

This file corresponds to part 1 of book 1 (On the subjects of the process), title 3 (On the Defendant and His Defender) of the Portuguese criminal procedural code.

#### Article 58 - Status of defendant

1 - Anyone against whom an accusation is made or an investigation is requested in a criminal proceeding assumes the status of defendant.

2 - The status of defendant remains throughout the course of the process.

3 - The provisions of paragraphs 2 to 7 of the following article are correspondingly applicable.

4 - The legal person or similar entity may be constituted as a defendant.

5 - The legal entity is represented by whoever legally or statutorily must represent it and the entity that lacks legal personality is represented by the person who acts as director, manager or administrator and, failing that, by a person chosen by the majority of members.

6 - In the event of a split of a legal person or similar entity, representation is the responsibility of the representatives of the split persons.

7 - In the case of a merger of a legal person or similar entity, representation is the responsibility of the representative of the merged person.

8 - In the event of extinction and when insolvency has been declared and until the end of the liquidation, the representative remains on the date of extinction or declaration of insolvency.

9 - (Repealed.)

#### Article 59 - Constitution of defendant

1 - Without prejudice to the provisions of the previous article, the constitution of a defendant is mandatory as soon as:

a) When an investigation is underway against a specific person in relation to whom there is a well-founded suspicion of committing a crime, the person must make a statement before any judicial authority or criminal police body;

b) A measure of coercion or property guarantee must be applied to any person, except as provided in paragraphs 3 to 5 of article 192;

c) A suspect is detained, under the terms and for the purposes set out in articles 254 to 261; or

d) A report is raised that identifies a person as an agent of a crime and it is communicated to them, unless the news is manifestly unfounded.

2 - The constitution of an accused occurs through the communication, oral or in writing, made to the person concerned by a judicial authority or a criminal police body, that from that moment onwards he must consider himself an accused in a criminal proceeding and the indication and, if necessary, explanation of the procedural rights and duties referred to in article 61, which for this reason become your responsibility.

3 - The constitution of a defendant as a legal person or similar entity takes place by communication to its representative, as soon as the circumstances mentioned in paragraphs a), b) or d) of paragraph 1 occur.

4 - The constitution of an accused by a criminal police body is communicated to the judicial authority within 10 days and assessed by the latter, in order for its validation, within 10 days.

5 - The constitution of an accused implies the delivery, whenever possible immediately or without undue delay, of a document identifying the case and the defender, if this has been appointed, and the procedural rights and duties referred to in article 61.  
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6 - If the defendant does not know or master the Portuguese language, when the document provided for in the previous paragraph is not available in a language that he understands, the information is transmitted orally, if necessary with the intervention of an interpreter, without prejudice to it being subsequently delivered to him, without undue delay, document written in a language you understand.

7 - The omission or violation of the formalities provided for in the previous paragraphs implies that the statements made by the person concerned cannot be used as evidence.

8 - Failure to validate the constitution of argued by the judicial authority does not prejudice the evidence previously obtained.

9 - Without prejudice to the continuation of the process, the constitution of a minor defendant is immediately communicated to the holders of parental responsibilities, their legal representative or the person who has their de facto custody.

#### Article 60 - Other cases in which a defendant is constituted

1 - If, during any inquiry carried out against a person who is not an accused, a well-founded suspicion of a crime committed by that person arises, the entity carrying out the act shall immediately suspend it and proceed with the communication and indication referred to in paragraph 2 of the previous article .

2 - A person suspected of having committed a crime has the right to be constituted, at their request, as a defendant whenever

steps are being taken, intended to prove the accusation, that affect them personally.

3 - The previous paragraphs are applicable as soon as, during the questioning of their representative as an accused or witness, a well-founded suspicion of the commission of a crime by a legal person or similar entity that is not yet an accused arises.

4 - The provisions of paragraphs 2 to 8 of article 58 are correspondingly applicable.

#### Article 61 - Procedural position

From the moment a person acquires the status of defendant, he or she is guaranteed the exercise of procedural rights and duties, without prejudice to the application of coercive measures and property guarantees and the carrying out of evidentiary measures, as specified in the law.

