

This section of the file corresponds to book 2 (Procedural acts), title 1 (General provisions) of the Portuguese criminal procedural code.

Article 85 - Maintaining order in procedural acts

1 - It is the responsibility of the judicial authorities, criminal police authorities and justice officials to regulate work and maintain order in the procedural acts over which they preside or direct, taking the necessary measures against anyone who disrupts the course of the respective acts.

2 - If the offender must still intervene or be present on the same day, in an act presided over by the judge, the judge will order, if necessary, that he be detained until the time of his intervention, or for as long as his presence is essential.

3 - If, during a procedural act, the commission of any infraction is verified, the competent entity, in accordance with paragraph 1, raises or orders the raising of a report and, if applicable, arrests or orders the arrest of the agent, for procedural purposes.

4 - To maintain order in procedural acts, whenever necessary, the assistance of the public force is requested, which is subject, for this purpose, to the power of direction of the judicial authority that presides over the act.

Article 86 - Publicity of the process and judicial secrecy

1 - The criminal proceedings are, under penalty of nullity, public, subject to the exceptions provided for by law.

2 - The investigating judge may, upon request from the accused, the assistant or the offended party and after hearing the public prosecutor's office, determine, by non-appealable order, the subjection of the case, during the investigation phase, to judicial secrecy, when he understands that the advertising harms the rights of those subjects or procedural participants.

3 - Whenever the public prosecutor understands that the interests of the investigation or the rights of the procedural subjects justify it, it may determine the application of judicial secrecy to the process, during the investigation phase, this decision being subject to validation by the investigating judge. within a maximum period of seventy-two hours.

4 - If the process has been subject, under the terms of the previous paragraph, to judicial secrecy, the public prosecutor, ex officio or upon request from the accused, the assistant or the victim, may order its withdrawal at any time during the investigation.

5 - If the accused, the assistant or the offended party requests the lifting of the judicial secrecy, but the public prosecutor does not order it, the files are sent to the investigating judge for decision, by order that cannot be appealed.

6 - Publicity of the process implies, under the terms defined by law and, in particular, by the following articles, the rights of:

- a) Assistance, by the general public, in carrying out the instructional debate and procedural acts in the trial phase;
- b) Narration of procedural acts, or reproduction of their terms, by the media;
- c) Consultation of the record and obtaining copies, extracts and certificates of any parts thereof.

7 - Advertising does not cover data relating to privacy that does not constitute evidence. The judicial authority specifies, by order, ex officio or upon request, the elements in respect of which judicial secrecy is maintained, ordering, if necessary, their destruction or that they be handed over to the person to whom they concern.

8 - Legal secrecy binds all procedural subjects and participants, as well as people who, for whatever reason, have come into contact with the process or become aware of elements belonging to it, and implies prohibitions on:

a) Assistance in carrying out or becoming aware of the content of a procedural act that they do not have the right or duty to attend;b) Disclosure of the occurrence of a procedural act or its terms, regardless of the reason for such disclosure.

9 - The judicial authority may, on a reasonable basis, give or order or allow certain people to be made aware of the content of an act or document under judicial secrecy, if this does not jeopardize the investigation and if it appears:

- a) Convenient to clarify the truth; or
- b) Indispensable for the exercise of rights by interested parties.

10 - The people referred to in the previous paragraph are identified in the process, indicating the act or document whose content they are aware of and are, in any case, bound by judicial secrecy.

11 - The judicial authority may authorize the issuance of a certificate in which knowledge of the content of an act or document in judicial secrecy is made known, as long as it is necessary for proceedings of a criminal nature or for the investigation of disciplinary proceedings of a public nature, as well as for the deduction of the civil compensation claim.

12 - If the case concerns an accident caused by a land-based vehicle, the judicial authority authorizes the issuing of a certificate:

a) In which an act or document is made known in judicial secrecy, for the purposes set out in the last part of the previous paragraph and upon request based on the provisions of article 72, paragraph 1, paragraph a);

b) The accident report collected by a police entity for the purposes of extrajudicial settlement of litigation in which the insurance entity to which civil liability is transferred is interested.

