

This section of the file corresponds to Book 2 (Of Procedural Acts), Title 3 (Of the Time of Acts and the Acceleration of the Process) of the Portuguese Criminal Procedural Code.

#### Article 103 - When the Acts Are Performed

1 - Procedural acts are performed on working days, during the opening hours of the justice services and outside the judicial vacation period.

2 - The following are exempt from the provisions of the previous paragraph:

- a) Procedural acts relating to defendants who are detained or imprisoned, or which are essential to guarantee the freedom of individuals;
- b) Acts relating to proceedings in which minor defendants are involved, even if there are no defendants in prison;
- c) Acts of inquiry and investigation, as well as preliminary debates and hearings for which the advantage of their commencement, continuation or conclusion is recognised by order of the person presiding over them, without those limitations.
- d) Acts relating to summary and abbreviated proceedings, up to the first instance judgment;
- e) Procedural acts relating to conflicts of jurisdiction, requests for refusal and requests for excuse;
- f) Acts relating to the granting of conditional release, when the part of the sentence necessary for its application has been served;
- g) Acts of mere procedure, as well as decisions of the judicial authorities, whenever necessary.
- h) Acts considered urgent in special legislation.

3 - The interrogation of the accused may not be carried out between midnight and 7 am, except in an act following detention:

- a) In the cases referred to in paragraph a) of paragraph 5 of article 174; or
- b) When the accused himself requests it.

4 - The interrogation of the accused shall last a maximum of four hours, and may be resumed, each day, only once and for the same maximum period, after a minimum interval of sixty minutes. 5 - Statements made beyond the limits set out in paragraphs 3 and 4 shall be null and void and may not be used as evidence.

#### Article 104 - Counting of time limits for procedural acts

1 - The provisions of the Civil Procedure Act shall apply to the counting of time limits for the performance of procedural acts.

2 - The time limits relating to proceedings in which the acts referred to in paragraphs a) to e) of paragraph 2 of the previous article must be performed shall run during holidays.

#### Article 105 - Time limit and its excess

1 - Unless otherwise provided by law, the time limit for the performance of any procedural act shall be 10 days.

2 - Unless otherwise provided by law, orders or promotions of mere procedure, as well as those considered urgent, shall be issued within a maximum period of two days. 3 - If three months have elapsed since the end of the deadline set for the performance of an act by a judge or public prosecutor without the act having been performed, the judge or public prosecutor must state the specific reason for the failure to comply with the deadline.

4 - The registry shall send, on a monthly basis, to the president of the district court and to the district coordinating public prosecutor information detailing the cases in which three months have elapsed since the end of the deadline set for the performance of an act by a judge or public prosecutor, respectively, together with a statement of the reasons that led to the delays, even if the act has been performed in the meantime. The president of the district court and the district coordinating public prosecutor shall be responsible for forwarding the case to the entity with disciplinary jurisdiction within 10 days of receipt.

#### Article 106 - Deadline for terms and warrants

1 - Court officials shall draw up the terms of the proceedings and issue warrants within two days. 2 - The provisions of the previous paragraph do not apply when this code establishes a different period, nor when there are defendants detained or imprisoned and the period established therein affects the time of deprivation of liberty; in the latter case, the acts are performed immediately and with preference over any other service.

#### Article 107.<sup>9</sup> - Waiver of the course and practice of an act outside the deadline

1 - The person for whose benefit a deadline is established may waive its duration, upon request addressed to the judicial authority that directs the phase of the process to which the act relates, which dispatches it within 24 hours.

2 - Procedural acts may only be carried out outside the deadlines established by law, by order of the authority referred to in the previous paragraph, at the request of the interested party and after hearing the other procedural subjects to whom the case concerns, provided that a fair impediment is proven.

3 - The request referred to in the previous paragraph is presented within three days, counting from the end of the legally established period or the cessation of the impediment.

4 - The authority that approves the performance of an act after the deadline shall, as far as possible, renew the acts to which the interested party would have the right to attend.

5 - Regardless of the fair impediment, the act can be carried out, within the deadline, under the same terms and with the

same consequences as in civil proceedings, with the necessary adaptations.

