

This section of the file corresponds to book 4 (Of coercion and property guarantee measures), title 1 (General provisions) of the Portuguese criminal procedural code.

Article 191 - Principle of Legality

1 - People's freedom can only be limited, totally or partially, due to procedural requirements of a precautionary nature, by coercive measures and property guarantees provided for by law.

2 - For the purposes of the provisions of this book, the obligation to identify before the competent authority, under the terms and with the effects set out in article 250, is not considered a coercive measure.

Article 192.^o - General Conditions of Application

1 - The application of any coercive measure depends on the prior constitution as an accused, in accordance with article 58, of the person who is subject to it.

2 - The application of property guarantee measures depends on the prior constitution as a defendant, in accordance with article 58, of the person who is subject to them, except as provided in paragraphs 3 to 5 of this article.

3 - In the case of arrest, whenever the prior constitution as a defendant puts its purpose or effectiveness at serious risk, the constitution as a defendant may occur at a time immediately after the application of the measure, through a duly reasoned order from the judge, without exceed, in no case, the maximum period of 72 hours from the date of that application.

4 - Failure to become a defendant within the maximum period set out in the previous paragraph determines the nullity of the seizure measure, without prejudice to the provisions of the following paragraph.

5 - If the constitution as a defendant for the purposes of arrest under the terms of paragraphs 2 and 3 has proven impossible because the person concerned is absent in an uncertain part and attempts to locate his whereabouts have been frustrated, it may be waived. , upon a duly reasoned order from the judge, when there is, cumulatively, objective evidence of dissipation of the respective assets and a well-founded suspicion of the commission of the crime.

6 - No measure of coercion or property guarantee is applied when there are well-founded reasons to believe that there are grounds for exemption from liability or for the termination of criminal proceedings.

Article 193 - Principles of Necessity, Adequacy and Proportionality

1 - The coercive and property guarantee measures to be applied specifically must be necessary and appropriate to the precautionary requirements that the case requires and proportionate to the seriousness of the crime and the sanctions that are expected to be applied.

2 - Preventive detention and the obligation to remain in the home can only be applied when other coercive measures prove to be inadequate or insufficient.

3 - When a measure of coercive deprivation of liberty is applicable under the terms of the previous paragraph, preference must be given to the obligation to remain in the home whenever it proves to be sufficient to satisfy the precautionary requirements.

4 - The execution of coercion and property guarantee measures must not prejudice the exercise of fundamental rights that are not incompatible with the precautionary requirements that the case requires.

Article 194 - Hearing of the Accused and Order of Application

1 - With the exception of the identity and residence term, coercion and property guarantee measures are applied by order of the judge, during the investigation at the request of the public prosecutor and after the investigation even ex officio, after hearing the public prosecutor, under penalty of nullity .

2 - During the investigation, the judge may apply a different measure of coercion, even if more serious, in terms of its nature, measure or method of execution, than that requested by the public prosecutor, based on paragraphs a) and c) of article 204.

3 - During the investigation, the judge cannot apply a more serious measure of coercion, in terms of its nature, measure or method of execution, based on paragraph b) of article 204. nor a more serious measure of asset guarantee than that requested by the public prosecutor, under penalty of nullity.

4 - The application referred to in paragraph 1 is preceded by the defendant's face-to-face hearing, except in cases of duly substantiated impossibility, and may take place during the first judicial interrogation, with the provisions of paragraph 4 always applying to the hearing. of article 141.

5 - During the investigation, and unless duly substantiated is impossible, the judge decides to apply a measure of coercion or property guarantee to a defendant who has not been detained, within five days of receiving the promotion from the public prosecutor.

6 - The reasons for the order that applies any measure of coercion or property guarantee, with the exception of the term of identity and residence, contain, under penalty of nullity:

a) A description of the facts specifically attributed to the defendant, including, whenever known, the circumstances of time, place and manner;

b) The enunciation of the elements of the process that indicate the alleged facts, whenever their communication does not seriously jeopardize the investigation, make it impossible to discover the truth or create danger to the life, physical or mental integrity or

freedom of the procedural participants or victims of crime;

c) The legal classification of the alleged facts;

d) Reference to the specific facts that meet the requirements for applying the measure, including those provided for in articles 193 and 204.

