that the period may not exceed six months .

Article310

Bodily constraint shall be subject to the provisions of Articles 299 to 304.

Article311

In case there are several judgments, execution shall be done in consideration of the total adjudicated amounts provided the total period of constraint does not exceed one year.

Article312

Bodily constraint shall be by order of the public prosecution **AND** is legitimate if taken subsequent to the notification of the condemned **AND** after having served all adjudicated periods of penalties restricting freedom ,

Article313

Bodily constraint shall end when the amount corresponding to the period spent by the condemned in constraint , according to the preceding articles , in detention for a period equivalent to the amount originally claimed after deduction of what the condemned has paid or has been forcibly recovered from the execution on his properties.

Article314

The condemned shall be discharged of the fine **AND** other pecuniary penalties by executing the bodily constraint, considering one hundred Dirhams per each day.

Title6

Forfeiture of the Penalty by Limitation **AND by Death of the Condemned**

Article315

The provisions of Article 315 were amended by Federal Law no. 29/2005 dated ,30/11/2005 **AND then replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:**

With the exception of qisas crimes **AND** diyah (blood money) **AND** felonies adjudicated by a final judgment of capital punishment or life imprisonment, the penalty imposed in other felonies shall extinguish by the lapse of thirty years.

The sanction imposed in misdemeanour shall extinguish by the lapse of seven years, **AND** by the lapse of two years in offences. The prescriptive period shall start when the judgment becomes final, unless the penalty has been adjudicated in absentia by the **CRIMINAL** Court against a felony as in this case the period shall run as of the day of pronouncing the judgment.

Article316

As amended by Federal Law no. 29 dated 2005/11/30:

The period of limitation shall be interrupted by arresting the condemned to a penalty restricting freedom **AND** by every execution measure taken in his presence or which reaches his knowledge.

Likewise, the period is interrupted should the condemned perpetrate meanwhile a crime of the same type as the one object of the judgment rendered against him or similar to it, excluding minor offences.

Article317

The period of limitation is stayed by each impediment preventing the execution, whether it is legal or material.

Article318

Provisions prescribed for limitation in the Procedural Law on Civil Transactions shall be followed as concerns damages, amounts to be restituted **AND** adjudicated expenses. Nevertheless, execution by bodily constraint may not be applied after the expiry of the period prescribed for the forfeiture of the penalty.

Article319

In case the death of the condemned occurs subsequent to a final judgment is rendered against him, the damages, the amounts to be restituted **AND** the expenses shall be levied from his estate.

Book5

Micellaneous Provisions

Title1

Judicial Supervision over Mental Establishments

Article320

Members of the public prosecution are entitled to enter mental institutions situated within the scope of jurisdiction of the courts in which they operate or the purpose of verifying that there is no illegally detained person. They have, in this respect, to peruse the registers, the writs of arrest **AND** detention, to take copies thereof, to contact any detained person **AND** listen to any

complaint he wishes to make. In their endeavor to obtain all the required information, they must receive all assistance needed.

Article321

Every detained person, in the places referred to in the preceding article is entitled to submit, at any time, to the person in charge of its administration a written or verbal complaint asking to notify it to the public prosecution **AND** the administrator has to accept it **AND** immediately inform the public prosecution thereof after entering the complaint in the register kept for this purpose.

Whoever has knowledge of the presence of an illegally detained person or in a place not allocated for this purpose, is under duty to inform a member of the public prosecution who, upon taking knowledge thereof, has to immediately go to the place where the person is detained, make the investigation **AND** order the release of the illegally detained person **AND** to write a report in this respect.

Book2

Loss of Documents **AND Computation of Deadlines **AND** Periods**

Chapter1 Loss of Documents

Article322

Should the original copy of the judgment be lost prior to its execution or if the investigation papers be lost totally or partially before a decision is taken in this regard, the procedures prescribed in the following articles shall be followed.

Article323

In case a true copy of the judgment is found, it shall replace the original **AND** if the said copy is in the h**AND**s of any person or a body, the public prosecution shall get an order from the president of the court that rendered the judgment to have the copy delivered to it.