13 - Judicial secrecy does not prevent the provision of public clarifications by the judicial authority, when they are necessary to reestablish the truth and do not prejudice the investigation:

- a) At the request of people publicly called into question; or
- b) To guarantee the safety of people and property or public tranquility.

14 - If, through public clarifications provided under the terms of the previous paragraphs, it is confirmed that the person publicly called into question assumes the status of suspect, this person has the right to be heard in the process, at his request, within a reasonable period of time, which should not exceed three months, safeguarding the interests of the investigation.

Article 87 - Public assistance to procedural acts

1 - Any person may attend procedural acts declared public by law, namely hearings. Unofficially or at the request of the public prosecutor, the accused or the assistant, the judge may, however, decide, by order, to restrict the free assistance of the public or that the act, or part of it, takes place without publicity.

2 - The order referred to in the second part of the previous paragraph must be based on specific facts or circumstances that give rise to the presumption that the publicity would cause serious damage to the dignity of people, public morals or the normal course of the act and must be revoked as soon as they cease the reasons that gave rise to it.

3 - In the case of prosecution for the crime of trafficking in human organs, human trafficking, or against sexual freedom and self-determination, the procedural acts take place, as a rule, with the exclusion of publicity.

4 - As the event takes place without publicity, only people who had to intervene in it, as well as others who the judge admits for reasonable reasons, namely professional or scientific, may attend.

5 - The exclusion of advertising does not, under any circumstances, cover the reading of the sentence.

6 - For the purposes of the provisions of the previous paragraphs, the prohibition, by the judge, of the assistance of minors under 18 years of age or of anyone who, due to their legal capacity, does not imply restriction or exclusion of advertising, call into question the dignity or discipline of the act.

Article 88 - Social media

1 - Media bodies are permitted, within the limits of the law, to provide a detailed account of the content of procedural acts that are not covered by legal secrecy or during which the general public is permitted to assist.

2 - However, the following is not authorized, under penalty of simple disobedience:

a) The reproduction of procedural documents or documents incorporated in the process, up to the first instance sentence, unless they were obtained through a certificate requested mentioning the purpose for which they were intended, or if there was express authorization from the authority to do so judiciary that presides over the phase of the process at the time of publication;

b) The transmission or recording of images or sound recordings relating to the performance of any procedural act, namely the hearing, unless the judicial authority referred to in the previous paragraph, by order, authorizes it; However, the transmission or recording of images or sound recording relating to a person who objects to this cannot be authorized;

c) Publicizing, by any means, the identity of victims of crimes of human organ trafficking, human trafficking, against sexual freedom and self-determination, honor or privacy, except if the victim expressly consents to the revelation of the your identity or if the crime was committed through a media outlet.

3 - Until the decision on the publicity of the hearing is not yet authorized, under penalty of simple disobedience, the narration of procedural acts prior to that when the judge, ex officio or upon request, has prohibited it based on the facts or circumstances referred to in no. 2 of the previous article.

4 - Under penalty of simple disobedience, the publication, by any means, of conversations or communications intercepted within the scope of a process is not permitted, unless they are not subject to legal secrecy and the intervening parties expressly consent to the publication.

Article 89 - Consultation of records and obtaining of certificates and information by procedural subjects

1 - During the investigation, the accused, the assistant, the offended party, the injured party and the person responsible may, upon request, consult the file or elements contained therein, obtain, in paper or digital format, the corresponding extracts, copies or certificates and access or obtain a copy of the audio or audiovisual recordings of all statements made, except when, in the case of a process that is under judicial secrecy, the public prosecutor objects to this on the basis that it considers, on a reasonable basis, that it may harm the investigation or the rights of procedural participants or victims.

2 - If the public prosecutor objects to the consultation or obtaining of the elements provided for in the previous paragraph, the request is presented to the judge, who decides by non-appealable order.