7 - Without prejudice to the provisions of subparagraph b) of the previous paragraph, any facts or elements of the process that give rise to the defendant cannot be considered to justify the application of a measure of coercion or property guarantee, with the exception of the term of identity and residence. were not communicated during the hearing referred to in paragraph 4.

8 - Without prejudice to the provisions of paragraph b) of paragraph 6, the accused and his defender may consult the elements of the process determining the application of the measure of coercion or asset guarantee, with the exception of the identity and residence term, during judicial interrogation and within the deadline set for filing an appeal.

9 - The order referred to in paragraph 1, with the warning of the consequences of non-compliance with the imposed obligations, is notified to the defendant.

10-In the case of preventive detention, the order is immediately communicated to the defender and, whenever the accused so wishes, to a relative or person he trusts.

11 - If the defendant is a minor, the order referred to in paragraph 1 is immediately communicated to those holding parental responsibilities, their legal representative or the person who has their de facto custody.

Article 195 - Determination of the Sentence

If the application of a coercive measure depends on the applicable penalty, its determination takes into account the maximum penalty corresponding to the crime that justifies the measure.

This section of the file corresponds to book 4 (Coercive measures and property guarantee), title 2 (Coercive measures) of the Portuguese criminal procedural code.

Chapter I - Permissible Measures

Article 196 - Identity and Residence Term

1 - The judicial authority or the criminal police body shall subject anyone who is considered an accused to a term of identity and residence drawn up in the process, even if they have already been identified under the terms of article 250.

2 - For the purpose of being notified by simple post, in accordance with subparagraph c) of paragraph 1 of article 113, the defendant indicates his residence, place of work or other address of his choice.

3 - The term must state that the person was made aware of: a) The obligation to appear before the competent authority or to remain at its disposal whenever the law requires it or is duly notified to do so;

b) The obligation not to change residence or be absent from it for more than five days without communicating the new residence or the place where he can be found;

c) That subsequent notifications will be made by simple post to the address indicated in paragraph 2, unless the defendant communicates another, through a request delivered or sent by registered post to the secretariat where the case is being processed. at that time;

d) That failure to comply with the provisions of the previous paragraphs legitimizes your representation by a defender in all procedural acts in which you have the right or duty to be present and also the holding of the hearing in your absence, in accordance with article 333. th

e) That, in case of conviction, the term of identity and residence will only be extinguished with the extinction of the sentence.

4 - In the case of a legal person or similar entity, the term must contain its social identification, the headquarters or place of operation of the administration and its representative designated in accordance with paragraphs 4 to 8 of article 57.

5 - The term provided by the legal person or similar entity must also state that knowledge was given:

a) The obligation to appear, through its representative, before the competent authority or to remain at its disposal whenever the law requires it or is duly notified to do so;

b) The obligation to communicate changes to your social identification within a maximum period of 5 days, particularly in cases of division, merger or extinction, or any facts that imply the replacement of your representative, without prejudice to the effectiveness of the acts carried out by the previous representative ;

c) The obligation to indicate an address where notification can be made by simple post and that subsequent notifications will be made to that address and by that means, except if another address is communicated, through a request delivered or sent by registered post to the secretariat where the files are running at the time;

d) The obligation not to change the headquarters or place where the administration normally operates without communicating the new headquarters or place of operation of the administration;

e) That failure to comply with the provisions of the previous paragraphs legitimizes your representation by a defender in all

procedural acts in which you have the right or duty to be present and also the holding of the hearing in your absence, in accordance with article 333. th;

f) That, in case of conviction, the term will only expire with the extinction of the sentence.

6 - The representative may request his/her replacement when facts arise that prevent or seriously hinder the fulfillment of the duties and exercise of the rights of the represented person, and the replacement of the representative does not affect the term already provided by the represented party.

7 - In the event of a split or merger of a legal person or similar entity, the legal representatives of the new people or entities must sign a new term.

8 - The application of the measure referred to in this article can always be combined with any other measure provided for in this book.