6 - When the procedure proves to be exceptionally complex, in accordance with the final part of no. 3 of article 215, the deadlines set out in article 78, no. 1 of article 284, no. 1 of article 287, no. 1 of article 311-b, no. 1 and 3 of article 411 and no. 1 of article 413, are increased by 30 days , and when the exceptional complexity justifies it, the judge, upon request, may set a longer period.

#### Article 107-a - Sanction for untimely practice of procedural acts

Without prejudice to the provisions of the previous article, the provisions of paragraphs 5 to 7 of article 145 of the civil procedure code apply to the untimely practice of criminal procedural acts, with the following changes:

- a) If the act is carried out on the 1st day, the fine is equivalent to 0.5 uc;
- b) If the act is carried out on the 2nd day, the fine is equivalent to 1 uc;
- c) If the act is carried out on the 3rd day, the fine is equivalent to 2 uc.

#### Article 108 - Acceleration of delayed processes

1 - When the deadlines set out in law for the duration of each phase of the process have been exceeded, the public prosecutor, the defendant, the assistant or the civil parties may request procedural acceleration.

2 - The request is decided:

- a) By the attorney general of the republic, if the case is under the direction of the public prosecutor;
- b) By the superior council of the judiciary, if the process takes place before the court or judge.

3 - Judges who, in any way, have participated in the process are prevented from intervening in the deliberation.

#### Article 109 - Processing of the acceleration request

1 - The request for procedural acceleration is addressed to the president of the superior council of the judiciary, or to the attorney general of the republic, as the case may be, and delivered to the court or entity to which the case is assigned.

2 - The judge or the public prosecutor shall prepare the request with the available and relevant elements for the decision and send the process thus organized, within three days, to the superior council of the judiciary or to the attorney general's office of the republic.

3 - The attorney general of the republic issues an order within five days.

4 - If the decision is made by the superior council of the judiciary, once distributed the process goes to the first ordinary session or the extraordinary session if that is convenient, and in it the rapporteur makes a brief presentation, in which he concludes with a proposal for deliberation. There is no place for visas, but the deliberation can be postponed for up to two days to analyze the process.

5 - The decision is taken, without other special formalities, in the sense of:

- a) Reject the request due to lack of sufficient basis or because the delays found are justified;
- b) Request additional information, to be provided within a maximum period of five days;
- c) Order an investigation to be carried out, within a period that cannot exceed fifteen days, into the delays and the conditions in which they occurred, suspending the decision until the investigation is carried out; or
- d) Propose or determine disciplinary, management, organizational or method rationalization measures that the situation justifies.

6 - The decision is notified to the applicant and immediately communicated to the court or entity in charge of the case. This applies equally to entities with disciplinary jurisdiction over those responsible for delays that have occurred.

#### Article 110 - Manifestly unfounded request

If the request for procedural acceleration by the accused, the assistant or the civil parties is judged to be manifestly unfounded, the court, or the investigating judge, in the case of paragraph 2, subparagraph a), of article 108, condemns the petitioner in payment of a sum between six and twenty ucs.

This section of the file corresponds to book 2 (Procedural acts), title 4 (Communication of acts and summons for them) of the Portuguese criminal procedural code.

#### Article 111 - Communication of procedural acts

1 - The communication of procedural acts is intended to transmit:

- a) An order to appear before the justice services;
- b) A summons to participate in procedural diligence;
- c) The content of an act carried out or an order made in the process.

2 - Communication is made by the secretariat, ex officio or following an order from the competent judicial or criminal police authority, and is carried out by the court official who is in charge of the case, or by a police, administrative or postal service agent who is designated for this purpose and is duly accredited.

3 - Communication between justice services and between judicial authorities and criminal police bodies is carried out

through:

a) Order: when the entity with a scope of functions located within the limits of the territorial competence of the entity issuing the order is determined to carry out a procedural act;

b) Charter: when it is an act to be carried out outside those limits, it is called precatory when the practice of the act in question is contained within the limits of the national territory and rogatory if it has to be carried out abroad;

c) Official letter, notice, letter, telegram, telex, fax, telephone communication, electronic mail or any other means of telecommunications: when a request for notification or any other type of message transmission is involved.

4 - Telephone communication is always followed by confirmation by any written means.

#### Article 112.<sup>o</sup> - Summons for procedural act

1 - Summoning a person to appear at a procedural event may be done by any means intended to inform them of the fact, including by telephone, with a quotation being made in the record as to the means used.

