

LEBANON

CRIMINAL PROCEDURE CODE BOOK 1 - THE CRIMINAL ACTION, EVIDENTIARY FACT-FINDINGS, AND THE

INVESTIGATION SECTION 1 - THE CRIMINAL ACTION CHAPTER 1 - PROSECUTION OF THE CRIMINAL ACTION

Article (1)

The Public Prosecution exclusively exercises the act of prosecution of the criminal action and it shall not be prosecuted by others except in cases provided by law.

Article (2)

The Public Prosecutor individually, or through one of the Public Prosecution's members, shall set the criminal action in motion and prosecutes it in virtue of the Law. Anyone, other than members of the body of Public Prosecution, may perform the functions of public prosecution if appointed for this role in pursuance to the Law. The Public Prosecutor, in agreement with the Minister of Interior Defense, assigns a police officer qualified as mentioned in the Law, to perform the purpose of the Public Prosecution before the competent Court in hearing substitution crimes.

SECTION 2 - EVIDENTIARY FACT-FINDINGS CHAPTER 1 - OFFICERS OF INVESTIGATION AND THEIR DUTIES

Article (27)

The investigation officers are:

1. Members of the Public Prosecution.
2. Members of the Police Force.

It is permissible through a decision by the Public Prosecutor and upon an agreement with the competent minister, to give some employees the qualification of investigation officers for crimes that take place within the province of their specialization and connected to their profession. The Law hereof does not contravene the qualification of investigation officers mentioned by other earlier Laws or resolutions.

Article (28)

Investigation officers are connected to the Public Prosecutor and under his supervision concerning procedures related to criminal investigation.

The Public Prosecutor might stipulate the competent authority to which the investigation officer is connected to examine his situation if he contravenes his duties or fails to do his tasks, and may request that a disciplinary action be taken against him, without prejudice to the right to initiate a criminal prosecution.

Article (29)

Investigation officers investigate crimes, search for their perpetrators, and collect all necessary evidence for the investigation and the trial.

Article (30)

Investigation officers, while accomplishing their duties, may directly seek the assistance of the public authority officers when necessary.

Article (31)

Investigation officers accept reports and complaints referred to them about crimes, and immediately submit them to the Public Prosecution. They should collect all necessary clarifications to facilitate investigating the facts they receive or which they have knowledge about in any means, and undertake all security preserving measures to conserve the crime evidences.

All procedures taken by the investigation officers should be proved in minutes signed by them, revealing time and place of the taken procedures, along with signatures of the defendants, witnesses, and experts which testimonies were heard and the fingerprint can replace the signature.

If the defendant, the witness or the expert refused to sign, it should be indicated in the minute adding the reason; any procedure unproved in the minute is not taken into consideration.

Minutes are submitted to the Public Prosecution along with the apprehended documents and items.

Article (32)

Whoever has any information about a crime that allows taking action without an allegation, should notify the Public Prosecution or any of the investigation officers about it.

Article (33)

Any civil servant or those of similar status, in virtue of the definition provided by the Penal Code, and during his work time or because of it, who obtained any information about a crime incidence that allows taking an action without a complaint should notify the Public Prosecution or any of the investigation officers immediately about it.

Article (34)

Investigation officers, while collecting evidence, shall make the necessary inspection, hear whoever has any information about crimes and criminal offenders and question the suspect about the crime of his accusation. It is allowed to the defendant, his attorney-at-law, and the victim to attend these procedures whenever possible.

Investigation officers may seek the assistance of experts, and request their advice orally or in writing, and they should not ask witnesses and experts to take an oath unless they were afraid it might not be possible later on.

Article (35)

In case of necessity to undertake any evidentiary fact-finding procedure outside the province of his competences, the investigation officer undertakes such procedure as long as it is related to an incident within the province of his competences.

Article (36)

The investigation officer or the public authority officer arrests any person who puts himself voluntarily or sua sponte in a suspicious or doubtful state, in a way that necessitates investigating and revealing his identity.

CHAPTER 2 - FLAGRANTE DELICTO

Article (37)

A crime is considered to be flagrante delicto when it is actually being committed, or shortly thereafter.

It is also considered flagrante delicto if the victim is found in pursuit of the perpetrator or if the latter is being pursued by a shouting crowd subsequent to the commission of the crime, or when the performer is found a short time after commission in possession of tools, weapons, property, equipment, or other materials indicating that he is the perpetrator or an accomplice, or if it is found in his person at the time some indications or signs point to that.