Article324

The loss of the original copy of the judgment shall not entail a retrial if the means of challenging the judgment have been exhausted.

Article325

If the case is examined before the **CRIMINAL** section of the court of cassation **AND** it was not possible to obtain a copy of the judgment, the court shall order a retrial as long as the procedures prescribed for the challenge have been fulfilled.

Article326

In case all or part of the investigation papers have been lost prior to taking a decision in its regard, the investigation shall be redone as concerns the part concerned with the lost papers. If the case is brought before the court, it shall make whatever investigation it deems necessary.

Article327

Should the papers be totally or partially lost **AND** there was a judgment rendered **AND** the case is examined before the **CRIMINAL** section of the court of cassation, the procedures shall not be repeated unless the court otherwise decides.

Chapter2

Computation of Deadlines **AND Periods**

Article328

Any notification may not take place before seven o'clock in the morning **AND** after six in the evening, as it may not be done in official holidays, except by permission of the judge concerned in cases of emergency **AND** this permission shall be mentioned in the original of the notification.

Article329

Unless otherwise provided, periods **AND** delays specified in this Law shall be computed according to the Gregorian calendar.

Article330

If the law specifies, for attendance or for completing a procedure a period, assessed in days , months or years , the notification day or the occurrence of the event that the law considers as a start for the period 2 shall not be counted. The period expires upon the end of the official working hours on the last working day.

However, if the period should expire prior to taking a procedure, this procedure may not be taken prior to the expiry of the last day of the period.

Delays assessed in months or years shall end the corresponding day of the following month or year

Under all circumstances, if the end of the period happens to be an official holiday, the period shall extend to the first following working day.

Article331

Shall be added to the periods specified in this Law, distance delays amounting to ten days for the persons domiciled in places outside the jurisdiction of the court **AND** ninety days to those domiciled outside the country. These delays, due to transportation facilities **AND** urgent circumstances, may be reduced by order of the competent judge **AND** this matter shall be notified with the notice.

A new title “Special Penal Procedures” was added by virtue of Article 3 of Federal Decree-Law No. 17/2018 dated 23/09/2018 as follows:

Title3

Special Penal Procedures

Chapter1

Penal Order

Article332

A penal order shall mean a judicial order issued by a member of the Public Prosecution to settle a **CRIMINAL** action where it is not deemed necessary to stay the proceedings or refer the case to the court having jurisdiction over misdemeanours **AND** violations specified in this chapter, even in the absence of the accused **AND** without carrying out any investigation. This shall result in the termination of the **CRIMINAL** litigation unless the accused files an objection within the legally prescribed time limit.

Article333

The text of Article 333 was replaced by virtue of Article 1 of Federal Decree-Law no. 28 dated 2020/09/27 to read as follows:

The terms of the penal order shall apply to the misdemeanors **AND** violations provided for in the laws in force in the State **AND** subject to any of the following penalties:

- 1Fine.
- 2Imprisonment or fine.

The Public Prosecutor shall issue a decision, in agreement with the general managers at the local judicial authorities, specifying the misdemeanors **AND** violations to which the terms of the penal order apply. The general managers, each within his competencies, shall issue the necessary decisions for the implementation of the provisions of this Article.

Article334

The following offences shall be excluded from the scope of application of the penal order:

- 1Hudud, Qisas **AND** Diyat crimes.
- 2Crimes against State security **AND** interests.
- 3Crimes of influence on the court, defamation of the judiciary **AND** obstruction of justice.
- 4Crimes set out in the aforementioned Federal Law No. 9 of 1976.
- 5Crimes for which the law does not allow the imposition of the prescribed penalty.
- 6Crimes for which the law stipulates deportation.

Article335

The member of the Public Prosecution appointed by a decision of the Public Prosecutor may in misdemeanours **AND** violations to which the provisions of Article 333 hereof apply, issue a penal order against whoever is proven to have perpetrated the offence, by imposing the legally prescribed fine on him without exceed half of its maximum limit, in addition to the supplementary penalties **AND** the fees.