2 - When using the telephone, the entity making the summons identifies itself and gives an account of the role it performs, as well as the elements that allow the person called to be informed of the act for which they are summoned and provide, if they wish, the counter-test. that it is an official and genuine phone call.3 - They take the form of notification, which indicates the purpose of the summons or communication, by transcription, copy or summary of the order or warrant that ordered it, in addition to other cases that the law determines:

- a) Communication of the initial or final end of a legally stipulated period under penalty of forfeiture;
- b) Summons for interrogation or statements or to participate in an investigative debate or hearing;
- c) The summoning of a person who has already been called, without binding effect, and has been absent;
- d) The summons to apply a measure of coercion or property guarantee.

#### Article 113 - General rules on notifications

1 - Notifications are made through:

- a) Personal contact with the person notified and in the place where he or she is found;
- b) By registered post, by means of a registered letter or notice;
- c) Simple postal route, by means of a letter or notice, in the cases expressly provided for; or
- d) Notices and announcements, in cases where the law expressly allows it.

2 - When made by registered post, notifications are presumed to have been made on the third day following their sending, when it is useful, or on the first working day following that, when it is not, and the applicable charge must be set out in the act of delivery. notification.

3 - When carried out by simple post, the judicial officer draws up a quotation in the process indicating the date of dispatch of the letter and the address to which it was sent and the postal service distributor deposits the letter in the person notified's mailbox, draws up a declaration indicating the date and confirming the exact place of deposit, and sends it immediately to the sending service or court, considering the notification made on the 5th day after the date indicated in the declaration drawn up by the postal service distributor , which must be included in the notification act.

4 - If it is impossible to deposit the letter in the mailbox, the postal service distributor will make a note of the incident, date it and send it immediately to the sending service or court.

5 - Exceptions to the provisions of paragraphs 3 and 4 are notifications by simple post referred to in subparagraph d) of paragraph 4 of article 277, which are sent without proof of deposit, with the official having to draw up a quota in the process indicating the date of dispatch and considering the notification made on the 5th business day after the date of dispatch.

6 - When notification is made by registered post, the face of the envelope or notice must indicate, precisely, the nature of the correspondence, the identification of the sending court or service and the rules of procedure referred to in the following number.

7 - If:

a) The recipient refuses to sign, the postal service agent delivers the letter or notice and makes a note of the incident, the act being valid as notification;

b) If the recipient refuses to receive the letter or notice, the postal service agent makes a note of the incident, the act being valid as notification;

c) The recipient is not found, the letter or notice is delivered to the person who lives with him or to the person indicated by the recipient who works with him, with the postal services mentioning the fact with identification of the person who received the letter or notice ;

d) It is not possible, due to the absence of a person or for any other reason, to proceed in accordance with the previous paragraphs, the postal services comply with the provisions of the respective regulations, but whenever they leave notice they will expressly indicate the nature of the correspondence and the identification of the court or of the sender service.

8 - They are valid as notification, saveo in cases where the law requires a different form, the summons and communications

made:

a) By judicial or criminal police authority to interested parties present in a procedural act presided over by it, as long as they are documented in the record;

b) By telephone in case of urgency, if the requirements set out in paragraph 2 of the previous article are respected and if, in addition, the phone call informs the person being notified that the summons or communication counts as notification and the phone call is followed by confirmation telegraph, telex or fax.

9 - The person notifying may indicate a person, with residence or professional domicile located within the area of

territorial jurisdiction of the court, for the purpose of receiving notifications. In this case, notifications, carried out in compliance with the formalism set out in the previous paragraphs, are considered to have been made to the person being notified.

10 - Notifications of the accused, the assistant and the civil parties may be made to the respective defender or lawyer, with the exception of notifications regarding the accusation, the investigative decision, the defense, the designation of a day for trial and the sentence, as well as those relating to the application of coercion and property guarantee measures and the deduction of the civil compensation claim, which, however, must also be notified to the appointed lawyer or defender, in which case, in this case, the deadline for carrying out a procedural act subsequent period is counted from the date of the last notification made.

11 - Notifications to the lawyer or appointed defender, when otherwise not provided for by law, are made electronically, under terms to be defined in an ordinance of the member of government responsible for the area of

justice, or, when this is not possible, in the terms of paragraphs a), b) and c) of paragraph 1, or by fax.

