

This file corresponds to part 2, book 7 (Of the trial), title 3 (Of the sentence) of the criminal procedural code of Portugal.

Article 365 - Deliberation and Voting

1 - Except in cases of absolute impossibility, declared in an order, deliberation follows the end of the discussion.

2 - All judges and jurors who constitute the court participate in the deliberation, under the direction of the president.

3 - Each judge and each juror shall state the reasons for their opinion, indicating, whenever possible, the means of evidence that served to form their conviction, and vote on each of the questions, regardless of the direction of the vote they have expressed on others . Abstention is not permissible.

4 - The president collects the votes, starting with the judge with the shortest service, and votes last. In the jury court, the jurors vote first, in ascending order of age.

5 - Deliberations are taken by a simple majority of votes.

Article 366 - Secretary

1 - The secretary or court official designated by the president may be present at deliberations and voting.

2 - The secretary shall provide the court with all the assistance and collaboration it requires during the deliberation and voting process, namely by taking note, whenever the president so deems it necessary, of the reasons and means of evidence indicated by each member of the court and the result of voting on each of the issues to be considered.

3 - The notes taken by the secretary are destroyed as soon as the sentence is drawn up.

Article 367 - Secrecy of Deliberation and Voting

1 - Participants in the act of deliberation and voting referred to in the previous articles may not reveal anything that took place during it and relate to the cause, nor express their opinion on the deliberation taken, except as provided in paragraph 2 of article 372.

2 - Violation of the provisions of the previous paragraph is punishable by the sanction provided for in article 371 of the Penal Code, without prejudice to the disciplinary liability to which it may give rise.

Article 368 - Question of Guilt

1 - The court begins by deciding separately the previous or incidental issues on which a decision has not yet been made.

2 - Then, if the assessment of the merits has not been prejudiced, the president lists in detail and specifically and submits for deliberation and voting the facts alleged by the prosecution and the defense, as well as those resulting from the discussion of the case, relevant to the questions to know:

a) Whether the constituent elements of the type of crime were verified;

b) Whether the defendant committed the crime or participated in it;

c) Whether the defendant acted with guilt;

d) If there is any cause that excludes illegality or guilt;

e) If there are any other assumptions on which the law makes the punishability of the agent dependent or the application of a security measure to him;

f) Whether the assumptions on which the arbitration of civil compensation depends have been met.

3 - The president then lists in detail and submits for deliberation and voting all questions of law raised by the facts referred to in the previous paragraph.

Article 369 - Question of Determination of Sanction

1 - If, from the deliberations and votes carried out under the terms of the previous article, it results that the accused must be imposed a penalty or a security measure, the president reads or orders read all the existing documentation in the file relating to the accused's criminal record, the expertise on your personality and social report.

2 - Next, the president asks whether the court considers it necessary to produce additional evidence to determine the type and measure of the sanction to apply. If the answer is negative, or after the production of evidence in accordance with article 371, the court deliberates and votes on the type and measure of the sanction to be applied.

3 - If, in the deliberation and voting referred to in the final part of the previous paragraph, more than two opinions are expressed, the votes in favor of the more serious sanction are added to those in favor of the immediately lower severity sanction, until a majority is obtained .

Article 370 - Social Report

1 - The court may, at any time during the trial, as soon as, depending on the evidence produced at the hearing, it deems it necessary to correctly determine the sanction that may eventually be applied, request the preparation of a social report or information on social reintegration services, or their update when they are already included in the process.

2 - In the case of a minor defendant, if the social report or information from social reintegration services is not yet attached to the case, the respective attachment must occur within 30 days, unless the respective dismissal is justified on grounds of justification. to the circumstances of the case and as long as it is compatible with the best interests of the minor.

3 - Regardless of request, social reintegration services may send to the court, when advised by the defendant, the social

report or its update.

4 - The reading at a hearing of the social report or information from social reintegration services is only permitted upon request, under the terms and for the purposes set out in the following article.

5 - The provisions of article 355 are correspondingly applicable

Article 371 - Reopening of the Hearing to Determine the Sanction

1 - If it becomes necessary to produce additional evidence, in accordance with article 369, no. 2, the court returns to the hearing room and declares it reopened.