3 - For the purposes of the provisions of the previous paragraphs, the files or parts of the files to which the accused, the assistant, the offended party, the injured party and the person responsible must have access are deposited at the secretariat, by photocopy and in separate form, without prejudice of the progress of the process, and maintaining for everyone the duty to keep legal secrecy.

4 - When, in accordance with paragraphs 1, 4 and 5 of article 86, the process becomes public, the people mentioned in paragraph 1 may request the competent judicial authority to examine the files free of charge outside the secretariat, The order that authorizes it must set the deadline for this purpose.

5 - The provisions of the civil procedure law relating to the failure to return the process within the deadline are

correspondingly applicable to the hypothesis provided for in the previous paragraph; being the lack of responsibility of the public prosecutor, the occurrence is withlinked to the hierarchical superior.

6 - After the deadlines set out in article 276 have elapsed, the accused, the assistant and the offended party may consult all the elements of the case that are under judicial secrecy, unless the investigating judge determines, at the request of the public prosecutor, that access to the files is postponed for a maximum period of three months, which may be extended, once, when the crime referred to in paragraphs i) to m) of article 1 is at stake, and for a deadline objectively essential for the conclusion of the investigation.

Article 90 - Consultation of documents and obtaining of certificates by other people

1 - Any person who reveals a legitimate interest in this may request that they be admitted to consult the record of a case that is not under judicial secrecy and that they be provided, at their expense, with a copy, extract or certificate of the record or part thereof. The judicial authority that presides over the phase in which the process is in or that has given the last decision in it decides, by order, on the request.

2 - The provisions of the previous paragraph exclude interrogation records or other procedural steps in which a minor defendant participates.

3 - Permission to consult documents and obtain copies, extracts or certificates is without prejudice to the prohibition, in the case applicable, of narrating procedural acts or reproducing their terms through the media.

This section of the file corresponds to book 2 (On procedural acts), title 3 (On the form of acts and their documentation) of the criminal procedural code of Portugal.

Article 91 - Oath and commitment

1 - Witnesses take the following oath: "I swear, on my honor, to tell the whole truth and only the truth."

2 - Experts and interpreters provide, at any stage of the process, the following commitment: «I undertake, on my honor, to faithfully perform the functions entrusted to me.»

3 - The oath referred to in no. incurred if you refuse them or fail to do so.

4 - Refusal to take the oath or commitment is equivalent to refusal to testify or perform functions.

5 - The oath and commitment, once given, do not need to be renewed in the same phase of the same process.

6 - They do not take the oath and commitment referred to in the previous paragraphs:

a) Children under 16 years of age;

b) Experts and interpreters who are public servants and intervene in the exercise of their functions.

Article 92 - Language of acts and appointment of interpreter

1 - In procedural acts, both written and oral, the Portuguese language is used, under penalty of nullity.

2 - When a person who does not know or master the Portuguese language has to intervene in the process, a suitable interpreter is appointed, at no cost to them, even if the entity presiding over the act or any of the procedural participants knows the language used by that person.

3 - The entity responsible for the procedural act shall provide the defendant who does not know or master the Portuguese language, within a reasonable period of time, with a written translation of the documents referred to in paragraph 10 of article 113 and others that the entity deems essential for the exercise of defense.

4 - Passages of the documents referred to in the previous paragraph that are irrelevant to the exercise of the defense do not have to be translated.

5 - Exceptionally, a translation or oral summary of the documents referred to in paragraph 3 may be given to the defendant, provided that this does not jeopardize the legality of the process.

6 - The accused may submit a reasoned request for the translation of documents in the case that he considers essential for the exercise of the right of defense, with the provisions of paragraphs 3 to 5 applying correspondingly.

7 - The accused may choose, at no cost to him, an interpreter other than the one provided for in paragraph 2 to translate conversations with his defender.

8 - The interpreter is subject to judicial secrecy, in general terms, and cannot reveal conversations between the accused and his defender, whatever the stage of the process in which they occur, under penalty of violating professional secrecy.

9 - Evidence obtained in violation of the provisions of paragraphs 7 and 8 may not be used.