Article 197 - Security deposit

1 - If the crime charged is punishable by a prison sentence, the judge may impose on the accused the obligation to provide bail.

2 - If the defendant is unable to provide bail or has serious difficulties or inconveniences in providing it, the judge may, ex officio or upon request, replace it with any or any other coercive measures, with the exception of preventive or compulsory detention. stay in housing, legexclusively applicable to the case, which will be added to others that have already been imposed.

3 - When setting the amount of the security deposit, the precautionary purposes for which it is intended, the seriousness of the crime charged, the damage caused by it and the socio-economic condition of the defendant are taken into account.

4 - In the case of a legal person or similar entity being accused, the judge may impose the obligation to provide security.

Article 198 - Periodic Submission Obligation

1 - If the crime charged is punishable by a maximum penalty of more than six months, the judge may impose on the accused the obligation to present himself to a judicial entity or a certain criminal police body on pre-established days and times, taking into account takes into account the professional requirements of the defendant and the place in which he lives.

2 - The periodic presentation obligation may be combined with any other coercive measure, with the exception of the obligation to remain in the home and preventive detention.

Article 199 - Suspension from the Exercise of Profession, Function, Activity and Rights

1 - If the crime charged is punishable by a maximum prison sentence of more than 2 years, the judge may impose on the accused, cumulatively, if applicable, with any other coercive measure, the suspension of the following:

a) Profession, function or activity, public or private;

b) Paternal power, guardianship, curatorship, administration of assets or issuance of credit instruments, whenever the prohibition of the respective exercise may be decreed as a result of the crime charged.

2 - When referring to a public function, a profession or activity whose exercise depends on a public title or an authorization or approval from a public authority, or the exercise of the rights provided for in paragraph b) of the previous paragraph, the suspension is communicated to the authority administrative, civil or judicial body normally competent to decree the respective suspension or interdiction.

3 - In the case of a legal person or similar entity being accused, the judge may impose the suspension of the exercise of activities, the administration of assets or issuance of credit instruments, the control of bank accounts, the right to apply for public contracts and the right subsidies, grants or incentives granted by the state, autonomous regions, local authorities and other public legal entities.

Article 200 - Prohibition and Imposition of Conduct

1 - If there is strong evidence of the commission of an intentional crime punishable by a maximum prison sentence of more than 3 years, the judge may impose on the defendant, cumulatively or separately, the obligations of:

a) Not to remain, or not to remain without authorization, in the area of

a given town, parish or municipality or in the residence where the crime was committed or where the offended parties, their family members or other people on whom new crimes could be committed live;

b) Do not go abroad, or do not go away without authorization;

c) Do not leave the town, parish or municipality of your home, or do not leave without authorization, except for predetermined places, namely the place of work;

d) Not contact, by any means, with certain people or not frequent certain places or certain means;

e) Do not acquire, use or, within the deadline set, deliver weapons or other objects and utensils that you possess, capable of facilitating the commission of another crime;

f) Subject, with prior consent, to treatment for the dependency he suffers from and which has encouraged the commission of the crime, in an appropriate institution.

2 - The authorizations referred to in the previous paragraph may, in urgent cases, be requested and granted verbally, drawing up a quota in the process.3 - The prohibition of the accused from going abroad involves handing over to the custody of the court any passport he or she possesses and communicating it to the competent authorities, with a view to the non-granting or non-renewal of the passport and border control.

4 - The obligations set out in paragraphs a), d), e) and f) of paragraph 1 may also be imposed by the judge on the defendant, if there is strong evidence of committing the crime of threat, coercion or persecution, within the period maximum of 48 hours.

5 - For the purposes of the provisions of the previous paragraph, when the obligation set out in paragraph d) is at stake and when this proves to be essential for the protection of the victim, technical means of remote control may be applied, on a well-founded basis, and the need for prior hearing of the suspect, in which case, if necessary, the constitution as an accused will be carried out when the coercive measure is notified.

6 - The application of an obligation or obligations that imply the restriction of contact between parents are immediately communicated to the representative of the public prosecutor who performs functions in the competent court, for the purposes of establishing, as a matter of urgency, the respective process of regulation or change of regulation the exercise of parental responsibilities.