Article336

The penal order issued by the member of the Public Prosecution shall include the following data:

- 1Date of issuance of the penal order.
- 2Name **AND** personal details of the accused, **AND** number of the **CRIMINAL** action.
- 3Charge made against the accused.
- 4Law applicable to the offence committed.
- 5Penalty imposed by the penal order.
- 6Name **AND** grade of the member of the Public Prosecution who has issued the penal order.

Article337

The member of the Public Prosecution holding a grade not less than Chief Prosecutor who is appointed by decision of the Public Prosecutor may amend or cancel the penal order within seven (7) days from the date of issuance thereof.

A cancelled penal order shall be deemed void ab initio, **AND** the **CRIMINAL** proceedings shall be conducted in the manners prescribed in the aforementioned Penal Procedure Law.

Article338

The judicial officers shall notify the accused at the date of presenting the file to the Public Prosecution, which may issue the penal order if the accused fails to appear.

The accused shall also be notified of the penal order issued against him after its amendment, if it was issued in his absence in accordance with the procedures set out in the aforementioned Penal Procedure Law.

Article339

The accused may object to the penal order issued against him before the Public Prosecution within seven (7) days from the date of issuance thereof if he was present or from the date of his notification thereof if it was issued in his absence or after its amendment. The penal order shall be deemed as void ab initio as a result of such objection, **AND** the **CRIMINAL** proceedings shall be conducted in accordance with the procedures prescribed herein.

If there is more than one accused **AND** one of them objects to the penal order, said order shall be deemed void ab initio in relation to the objector **AND** not to the other accused parties.

The accused may withdraw his objection against the penal order prior to being summoned to look into the lawsuit before the competent court. As a result of such withdrawal, the objection shall be forfeited **AND** the penal order shall be deemed final for him.

In any case, the court shall not be bound by the contested penal order when looking into the **CRIMINAL** case.

Article340

The penal order shall become final **AND** unappealable for the accused in either of the following cases:

- 1If the accused executes the penal order by paying the fine prescribed hereunder.
- 2Once the deadline for objecting against the penal order expires.

Article341

The right to file a civil action shall not preclude the issuance of the penal order, **AND** the civil claimant may resort to the competent civil court to dem**AND** his rights.

The settlement reached in the **CRIMINAL** action shall not serve as a binding force before the civil courts.

Article342

The final penal order shall be executed in accordance with the rules prescribed in this chapter.

The accused or his agent may object against the execution of the order in the following cases:

- 1If the order is issued contrary to the procedures provided for in this chapter.
- 2If the order is issued against a party other than the accused.

The objection shall be brought before the Public Prosecution which shall, in any case, raise it within seven days to the competent court of misdemeanours to decide thereon without pleading, unless it sees the impossibility of adjudicating the objection in its present state or without carrying out an investigation or pleading, whereas it shall set a date to look into the objection in accordance with the regular procedures **AND** shall summon the objector. The court shall after hearing the Public Prosecution decide on the objection either by rejecting it **AND** ordering continuance of execution or by accepting it hence resulting in the forfeiture of the penal order **AND** its consideration as void ab initio. The court shall refer the case documents to the Public Prosecution to take action with regard thereto.

The court's judgment concerning the objection shall be unappealable.

Article343

The penalty prescribed by the penal order shall not be deemed as a judicial conviction requiring rehabilitation.

Article344

The Public Prosecutor may either amend or cancel the penal order within thirty days from the date of its issuance or amendment or from the date on which the accused withdraws his objection even if it has already been executed, **AND** the matter shall be announced to the accused.

The Public Prosecutor shall issue the necessary decisions **AND** instructions to implement the provisions provided for in this chapter.

Article345

The Public Prosecutor may, for considerations it determines or at the request of the accused, in misdemeanours that carry a prison sentence not exceeding six months or a fine, issue an order assigning the accused to perform community service in lieu of a penal order imposing a fine. The same rules **AND** procedures provided for in Articles 120, 120/1, 120/2, 120/3 **AND** 4/120 of the aforementioned Penal Code shall apply to such an order.

The community service order shall also be governed by the same rules related to the penal order provided for in Articles 336, 338, 339 **AND** 342 hereof.