Article (38)

In case of flagrante delicto, the investigation officer promptly moves to the scene of the crime to view and preserve material evidence, and note the conditions of the places and people and whatever may serve to determine the truth. He takes testimonies of those present or any person in possession of information relevant to the crime and its performer. He promptly informs the Public Prosecution of his proceedings to the scene of the crime.

The Public Prosecution promptly moves to the scene of the crime upon being informed of the flagrante delicto.

Article (39)

In case of flagrante delicto, the criminal investigation officer may, upon his arrival to the crime scene, forbid whoever is found at the scene from leaving or moving away from that place until the required minute is minted. For that purpose, he may immediately summon any person from whom information relevant to the case can be obtained.

If any person present at the scene does not obey the order of the criminal investigation officer, in accordance with the previous paragraph, or if the summoned person refuses to appear, he proves that in the minute and refers to the Public Prosecution that may issue an order to penalize him by a payment of a fine not exceeding one thousand Riyals.

CHAPTER 4 - PERSONS AND RESIDENCES INSPECTION

Article (47)

A criminal investigation officer is allowed to inspect the defendant where it is lawful to arrest him, which may include his body, clothes, belongings or any item related to the investigated crime.

Provisions provided in the previous paragraph are applicable to the private car of the defendant.

Article (48)

If the defendant is a female, the search is conducted by a female assigned by the criminal investigation officer or the Public Prosecution, putting her on oath to accomplish her duties honestly and sincerely in case she is not a criminal investigation officer.

Article (49)

Public authority officers are allowed to enter residences in case of a request for help from within, in case of necessity, or in cases provided by the Law.

It is considered necessary to enter the residences with the intention to pursue a person against whom an order of arrest or search was issued by the competent authority.

Article (50)

With respect to the Article (75) of the Law hereof, in the case of flagrante delicto related to any of the following crimes, a criminal investigation officer may search the residence of the defendant and collect relevant items that may help determine the truth, if there is credible evidence that such items exist there:

1. Crimes committed against the external and internal national security.
2. Crimes of terrorism.
3. Crimes of murder.

4. Crimes provided by Law of combating drugs and dangerous products that affect the mental health, and regulating their use and trade.

5. Crime provided by Law of weapons, munitions and explosives.

The search and the apprehension of papers is done in accordance to the Law hereof.

Article (51)

The criminal investigation officer may not open sealed or closed documents found in the residence of the defendant.

A statement to this event is recorded in the minute and is submitted to the Public Prosecution.

Article (52)

The defendant may be searched, or his residence may be searched, with his agreement, in condition that this agreement should be written prior to the search, and that the inhabitants of the residence are notified about the accusation and the search is considered illegal in case they do not approve it.

Article (53)

The search is conducted during daytime. No admittance to residences during the night is allowed except during the commission of a crime, or if such procedure is considered necessary for the investigation. A statement to this effect is recorded in the minute.

Article (54)

In case it appears from circumstantial evidence during the search of a residence of a defendant that he, or any other person who has been present therein, is concealing any relevant evidence, the criminal investigation officer is permitted to arrest and search that person.

Article (55)

If there are some women in the residence, and if the entry of that residence is not for the purpose of arresting or searching these women, the officers in charge of such search must respect the traditions in treating them and give them time to put on their veils or leave the residence and are offered all reasonable assistance that does not negatively affect the search and its results.

Article (56)

Exploration is not performed except for the purposes of searching for items relevant to the crime being investigated or for which evidences are being collected.

However, if such search incidentally reveals materials which possession is unlawful or helps revealing the truth of another crime, the criminal investigation officer collects such evidence.

Article (57)

Criminal investigation officers seal the places containing indications or materials that may be useful in determining the truth, and keep the said places under guard.

They notify the Public Prosecution immediately, and the Public Prosecution, if it considers this procedure necessary, refers the order, within three days, to the judge of the competent misdemeanors court to approve it, or else the procedure is considered as if it was not issued.

Any concerned party may appeal the order to the judge that issued it, by a petition submitted to the Public Prosecution who refers the appeal to the judge immediately so that he orders the affirmation or cancellation of the order.

