

Code of Criminal Procedure (1994)

(excerpts)

(...)

Part Four A

Threatened witnesses

(...)

Article 226d

1. If necessary in the interests of concealing the identity of the witness, the examining magistrate may refuse to allow the suspect or his counsel or both to attend the examination of the threatened witness. Under such circumstances, the public prosecutor shall also be refused permission to attend.
2. The examining magistrate shall inform the public prosecutor, the suspect or his counsel, in the event they were not present at the examination of the witness, of the substance of the witness statement, and give them the opportunity to submit questions to be put to the witness, either by telecommunication, or, if this would be contrary to keeping the witness's identity secret, in writing. Unless delay would be contrary to the interests of the examination, questions may be submitted before the examination begins.
3. If the examining magistrate decides that the public prosecutor, the suspect or his counsel shall not be notified of an answer given by the threatened witness, he shall have entered in the official report the statement that the threatened witness answered the question.

(...)

Article 226f

1. Where possible in consultation with the public prosecutor, the examining magistrate shall take the measures necessary to conceal the identity of a threatened witness and any witness in respect of whom a request or an application as referred to in article 226a, paragraph 1 has been submitted, until an irrevocable judgement in the matter has been given.
2. To that end, the examining magistrate shall be competent to omit information regarding the identity of the witness from the documents in the proceedings or to remove all names from such documents.
3. Where names have been removed from documents, the examining magistrate or the registrar shall sign or stamp them.

The following paragraphs shall be added to article 342:

2. A statement made by a witness whose identity is not revealed may serve as evidence that the accused committed the offence with which he is charged only if the following conditions have been met:
 - a. the witness is a threatened witness and has been examined as such by the examining magistrate in the manner laid down in articles 226c-226f, and
 - b. the offence with which the accused has been charged, insofar as found proven, is an indictable offence as defined in article 67, paragraph 1, and in view of its nature, the organised framework within which it was committed or its connection with other indictable offences committed by the accused, constitutes a serious violation of the legal order.

The following paragraphs shall be added to article 344:

3. A. written document containing the statement of a person whose identity is not revealed may serve as evidence that the accused committed the offence with which he has been charged only if the following conditions have been met:
 - a. the decision on the evidence is supported to a significant degree by other kinds of evidence, and

b. the accused has never in the course of the proceedings expressed the wish, either in person or through another party, to put questions to the person referred to in the chapeau of to have questions put to him.

(...)