The community service order shall be final in terms of its execution or of the expiry of the deadline for objecting thereagainst.

Chapter2

Penal Conciliation

Article346

The Public Prosecution or the competent court, as the case may be, may take penal conciliation procedures by virtue of an agreement concluded between the victim, his agent, his heirs or their agent on the one h**AND AND** the accused on the other to amicably end the dispute in penal matters in accordance with the provisions of this chapter. The conciliation shall lead to the termination of the **CRIMINAL** lawsuit or the stay of execution of the judgment issued therein as the case may be.

Article347

The victim, his agent, his heirs or their agent may establish the conciliation with the accused before the Public Prosecution or the court, as the case may be, in misdemeanours **AND** violations stipulated in Articles 330 (first paragraph), 339, 343 (first paragraph), 352, 353, 372, 373, 374, 378, 379 (first paragraph), 380,) 423 ,406 ,405 ,404 ,403 ,402 ,401 ,399 ,395 ,394 first paragraph), 424 (first **AND** second paragraphs), 425 (first paragraph), 426, 428, 431, 433 **AND** 434of the Penal Code as well as in other cases set out in the law. Conciliation shall be possible regardless of the status of the proceedings, even after the judgment becomes final.

Article348

The victim, his agent, his heirs or their agent may establish the conciliation provided for in the previous article, by means of a notarised document signed by the victim, his heirs or their agent as the case may be.

Article349

In the event that the victim or his heirs do not initiate conciliation with the accused, the Public Prosecution may in the cases provided for in Article 347 hereof, prior to bringing the accused before the **CRIMINAL** courts, propose conciliation to the accused **AND** the victim or his heirs, as the case may be, after informing the accused of his crime, the evidence thereof, the penalty prescribed therefor **AND** the reparation of the damages incurred by the victim. The aforementioned conciliation period shall be of fifteen days **AND** may be extended for a similar period. A document on the procedures taken **AND** on the outcome of the conciliation proposal shall be drafted.

Article350

If the time limit set by the Public Prosecution for the conciliation provided for in the previous article passes **AND** the victim or his heirs, as the case may be, refuse to reach conciliation with the accused, the **CRIMINAL** proceedings shall be conducted in accordance with the provisions hereof.

If the victim, his agent, his heirs or their agent accept to reach conciliation with the accused, a conciliation report shall be prepared establishing the content of the agreement between both parties. Said report shall be adopted by the member of the Public Prosecution after its signature by the parties thereto.

Article351

If the victim, his agent, his heirs or their agent propose conciliation to the accused before the **CRIMINAL** court in any of the crimes stipulated in Article 347 hereof **AND** before the judgment becomes final, the court shall record the conciliation in the minutes of the hearing **AND** the victim or his agent, as the case may be, shall affix his signature thereto.

If the conciliation is recorded in a report notarised in accordance with the provisions of Article 348 hereof, the court shall record same in the minutes of the hearing **AND** shall enclose the original notarised report in the case file.

Article352

The request to establish the conciliation before the Public Prosecution or the court, as the case may be, shall be rejected if it is conditional or has a limited term.

In any case, the conciliation shall result in the termination of the **CRIMINAL** lawsuit, **AND** it shall not affect the rights of the injured party in the crime, unless these are waived or included in the conciliation report provided for in Articles 350 **AND** 351 hereof.

Article353

If there is more than one victim in the crime **AND** the conciliation is issued by some of them, it shall have no effect unless it is acknowledged by the others.

In any case, the effect of the conciliation shall extend to all those accused or convicted in the crime without prejudice to their civil liability, subject to the second paragraph of Article 352 hereof.

Article354

Where conciliation is reached with the accused after the **CRIMINAL** judgment becomes final, the Public Prosecution shall order stay of execution.

Chapter3

Placement Under Electronic Monitoring

Section :1 General Provisions

Article355

Placement under electronic monitoring shall mean forbidding the accused or convicted person from being absent other than at the times specified from their place of residence or from any other place specified in the order issued by the Public Prosecution or the competent court, as the case may be. Said order shall be executed by electronic means that allow remote monitoring, whereas the party placed under electronic monitoring shall carry an integrated electronic transmitter throughout the period of his placement under monitoring.

