

This section of the file corresponds to part 2, book 8 (Special proceedings), title 1 (Summary proceedings) of the Portuguese criminal procedure code.

#### Article 381 - When it takes place

1 - Those detained in flagrante delicto, under the terms of articles 255 and 256, for a crime punishable by a prison sentence with a maximum limit of not more than 5 years, even in the case of a combination of infractions, are tried in summary proceedings:

a) When the arrest has been carried out by any judicial authority or police entity; or

b) When the detention was carried out by another person and, within a period not exceeding two hours, the detainee was handed over to a judicial authority or police entity, with the latter having written a summary report of the surrender.

2 - Those detained in flagrante delicto for a crime punishable by a prison sentence with a maximum limit of more than 5 years, even in the case of a combination of infractions, when the Public Prosecutor's Office, in the accusation, understand that, in particular, a prison sentence of more than 5 years should not be imposed.

#### Article 382 - Presentation to the Public Prosecutor's Office and Trial

1 - The judicial authority, if it is not the Public Prosecutor's Office, or the police entity that carried out the arrest or to whom the detainee was handed over shall present him immediately, or in the shortest possible time, without exceeding 48 hours, to the Public Prosecutor's Office at the court responsible for the trial, which ensures the appointment of a defense attorney for the accused.

2 - If the accused does not exercise his right to a period of time to prepare his defense, the Public Prosecutor's Office, after summarily interrogating him if deemed appropriate, presents him immediately, or within the shortest possible time, to the competent court for trial, except in the cases provided for in paragraph 4 and in the cases provided for in paragraphs 1 and 2 of article 384.

3 - If the accused has exercised his right to a period of time to prepare his defence, the Public Prosecutor's Office may question him in accordance with article 143, for the purposes of validating the detention and release of the accused, subjecting him, if necessary, if applicable, as a term of identity and residence, or present it to the investigating judge for the purposes of applying a measure of coercion or property guarantee, without prejudice to the application of the summary process.

4 - If you have reason to believe that the trial hearing cannot begin within the time limits set out in no. 1 and subparagraph a) of no. 2 of article 387, namely because you consider necessary evidentiary steps essential to discovery In fact, the Public Prosecutor's Office issues an order immediately ordering the missing measures to be carried out, with the provisions of the previous paragraph being correspondingly applicable.

5 - In the cases provided for in paragraphs 3 and 4, the Public Prosecutor's Office notifies the accused and the witnesses to appear, after the period requested by the accused to prepare his defense has elapsed, or the period necessary for the evidentiary steps essential to discovering the in fact, on a date up to a maximum of 20 days after arrest, for presentation to trial in summary proceedings.

6 - The defendant who is not subject to preventive detention is notified with the warning that the trial will take place even if he does not appear, being represented by a defense attorney for all legal purposes.

#### Article 383 - Notifications

1 - The judicial authority or police entity that carried out the arrest shall verbally notify, in the act itself, the witnesses present, in a number not exceeding seven, and the offended party to appear before the Public Prosecutor's Office at the court competent for the trial.

2 - In the same act, the accused is notified that he has the right to a period of no more than 15 days to present his defense, which he must communicate to Ministry before the court responsible for the trial and that it can present up to seven witnesses, who will be verbally notified if they are present.

#### Article 384 - Archiving or Suspension of the Process

1 - In cases where the assumptions referred to in articles 280 and 281 are met, the Public Prosecutor's Office, ex officio or upon request from the accused or assistant, determines, with the agreement of the investigating judge, respectively, the archiving or provisional suspension of the process.

2 - For the purposes of the provisions of the previous paragraph, the Public Prosecutor's Office may interrogate the accused under the terms of article 143, for the purposes of validating the detention and release of the accused, subjecting him, if applicable, to a term of identity and residence, and the investigating judge must issue a ruling within a maximum period of 48 hours on the proposal for archiving or suspension.

3 - If the investigating judge's agreement is not obtained, the provisions of paragraphs 5 and 6 of article 382 are correspondingly applicable, except if the accused has not exercised the right to a deadline for presenting his defense, in which case who will be notified to appear within a maximum period of 15 days after arrest.

4 - In the cases provided for in paragraph 4 of article 282, the Public Prosecutor's Office brings charges for trial in an abbreviated process within 90 days from the verification of non-compliance or conviction.

#### Article 385 - Release of the Defendant

1 - If the presentation to the judge does not take place immediately following arrest in flagrante delicto, the defendant will only continue to be detained if there are reasons to believe that:

a) Will not voluntarily appear before the judicial authority on the date and time set for him;

b) When any of the circumstances provided for in article 204 specifically occur that only continued detention allows for precautionary measures; or

c) If this proves to be essential for the protection of the victim.

