

CODE OF CRIMINAL PROCEDURE

(excerpts)

(...)

Article. 91 (1)

Recordings of talks justifiably authorized by the prosecutor appointed by the prime-prosecutor in the prosecution department affiliated to the Court of Appeal, in the cases and under the conditions stipulated by the law, if they represent substantial data or signs regarding the preparation or commitment of a crime that is investigated ex officio, and the interception is useful for revealing the truth, may serve as means of evidence, if their content reveals deeds or circumstances that may contribute to the truth.

The prosecutor authorizes the time necessary for recording, up to maximum 30 days, if the law does not stipulate otherwise. The authorization may be extended under the same conditions, for fully justified reasons, each extension being of maximum 30 days.

The recordings stipulated in paragraph 1 may also be done at the justified request of the victim, regarding the communications addressed to him/her, having the authorization of the prosecutor especially appointed by the general prosecutor.

Article. 91 (2)

An official report is drawn up by the criminal investigation body on the recordings mentioned in art. 91 (1). This report will include: the authorization given by the prosecutor for the interception, the phone number(s) involved, the names of the persons having the conversation, if known, the data and time of each conversation and the number of the reel or tape on which it is recorded. The recorded conversations are wholly transcribed, are attached to the official report and certified for authenticity by the criminal investigation body, checked and countersigned by the prosecutor who performs or supervises the respective criminal investigation.

The tape or reel containing the recorded conversation, in the original, sealed with the seal of the criminal investigation body is also attached to the official report.

Article. 91 (3)

The means and conditions of recording shown in art. 91 (1) and 91 (2) are enforced in the case of any conversation recordings on magnetic tape, authorized under the law.

Art. 91 (4)

The provisions of art. 91 (1) are also enforceable in the case of image recording, and the certification procedure is the one stipulated in art. 91 (2), except for the transcription, according to the case.

Article. 91 (5)

The means of evidence stipulated in the present section may be technically examined at the request of the prosecutor, of the parties or ex officio.

The recordings stipulated in the present section, presented by the parties, may serve as means of evidence.

(...)

Article. 100

When the person asked to deliver one of the objects or writings mentioned in art. 98 denies their existence or possession, as well as whenever it is necessary in order to discover and gather evidence, the criminal investigation body or the instance may order a search.

The search may be domiciliary or corporal.

Article. 101

The criminal investigation body may perform domiciliary searches with the prosecutor's authorization.

Domiciliary search may be performed without the prosecutor's authorization if the person whose domicile is to be searched gives his/her written consent.

In case of flagrant crime, the domiciliary search is performed without the prosecutor's authorization.

Article. 102

The instance may perform a search on the occasion of a local investigation.

In the other cases, the instance's order to perform a search is communicated to the prosecutor, in order to proceed with the search.

Article. 103

Confiscation of objects and writings, as well as domiciliary search may be performed by the criminal investigation body between 6 a.m. -8 p.m., and at other times only in case of flagrant crime, or when the search is to be performed in a public place. The search begun between 6 a.m. -8 p.m. may continue during the night. Confiscation of objects and writings, as well as domiciliary search may be performed by the prosecutor during the night.

Article. 104

The judicial body that will perform the search must prove its identity and, in the cases stipulated by the law, present the authorization given by the prosecutor.

Confiscation of objects and writings, as well as domiciliary search are performed in the presence of the person from whom the objects or the writings are taken away, or to whom the search is performed and, when this person is missing, in the presence of a representative, of a member of the family or a neighbour, having exertion ability.

These operations are performed by the criminal investigation body in the presence of assistant witnesses.

When the person to whom the search is performed is held or arrested, he/she will be brought to the search. In case he/she cannot be brought, the confiscation of objects and writings, as well as domiciliary search are performed in the presence of a representative or a member of the family, and when they are missing, in the presence of a neighbour having exertion ability.

Article. 105

The judicial body that performs the search has the right to open the rooms where the objects or the writings wanted may be found, if the person entitled to open them refuses to.

The judicial body limit itself to confiscation of objects and writings connected to the deed committed; objects and writings whose circulation and possession are forbidden are always taken away.

The judicial body must take measures so that acts and circumstances in the personal life of the person to whom the search is performed and that are not connected with the cause are not made public.

Article. 106

Corporal search is performed by the judicial body that ordered it. following the provisions of art. 104 paragraph 1, or by the person appointed by this body.

Corporal search is performed by a person of the same sex with the person being searched.

Article. 107

Objects and writings are shown to the person from whom they are taken away and to those who assist, to be recognized and signed by them in order not to be changed, after which they are labelled and sealed.

The objects that cannot be signed, labelled or sealed are wrapped up or closed together after which they are sealed.

The objects that cannot be taken away are distrained and left for keeping with the person where or to a custodian.

Tests for analysis are taken at least twice and are sealed. One test is left with the person from whom one takes away, or, if he is missing, to one of the persons mentioned in art.108, final paragraph.

Article. 108

An official report is drawn up mentioning the performance of the search and confiscation of objects and writings.

The official report must include, besides the specifications stipulated in art. 91, the following: place, date and circumstances in which the writings and the objects have been found and taken away, a list and detailed description of these, in order to be recognized.

The objects that have not been taken away, as well as those left for keeping are also mentioned in the official report.

A copy of the official report is left with the person to whom the search has been performed or from whom the objects or writings have been taken away, with the representative, a member of the family, the persons he lives with or a neighbour and, if such is the case, with the custodian.

Article. 109

The criminal investigation body or the instance order that the objects or writings taken away, that represent means of evidence, be, according to case attached to the record or kept in another way.

The taken away objects and writings that are not attached to the file may be photographed. In this case. the photos are acknowledged and attached to the record.

Until the cause is finally resolved. material means of evidence are kept by the criminal investigation body or the instance where the record is.

Objects and writings delivered or taken away during the search. which are not connected with the cause, are returned to the person to which they belong. Confiscated objects are not returned.

The objects that serve as means of evidence, if they are not confiscated, may be returned to the person to whom they belong. even before the trial is finally resolved. except for the case when this return may impede the revealing of the truth. The criminal investigation body or the instance informs the person to whom they were returned that he/she must keep them until the cause is finally resolved.

Article. 110

The objects that serve as means of evidence, if they are among those mentioned in art. 165 paragraph 2 and if they are not returned are kept or used according to the provisions of that article.

Article. 111

The provisions in the present sections are also enforced accordingly when the procedural acts are performed at an institution among those referred to in art. 145 in the Criminal Code, provisions completed as follows:

- a) the judicial body proves its identity. and, according to the case shows the representative of the institution the authorization given by the prosecutor;
- b) taking away of objects and writings. as well as the search are performed in the presence of the representative of the institution;
- c) when the presence of assistant witnesses is obligatory, they may be part of the institution staff;
- d) a copy of the official report is left with the representative of \ the institute.

(...)