12 - When made electronically, notifications are presumed to have been made on the third day following their sending, when it is useful, or on the first working day following that, when it is not.

13 - Notice of notice is made by posting a notice on the door of the last residence of the person notified and another in the places designated for this purpose by the respective parish council, followed by the publication of an advertisement in the digital services area of

the courts, accessible at the address electronic <https://tribunais.org.pt>.

14 - In the cases expressly provided for, where there are several defendants or assistants, when the period for carrying out acts subsequent to notification ends on different days, the act may be carried out by all or each of them until the end of the period that began to run last.

15 - The signature of the official responsible for preparing the notification may be replaced by indicating the notification's identifier code, as well as the address of the Ministry of Justice's website where, by inserting the code, it is possible to confirm the authenticity of the notification.

16 - Without prejudice to the provisions of paragraph 10, notifications from the legal person or similar entity are made to the address indicated in accordance with paragraph c) of paragraph 5 of article 196 or by personal contact with their representative.

17 - If it is not possible to notify the legal person or similar entity in accordance with the provisions of the previous paragraph, notice shall be notified by posting a notice on the door of the last registered office or place where the administration of the company normally operated. legal person or similar entity and another in the places that the parish council of that same location designates for this purpose, followed by the publication of an advertisement in the courts' digital services area.

#### Article 114 - Special cases

1 - Notification of a person who is imprisoned is requested from the director of the respective prison establishment and carried out in the person of the person notifying by an official for the designated purpose.

2 - Notification of an employee or administrative agent may be made upon request to the respective service, but the appearance of the person notified does not require authorization from the hierarchical superior; When, however, notification is made in another way, the person notified must immediately inform his superior of the notification and present him with a document proving attendance.

#### Article 115 - Difficulties in making notification or complying with a warrant

1 - The court official responsible for issuing a notification or executing a warrant may, when necessary, resort to the collaboration of the public force, which is requested from the authority closest to the place where he/she must intervene.

2 - All public order maintenance agents must provide assistance and collaboration to the official mentioned in the previous number and for the purposes referred to therein, when their intervention is requested and the respective notification or warrant is

displayed.

3 - If, despite the assistance and collaboration provided under the terms of the previous paragraphs, the court official has not been able to carry out the notification or comply with the warrant, he will draw up a report of the incident, in which he specifically indicates the steps he took, and transmit it to o without delay to the notifying entity or principal.

#### Article 116 - Unjustified absence from attendance

1 - In case of unjustified failure to appear by a person regularly summoned or notified, on the designated day, time and place, the judge orders the person absent to pay a sum between two and ten ucs.

2 - Without prejudice to the provisions of the previous paragraph, the judge may order, ex officio or upon request, the detention of anyone who has been unjustifiably absent for the period of time necessary to carry out the investigation and, as well, sentence the truant to pay the expenses caused by his failure to do so. attendance, particularly those related to notifications, office hours and movement of people. In the case of the defendant, preventive detention may also be applied to him, if this is legally permissible.

3 - If the offense is committed by the public prosecutor or by a lawyer appointed or appointed in the case, the hierarchical superior or the bar association will be informed, respectively.

4 - The provisions of article 68, paragraph 5, are correspondingly applicable.

#### Article 117 - Justification for failure to appear

1 - Absence motivated by a fact not attributable to the absentee that prevents him from appearing in the procedural act for which he was summoned or notified is considered justified.

2 - The impossibility of attendance must be communicated five days in advance, if it is foreseeable, and on the day and time designated for the act to be carried out, if it is unforeseeable. The communication includes, under penalty of not justifying the absence, an indication of the respective reason, the place where the absentee can be found and the foreseeable duration of the impediment.

3 - Evidence of the impossibility of attendance must be presented with the communication referred to in the previous paragraph, except in the case of an unforeseeable impediment communicated on the same day and time, in which case, for a justified reason, they can be presented by 3. th following business day. No more than three witnesses may be named.

4 - If illness is alleged, the absentee presents a medical certificate specifying the impossibility or serious inconvenience in attending and the likely duration of the impediment. The judicial authority may order the presence of the doctor who signed the certificate and have another doctor verify the veracity of the illness claim.