10 - An interpreter is also appointed when it becomes necessary to translate a document in a foreign language and is not accompanied by a certified translation.

11 - The interpreter is appointed by a judicial authority or criminal police authority.

12 - The provisions of articles 153 and 162 are correspondingly applicable to the performance of the role of interpreter.

Article 93 - Participation of deaf, hearing impaired or mute people

1 - When a deaf person, a hearing impaired person or a mute person must make statements, the following rules must be observed:

a) The deaf or hard of hearing person is appointed a suitable interpreter for sign language, lip reading or written expression, whichever is most appropriate to the situation of the person concerned;

b) The mute, if he knows how to write, asks the questions orally, responding in writing. Otherwise, and whenever required, a suitable interpreter will be appointed.

2 - The lack of an interpreter results in the postponement of the procedure.

3 - The provisions of the previous paragraphs are applicable at all stages of the process and regardless of the position of the interested party in the case.

4 - The provisions of paragraphs 7 to 9 of the previous article are correspondingly applicable.

Article 94 - Written form of acts

1 - Procedural acts that must be carried out in written form are written in a perfectly legible manner, containing no blank spaces that are not rendered useless, nor between lines, erasures or amendments that are not subject to reservations.

2 - Typewriters or word processors can be used, in which case it is ensured, before signing, that the document has been fully reviewed and the entity that prepared it is identified.

3 - Pre-printed formulas, electronic forms or stamps may also be used, to be completed with the respective text, and a certified electronic signature may be used.

4 - In case of manifest illegibility of the document, any interested procedural participant may request, free of charge, the respective typed transcription.

5 - The abbreviations used must have an unambiguous meaning. Dates and numbers can be written in numbers, except for the indication in full of penalties, compensation amounts and other elements whose certainty is important to ensure.

6 - It is mandatory to mention the day, month and year of the act, as well as, in the case of an act that affects people's fundamental freedoms, the time of its occurrence, with reference to the moment of its beginning and conclusion. The place where the act was carried out must be indicated.

Article 95 - Signature

1 - The writing to which a procedural act must be reduced is at the end, and even if it must continue at a later time, signed by whoever presides over it, by those people who have participated in it and by the court official who has done the writing, and the pages that do not contain a signature will be initialed by those who have signed.

2 - Signatures and initials are made by hand, and for this purpose, the use of any means of reproduction is prohibited.

3 - In the event that any of the persons whose signature is mandatory is unable or refuses to provide it, the authority or official present shall declare in the minutes this impossibility or refusal and the reasons given for it.

Article 96 - Orality of acts

1 - Unless the law provides otherwise, the provision of any statements shall be made orally, and the reading of written documents previously prepared for that purpose shall not be permitted.

2 - The entity presiding over the act may authorise the declarant to use written notes as aids to the record, recording this circumstance in the minutes.

3 - In the case referred to in the previous paragraph, measures must be taken to defend the spontaneity of the statements made, ordering, if necessary, the exhibition of the written notes, about whose origin the declarant shall be questioned in detail.

4 - Rulings and judgments issued orally shall be recorded in the record.

5 - The provisions of this article shall not affect the rules relating to permitted and prohibited readings in court.

Article 97 - Decision-making acts

1 - The decisions of judges shall take the form of:

a) Judgments, when they determine the final outcome of the proceedings;

b) Rulings, when they determine any interlocutory issue or when they terminate the proceedings other than in the case provided for in the previous paragraph;

c) Judgments, when the decision is made by a collegiate court.

2 - The decisions provided for in the previous paragraph shall take the form of judgments when issued by a collegiate court.

3 - The decisions of the public prosecutor's office shall take the form of rulings. 4 - The decision-making acts referred to in the previous paragraphs have the formal requirements of written or oral acts, as the case may be.

5 - Decision-making acts are always substantiated, and the factual and legal reasons for the decision must be specified.