Article (58)

Criminal investigation officers seize material that may have been used in the commitment of the crime, or resulted from it, or were subject to the crime, as well as anything that may help determine the truth. These materials are described and showed to the defendant whom is asked to give his comments about them. A minute to this effect is issued and signed by the defendant. In case he abstains from signing, the reasons shall also be included therein.

Article (59)

The seals on places and materials referred to under the two previous Articles are removed by the Public Prosecution in the presence of the defendant or his attorney-at-law or the person with whom those items were found, or after having been duly summoned.

Article (60)

In case the person with whom the papers were found needs those papers urgently, he is given a certified copy of them approved by the member of the Public Prosecution provided that this has no prejudice on the significance of the investigation.

SECTION 3 - INVESTIGATION OF THE PUBLIC PROSECUTION

CHAPTER 1 - CARRYING OUT INVESTIGATIONS

PART 1 - GENERAL PROVISIONS

Article (63)

The Public Prosecution initiates investigations in felonies and offences it considers necessary to investigate.

Article (64)

A member of the Public Prosecution may accompany the clerk of the Public Prosecution to draft the necessary minutes, and when necessary, he appoints

someone else to draft the minutes after putting him on oath to accomplish his duties honestly and sincerely. The member of the Public Prosecution and the clerk signs every page of these minutes that shall be preserved with other related papers in the clerk's office.

The member of the Public Prosecution confirms whatever is considered necessary among the investigation procedures before the arrival of the clerk.

Article (65)

The defendant, his attorney, the victim, and the plaintiff of civil rights may attend all the investigation procedures, and the member of the Public Prosecution notifies them about the date and place of the investigation procedures.

The member of the Public Prosecution may, however, conduct the investigation in the absence of all or some of the above mentioned, whenever that is considered necessary or urgent for determining the truth. Immediately after the necessity or urgency has ended, he allows them to review the investigation.

Article (66)

The defendant, his attorney, the victim, and the plaintiff of civil rights submit to the member of the Public Prosecution their pleas and requests considered necessary to be submitted, otherwise they may not take the speech unless authorized by the member of the Public Prosecution, and in case he does not give them the authorization, it is indicated in the minute.

Article (67)

The defendant, his attorney, the victim, and the plaintiff of civil rights may receive, on their expense and during the investigation, copies of papers whatsoever, in case this has no prejudice on the significance of the investigation, or if the investigation is carried out in their absence in virtue of a related issued decision.

Article (68)

The member of the Public Prosecution may assign any of the criminal investigation officers to carry out one or more of the investigation procedures other than the interrogation of the defendant. The officer nominated has the same powers of the member of the Public Prosecution in such procedures.

The officer nominated may carry out any other act related to the investigation, except interrogating the defendant, in cases of necessity whenever such procedure is considered relevant to his selected task and necessary for determining the truth.

Article (69)

The order of commission for investigation is issued, by writing, by the member of Public Prosecution to the competent criminal investigation officer, dated and signed by the person who issued it. If the order is related to the investigation, a

validity period shall be specified thereto and it shall be executed only once, in case it was not executed before the end of its validity date, it is renewed as long as its issuance justification exists.

Article (70)

If the benefit of the investigation requires the member of the Public Prosecution to take a procedure outside his area of competence, he shall perform it. He may also request the authority to carry out this procedure which is within its area of competence.

Article (71)

The member of the Public Prosecution, with respect to any case in which he designates another authority to carry out some investigations, indicates in a minute the questions to be investigated and the procedures to be undertaken.

This designated authority may carry out any other act related to the investigation and interrogate the defendant, in cases of urgency whenever such procedure is considered relevant to its designated task and necessary for determining the truth.

Article (72)

The investigation is carried out in Arabic; the member of the Public Prosecution seeks the assistance of interpreters while hearing the statements of litigants or witnesses who do not understand Arabic. The interpreter takes an oath to accomplish his duties honestly and sincerely.

In case any documents or papers were submitted in a language other than Arabic, the member of the Public Prosecution designates a translator who takes an oath as specified in the previous paragraph.

Article (73)

The procedure related to investigation and the results thereof are considered confidential and not to be disclosed by members of the Public Prosecution and their assistants: clerks, experts, and any other person connected to the investigation or participating in it due to his occupation or profession. The penalty to the disclosure of secrets provided by the Penal Code applies to the violator.