5 - If it is impossible to obtain a medical certificate, any other means of proof is admissible.

6 - If there is attendance is possible, but not the provision of statements or testimony, this will take place on the day, time and place designated by the judicial authority, after consulting the attending physician, if necessary.

7 - False justification is punished, depending on the case, in accordance with articles 260 and 360 of the Penal Code.

8 - The provisions of the previous paragraphs regarding the required elements of proof do not apply to lawyers, and the judicial authority may report unjustified absences to the disciplinary body of the respective order.

This section of the file corresponds to book 2 (On procedural acts), title 5 (On nullities) of the Portuguese criminal procedural code.

#### Article 118 - Principle of legality

1 - Violation or non-compliance with the provisions of the criminal procedure law only determines the nullity of the act when this is expressly stated in the law.

2 - In cases where the law does not declare nullity, the illegal act is irregular.

3 - The provisions of this title are without prejudice to the rules of this code relating to prohibitions on evidence.

#### Article 119 - Unremediable nullities

They constitute irremediable nullities, which must be declared ex officio at any stage of the procedure, in addition to those established as such in other legal provisions:

a) The lack of the number of judges or jurors that should constitute the court, or the violation of the legal rules relating to the way of determining its composition;

b) The lack of promotion of the process by the public prosecutor, in accordance with article 48, as well as its absence from acts for which the law requires the respective attendance;

c) The absence of the accused or his defender, in cases where the law requires their appearance;

d) The lack of investigation or instruction, in cases where the law determines its obligation;

e) Violation of the rules of jurisdiction of the court, without prejudice to the provisions of article 32, paragraph 2;

f) The use of a special process form outside the cases provided for by law.

#### Article 120 - Nullities subject to argument

1 - Any nullity other than those referred to in the previous article must be argued by the interested parties and is subject to the discipline provided for in this article and the following article.

2 - The following constitute nullities subject to an argument, in addition to those established in other legal provisions:

- a) The use of one form of process when the law determines the use of another, without prejudice to the provisions of paragraph f) of the previous article;
- b) The absence, due to lack of notification, of the assistant and the civil parties, in cases where the law requires their respective appearance;
- c) Failure to appoint an interpreter, in cases where the law considers it mandatory;
- d) The insufficiency of the investigation or investigation, as legally mandatory acts were not carried out, and the subsequent omission of steps that could be considered essential for discovering the truth.

3 - The nullities referred to in the previous paragraphs must be argued:

- a) In the case of the nullity of an act that the interested party witnesses, before the act is completed;
- b) In the case of nullity referred to in paragraph b) of the previous paragraph, up to five days after notification of the order designating the day for the hearing;
- c) In the case of nullity regarding the investigation or investigation, until the end of the investigative debate or, if there is no investigation, up to five days after notification of the order that closed the investigation;
- d) Right at the beginning of the hearing in special procedural forms.

#### Article 121 - Remediating nullities

1 - Except in casesWhere the law provides differently, nullities are remedied if the interested procedural participants:

- a) Expressly renounce to argue them;
- b) Have expressly accepted the effects of the voidable act; or
- c) If they have prevailed over the power to which the voidable act was exercised.

2 - Nullities relating to the lack or defect of notification or summons to a procedural act are remedied if the interested person attends or refuses to attend the act.

3 - Exceptions to the provisions of the previous paragraph are cases in which the interested party appears only with the intention of arguing the nullity.

#### Article 122.<sup>o</sup> - Effects of the declaration of nullity

1 - Nullities render invalid the act in which they occur, as well as those that depend on it and those that may affect it.

2 - The declaration of nullity determines which acts are now considered invalid and orders, whenever necessary and possible, their repetition, placing the respective expenses at the expense of the defendant, the assistant or the civil parties that gave rise, culpably, to nullity.

3 - When declaring a nullity, the judge takes advantage of all acts that can still be saved from the effect of that nullity.

#### Article 123 - Irregularities

1 - Any irregularity in the process only determines the invalidity of the act to which it refers and the subsequent terms that it may affect when it has been argued by those interested in the act itself or, if they were not present, in the three days following the day on which have been notified of any term of the process or intervened in any act carried out therein.

2 - The repair of any irregularity may be ordered ex officio, at the moment it becomes aware of it, when it could affect the value of the act carried out.