Article 98 - Statements, memorials and requests

1 - The defendant, even if at liberty, may submit statements, memorials and requests at any stage of the proceedings, even if not signed by the defense attorney, provided that they are within the scope of the proceedings or are intended to safeguard his or her fundamental rights. The defendant's statements, memorials and requests are always included in the case file.

2 - The requests of other procedural participants who are represented by lawyers are signed by them, unless it is impossible for them

to do so and the request aims to perform an act subject to a limitation period. 3 - When the oral formulation of requests is legally admissible, these shall be recorded in the minutes by the entity that directs the proceedings or by the court official in charge of the proceedings.

Article 99 - Minutes

1 - The minutes are the instrument intended to certify the terms in which the procedural acts were carried out, the documentation of which is required by law and which the person who drafted them was present at, as well as to record the statements, requests, promotions and oral decisions that occurred before the latter.

2 - The minutes relating to the evidentiary debate and the hearing are called minutes and are additionally governed by the legal provisions that this code requires to be applied.

3 - The minutes contain, in addition to the requirements provided for written acts, mention of the following elements:

a) Identification of the persons who participated in the act;

b) Reasons, if known, for the absence of the persons whose participation was anticipated in the act was foreseen;

c) Specified description of the operations carried out, the intervention of each of the procedural participants, the statements made, the way in which they were made and the circumstances in which they were made, including, when there is an audio or audiovisual recording, the recording of the beginning and end of each statement, documents presented or received and results achieved, in order to guarantee the genuine expression of the occurrence;

d) Any relevant occurrence for assessing the evidence or regularity of the act.

4 - The provisions of article 169 are correspondingly applicable

Article 100 - Writing of the report

1 - The report is drawn up by the court clerk, or by the criminal police officer during the investigation, under the direction of the entity presiding over the act.

2 - Whenever the report must be drawn up as a summary, it is the responsibility of the entity that presides over the act to ensure that the summary corresponds to the essence of what has happened or the statements made, and for this purpose may dictate the content of the report or delegate, ex officio or upon request, to the procedural participants or their representatives.

3 - In the event of an alleged discrepancy between the content of what was dictated and what occurred, statements relating to the discrepancy are made, indicating the rectifications to be made, after which the entity presiding over the act makes a statement, after hearing the interested procedural participants. who are present, a definitive decision supporting or modifying the initial wording.

Article 101 - Registration and transcription

1 - The official referred to in paragraph 1 of the previous article may write the report using stenographic, stenographic or other means other than ordinary writing, as well as, in the cases legally provided for, make an audio or audiovisual recording of the making of statements and decisions verbally uttered.

2 - When stenographic, stenotypic or other technical means other than ordinary writing are used, the official who used them shall make the transcription within the shortest possible time, and the entity that presided over the act must ensure that the transcription is in compliance before signature.

3 - The stenographed sheets and the stenotyped or recorded tapes are kept in a sealed envelope by order of the court, with mention being made in the record of all the opening and closing of the records kept by the entity carrying out the operation.

4 - Whenever audio or audiovisual recording is used, there is no need for transcription and the official, without prejudice to the provisions relating to judicial secrecy, delivers, within a maximum period of 48 hours, a copy to any procedural subject who requests it, as well as, in the case of appeal, send a copy to the higher court.

5 - In the event of an appeal, when it is absolutely essential for the good decision of the case, the rapporteur, by means of a reasoned order, may request the appealed court to transcribe all or part of the sentence.

Article 102 - Reform of lost, misplaced or destroyed vehicle

1 - When a document or part of it is lost, misplaced or destroyed, it must be reformed in the court in which the process took place or should be carried out in the first instance, even when there has been an appeal there.

2 - The reform is ordered by the judge, ex officio or at the request of the Public Prosecutor's Office, the accused, the assistant or the civil parties.

3 - In the reform, the procedures provided for in the civil procedure law are followed in everything that is not specified in the following paragraphs:

a) The Public Prosecutor's Office, the accused, the assistant and the civil parties intervene in the conference;

b) The agreement of the intervenors, transcribed in the record, only covers the process in civil matters, being merely informative in criminal matters.