The following considerations shall be taken into account in determining the times **AND** places provided for in the previous paragraph: whether the convicted person practises a profession or a craft, pursues his education or a vocational training or receives medical treatment as well as any other conditions decided by the Public Prosecution or the competent court, as the case may be.

Article356

The Cabinet shall, based on the proposal of the Minister of Interior, issue a decision specifying the devices used in the execution of electronic monitoring as well as the controls **AND** mechanisms of execution in all or some of its phases, or it shall assign execution to an authority or a legal person licensed to do so pursuant to the conditions provided for in the decision.

In any case, the use of the electronic devices stipulated in the previous paragraph shall respect the dignity, safety **AND** privacy of the person subjected thereto.

Article357

The Minister of Interior shall, after coordinating with the relevant local bodies, issue the decisions regulating the remote control operations at the locations of electronic monitoring.

Article358

The officers, non-commissioned officers **AND** members of the police at the competent police stations **AND** units shall have the competence to monitor the extent of compliance of the person placed under electronic monitoring with the content **AND** scope of the relevant order or court judgment, as the case may be. They may during the periods specified in the decision or the judgment visit the specified place of execution to ensure that the person placed under electronic monitoring fulfils his obligations **AND** is present at said place **AND** to verify his livelihood

AND the safety of the electronic monitoring devices. Reports shall be raised to the competent Public Prosecution on the outcome of these visits.

The Minister of Justice may issue a decision in coordination with the chairman of the concerned entity to appoint public servants from categories other than those set out in the previous paragraph. Said decision shall specify their missions **AND** competences in relation to monitoring the fulfilment of the person placed under electronic monitoring of his obligations stipulated in this chapter.

Article359

The competent Public Prosecution may, at any time, **AND** at the request of the person placed under electronic monitoring, appoint a physician to ensure that the electronic devices used in executing the electronic monitoring are not harmful to his health or to his physical integrity, **AND** to prepare a medical report in this regard.

Article360

The penalty of electronic monitoring **AND** the measures prescribed by the **CRIMINAL** laws in force in the United Arab Emirates may be imposed by electronic means **AND** in accordance with the provisions **AND** procedures provided for in this section **AND** in Article 372 hereof.

Section :2 Temporary Placement under Electronic Monitoring

Article361

The member of the Public Prosecution may issue an order to place the accused temporarily under electronic monitoring, with his approval or at his request in lieu of detaining him under rem**AND** ,pursuant to the same conditions provided for in Article 106 hereof.

The order shall specify the place of residence which the accused may not leave or the places where he is allowed or not to be or to go, the times **AND** dates specified therefor as well as other data set out in the second paragraph of Article 101 hereof.

Article362

The Public Prosecution may, if the investigation procedures so require, stipulate in the order for temporary placement under electronic monitoring that the accused placed thereunder may not contact the other parties accused, his partners in crime, the victim or the victim's family, all that without prejudice to the right of the accused to contact his defender at all times.

The order may also include subjecting the accused to the obligations provided for in the first paragraph of Article 372 hereof.

Article363

No order for temporary placement under electronic monitoring may be issued for crimes that carry the death penalty or a life sentence, crimes against internal or external State security **AND** crimes for which the law prescribes deportation.

Article364

The temporary placement under electronic monitoring shall be executed after interrogating the accused, **AND** for thirty days renewable only once for the same period with the approval of the accused.

If the investigation procedures require that the accused remains under temporary electronic monitoring after the lapse of the periods provided for in the previous paragraph, the Public Prosecution shall present the documents to one of the judges of the competent **CRIMINAL** court to issue an order after perusing the documents, hearing the statements of the accused **AND** obtaining his approval to extend temporary electronic monitoring for a period not exceeding thirty days that may be renewed, to cancel the electronic monitoring **AND** detain the accused under rem**AND** or to release him with or without bail.