2 - In the case of release under the terms of the previous number, the criminal police body subjects the defendant to an identity and residence statement and notifies him to appear before the Public Prosecutor's Office, on the designated day and time, to be submitted:

a) The trial hearing in summary proceedings, with the warning that this will take place, even if you do not appear, being represented by a defender; or

b) The first judicial interrogation and possible application of a measure of coercion or property guarantee.

3 - In any case, whenever the criminal police authority has well-founded reasons to believe that the accused cannot be presented within the period referred to in paragraph 1 of article 382,

it shall immediately release the accused, subject to an identity and residence statement and making a substantiated report on the occurrence, which is transmitted, immediately and together with the case, to the Public Prosecutor's Office.

#### Article 386 - General Principles of Judgment

1 - Judgment in summary proceedings is governed by the provisions of this code relating to judgment in common proceedings, with the modifications contained in this title.

2 - The acts and terms of the trial are reduced to the minimum essential for knowledge and a good decision of the case.

#### Article 387 - Hearing

1 - The start of the trial hearing in summary proceedings takes place within a maximum period of forty-eight hours after arrest, without prejudice to the provisions of the following paragraph.

2 - The beginning of the hearing may also take place:

a) Up to the limit of the 5th day after detention, when one or more non-working days are interposed within the period set out in the previous paragraph, in the cases set out in paragraph 1 of article 385;

b) Up to the 15th day after detention, in the cases provided for in no.3 of article 384;

c) Up to a limit of 20 days after arrest, whenever the accused has requested time to prepare his defense or the Public Prosecutor's Office deems it necessary to carry out steps essential to discovering the truth.

3 - If there are no witnesses that the Public Prosecutor's Office, the assistant or the accused cannot do without, the hearing is not postponed, and the witnesses present are questioned in the order indicated in paragraphs b) and c) of article 341, without prejudice to the possibility of changing the displayed role.

4 - Witnesses who are not notified under the terms of paragraph 5 of article 382 or article 383 must always be presented and their absence cannot give rise to the postponement of the hearing, unless the judge, of his own motion or upon request, considers your testimony indispensable for discovering the truth and for the good decision of the case, in which case it will order its immediate notification.

5 - If it is impossible for the main judge to start the hearing within the deadlines set out in paragraphs 1 and 2, the substitute judge must intervene.

6 - In the cases provided for in paragraph 2 of article 389, the hearing may be postponed, at the request of the accused, with a view to the exercise of the adversarial process, for a maximum period of 10 days, without prejudice to the taking of statements to the defendant and the questioning of the assistant, the civil party, the experts and the witnesses present.

7 - The hearing may also be postponed, for a maximum period of 20 days, to obtain the appearance of duly notified witnesses or to gather examinations, expert reports or documents, the testimony or addition of which the judge considers essential for a good decision of the cause.

8 - Examinations, expert reports and documents intended to instruct summary proceedings are, for the entities from whom they are requested, urgent in nature, and the Public Prosecutor's Office or judge must request them or insist on their sending, depending on the case, with this mention.

#### Article 388 - Assistant and Civil Parties

In summary proceedings, people entitled to do so may become assistants or intervene as civil parties if they so request, even if only verbally, at the beginning of the hearing.

#### Article 389 - Processing

1 - The Public Prosecutor's Office may replace the presentation of the accusation by reading the report of the authority that carried out the arrest.

2 - If it is insufficient, the factuality contained in the news report may be completed by an order from the Public Prosecutor's Office issued before presentation to trial, and this order will also be read at the hearing.

3 - In cases where it has considered it necessary to carry out investigations, the Public Prosecutor's Office, if it does not present an indictment, must attach a request containing, depending on the case, an indication of the witnesses to be presented, or a description of any other evidence that it provides, or protest and attach, in the latter case indicating the entity in charge of the examination, or expertise, or from whom the document was requested.

4 - The accusation, the response, the claim for compensation and its response, when verbally presented, are documented in the minutes, in accordance with articles 363 and 364.

5 - The presentation of the accusation and the defense replace the introductory statements referred to in article 339.

6 - After the production of evidence, the floor is granted once, to the Public Prosecutor's Office, the representatives of the assistants and civil parties and the defender for a maximum period of 30 minutes.

#### Article 389-A - Sentence

1 - The sentence is then delivered orally and contains:

a) A summary indication of the proven and unproven facts, which can be made by reference to the accusation and defense, with a brief indication and critical examination of the evidence;

B) A concise statement of the factual and legal reasons that support the decision;

c) In the event of a conviction, the succinct grounds for the choice and extent of the sanction applied;

d) The decision, under the terms set out in paragraphs a) to d) of paragraph 3 of article 374.<sup>9</sup>

2 - The decision is always dictated to the minutes.