2 - Next, the necessary evidence is produced, whenever possible, listening to the criminological expert, the social reintegration technician and any other person who can give relevant evidence about the defendant's personality and living conditions.

3 - The interrogations are always carried out by the president, and, after them, the other judges, the jurors, the Public Prosecutor's Office, the defender and the assistant's lawyer may suggest any requests for clarification or questions useful for the decision.

4 - Once the supplementary evidence has been produced, the Public Prosecutor's Office, the assistant's lawyer and the defender may make conclusive arguments for up to a maximum of twenty minutes each.

5 - The production of additional evidence takes place to the exclusion of publicity, unless the president, by order, understands that publicity cannot result in an offense to the dignity of the accused.

Article 371.⁹-A - Opening of the Hearing for Retroactive Application of a More Favorable Criminal Law

If, after the conviction has become final but before the execution of the sentence has ceased, a more favorable criminal law comes into force, the convicted person may request the reopening of the hearing so that the new regime can be applied to him.

Article 372 - Preparation and Signing of the Judgment

1 - Once the deliberation and voting has concluded, the president or, if he is defeated, the most senior judge of those who have expired, prepare the sentence in accordance with the positions that have expired.

2 - Then, the sentence is signed by all the judges and jurors and, if any of the judges signs in defeat, they state precisely the reasons for their vote.

3 - Once the court returns to the hearing room, the sentence is read publicly by the president or another of the judges. Reading the report can be omitted. Reading the reasoning or, if it is very extensive, a summary of it, as well as the operative part, is mandatory, under penalty of nullity.

4 - AReading the sentence is equivalent to its notification to the procedural subjects who must be considered present at the hearing.

5 - Immediately after reading the sentence, the president deposits it in the secretariat. The secretary sets the date, signs the deposit statement and delivers a copy to the procedural subjects who request it.

Article 373 - Reading of the Sentence

1 - When, given the special complexity of the case, it is not possible to proceed immediately with the preparation of the sentence, the president publicly sets the date within the next 10 days for the reading of the sentence.

2 - On the set date, the sentence will be publicly read and deposited at the secretariat, in accordance with the previous article.

3 - The defendant who is not present is considered to have been notified of the sentence after it has been read before the appointed or appointed defender.

Article 374 - Sentence Requirements

1 - The sentence begins with a report, which contains:

- a) Information aimed at identifying the accused;
- b) Indications aimed at identifying the assistant and the civil parties;
- c) Indication of the destination to be given to animals, things or objects related to the crime, with express mention of the legal provisions applied;
- d) A summary indication of the conclusions contained in the defense, if one has been presented.

2 - The report is followed by the reasoning, which consists of the enumeration of proven and unproven facts, as well as a statement that is as complete as possible, albeit concise, of the reasons, in fact and in law, that support the decision, with indication and critical examination of the evidence that served to form the court's conviction.

3 - The sentence ends with the device that contains:

- a) The applicable legal provisions;
- b) The condemnatory or acquittal decision;
- c) Indication of the destination to be given to things or objects related to the crime, with express mention of the legal provisions applied;

d) The order for sending reports to the criminal registry;

e) The date and signatures of the court members.

4 - The sentence complies with the provisions of this code and the regulation on procedural costs in matters of costs.

Article 375 - Convicting Sentence

1 - The sentencing sentence specifies the grounds governing the choice and measure of the sanction applied, indicating, in particular, where applicable, the beginning and regime of its compliance, other duties imposed on the convicted person and their duration, as well as the individual social readaptation plan.

2 - After reading the sentencing sentence, the president, when deemed appropriate, addresses a brief address to the defendant, urging him to correct himself.

3 - For the purposes of the provisions of this code, a conviction is also considered to be one that has decreed an exemption from the sentence.

4 - Whenever necessary, the court re-examines the defendant's situation, subjecting him or her to permissible coercive measures appropriate to the precautionary requirements that the case requires.

Article 376 - Absolute Sentence

1 - The acquittal sentence declares the extinction of any coercive measure and orders the immediate release of the pre-emptively detained defendant, unless he must remain imprisoned for another reason or undergo a security measure of internment.