In any case, the judge of the competent **CRIMINAL** court may modify the dates on which the accused has to be present in his place of residence or in the places allocated therefor, after hearing his statements **AND** obtaining the opinion of the Public Prosecution.

Article365

The Public Prosecution may cancel the order it has issued for temporary placement under electronic monitoring **AND** issue an order to arrest the accused placed thereunder **AND** detain him under rem**AND** for investigation if stronger evidence is presented against him, if he breaches the obligations stipulated in said order, if he so requests or if the circumstances dictate taking such a measure.

If the order was issued by the court, a new order to arrest the accused shall be issued by the same court at the request of the Public Prosecution.

Article366

The judge of the competent **CRIMINAL** court may, while hearing the request to extend detention under rem**AND** ,order temporary placement of the accused under electronic monitoring with his approval in lieu of detaining him under rem**AND**.

Article367

Appealing against the decision of temporary placement under electronic monitoring or cancelling same shall be governed by the same rules, procedures **AND** dates prescribed for rem**AND** custody in Articles 132, 134, 135, 136 **AND** 138 hereof.

Article368

The same rules prescribed for rem**AND** custody in Articles 292, 293 **AND** 294 hereof shall apply to the reduction of the periods of temporary placement under electronic monitoring in the execution of custodial penalties.

Section :3 Sentencing to Placement Under Electronic Monitoring as an Alternative for Custodial Sentences

Article369

When issuing a prison sentence for a term not exceeding two years, the court may order in its judgment the execution of the sentence by placement under electronic monitoring if it deems that the circumstances or the age of the convicted person do not lead to believe that he will commit another crime again, **AND** that he has a fixed **AND** known place of residence in the United Arab Emirates, **AND** if it establishes that he exercises a stable professional activity, albeit temporary, is pursuing his education or a recognised vocational training or is the sole provider for his family or any other circumstances decided by the court as the case may be.

A recidivist may not be placed under electronic monitoring as provided for in this section.

Article370

The execution of the electronic monitoring sanction provided for in this section shall commence from the day on which the convicted person is arrested by virtue of the enforceable judgment.

Article371

When sentencing to electronic monitoring, the court may include an order to impose any of the penal measures stipulated in Article 110 (Clauses 1 **AND** (2 **AND** Article 122 of the Penal Code.

Article372

The convicted person placed under electronic monitoring shall notify the competent Public Prosecution in the execution of the order of the following:

-1Any changes in his job or his place of residence.

-2His desire to change his place of residence assigned thereto for a period exceeding fifteen days within the country **AND** the reason therefor. He shall also notify it once he returns.

He shall receive periodic visits from the competent staff stipulated in Article 358 hereof, to verify his livelihood **AND** to ensure that he is fulfilling his obligations stipulated in this section.

In any case, the convicted person placed under electronic monitoring may not leave the country before obtaining permission from the competent court stipulated in Article 374 hereof, **AND** consulting the Public Prosecution. Where such a permission is issued, the order shall specify the date, destination **AND** reason of his trip as well as the date of his return **AND** he shall notify the Public Prosecution upon his return. The duration of his stay abroad shall not in this case be calculated as part of the served sentence.

Article373

Placing the convicted person under electronic monitoring shall not preclude his execution of the supplementary penalties, the damages, what to be returned **AND** the fees.

Article374

The Public Prosecution shall supervise execution of the electronic monitoring based on the periodic reports raised thereto by the competent body on the observation of the convicted person's conduct **AND** his fulfilment of his obligations stipulated in this chapter.

The court that has issued the judgment may modify the places **AND** periods of placement under electronic monitoring, or the constraints thereof, at the request of the Public Prosecution or at the request of the convicted person after consulting the Public Prosecution.

Article 375

A judgment shall be issued to cancel the order of placement under electronic monitoring stipulated in this section, in any of the following cases:

-1 If during the execution of the electronic monitoring sanction, it is found that the convicted person has had a final custodial sentence issued against him prior to the issuance of the order placing him under electronic monitoring, **AND** the court was not aware thereof at the time of ordering his placement under electronic monitoring.

-2 If it is established in the medical report prepared in accordance with Article 359 hereof that the means used in the electronic monitoring have harmed the health or physical integrity of the convicted person.