7 - In the case of a legal person or similar entity being accused, the judge may impose a ban on contacts, a ban on acquiring or using certain objects and the obligation to hand over certain objects.

Article 201 - Obligation to Stay in Housing

1 - If the judge considers the measures referred to in the previous articles to be inappropriate or insufficient, in this case, the judge may impose on the defendant the obligation not to be absent, or not to be absent without authorization, from his or her own home or from another home in which he or she currently resides. or, in particular, when justified, in an appropriate institution to provide social and health support, if there is strong evidence of committing an intentional crime punishable by a maximum prison sentence of more than 3 years.

2 - The obligation to remain in the home is cumulative with the obligation not to contact, by any means, certain people.

3 - To monitor compliance with the obligations referred to in the previous paragraphs, technical means of remote control may be used, in accordance with the terms provided for by law.

Article 202 - Preventive Detention

1 - If the judge considers the measures referred to in the previous articles to be inappropriate or insufficient, in this case, he or she may impose preventive detention on the defendant when:

a) There is strong evidence of committing an intentional crime punishable by a maximum prison sentence of more than 5 years;

b) There is strong evidence of intentional crime that corresponds to violent crime;

c) There is strong evidence of committing an intentional crime of terrorism or that corresponds to highly organized crime punishable by a maximum prison sentence of more than 3 years;

d) There is strong evidence of committing an intentional crime of harm to qualified physical integrity, qualified theft, qualified damage, computer and communications fraud, abuse of a guarantee card or card, device or payment data, receipt, forgery or counterfeit of document, attack on road transport safety, punishable by a maximum prison sentence of more than 3 years;

e) There is strong evidence of the commission of an intentional crime of possession of a prohibited weapon, detention of weapons and other devices, products or substances in prohibited places or a crime committed with a weapon, in accordance with the legal regime for weapons and their ammunition, punishable by a penalty of maximum imprisonment of more than 3 years;

f) In the case of a person who has entered or remains illegally in national territory, or against whom criminal proceedings are ongoing.extradition or expulsion.

2 - If it is shown that the defendant subject to preventive detention suffers from a psychological anomaly, the judge may impose, after consulting the defender and, whenever possible, a family member, that, while the anomaly persists, preventive hospitalization should take place instead of imprisonment. in a psychiatric hospital or other suitable similar establishment, adapting the necessary precautions to prevent the dangers of escape and the commission of new crimes.

Article 203 - Violation of Imposed Obligations

1 - In the event of a violation of the obligations imposed by the application of a coercive measure, the judge, taking into account the seriousness of the crime charged and the reasons for the violation, may impose another or other coercive measures provided for in this code and admissible in the case.

2 - Without prejudice to the provisions of paragraphs 2 and 3 of article 193, the judge may impose preventive detention, provided that the crime carries a maximum prison sentence of more than 3 years:

a) In the cases provided for in the previous paragraph; or

b) When there is strong evidence that, after the application of a coercive measure, the defendant committed an intentional crime of the same nature, punishable by a maximum prison sentence of more than 3 years.

Chapter II - Conditions for Application of Measures

Article 204 - General Requirements

1 - No coercive measure, with the exception of that provided for in article 196, may be applied if it is not specifically verified, at the time of application of the measure:

a) Escape or danger of escape;

b) Danger of disruption to the course of the investigation or the investigation of the case and, in particular, danger to the acquisition, preservation or veracity of evidence; or

c) Danger, due to the nature and circumstances of the crime or the personality of the defendant, that he or she will continue criminal activity or seriously disturb public order and tranquility.

2 - No coercive measure, with the exception of that provided for in article 196, may be applied to a defendant legal person or similar entity if, specifically, it is not verified, at the time of applying the measure, any danger of disrupting the investigation or the investigation of the process or danger of continuation of criminal activity.

3 - In the case provided for in the previous paragraph, the adoption and implementation of a regulatory compliance program must be taken into account when assessing the danger of continuation of criminal activity, which may determine the suspension of the coercive measure.