2 - The acquittal sentence condemns the assistant to pay costs, under the terms set out in this code and in the procedural costs regulations.

3 - If the crime was committed without being charged, the sentence is acquittal; but if a security measure is applied to it, it counts as a conviction for the purposes of the provisions of paragraph 1 of the previous article and for the defendant's appeal.

Article 377th - Decision on the Civil Compensation Request

1 - The sentence, even if acquittal, condemns the defendant to civil compensation whenever the respective request proves to be well founded, without prejudice to the provisions of article 82, paragraph 3.

2 - If the civilly responsible party has intervened in the criminal proceedings, the sentence for civil damages is pronounced against him or against him and the accused jointly, whenever his responsibility is recognized.

3 - If there is a conviction regarding the civil compensation claim, the defendant is ordered to pay the costs borne by the plaintiff in this capacity and, if combined, in the capacity of assistant.

4 - If there is an acquittal with regard to the civil compensation claim, the applicant will be ordered to pay costs under the terms set out in the procedural costs regulations.

Article 378 - Publication of Absolute Judgment

1 - When considered justified, the court orders the publication in full or in an extract of the acquittal sentence in a newspaper indicated by the defendant, provided that the latter requests it until the end of the hearing and there is an assistant appointed in the process.

2 - The expenses are borne by the assistant and are considered costs.

Article 379 - Nullity of the Sentence

1 - The sentence is null and void:

a) That does not contain the mentions referred to in paragraph 2 and paragraph b) of paragraph 3 of article 374 or, in a summary or abbreviated process, does not contain the condemnatory or acquittal decision or the mentions referred to in paragraphs a) to d) of paragraph 1 of articles 389-A and 391-F;

b) Convict for facts other than those described in the indictment or in the indictment, if any, outside the cases and conditions set out in articles 358 and 359;

c) When the court fails to rule on issues that it should consider or is aware of issues that it could not take cognizance of.

2 - The nullities of the sentence must be argued or recognized in appeal, and the court must remedy them, applying, with the necessary adaptations, the provisions of paragraph 4 of article 414.

3 - If, as a result of the nullity of a judgment known on appeal, a new decision has to be given in the appealed court, the appeal that may be lodged is always distributed to the same rapporteur, except in cases of impossibility.

Article 380 - Correction of the Sentence

1 - The court proceeds, ex officio or upon request, to correct the sentence when:

a) Outside of the cases provided for in the previous article, the provisions of article 374 have not been observed or have not been fully observed;

b) The sentence contains an error, oversight, obscurity or ambiguity whose elimination does not imply an essential modification.

2 - If the sentence has already been appealed, the correction is made, when possible, by the court competent to hear the

appeal.

3 - The provisions of the previous paragraphs are correspondingly applicable to the remaining decision-making acts provided for in article 97.

Article 380-A - Appeal and New Trial in Case of Trial in Absentee

1 - Whenever the hearing has taken place in the absence of the accused, in accordance with article 334, no. 3, he may, within 15 days, if he has been convicted:

a) File an appeal against the sentence, or request a new trial in the case of presenting new evidence, if the crime carries a fine or prison sentence of no more than five years;

b) Appeal the sentence, or request a new trial, if the crime carries a prison sentence of more than five years.

2 - In the application, the defendant immediately presents the evidence to be produced.

3 - If a new trial is required:

a) The statements made in the previous hearing have the value of statements for future memory, for the purposes referred to in article 271;

b) If the accused is not present at the time designated for the beginning of the hearing and it is not possible for him to appear immediately, the hearing is postponed and the accused is notified of the new designated day;

c) If the accused is not found and cannot be notified of the hearing date or does not appear nor is it possible to obtain his appearance on the new designated day and time, it is understood that he withdraws the application, and it is not possible, under any circumstances, to the application must be renewed;

d) In the case provided for in the previous paragraph, the sentence handed down in the defendant's absence is considered final and unappealable on the date it was notified to him;

e) The provisions of articles 116, paragraphs 1 and 2, and 254, are correspondingly applicable