

Practical hypotheses

1. A is detained by a criminal police body at the time he was committing the crime provided for in art.^o 210.^o of the Criminal Code. Which court is competent to conduct this trial and what form of proceedings will be followed?

(- Law no. 20/2013: summary trial (381.^o; 16.^o/2, c)) – single court; Declaration of unconstitutionality of the summary trial of crimes under the jurisdiction of the collective court - Law no. 1/2016 enshrined this declaration of unconstitutionality)

- Qualitative criterion does not apply; Quantitative criterion – 14.^o/2, b) – collective court; if the Public Prosecutor's Office were to exercise the power of art.^o 16.^o/3, a summary or abbreviated trial would be conceivable.

2. During the trial hearing, the president of the court decided that an expert should be ordered to appear to conduct an expert assessment on a controversial issue. This is evidence that was not included in the list of the prosecution or in the defense. Is the exercise of this power by the Court legitimate? And what principles should it respect?

Accusatory structure comprising an investigation pp. (subsidiary)

- 340.^o + 327.^o/2

- good decision of the case and discovery of the truth

- need to submit the evidence to the adversarial system of the procedural subjects (340.^o/2 and 327.^o/2) - justification;

need for advance knowledge and preparation for the adversarial system

3. Suppose that the hearing began on 28/3/2022 and, after the witnesses offered by the prosecution had been heard, it was postponed to 22/4/2022. However, due to an unfortunate incident, it was not possible to resume the hearing on that date, and could only do so on 5/5/2022. Quid iuris? - Pp. concentration - temporal aspect of continuity of the hearing - 328th - Justification: memory of the procedural subjects and the court, ensuring contradiction and good decision; consequence of pp. advertising

- + 30 days: new means and mandatory documentation of evidence in hearing 363 - there is no longer any loss of effectiveness of the evidence produced - 328/5 (until 2013 - loss of effectiveness; Ac. Establishment of case law 11/2008)

4. Imagine that, at trial, not only the facts contained in the accusation are ascertained but also other facts that show that the crime committed by A does not fall under art. 205/4, a) CP (as stated in the accusation),

but rather under art. 205/4, b) CP. How should the court proceed? - Substantial change in the facts - Art. 1/, f) CPP

- new facts: they violate the purpose of the proceedings, they are not independent of it

- Court must continue the trial based on the facts contained in the indictment and disregard those that have been established in the meantime

- 359/1 CPP

5. During the trial hearing, it is requested that the statements of a witness who made statements, during the investigation, before the OPC be read. This request is justified only because it would be quicker to conclude the trial, instead of waiting to hear the witness in other sessions. Quid iuris?

- Unlawful request. Pp. immediacy (355); communicating link between the court and other subjects with the means of evidence;

- guarantee of free assessment of evidence; connection with other principles, such as the principle of publicity

- Exceptional cases of reading/viewing of statements - do not exist in this case; 356.^o/4 does not apply

6. A criminal investigation is underway against A, and he is arrested and brought before the competent authority for this purpose.

A coercive measure is applied to him, which implies that A is removed from his workplace and is prohibited from contacting the injured parties. Suppose that A does not appear at the start of the trial hearing. What regime should be observed?

- A was constituted as a defendant at the time of his arrest - he provided a police report

- He was duly notified - he will be tried in absentia if he does not appear

- regime for trial in absentia; explanation of the regime and its legal provisions.

- Arts. 58.^o/1, c) + 113.^o/1, c) + 196.^o + 333.^o + 334.^o