Article 205 - Accumulation with the Security Deposit

The application of any coercive measure, with the exception of preventive detention or the obligation to remain in the home, can always be combined with the obligation to provide security.

Article 206 - Provision of Security Deposit

1 - Security is provided by means of deposit, pledge, mortgage, bank guarantee or guarantee, under the specific terms in which the judge allows it.

2 - Subject to the judge's authorization, the defendant who has provided bail by any of the means referred to in the previous paragraph may replace it with another.

3 - The provision of security is processed by attachment.

4 - The provisions of article 228 are correspondingly applicable to the defendant who does not provide security.

Article 207 - Reinforcement of the Deposit

1 - If, after the security deposit has been provided, circumstances become known that make it insufficient or imply a change in the method of provision, the judge may impose its reinforcement or modification.

2 - The provisions of article 197, paragraph 2, and article 203 are correspondingly applicable

Article 208 - Breach of Security Deposit

1 - The security deposit is considered to be broken when the defendant is found to have unjustified absence from a procedural event to which he or she must attend or failure to comply with obligations arising from a measure of coercion that has been imposed on him.

2 - Once the deposit is broken, its value reverts to the state.

Article 209 - Difficulties in the Application or Execution of a Coercive Measure

For the purposes of applying or executing a coercive measure, the provisions of article 115 are correspondingly applicable.

Article 210 - Failure of Steps to Apply Preventive Detention

If the judge has evidence to believe that a person intends to escape the application or execution of preventive detention, he may immediately apply to him, until the execution of the measure takes place, the measures provided for in articles 198 to 201, including, or any or some of them.

Article 211 - Suspension of the Execution of Preventive Detention

1 - In the order applying preventive detention or during its execution, the judge may establish the suspension of the execution of the measure, if this is required due to the defendant's serious illness, pregnancy or puerperium. The suspension ceases as soon as the circumstances that determined it no longer exist and in any case, in the case of the postpartum period, when the third month after the birth is over.

2 - During the period of suspension of the execution of preventive detention, the defendant is subject to the measure provided for in article 201 and any others that prove appropriate to his condition and compatible with it, namely hospital admission.

Chapter III - Revocation, Amendment and Extinction of Measures

Article 212 - Revocation and Replacement of Measures

1 - Coercive measures are immediately revoked, by order of the judge, whenever the following occurs:

a) Have been applied outside the hypotheses or conditions provided for by law; or

b) The circumstances that justified its application no longer exist.

2 - The revoked measures may be applied again, without prejudice to the unity of deadlines established by law, if reasons arise that legally justify their application.

3 - When there is a mitigation of the precautionary requirements that determined the application of a coercive measure, the judge replaces it with a less serious one or determines a less serious form of its execution.

4 - The revocation and replacement provided for in this article take place ex officio or at the request of the public prosecutor or the accused, and they must be heard, except in cases of duly justified impossibility, and the victim must also be heard, whenever necessary, even if has not been appointed as an assistant.

Article 213.⁹ - Reexamination of the Assumptions of Preventive Detention and the Obligation to Remain in Housing

1 - The judge proceeds ex officio to re-examine the prerequisites for preventive detention or the obligation to remain in the home, deciding whether they should be maintained or should be replaced or revoked:

a) Within a maximum period of three months from the date of its application or the last re-examination; It is

b) When in the process an indictment or ruling or decision is issued that ultimately determines the object of the process and does not determine the extinction of the measure applied.

2 - In the decision referred to in the previous paragraph, or whenever necessary, the judge verifies the grounds for increasing the periods of preventive detention or the obligation to remain in the home, under the terms and for the purposes of the provisions of paragraphs 2 , 3 and 5 of article 215 and paragraph 3 of article 218.

3 - Whenever necessary, the judge listens to the public prosecutor and the defendant.

4 - In order to support decisions on the maintenance, replacement or revocation of preventive detention or the obligation to remain in housing, the judge, ex officio or at the request of the public prosecutor or the accused, may request the preparation of an expert report on the personality and social report or information on social reintegration services, as long as the defendant consents to it being carried out.

5 - AA decision that maintains preventive detention or the obligation to remain in housing is subject to appeal in general terms, but does not determine the supervening futility of an appeal filed against a previous decision that applied or maintained the measure in question.