-3 If the convicted person himself so requests.

-4 If it proves impossible to execute the electronic monitoring.

Article 376

A judgment may be issued to cancel the electronic monitoring order stipulated in this section, in either of the following cases:

-1 If while being placed under electronic monitoring, the convicted person commits a deliberate crime for which he is sentenced to detention under rem **AND** or for which a custodial sentence is rendered against him.

-2 If the periodic follow-up reports stipulated in Article 358 hereof show misconduct on the part of the convicted person or his non-compliance with the measures **AND** obligations imposed upon him by virtue of Articles 371 **AND** 372 hereof.

Article 377

The cancellation judgment stipulated in Articles 375 **AND** 376 hereof shall be issued by the court that has ordered placement under electronic monitoring, at the request of the Public Prosecution **AND** after summoning the convicted person.

The court that issued the final custodial sentence in accordance with Clause 1 of Article 376 hereof may sua sponte or at the request of the Public Prosecution order the cancellation of the order of placement under electronic monitoring.

Article 378

The cancellation judgment shall be final **AND** unappealable by any means in the cases set out in Article 375 hereof.

The cancellation judgments rendered in absentia may be challenged by objection in the cases stipulated in Article 376 hereof, pursuant to the conditions, deadlines **AND** procedures set out in Article 229 hereof. The judgment issued on the objection shall be final **AND** unappealable by any means.

Article379

The issuance of the judgment cancelling the electronic monitoring order shall result in the convicted person's execution of the custodial sentence that he still has to execute from the day of his placement under electronic monitoring. The period of placement under electronic monitoring shall be calculated as part of the served sentence.

Section :4 Releasing the Convicted Person **AND Placing Him Under Electronic Monitoring**

Article380

Every person against whom a custodial sentence not less than two years **AND** not more than five years is rendered **AND** who has served half of his sentence may submit a request to the Public Prosecution for his release **AND** placement under electronic monitoring for the remaining term of his sentence by electronic means in accordance with the provisions **AND** procedures stipulated in the first section of this chapter.

The calculation of the sentence indicated in the previous section shall be governed by the same laws stipulated in Article 47 of the aforementioned Law on Regulating Punitive Facilities.

Article381

The competent Public Prosecution shall investigate the request indicated in Article 380 hereof, to verify the convicted person's good conduct during his stay at the institution which leads to believe in his reformation **AND** that his release does not pose any risk to public security, whereafter it shall raise the documents along with its opinion to the court that has pronounced the sentence.

The court may decide to accept the request **AND** to release the convicted person **AND** place him under electronic monitoring, if his good conduct **AND** reformation are established **AND** if it deems that there is reason to believe that he will not reoffend. It may include in its judgment an order to subject the convicted person to any of the measures **AND** obligations stipulated in Articles 371 **AND** 372 hereof.

Article382

The judgment issued by the court to accept or reject the request for the release of the convicted person **AND** his placement under electronic monitoring shall be final **AND** unappealable.

If the court decides to reject the request, no new request may be filed before a minimum of six months from the date of the judgment rejecting the previous request, unless it fulfils the parole conditions stipulated in the aforementioned Law on Regulating Punitive Facilities.

Article383

The execution of the order of placement under electronic monitoring stipulated in this section shall be governed by the same rules set out in Article 374 hereof.

Article384

The order of placement under electronic monitoring stipulated in this section shall be cancelled in any of the cases set out in Article 375 (Clauses 2, 3 **AND** (4 **AND** Article 376 hereof.

The rules set out in Articles 377 **AND** 379 hereof shall apply to the procedures **AND** effects of cancelling the order of placement under electronic monitoring.

As an exception to the second paragraph of Article 378 hereof, the cancellation judgment issued in the cases set out in the first paragraph of this article shall be final **AND** unappealable by any legally prescribed means.

Article385

The competent authority in granting parole provided for in the Law on Regulating Punitive Facilities may order execution thereof by electronic means in accordance with the provisions **AND** procedures set out in Section 1 of this chapter, **AND** in Article 372 hereof.