#### Article 62 - Procedural rights and duties

1 - The defendant enjoys, in particular, at any stage of the process and subject to exceptions in the law, the rights to:

- a) Be present at procedural acts that directly concern him/her;
- b) Be heard by the court or the investigating judge whenever they must take any decision that personally affects him;
- c) Be informed of the facts alleged against him before making statements before any entity;
- d) Not answering questions asked, by any entity, about the facts attributed to him and about the content of the statements he makes about them;

e) Appoint a lawyer or request the appointment of a lawyer;

f) Be assisted by a defender in all procedural acts in which he participates and, when detained, communicate, even in private, with him;

g) Intervene in the investigation and investigation, offering evidence and requesting any steps deemed necessary;

h) Be informed, by the judicial authority or criminal police body before which you are obliged to appear, of your rights;

i) Be accompanied, if a minor, during the procedural steps to which he/she appears, by the holders of parental responsibilities, by the legal representative or by a person who has his/her de facto custody or, in the impossibility of contacting these people, or when special circumstances warrant in your interest or the needs of the process impose it, and only while these circumstances persist, by another suitable person indicated by you and accepted by the competent judicial authority;

j) Translation and interpretation, in accordance with articles 92 and 93;

k) Appeal, in accordance with the law, decisions that are unfavorable to you.

2 - The private communication referred to in paragraph f) of the previous paragraph occurs in plain sight when security reasons so require, but under conditions of not being overheard by the person in charge of surveillance.

3 - The information referred to in paragraph h) of paragraph 1, in the case of a minor defendant, is also made available to the people referred to in paragraph i) of the same paragraph.

4 - If the minor has not indicated another person sounds to accompany you, or the person appointed by you under the terms of paragraph i) of paragraph 1 is not accepted by the competent judicial authority, the competent judicial authority will appoint, for the same purpose, a specialized technician to accompany you.

5 - For the purposes of paragraph i) of paragraph 1 and paragraphs 3 and 4, minority is presumed if, after taking all steps to identify the accused, his or her age remains uncertain and there are reasons to believe that he is a minor.

6 - In particular, the defendant is responsible for:

a) Appear before the judge, the Public Prosecutor's Office or criminal police bodies whenever the law requires it and you have been duly summoned to do so;

b) Answer truthfully the questions asked by a competent entity about his/her identity;

c) Providing proof of identity and residence as soon as he assumes the status of defendant;

d) Be subject to evidentiary measures and measures of coercion and asset guarantee specified by law and ordered and carried out by a competent entity.

7 - The rights and duties set out in the previous paragraphs are exercised and fulfilled by the legal person or similar entity, through its representative.

#### Article 63 - Defender

1 - The defendant may appoint a lawyer at any time during the process.

2 - (Revoked).

3 - (Revoked).

4 - If the accused has more than one defender appointed, notifications are made to the person indicated first in the act of constitution.

#### Article 64 - Rights of the defender

1 - The defender exercises the rights that the law recognizes for the accused, except for those that it personally reserves for him.

2 - The accused may withdraw the effectiveness of the act carried out on his behalf by the defender, provided that he does so by means of an express declaration prior to the decision relating to that act.

#### Article 65 - Mandatory assistance

1 - The assistance of the defender is mandatory:

- a) In the interrogation of a detained or imprisoned defendant;
- b) In interrogations carried out by judicial authorities;
- c) In the instructional debate and at the hearing;
- d) In any procedural act, with the exception of the constitution of a defendant, whenever the defendant is blind, deaf, mute, illiterate, unfamiliar with the Portuguese language, under 21 years of age, or if the question of his inability to imputability or diminished imputability is raised ;
- e) In ordinary or extraordinary resources;
- f) In the cases referred to in articles 271 and 294;
- g) At the trial hearing held in the absence of the accused;
- h) In other cases that the law determines.

2 - Outside of the cases set out in the previous paragraph, a defender may be appointed to the accused, at the request of the court or the accused, whenever the circumstances of the case reveal the need or convenience for the accused to be assisted.

3 - Without prejudice to the provisions of the previous paragraphs, if the accused does not have a lawyer appointed or a defender appointed, it is mandatory to appoint a defender when charges are brought against him, and the defender's identification must be included in the order closing the investigation.

4 - In the case referred to in the previous paragraph, the accused is informed, in the indictment order, that he is obliged, if convicted, to pay the fees of the ex officio defender, unless he is granted legal aid, and that he can proceed with the replacement of this defender by appointing a lawyer.

5 - If a legal person or similar entity is accused, the provisions of the previous paragraphs are correspondingly applicable.

#### Article 66 - Assistance to several defendants

With several defendants in the same case Therefore, they can be assisted by a single defender, if this does not contradict the function of the defense.

#### Article 67 - Appointed defender

- 1 - The appointment of a defender is notified to the accused and the defender when they are not present at the event.
- 2 - The appointed defender may be exempt from sponsorship if he alleges a reason that the court deems fair.
- 3 - The court may always replace the appointed defender, at the defendant's request, for just cause.
- 4 - As long as he is not replaced, the defender appointed for an act remains for subsequent acts of the process.