Article 214 - Extinction of Measures

1 - Coercive measures shall be terminated immediately:

a) With the archiving of the investigation;

b) With the issuance of the order of non-pronouncement;

c) With the issuance of the order rejecting the accusation, in accordance with subparagraph a) of paragraph 2 of article 311;

d) With the acquittal sentence, even if an appeal has been filed against it; or

e) With the final judgment of the conviction, with the exception of the identity and residence term, which will only be extinguished with the extinction of the sentence.

2 - The measures of preventive detention and the obligation to remain in the home are also immediately extinguished when a conviction is handed down, even if an appeal has been lodged, if the penalty imposed is not greater than the prison or the obligation to remain already suffered. .

3 - If, in the case of paragraph d) of paragraph 1, the accused is subsequently convicted in the same case, he may, while the conviction has not become final, be subject to coercive measures provided for in this code and admissible in the case .

4 - If the coercive measure is bail and the defendant is sentenced to prison, it will only be extinguished with the beginning of the execution of the sentence.

Article 215 - Maximum Duration of Preventive Detention

1 - Preventive detention ends when, since its beginning, the following have elapsed:

a) Four months without charges being brought;

b) Eight months without an instruction decision having been issued;

c) One year and two months without a conviction in the first instance;

d) One year and six months without a final conviction.

2 - The deadlines referred to in the previous paragraph are increased, respectively, to 6 months, 10 months, 1 year and 6 months and 2 years, in cases of terrorism, violent or highly organized crime, or when committing a crime punishable by a penalty of maximum imprisonment of more than 8 years, or for crime:

a) Provided for in article 299, in paragraph 1 of article 318, in articles 319, 326, 331 or in paragraph 1 of article 333 of the penal code and in articles 30th, 79th and 80th of the code of military justice, approved by law no. 100/2003, of 15 November

- b) Theft of vehicles or falsification of documents relating to them or vehicle identification elements;
- c) Forgery of currency, credit instruments, sealed values, stamps and equipment or their passage, and of counterfeit cards or other payment devices and use of counterfeit cards or other payment devices, provided for in articles 3. a and 3.º-b of law no. 109/2009, of September 15;
- d) Fraud, intentional insolvency, harmful administration of the public or cooperative sector, forgery, corruption, embezzlement or economic participation in business;
- e) Laundering benefits of illicit origin;
- f) Fraud in obtaining or embezzling subsidy, subsidy or credit;
- g) Covered by a convention on the safety of air or maritime navigation.

3 - The deadlines referred to in paragraph 1 are increased, respectively, to one year, one year and four months, two years and six months and three years and 4 months, when the procedure is for one of the crimes referred to in the previous paragraph and proves to be exceptionally complex, due, in particular, to the number of defendants or victims or the highly organised nature of the crime.

4 - The exceptional complexity referred to in this article may only be declared during the first instance, by reasoned ruling, ex officio or at the request of the public prosecutor, after hearing the defendant and the assistant.

5 - The time limits referred to in paragraphs c) and d) of paragraph 1, as well as those correspondingly referred to in paragraphs 2 and 3, shall be increased by six months if there has been an appeal to the constitutional court or if the criminal proceedings have been suspended for judgment in another court on a preliminary issue.

6 - If the defendant has been sentenced to a prison sentence in the first instance and the conviction has been confirmed on ordinary appeal, the maximum period of pre-trial detention shall be increased to half of the sentence that has been set.

7 - The existence of several proceedings against the defendant for crimes committed before pre-trial detention has been applied shall not allow the time limits provided for in the previous paragraphs to be exceeded. 8 - The periods during which the defendant has been subject to the obligation to remain at home are included in the calculation of the maximum periods of pre-trial detention.

Article 216 - Suspension of the Maximum Periods of Pre-trial Detention

The period of time provided for in the previous article shall be suspended in the event of illness of the defendant requiring hospital admission, if his presence is essential for the continuation of the investigations.

Article 217 - Release of the Defendant Subject to Pre-trial Detention

1 - The defendant subject to pre-trial detention shall be released as soon as the measure is terminated, unless the detention must be maintained by another process.