3 - The sentence is, under penalty of nullity, documented in accordance with articles 363.<sup>9</sup> and 364.<sup>9</sup>

4 - A copy of the recording is always delivered to the defendant, the assistant and the Public Prosecutor's Office within 48 hours, unless they expressly declare that they do not require delivery, without prejudice to any procedural subject who may request it under the terms of paragraph 4 of article 101.<sup>9</sup>

5 - If a custodial sentence is applied or, exceptionally, if the circumstances of the case make it necessary, the judge, immediately after the discussion, prepares the sentence in writing and reads it out.

#### Article 390 - Referral to Another Procedural Form

1 - The court shall only refer the case to the Public Prosecutor's Office for processing under another procedural form when:

a) The summary proceedings are found to be legally inadmissible;

b) The evidence-gathering steps necessary to discover the truth have not been carried out within the maximum period provided for in Article 387, for duly justified reasons; or

c) The proceedings prove to be exceptionally complex, due in particular to the number of defendants or victims or the highly organised nature of the crime.

2 - If, after receiving the case, the Public Prosecutor's Office files an indictment in a common proceeding with the intervention of the single court, in abbreviated proceedings, or requests the application of a non-custodial sentence or security measure in a very summary proceeding, the court with jurisdiction to hear them shall be the one to which the case was initially assigned for trial in summary form.

#### Article 391 - Appealability

1 - In summary proceedings, an appeal may only be made against the sentence or ruling that terminates the proceedings.

2 - Except in the case provided for in paragraph 4 of article 389-A, the period for filing an appeal shall be counted from the date of delivery of the copy of the recording of the sentence.

This section of the file corresponds to part 2, book 8 (Special proceedings), title 2 (Abbreviated proceedings) of the Portuguese criminal procedural code.

#### Article 391-A - When it Takes Place

1 - In the case of a crime punishable by a fine or a prison sentence of not more than 5 years, if there is simple and clear evidence that provides sufficient indications that the crime took place and who committed it, the Public Prosecutor's Office, in view of the report or after conducting a summary inquiry, shall bring charges for trial in abbreviated proceedings. 2 - Crimes punishable by a maximum prison sentence of more than 5 years shall also be tried in abbreviated proceedings, in accordance with the previous paragraph, even in the case of concurrent offences, when the Public Prosecutor's Office, in the indictment, considers that a prison sentence of more than 5 years should not be applied in specific cases.

3 - For the purposes of the provisions of paragraph 1, there shall be considered to be simple and evident evidence when:

a) The offender has been arrested in flagrante delicto and the trial cannot be carried out in the form of a summary proceeding;

b) The evidence is essentially documentary and can be collected within the time limit provided for the indictment; or

c) The evidence is based on eyewitnesses with a uniform version of the facts.

4 - The provisions of the previous paragraphs shall apply correspondingly to proceedings against a legal person or equivalent entity.

#### Article 391.<sup>o</sup>-B - Prosecution, Filing and Suspension of Proceedings

1 - The indictment by the Ministry of Justice shall be deemed to be *berio Público* must contain the elements referred to in paragraph 3 of article 283. The identification of the accused and the narration of the facts can be carried out, in whole or in part, by reference to the report or the complaint .

2 - Without prejudice to the provisions of paragraph 4 of article 384, the accusation is filed within 90 days from:

- a) Acquisition of news of the crime, in accordance with the provisions of article 241, in the case of a public crime; or
- b) Filing a complaint, in other cases.

3 - If the procedure depends on a private accusation, the prosecution by the Public Prosecutor's Office takes place after an accusation has been filed under the terms of article 285.

4 - The provisions of articles 280 to 282 are correspondingly applicable in abbreviated proceedings.

#### Article 391.<sup>o</sup>-C - Process Sanitation

1 - Once the files have been received, the judge will consider the issues referred to in article 311.

2 - If the accusation is not rejected, the judge designates a date for the hearing, taking precedence over trials in common proceedings, without prejudice to the priority given to urgent proceedings.

#### Article 391.<sup>o</sup>-D - Referral to Another Form of Process

1 - The court only forwards the case to the Public Prosecutor's Office for processing under another procedural form when it is verified that the abbreviated process is inadmissible in this case.

2 - If, after receiving the files, the Public Prosecutor's Office files an accusation in a common process with the intervention of the single court or requests the application of a non-deprivation of liberty sentence or security measure in a very summary process, the jurisdiction for the respective knowledge remains in the court competent for the trial in the abbreviated form.

#### Article 391.<sup>o</sup>-E - Judgment

1 - The trial is governed by the provisions relating to the trial in common proceedings, with the changes provided for in this article.

2 - Once the evidence has been produced, the floor is given to the Public Prosecutor's Office, the representatives of the assistant and the civil parties and the defender, who may use it for a maximum of thirty minutes, extendable if necessary and so requested. Replication is permitted for a maximum of ten minutes.

#### Article 391.<sup>o</sup>-F - Sentence

The provisions of article 389-A are correspondingly applicable to the sentence.

#### Article 391.<sup>o</sup>-G - Appealability

The provisions of article 391 are correspondingly applicable to the abbreviated process.

This section of the file corresponds to part 2, book 8 (Special proceedings), title 3 (Summary proceedings) of the Portuguese criminal procedural code.

#### Article 392 - When it takes place

1 - In the case of a crime punishable by a prison sentence of not more than 5 years or only by a fine, the Public Prosecutor's Office, on the initiative of the accused or after having heard him and when he understands that a specific penalty or measure should be applied to the case of non-custodial security, requests the court that the application takes place in a very summary process.

2 - If the procedure depends on a private accusation, the request provided for in the previous paragraph depends on the assistant's agreement.

3 - The provisions of the previous paragraphs are correspondingly applicable in proceedings against a legal person or similar entity.

#### Article 393 - Civil Parties

1 - Intervention by civil parties is not permitted in very summary proceedings, without prejudice to the provisions of the following paragraph.

2 - Until the moment of submission of the request from the Public Prosecutor's Office referred to in the previous article, the injured party may express the intention to obtain compensation for the damages suffered, in which case that request must contain the indication referred to in paragraph b) of no. 2 of article 394.<sup>o</sup>

#### Article 394 - Request

1 - The Public Prosecutor's request is written and contains information aimed at identifying the accused, a description of the facts accused and the mention of the legal provisions violated, the existing evidence and the summary statement of the reasons why he believes that a prison sentence should not specifically be applied to the case.

2 - The application ends with the specific indication by the Public Prosecutor's Office:

- a) The sanctions specifically proposed;
- b) The exact amount to be awarded as reparation, in accordance with the provisions of article 82-A, when this must be applied.

#### Article 395 - Rejection of the Request

1 - The judge rejects the request and sends the case back to another form that suits him:

- a) When the procedure is legally unacceptable;
- b) When the request is manifestly unfounded, in accordance with the provisions of paragraph 3 of article 311;
- c) When it is understood that the proposed sanction is manifestly incapable of adequately and sufficiently achieving the purposes of the punishment.

2 - In the case provided for in paragraph c) of the previous paragraph, the judge may, as an alternative to referring the case to another form, set a different sanction, in its type or measure, from that proposed by the Public Prosecutor's Office, with the agreement of the latter and the accused .

3 - If the judge sends the case back to another form, the Public Prosecutor's request is equivalent, in all cases, to the accusation.

4 - There is no appeal against the order referred to in paragraph 1.

#### Article 396 - Notification and Opposition of the Defendant

1 - The judge, if he does not reject the application under the terms of the previous article:

- a) Appoints a defender to the accused who does not have a lawyer appointed or a defender appointed; It is
- b) Orders notification to the defendant of the Public Prosecutor's Office's request and, where appropriate, of the order referred to in paragraph 2 of the previous article, so that, if he wishes, he can oppose it within 15 days.

2 - The notification referred to in the previous paragraph is made by personal contact, in accordance with article 113, paragraph 1, subparagraph a), and must contain:

- a) Information about the defendant's right to oppose the sanction and how to do so;
- b) Indication of the deadline for the opposition and its final term;
- c) Clarification of the effects of opposition and non-opposition referred to in the following article.

3 - The application is also notified to the defender.

4 - Opposition can be deduced by a simple declaration.

#### Article 397 - Decision

1 - When the defendant does not oppose the request, the judge, by order, proceeds to apply the sanction and order the payment of a court fee.

2 - The order referred to in the previous paragraph is valid as a condemnatory sentence and does not admit ordinary appeal.

3 - An order that applies a penalty different from the one proposed or fixed in accordance with the provisions of articles 394, no. 2, and 395, no. 2, is null and void.

#### Article 398 - Continuation of the Process

1 - If the accused lodges an objection, the judge orders the case to be sent back to another form that suits him, equivalent to the accusation, in all cases, the request of the Public Prosecutor's Office formulated under the terms of article 394.

2 - Once the referral is ordered, the accused is notified of the accusation, as well as to request, if the process follows the common form, the opening of an investigation.