2 - If the release takes place because the maximum periods of pre-trial detention have expired, the judge may subject the defendant to one or more of the measures provided for in articles 197 to 200, inclusive. 3 - When it considers that the release of the defendant may create a danger for the victim, the court shall inform him, ex officio or at the request of the public prosecutor, of the date on which the release will take place.

Article 218 - Maximum Duration Periods of Other Coercive Measures

1 - The coercive measures provided for in articles 198 and 199 shall expire when, since the start of their execution, the periods referred to in article 215, paragraph 1, doubled, have elapsed. 2 - The provisions of articles 215 and 216 shall apply correspondingly to the coercive measure provided for in article 200.

3 - The provisions of articles 215, 216 and 217 shall apply correspondingly to the coercive measure provided for in article 201.

Chapter IV - Methods of Appeal

Article 219 - Appeal

1 - The defendant or the public prosecutor may appeal against the decision applying, replacing or maintaining the measures provided for in this title, and shall be judged within a maximum period of 30 days from the date on which the case is received.

2 - There is no relationship of *lis pendens* or *res judicata* between the appeal provided for in the previous paragraph and the habeas corpus injunction, regardless of the respective grounds.

Article 220 - Habeas Corpus Due to Illegal Detention

1 - Persons detained by order of any authority may request the investigating judge of the area where they are located to order their immediate presentation to the court, on any of the following grounds:

- a) The time limit for surrender to the court has expired;
- b) The detention is being held outside of legally permitted locations;
- c) The detention was carried out or ordered by an incompetent entity;
- d) The detention is motivated by a fact for which it is not permitted by law.

2 - The request may be signed by the detainee or by any citizen. enjoy their political rights.

3 - Any authority that raises an illegitimate obstacle to the presentation of the application referred to in the previous

paragraphs or to its referral to the competent judge is punishable by the penalty provided for in article 382 of the criminal code.

Article 221 - Procedure

1 - Once the request has been received, the judge, if he does not consider it manifestly unfounded, orders, by telephone if necessary, the immediate presentation of the detainee, under penalty of qualified disobedience.

2 - Together with the order referred to in the previous paragraph, the judge orders notification of the entity that has the detainee in its custody, or whoever can represent it, to appear in the same act equipped with the information and clarifications necessary to decide on the request.

3 - The judge decides, after hearing the public prosecutor's office and the defender appointed or appointed for that purpose.

4-If the judge rejects the application as clearly unfounded, he or she orders the applicant to pay a sum between six and twenty ucs.

Article 222.⁹ - Habeas Corpus due to Illegal Imprisonment

1 - The supreme court of justice grants, upon petition, the writ of habeas corpus to any person who is illegally imprisoned.

2 - The petition is formulated by the prisoner or by any citizen enjoying their political rights, is addressed, in duplicate, to the president of the supreme court of justice, presented to the authority in which the prisoner is held and must be based on illegality of the arrest arising from:

- a) Have been carried out or ordered by an incompetent entity;
- b) Be motivated by a fact for which the law does not allow it; or
- c) Continue beyond the deadlines set by law or by court decision.

Article 223 - Procedure

1 - The petition is immediately sent to the president of the supreme court of justice, with information on the conditions under which the arrest was carried out or continues.

2 - If the information indicates that the arrest remains, the president of the supreme court of justice convenes the criminal section, which deliberates over the subsequent eight days, notifying the public prosecutor and the defender and appointing him, if he is not already constituted. Articles 424 and 435 are correspondingly applicable

3 - The rapporteur presents the petition and the response, after which the public prosecutor and the defender are given the floor for fifteen minutes; The section then meets for deliberation, which is immediately made public.

4 - The decision may be taken in the sense of:

- a) Reject the request for lack of sufficient grounds;
- b) Order the prisoner to be placed immediately before the supreme court of justice and at the location indicated by it, appointing a judge to carry out investigations, within the deadline set for him, into the conditions of legality of the prison;
- c) Order the prisoner to be presented to the competent court within 24 hours, under penalty of qualified disobedience; or
- d) Declare the arrest illegal and, if necessary, order immediate release.

5 - Once investigations have been ordered, in accordance with paragraph b) of the previous paragraph, the report is presented to the criminal section, in order to make the appropriate decision within the eight-day period.

6 - If the supreme court of justice finds the habeas corpus petition manifestly unfounded, it orders the petitioner to pay a sum between 6 uc and 30 uc.

Article 224 - Failure to comply with the Decision

Failure to comply with the decision of the supreme court of justice on the habeas corpus petition, regarding the fate to be given to the person arrested, is punishable by the penalties provided for in paragraphs 4 and 5 of article 369 of the penal code, as appropriate. .

Chapter V - Compensation for Privation of Illegal or Unjustified Freedom

Article 225 - Modalities

1 - Anyone who has suffered detention, preventive detention or an obligation to remain in their home may request, before the competent court, compensation for the damages suffered when:

- a) The deprivation of liberty is illegal, in accordance with paragraph 1 of article 220, or paragraph 2 of article 222;
- b) The deprivation of liberty was due to a gross error in the assessment of the factual assumptions on which it depended;

or

- c) If it is proven that the defendant was not an agent of the crime or acted justifiably; or
- d) The deprivation of liberty has violated paragraphs 1 to 4 of article 5 of the European convention on human rights.

2 - In the cases referred to in paragraphs b) and c) of the previous paragraph, the duty to compensate ceases if the accused has contributed, through intent or negligence, to the deprivation of his liberty.

Article 226 - Deadline and Legitimacy

1 - The claim for compensation may not, under any circumstances, be proposed after one year has elapsed since the detainee or prisoner was released or the respective criminal case was definitively decided.

2-In the event of the death of a person unjustifiably deprived of liberty and as long as there has been no renunciation on his part, compensation may be requested by the spouse who is not separated from persons and property, by descendants and ascendants. The compensation awarded to the people who requested it cannot, however, as a whole, exceed that which would be awarded to the detainee or prisoner.

This section of the file corresponds to book 4 (On coercive measures and property guarantee measures), title 3 (On property guarantee measures) of the Portuguese criminal procedural code.

Article 227.^o - Economic Security

1 - The public ministry requires the provision of economic security when there is a well-founded fear that the guarantees are missing or substantially reduced:

- a) Payment of the pecuniary penalty, court costs or any other debt to the state related to the crime;
- b) The loss of typical illicit instruments, products and benefits or the payment of the corresponding value.

2 - The application indicates the terms and modalities under which the economic security must be provided.

3 - If there is a well-founded fear that the guarantees for payment of compensation or other civil obligations arising from the crime are lacking or substantially reduced, the injured party may request that the accused or the person civilly responsible provide economic security, in accordance with the terms of the previous paragraph.

4 - The economic security provided at the request of the public prosecutor also benefits the injured party.

5 - The economic security remains distinct and autonomous in relation to the security referred to in article 197 and remains in force until the final acquittal decision or until the obligations are extinguished. In case of conviction, the fine, the court fee, the court costs, the compensation and other civil obligations and also the value corresponding to the instruments, products and benefits of the crime are paid successively.

6 - The economic guarantee is applicable to a legal person or similar entity.

Article 228 - Preventive Arrest

1 - To guarantee the amounts referred to in the previous article, at the request of the public prosecutor or the injured party, the judge may order the seizure, in accordance with the law on civil procedure; If it has been fixed in advance and economic security has not been provided, the applicant is exempt from proving a well-founded fear of losing the financial security.

2 - The preventive seizure referred to in the previous paragraph can be ordered even in relation to a trader.

3 - Opposition to the order ordering seizure does not have suspensive effect.

4 - In case of controversy Regarding the ownership of the seized assets, the judge may refer the decision to the civil court, maintaining the decreed seizure in the meantime.

5 - The arrest is revoked whenever the defendant or the civilly responsible party provides the imposed economic security.

6 - Once the seizure is decreed, the respective registration is promoted in the cases and under the terms provided for in the applicable registration legislation, promoting its subsequent cancellation when the measure is extinguished.

7 - Preventive seizure is applicable to legal persons or similar entities.